FSC.EMI/271/10
1 July 2010

ENGLISH only

MISSION OF DENMARK

TO THE OSCE, IAEA and CTBTO

V E R B A L   N O T E

The Mission of Denmark to the OSCE, IAEA and CTBTO presents its compliments to all Missions and Delegations to the OSCE and to the Conflict Prevention Centre and has the honour to provide the 2010 response to the Questionnaire on the OSCE Code of Conduct on Politico-Military Aspects of Security in accordance with FSC Decision 2/09.

The Mission of Denmark to the OSCE, IAEA and CTBTO avails itself of this opportunity to renew to all OSCE Missions and Delegations and to the Conflict Prevention Centre the assurances of its highest consideration.

Vienna, 1 July 2010

To: All Permanent Missions and Delegations to the OSCE
Conflict Prevention Centre
Vienna

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DENMARK **2010**

QUESTIONNAIRE ON THE CODE OF CONDUCT ON POLITICO-MILITARY ASPECTS OF SECURITY

Section I: Inter-State elements

1. Account of measures to prevent and combat terrorism

1.1 To which agreements and arrangements (universal, regional, subregional and bilateral) related to preventing and combating terrorism is your State a party?

The status of Denmark as regards the relevant international conventions is given below. (A number of provisional territorial reservations with respect to the Faroe Islands and Greenland, eventually to be withdrawn, do not appear in the list.)

1. Convention on Offences and Certain Other Acts Committed on Board Aircraft (Tokyo, 14 September 1963). Denmark ratified on 17 January 1967. The convention entered into force for Denmark on 4 December 1969.

2. Convention for the Suppression of Unlawful Seizure of Aircraft (the Hague, 16 December 1970). Denmark ratified on 17 October 1972. The convention entered into force for Denmark on 16 November 1972.

3. Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (Montreal, 23 September 1971). Denmark ratified on 17 January 1973. The convention entered into force for Denmark on 16 February 1973.

4. Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents (New York, 14 December 1973). Denmark ratified on 1 July 1975. The convention entered into force for Denmark on 20 February 1977.

5. European Convention on Suppression of Terrorism (Strasbourg, 27 January 1977). Denmark ratified on 27 June 1978. The convention entered into force for Denmark on 28 September 1978.

6. International Convention Against the Taking of Hostages (New York, 18 December 1979). Denmark ratified on 11 August 1987. The convention entered into force for Denmark on 10 September 1987.

7. Convention on Physical Protection of Nuclear Material (Vienna and New York, 3 March 1980). Denmark ratified on 6 September 1991. The convention entered into force for Denmark on 6 October 1991.

8. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation done at Montreal on 23 September 1971 (Montreal, 24 February 1988). Denmark ratified on 23 November 1989. The protocol entered into force for Denmark on 23 December 1989.

9. Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (Rome, 10 March 1988). Denmark ratified on 25 August 1995. The convention entered into force for Denmark on 23 November 1995.

10. Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (Rome, 10 March 1988). Denmark ratified on 25 August. The protocol entered into force for Denmark on 23 November 1995.

11. Convention on the Marking of Plastic Explosive for the Purpose of Detection (Montreal, 1 March 1991). Denmark ratified on 5 October 1998. The convention entered into force for Denmark on 4 December 1998.

12. International Convention for the Suppression of Terrorist Bombings (New York, 15 December 1997). Denmark ratified on 31 August 2001. The convention entered into force for Denmark on 30 September 2001.

13. International Convention for the Suppression of the Financing of Terrorism (New York, 9 December 1999). Denmark ratified on 27 August 2002. The Convention entered into force for Denmark on 26 September 2002.

14. Protocol amending the European Convention on the Suppression of Terrorism (Strasbourg, 15 May 2003). Denmark ratified on 14 April 2004. The protocol has not yet entered into force.

15. International Convention for the Suppression of Acts of Nuclear Terrorism (New York, 13 April 2005). Denmark has ratified on 20 March 2007. The Convention has not yet entered into force.

1.2. What national legislation has been adopted in your State to implement the above-mentioned agreements and arrangements?

Danish legislation including in particular The Danish Criminal Code (DCC) and The Danish Extradition Act has been amended a number of times in order to fulfil the obligations that follow from the conventions and protocols listed in 1(a).

The Convention for the Suppression of Unlawful Seizure of Aircraft (the Hague, 16 December 1970) was implemented into Danish law by Act. no. 95 of 29 March 1972, which amended the DCC.

The Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (Montreal, 23 September 1971) was implemented into Danish law by Act no. 538 of 13 December 1972, which amended the DCC.

The Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, Including Diplomatic Agents (New York, 14 December 1973) was implemented into Danish law by Act no. 268 of 26 June 1975, which amended the DDC.

The European Convention on Suppression of Terrorism (Strasbourg, 27 January 1977) was implemented into Danish law by Act no. 191 of 3 May 1978. Denmark made a reservation to Article 1 (4) of the convention in accordance with Article 13.

The International Convention Against the Taking of Hostages (New York, 18 December 1979) and the Convention on Physical Protection of Nuclear Material (Vienna and New York, 3 March 1980) was implemented into Danish law by Act no. 322 of 4 June 1986, which amended the DCC.

The International Convention for the Suppression of Terrorist Bombings (New York, 15 December 1997) was implemented into Danish law by Act no. 280 of 25 April 2001 by which the DCC and the Danish Extradition Act etc. was amended.

The International Convention for the Suppression of the Financing of Terrorism (New York, 9 December 1999) was implemented into Danish law by Act no. 378 of 6 June 2002. See answer to 1.4.

On 25 January 2006 the Danish Government presented a bill (proposal L 130 amending the Weapons Act, Criminal Code etc.) to the Parliament which, in the light of UN Security Council Resolution 1540 on non-proliferation of weapons of mass destruction, proposes new national legislation relating to chemical, biological, radiological and nuclear weapons and their means of delivery. The bill introduces a general ban on all activities related to such weapons, including restrictions on extra-territorial transportation. The bill was adopted on 11 May 2006.

On 2 June 2006 the Council of Europe Convention on the Prevention of Terrorism and the International Convention for the Suppression of Acts of Nuclear Terrorism was implemented into Danish law by Act no. 542 of 8 June 2006. See answer to 1.4.

1.3. What are the roles and missions of military, paramilitary and security forces and the police in preventing and combating terrorism in your State?

Police

The Danish Security and Intelligence Service (*Politiets Efterretningstjeneste* abbreviated *PET*), which is an entity of the Danish police, is the national security authority and thus plays an important role when it comes to preventing terrorism.

According to the Provisions issued by the Minister of Justice regarding the Security and Intelligence Service from 7 December 2009, the main task of the intelligence activity of the Service is to prevent and investigate actions and undertakings that may jeopardise the independence, security and legal order of the State, and to prevent these actions or undertakings from being implemented or developed.

The actions that, in this connection, fall within PET's area of responsibility are primarily the actions as defined in accordance with Chapter 12 and 13 of the Danish Criminal Code. Such actions include attacks on the Constitution, terrorism, and proliferation of weapons of mass destruction, extremism and espionage. PET must provide the basis for handling such threats as early in the process and as appropriately as possible.

PET's actions are essentially preventive. From the information gathered, processed and analysed by PET, the objective is to procure as much information as possible on the capacity, determination and ability of PET's target persons and target groups to commit any such action as mentioned above.

On this basis, the Service prepares assessments and risk analyses that again provide the basis for an evaluation of what action that must be implemented to prevent any threats from developing further.

1.4. Provide any additional relevant information on national efforts to prevent and combat terrorism, e.g., those pertaining inter alia to:

On 13 December 2001 the Danish Government presented a legislative package (four bills) to the Danish Parliament containing a broad range of initiatives aimed at combating terrorism and the financing of terrorism – including all the legislative amendments, which were necessary to comply with international standards and requirements after the events of 11 September 2001.

The four bills were presented by respectively the Minister of Justice, the Minister of Economic and Business Affairs, the Minister of Taxation and the Minister of Refugee, Immigration and Integration Affairs. The Anti-Terrorism Acts based on the four bills were all adopted by the Parliament on 31 May 2002.

The Ministry of Justice's Anti-Terrorism Act no. 378 of 6 June 2002 includes the following main elements:

1) Insertion of a special section (114) on terrorism in the Danish Criminal Code (*straffeloven*). A large number of the offences typically designated terrorist acts are punishable under specific provisions of the Criminal Code. Thus, for example, homicide is punishable under section 237 of the Criminal Code regardless of the offender's motive for the act. The Government wanted to signal more clearly that terrorism in all its forms is unacceptable in a democratic society. Therefore a terrorism section defining the concept of terrorism has been inserted into the Criminal Code. The provision comprises very serious offences committed to disturb the established order and intimidate the population, and the maximum penalty has been fixed at life imprisonment. The provision implements the EU Framework Decision on combating terrorism.

2) Insertion of a special section (114 a) of financing of terrorism, according to which it is an offence, to a wider extent than today, to provide or arrange for financial support to a terrorist organisation or otherwise to contribute to the promotion of its criminal activities. The maximum penalty is fixed at 10 years imprisonment.

3) An amendment to section 77 (a) of the Criminal Code to make it possible to carry out confiscation of money and other property (and not just "objects"), which it is feared will be applied to commit crimes. And at the same time an amendment to sections 802 and 803 of the Danish Administration of Justice Act (*retsplejeloven*) on seizure to make it possible to seize money and other property (and not just objects) for the purpose of confiscation under section 77 (a) of the Criminal Code.

4) Amendments to the rules on criminal responsibility for legal persons (companies, etc.), repealing the requirement that a violation of the Criminal Code must have been committed to obtain a gain for

the legal person. It is further specified that legal persons can be punished for attempted offences to the same extent as natural persons. Finally, it is specified that the period of limitation for the criminal responsibility of legal persons must follow the period of limitation for natural persons.

5) An extension to the provision on the seizing of aircraft and ships in section 183 (a) to include other means of public transport or goods transport.

6) Aggravated violations of the Arms Act (*våbenloven*) are serious offences that may be connected with terrorism. To make it possible to impose heavier sentences for particularly aggravated violations, the maximum penalty in section 192 a of the Criminal Code in respect of aggravated violations of the Arms Act has been increased from four years to six years imprisonment.

7) A clarification of section 192 a of the Criminal Code to make it appear expressly that the development of chemical and biological weapons or research to that effect falls within the provision. A similar clarification has been made of section 5 of the Arms Act.

8) A new provision on non-proliferation of weapons of mass destruction, etc. has been inserted in Chapter 13 of the Criminal Code with a maximum penalty of imprisonment for up to six years.

9) In order to improve the investigative possibilities of the police, insertion of a provision into section 786 of the Administration of Justice Act, according to which telecommunications companies and Internet service providers have to record and store ("log") for one year the information on tele and Internet communications of relevance to police invasion of the secrecy of communications, etc. The recording and storage only concern traffic data and not the actual contents of the communication. Furthermore, only the companies have a duty to record and store the traffic data in question. The provision does not involve extended police access to these data. A detailed set of (technical) rules on such data logging has been laid down by the Ministry of Justice in Executive Order of 28 September 2006 on the retention and storage of traffic data by providers of electronic communications networks and electronic communications services.

10) Moreover, the Act contains improvements of the investigative possibilities of the police on several points where, in practice, difficulties arise in connection with the actual implementation of invasion of the secrecy of communications.

Thus, a provision has been inserted into the Administration of Justice Act authorising the Minister of Justice to prescribe rules on the practical assistance by the telecommunications providers to the police in connection with invasion of the secrecy of communications following negotiation with the

Minister of Science, Technology and Innovation. The provision replaces a corresponding, non-utilised enabling provision in the telecommunications legislation. Also on this point it is assumed that the industry will be involved in connection with the drafting of the rules.

The purpose of this part of the Act is to ensure rapid and effective access for the police to the information to be provided by invasion of the secrecy of communications.

11) The Act further includes provisions on the access for the police to the nation-wide directory inquiry service, which contains name and address data concerning all telephone subscribers listed by name in Denmark, including unlisted telephone numbers, regardless of the subscriber's telecommunications provider.

12) Under the previous rules of the Administration of Justice Act, the police could already acquaint themselves with communications between computers by means of interception, and at a search the police could also acquaint themselves with all the records of a computer, including electronic messages received and copies of messages that have been sent. However, for technical reasons and owing to the risk of discovery of the measures, it was not possible for the police in all cases to exploit their existing right to acquaint themselves with electronic messages and data in a computer. For that reason a new provision (section 791 b) has been inserted into the Administration of Justice Act, according to which, in cases of very serious offences, the police can obtain a court warrant allowing them to capture data in an information system not available to the public by means of software or other equipment (data capture) without being present at the location where an information system (i.e., a computer or another data system) is used. This has made it possible to permit measures whereby, by means of a so-called "sniffer program", the police will receive a copy of all data input by the data system user.

13) The Act also includes an amendment of section 799 of the Administration of Justice Act to provide a right to secret searches in cases of aggravated arson, explosion of bombs, hijacking and addition of toxic substances to the water supply or foodstuffs, etc. The right to keep information on searches in such cases secret may, for example, be of crucial importance where the offence were presumably committed by several unknown co-offenders, and where it is therefore necessary to keep the investigation secret to be able to identify and arrest these individuals.

14) At the same time the Act contains an amendment of section 799 of the Administration of Justice Act to authorise the court to allow the police, with only one warrant, to carry out several individual searches without immediate notification (repeated secret searches) within a period not exceeding four weeks. This may be necessary where, for example, no drugs or weapons were found at the first

search, but where it is still suspected that delivery on the location in question will take place within a short time, or where a search has had to be interrupted owing to the risk of discovery of the investigation. The court has to fix the number of searches in connection with the search warrant. In special cases the court may decide, however, that the police may carry out an indeterminate number of searches within the specified period (not exceeding four weeks).

15) In addition, the Act includes an amendment of section 806 of the Administration of Justice Act, according to which it is possible to order a third party to surrender documents, etc. (discovery) without prior warrant in cases where the purpose will be forfeited if a warrant has to be awaited. This might, for example, be thought relevant in a situation where the police need prompt surrender of the passenger list of an airline company.

16) The Act also includes an amendment of section 5(3) of the Extradition Act, according to which extradition for an act comprised by Article 1 or 2 of the European Convention for the Suppression of Terrorism cannot be refused with reference to the prohibition against extradition for political offences at extradition to an EU Member State. The exception from the prohibition on extradition for political offences has been extended to include all requests for extradition for acts comprised by Article 1 or 2 of the European Convention for the Suppression of Terrorism, whether or not the extradition concerns extradition to an EU Member State or to another (European) State that has ratified the Convention. Nor is it possible to refuse requests for extradition in respect of counts comprised by the International Convention for the Suppression of the Financing of Terrorism with reference to the prohibition against extradition for political offences.

As part of the ongoing work to ensure that the appropriate counter-terrorism legislation is in place, the government set up an inter-ministerial working group in the autumn of 2005. The working group was tasked with examining the regulatory framework and drafting a proposal for a reform in order to ensure that the system of counter-terrorism remains up-to-date and functional. The working group publicised its report on 3 November 2005. The report contains recommendations for further strengthening the Danish counter-terrorism effort, albeit the working group came to the conclusion that the current effort is not insufficient. On the basis of the recommendations the government has developed a counter-terrorism action plan, and a plan for legislative initiatives.

On 31 March 2006 the Minister of Justice presented a bill proposing an amendment of the Danish Criminal Code, the Danish Administration of Justice Act and several other bills. The amendment is part of an anti-terrorist legislative package from the Danish Government, which also includes bills from the Minister of Science, Technology and Development and the Minister of Defence.

The Ministry of Justice's second anti-terrorist legislative package Act no. 542 of 8 June 2006 includes the following main elements:

(1) Insertion of a section (114 a) in the Danish Criminal Code in the containing a list of offences which do not fall within the scope of section 114 of the Criminal Code (terrorism), but which are defined as acts of terrorism pursuant to the Convention on the Prevention of Terrorism. If one of the offences listed in section 114 a is committed, the sentence may exceed the maximum penalty prescribed for the relevant offence by up to 50 per cent.

(2) Insertion of a section (114 c) in the Criminal Code prohibiting recruitment for terrorism. A person is liable to imprisonment for up to ten years if he recruits persons to commit or further acts falling within the scope of section 114 or 114 a (terrorism) or to join a group or an association for the purpose of furthering the commission of acts of such nature by the group or association. In particularly aggravating circumstances, the penalty may be increased to imprisonment for up to 16 years. Particularly aggravating circumstances typically include cases of systematic or organised violations. Section 114 c (2) prohibits recruitment of persons to finance terrorism, whereas section 114 c (3) extends the field of criminal liability to include any person who allows himself to be recruited for terrorism.

(3) Insertion of a section (114 d (1)) in the Danish Criminal Code prohibiting training, instruction or otherwise teaching of a person to commit or instigate the acts covered by the provisions on terrorism (sections 114 to 114 a of the Criminal Code). A person violating this section is liable to imprisonment for up to ten years. In particularly aggravating circumstances, the penalty may be increased to imprisonment for up to 16 years. Particularly aggravating circumstances typically include cases of systematic or organised violations. Section 114 d (2) criminalises the training, instruction or otherwise teaching of a person to provide financial support, etc., to any person, group or association which intends to commit an act covered by the provisions on terrorism. As in section 114 c (3), the field of criminal liability in section 114 d is extended to include the trainee, cf. section 114 d (3).

(4) Insertion of a new provision into the Administration of Justice Act (section 116), which allows a less restricted access to exchange of information between the Security Intelligence Service and the Danish Defence Intelligence Service. In continuation thereof, the access of the Security Intelligence Service to information held by other administrative authorities has also been widened when the information has significance for the prevention and investigation of offences related to terrorism.

(5) Insertion of a new section in the Air Navigation Act (148 a) allowing the Security Intelligence Service to a more prompt and effective access to standard information about airline passengers in connection with the investigation and prevention of violations of Chapters 12 and 13 of the Criminal Code (offences against the independence and safety of the State, offences against the Constitution and the supreme authorities of the State, terrorism, etc.) by allowing the retrieval of such information without a warrant. This section also obliges the airline companies to register and store information about crew and passengers for one year. The section has not yet entered into force.

(6) Section 791 c was introduced into the Administration of Justice Act. This section allows the police (including the Security Intelligence Service) (on the basis of a warrant) to jam or cut off radio communications or telecommunications in order to prevent violations of, *i.a.*, Chapters 12 and 13 of the Criminal Code.

(7) Section 783 of the Administration of Justice Act was amended, allowing the police (including the Security Intelligence Service) to obtain an interception warrant following a person rather than the particular means of communication. As a result thereof the police only needs to obtain a single warrant in order to tap the telephone(s) of a suspect. As soon as possible after such interference, the police must notify the court of the telephone numbers subjected to the interference but not stated in the warrant. It should be noted that the specific conditions for interception of communications, as set out in sections 781 and 782, remain unaltered. The amendment, moreover, only applies in cases concerning violation of Chapters 12 and 13 of the Criminal Code (offences against the independence and safety of the State, offences against the Constitution and the supreme authorities of the State, terrorism, etc.).

With Act no. 490 of 17 June 2008 which entered into force 1 July 2008 amending inter alia the Criminal Code the Danish provisions on criminal jurisdiction have undergone a comprehensive review.

In respect of preventing and combating terrorism and in order to strengthen the protection of Danish victims, Section 7 a has been inserted in the Criminal Code creating Danish criminal jurisdiction on acts committed abroad by persons without relations to Denmark when the act is aimed at a person who was a Danish national or had his or hers abode or other habitual residence in Denmark when the act was committed.

The provision reads as follows (unofficial translation):

7a. *(1)* Any act committed within the territory of another state and aimed at a person who was a Danish national or had his abode or other habitual residence in Denmark when the act was committed is subject to Danish criminal jurisdiction, provided that the act is also a criminal offence under the legislation of the country in which the act was committed (dual criminality) and is punishable under Danish law by a sentence of imprisonment for at least six years.
(2) Danish criminal jurisdiction under subsection (1) hereof only applies to the following acts:
(i) Homicide;
(ii) Aggravated assault, deprivation of liberty or robbery;
(iii) Offences likely to endanger life or cause serious injury to property;
(iv) Sexual offences or incest; or
(v) Female circumcision.
(3) Acts committed outside the territory of another state, but aimed at a person having such relations to Denmark as referred to in subsection (1) hereof when the act was committed are also subject to Danish criminal jurisdiction, provided that acts of the kind concerned are punishable by a sentence exceeding imprisonment for four months.

Section 7a applies to inter alia terrorism as provided for in Section 114.

2. Stationing of armed forces on foreign territory

2.1 Provide information on stationing of your States armed forces on the territory of other participating States in accordance with freely negotiated agreements as well as in accordance with international law.

Denmark is a party to the Agreement by the Parties to the North Atlantic Treaty Organisation on the Status of their Forces from 1951. It has signed the Agreement among the States Parties to the North Atlantic Treaty and the Other States participating in the Partnership for Peace regarding the Status of their Forces, done at Brussels on 19 June 1995. Denmark ratified on 7 August 1999.

Besides that Denmark concludes Status of Forces Agreements on an ad hoc basis when the Danish Armed Forces are going to be stationed on territories, where the NATO-SOFA does not apply.

3. Implementation of other international commitments related to the Code of Conduct

3.1 Provide information on how your State ensures that commitments in the field of arms control, disarmament and confidence- and security-building as an element of indivisible security are implemented in good faith.

Denmark is s state Party to all relevant multilateral arms control-, disarmament- and non-proliferation treaties and agreements, such as;

- Treaty on Conventional Armed Forces in Europe (CFE)
- Treaty on Open Skies
- All Confidence- and Security Building Measures agreed upon in the OSCE
- Treaty on the Non-proliferation of Nuclear Weapons (NPT)
- Comprehensive Nuclear-Test-Ban Treaty (CTBT)
- Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and their Destruction (CWC)
- Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (BTWC)
- Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects (CCW)
- Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction

Denmark implements these treaties and agreements as well as other international instruments and initiatives in the field of disarmament and non-proliferation, such as the UN Security Council Resolution 1540, the UN Action Plan on Small Arms and Light Weapons, the Global Initiative to Combat Nuclear Terrorism (GICNT) and the Proliferation Security Initiative (PSI).

Furthermore, besides participating in arms control activities within the European Union, Denmark is an active member of the following export control regimes:

- the Nuclear Suppliers Group (NSG)
- the Zangger Committee (ZC),
- the Australia Group (AG),
- the Missile Technology Control Regime (MTCR) and
- the Wassenaar Arrangement (WA).

3.2 Provide information on how your State pursues arms control, disarmament and confidence- and security-building measures with a view to enhancing security and stability in the OSCE area.

In addition to implementation of the above mentioned treaties and agreements and active participation in their respective governing bodies, Denmark is engaged nationally and internationally in projects within the framework of arms control. As an example Denmark each year

conducts bilaterally agreed CFE-, Open Skies and/or Vienna Document activities as well as Denmark actively supports SALW and Ammunition demilitarization projects in the framework of OSCE and UNDP.

Section II: Intra-State elements

1. National planning and decision-making process

1.1 What is the national planning and decision-making process in determining/approving military posture and defence expenditures in your State?

The military posture

Denmark has a political tradition for establishing multi-year political defence agreements, covering from two to five years, approved by parties holding majority in Parliament. The agreements determine the structure of defence and the funds allocated to it. Agreements will usually be preceded by comprehensive reports analysing the Danish security situation and holding specific recommendations for Danish defence. The reports are prepared by commissions established by the Ministry of Defence (MOD) consisting of parliamentarians, independent experts and representatives from defence. The reports are published and give rise to public debate.

Defence expenditures

The Danish defence budget is approved by the Parliament once a year when the overall Financial Law is passed. The general level of the budget is however determined by a Defence Agreement typically running for five years. The Defence Agreements are normally drafted and agreed by a majority of the parties in the Parliament. The Defence Agreements ensure a financial long term perspective for the defence planning.

Throughout any current year the Parliament will typically decide on issues as participation in international operations and financial allocations in relation to these specific missions. Also the standing committee for financial matters will approve major procurement and infrastructure projects.

1.2 How does your State ensure that its military capabilities take into account the legitimate security concerns of other States as well as the need to contribute to international security and stability?

Denmark actively seeks to enhance multilateral cooperation, facilitate transnational dialogue and encourage collective solutions to alleviate legitimate security concerns. In this regard, strengthening

the international legal order and respect for human rights with transparent legal procedures governing the use of military force is a key priority. In continuation thereof, compliance with and respect for international conventions and human rights obligations is a cornerstone of Danish foreign and security policy. Denmark's efforts to enhance multilateral cooperation and the international legal order primarily take place through international institutions and fora, inter alia UN, NATO, EU, and OSCE.

To facilitate participation in international operations contributing to international peace, security and stability, and in the absence of an evident conventional military threat to Danish territory, the armed forces are currently undergoing an extensive transformation from a traditional mobilisation defence to a modern internationally deployable defence force. The 2010-2014 Danish Defence Agreement thus emphasises the demand for Danish contributions to international operations, and underscores the need for Danish operational military and civilian capabilities to be sufficiently robust and capable of a sustained long-term international engagement.

2. Existing structures and processes

2.1. What are the constitutionally established procedures for ensuring democratic political control of military, paramilitary and internal security forces and, intelligence services and the police?

The overall defence policy is determined by the Minister of Defence. He is accountable to Parliament for all defence matters and issues regarding emergency management. The MOD is subjected to the same procedures in relation to Parliament as all the other ministries, that is, Parliament receives all information required it to function as legislator, as well as supervisor of the Government.

A standing parliamentary committee dealing solely with defence and emergency management is set up to scrutinize bills and proposals on defence and emergency management issues for parliamentary resolution. The committee encompasses all parties represented in Parliament. The committee also follows the development of its sphere of competence and ensures that the Minister of Defence implements the laws according to the decisions made by Parliament. Citizens and organisations can make enquiries to the committee. The Minister of Defence is obligated to answer questions put to him by the committee or by any Member of Parliament.

According to the Danish constitution, section 19(3), the government is also obligated to consult with the Foreign Affairs Committee before making any decision of major importance for Danish

foreign policy. This includes decisions concerning defence issues related to international affairs. The Foreign Affairs Committee is also appointed among members of Parliament. Besides, Parliament can at any time decide to have an interpellation on a broader theme pertaining to defence and emergency management, the result of which may enjoin the government to follow a specific guidance.

Denmark has neither paramilitary nor internal security forces.

Police

In 1995, Parliament passed an amendment to the Danish Administration of Justice Act (*retsplejeloven*), providing a new set of rules for processing complaints against police officers and others. The rules are embodied in three parts of the Administration of Justice Act. Part 93 b and part 93 c govern the processing of complaints about the conduct of police personnel and the processing of criminal proceedings against the police, while part 93 d concerns the Police Complaints Boards (*Politiklagenævn*).

The most important element in the scheme is that the regional public prosecutors will deal with complaints against police personnel, investigate criminal cases involving police and decide whether prosecutions should be brought.

The rules apply to police personnel with police authority, i.e. regular police officers and members of police legal staff. Administrative staff and other civilian employees are not covered by the scheme.

The provisions apply to offences that have been committed while on duty. Decision on whether an offence has been committed while on duty will be based on the facts of each individual case.

Generally, the regional public prosecutors will handle all aspects of inquiries and investigations, and consequently the police will be involved in the processing of these cases to a very limited extent only. However, the police themselves are required to deal with urgent matters concerning inquiries and investigations. In addition, the regional public prosecutors may, to a certain extent, request the National Commissioner's Serious Crime Squad to assist them in their investigations. Such external assistance in connection with investigations may, however, only be used in exceptional cases and in accordance with strict instructions from the regional public prosecutor concerned.

Another significant element of the scheme is the police complaints boards. A police complaints board has been set up for each regional public prosecutor. The board consists of one lawyer and two

laypersons, and it supervises the regional public prosecutor's processing of cases covered by the scheme.

The rules solely concern complaints about conduct and criminal proceedings involving police personnel. Hence, complaints about substantive decisions and actions taken by the police in connection with their processing of cases do not fall within the scope of the scheme. Complaints about police (operational) action outside the scope of criminal justice procedure will, therefore, have to be lodged with the Commissioner of the relevant police district (*Politidirektøren)* or the National Police (*Rigspolitiet*). Act No. 444 of 9. June 2004 on police activities deals with the rules on police actions outside the scope of criminal justice. Police actions taken as part of criminal investigations may be complained against to the Regional Public Prosecutor (*Statsadvokaten*).

A third element of the existing rules is the extended right to have legal representation assigned. This applies to the complainant and the officer complained against in cases concerning police conduct as well as to the injured parties and police officers in criminal cases.

In cases concerning complaints about police conduct and in criminal cases involving police personnel, the regional public prosecutor initiates investigations, either upon the receipt of a complaint, on his own initiative or following an opinion submitted by the police complaints board. The regional public prosecutor is, moreover, required to initiate investigations where a person has died or been seriously injured as a result of police intervention or while the person in question was in police custody.

Both the aggrieved party and others may complain to the regional public prosecutor about the conduct of police personnel while discharging their duties, and there are basically no restrictions as to which groups or individuals are entitled to file complaints of alleged criminal offences committed by the police.

The regional public prosecutor’s decision in respect of a complaint may be appealed by either party to the case, or by the police complaints board, to the Director of Public Prosecutions.

In 2001 the regional public prosecutors recorded a total of 931 complaints comprised by the Police Complaints Boards arrangement. In 2002 the number of complaints was 876 and in 2003 the number was 917. In 2004 the regional public prosecutors recorded a total of 971 complaints comprised by the Police Complaints Boards arrangement. In 2005, the number of complaints was 934 and in 2006 the number was 989. In 2007 the number of complaints was 1023 and in 2008 the

number was 981. The most recent recording is from 2009, when the number of complaints was 1053.

In addition to the complaints mechanism described above, the parliamentary Ombudsman Act permits complaints to be lodged with the Ombudsman about final administrative decisions taken by the authorities, including decisions taken by the police. The Ombudsman himself decides whether examinations should be commenced on the basis of a complaint. The Ombudsman may also commence examinations on his own initiative.

Furthermore, it should be noted that the Ministry of Justice automatically informs the Ombudsman about the outcome of investigations conducted by the regional public prosecutors in cases concerning deaths in police cells.

On 11 October 2006 the Ministry of Justice set up a broad-based committee tasked with reviewing and evaluating the current system for dealing with complaints against the police and processing criminal cases against police officers. The Committee submitted its report in April 2009.

Based on this report, an amendment to the Administration of Justice Act was passed on 6 April 2010 introducing as from 1 January 2012 a new system for the handling of complaints concerning the conduct of police personnel. According to the amendment a new independent body is set up which also has the task of investigating criminal offences committed by police personnel while on duty as well as cases concerning the death or injury of persons in police custody.

This means that the new independent body takes over the role in the mentioned types of cases that the regional public prosecutors held before the amendment. However, it is still the regional public prosecutors or the Director of Public Prosecutions who decide whether charges shall be raised against police personnel.

The Police Complaints Authority will be headed by a Police Complaints Council (*Politiklageråd*) which is comprised of a high court judge as the head of the council, one private practising attorney, one professor of law and two representatives of the general public.

The Security and Intelligence Service

The Danish Security and Intelligence Service (*Politiets Efterretningstjeneste* abbreviated *PET*) is subject to the same rules of the Administration of Justice Act as the rest of the police including the complaint system. Furthermore, the Service is subject to different forms of external control.

For instance, the Ministry of Justice on behalf of the government supervises the Service is subject to instructions of the Ministry of Justice. In this connection it should be mentioned that the Ministry of Justice must be informed of general and specific circumstances which are of fundamental importance to the work of the Security and Intelligence Service.

According to Act no. 378 of 6 July 1988 the Parliamentary Committee on the Security and Intelligence Service and the Danish Defence Intelligence Service (the Control Committee) must also be notified of the general instructions and guidelines that applies to the work of the Security and Intelligence Service and be informed of circumstances regarding security of importance to the work of the Service.

Finally, the so-called Wamberg Committee controls the registration and passing of personal information by the Service according to the guidelines of the Ministry of Justice. It thus follows that all cases regarding registration must be submitted to the Wamberg Committee, which controls whether the conditions for the registration by the Security and Intelligence Service have been met in each individual case. The committee consists of a chairman and three other members. The members are non-political and are appointed out of regard and respect for their person.

In addition to the above it should be mentioned that many investigation measures of the Security and Intelligence Service are subject to judicial control. Measures such as searches and tapping of telephone lines etc. can only be conducted by the Service after obtaining a court order.

2.2. How is the fulfilment of these procedures ensured, and which constitutionally established authorities/institutions are responsible for exercising these procedures?

Reference can be made to question 2.1.

2.3 What are the roles and missions of military, paramilitary and security forces, and how does your State control that such forces act solely within the constitutional framework?

For Denmark war prevention and credible collective defence are obtained through Danish membership of NATO and active participation in the joint defence endeavours of the Alliance. Defence of the national territory as well as the territory of other NATO member states in co-operation with allies is the ultimate task of the Danish Armed Forces.

Whenever Danish military forces are requested by the UN, NATO or the OSCE to participate in peacekeeping, humanitarian and other operations, the government undertakes a thorough and careful analysis of the specific situation prior to any decision about Danish contributions. Pursuant to section 19(2) of the constitution, the consent of Parliament will be obtained prior to any participation in missions, where the use of military force against a foreign state in excess of self-defence has been authorized.

Denmark has neither paramilitary nor internal security forces.

3. Procedures related to different forces personnel

3.1 What kind of procedures for recruitment and call-up of personnel for service in your military, paramilitary and internal security forces does your State have?

The main objective of the Danish Armed Forces' personnel policy is to provide highly skilled and motivated personnel in order to maintain the quality and efficiency of accomplishing tasks in both national and international environments.

The manning of the armed forces is based on professional soldiers. However, each year approximately 6.500 conscripts are trained to become a part of the total defence forces that are called up in the event of a crisis or a natural disaster.

All young men holding a Danish citizenship are examined for liability for military service in the year when reaching the age of 18. If called-up he has the possibility to sign an agreement with the armed forces. The agreement allows a certain influence on where, when and how long time he will do his preliminary compulsory service.

The regulars, comprising approximately 4.000 officers and 13.000 non-commissioned officers and privates, are recruited from among the conscripts or directly among those who have finished their regular school attendance. Selection procedures differ slightly between the services and between officers and other ranks. Applicants are required to meet specific literacy and numeracy requirements and to be both medically and physically fit.

There is no compulsory national service for women in Denmark, but women can join the armed forces on a voluntary basis and on the same conditions as men.

Denmark has no paramilitary forces and internal security forces.

3.2 What kind of exemptions or alternatives to military service does your State have?

Conscription was stated for the first time in the Danish constitution in 1849 and has remained unchanged since then. Section 81 reads: "Every young man capable of bearing arms is to take part in the defence of the country according to national law".

Consequently, the Danish Parliament has passed the Act of Conscription, which has been changed as late as December 2005. This act lists four possibilities of doing national service:

1. Service within the Danish Armed Forces,
2. Service within the Danish Emergency Management Agency,
3. Service as aid worker in third world countries,
4. Civilian work – service for personnel that reject service within the armed forces.

The last three possibilities of doing national service do not include arms.

Denmark has ratified an international convention under which it is acknowledged that no one can be called up for service within the armed forces before the age of 18.

3.3 What are the legal and administrative procedures to protect the rights of all forces personnel as well as conscripts?

Military personnel are subordinated to the Military Criminal Code, The Military Administration of Justice Act and the Disciplinary Code.

These contain both rights and obligations for military personnel. In peacetime, the Military Criminal Code and the Disciplinary Code apply to serving military personnel. They also apply to demobilised personnel, as far as duties of demobilisation are concerned. During an armed conflict the Military Criminal Code and the Disciplinary Code apply e.g. to all personnel - whether military or civilian - in the armed forces. Criminal and disciplinary jurisdiction is extended to Danish military personnel serving outside Denmark, including Peace Support Operations.

Military criminal cases are tried before the regular (civilian) courts. In general the Legal Procedure Act applies to all cases concerning breach of the Military Criminal Code as well as breach of the (civilian) Criminal Code committed by military personnel during or related to their service or outside the service but on military installations. The Military Administration of Justice Act only contains a few modifications to the Legal Procedure Act, the most important being that The Judge Advocate General's Corps is responsible for the investigation and prosecution of criminal cases

under military jurisdiction, exercising authority equivalent to that of the police and public prosecutors in civilian criminal cases. The corps is not under the command of the Chief of Defence but is an independent body directly under The Ministry of Defence. Other Military authorities have no specific or independent authority to investigate and prosecute in criminal cases.

Whereas the Military Criminal Code deals with the more severe misconducts the Disciplinary Code deals with misconducts, which are not criminal. But due to the importance of maintaining the military discipline there still is a need for sanctioning. Only the misconducts mentioned specific in the Code can be sanctioned. Disciplinary measures include reproof, work or exercise outside normal hours, presentation for inspection, guard out of turn and disciplinary fine. The Code contains a thorough description of the procedures, which has to be followed in order to sanction misconduct. The main purpose is to secure the defendant. Disciplinary measures may be imposed by officers who have been granted such power by the Chief of Defence.

If the defendant wants to contest a disciplinary measure, he or she may bring the case to the permanent disciplinary board consisting of a judge a representative from the military defence and a representative from the relevant trade union. Furthermore the defendant may contest the decisions of the disciplinary board before a court of law.

4. Implementation of other political norms, principles, decisions and international humanitarian law

4.1 How does your State ensure that International Humanitarian Law and Law of War are made widely available, e.g., through military training programmes and regulations?

All Danish military personnel receive instruction in the Law of Armed Conflict (LOAC) and other relevant international rules governing the conduct of military operations.

The regulations concerning instruction in LOAC were reviewed in the early 1990's. Today, instruction is governed by a defence command directive from November 1995. The guiding principle is that everyone shall receive instruction according to his or her function. Instruction is also to be integrated into all military instruction and exercises, thus making LOAC an integrated part of military training. Instruction takes place at all levels during basic military training, at NCO-schools and at the officer academies as well as at the Defence Academy. In addition, personnel who are to take part in operations carried out by the UN, NATO or the OSCE (including peace support operations) receive “refresher training” in LOAC as well as instruction in rules of special relevance

to such missions. Personnel who have special responsibilities relating to LOAC may attend special courses in Denmark and elsewhere.

In 1997 a military legal advisory service was established with responsibility for advising military commanders on LOAC issues and other legal questions relating to military operations. This service is regulated by a defence command regulation from August 1997. Military legal advisors are employed throughout the armed forces' operational and administrative structure, from the senior commands including defence command down to brigade (army), squadrons (navy) and air stations (air force) level.
Military legal advisors also advise military commanders in relation to crisis management and international peace support operations. Military legal advisors are to take part in planning and can be involved in crisis management and international peace support operations. Military legal advisors have been deployed on such operations with Danish and NATO military contingents. Military legal advisors are also involved in instruction in LOAC within the armed forces.

The military legal advisory service is currently undergoing revision in order to raise the standard and quality of the service, due to the constant more complex nature of international operations.

4.2 What has been done to ensure that armed forces personnel are aware of being individually accountable under national and international law for their actions?

According to the Parliamentary approved Defence Agreement 2010-2014 it is the aim to further strengthening the Danish Armed Forces' education and training in, and use of, humanitarian international law and the laws of armed conflict. To achieve this goal a military manual is to be drawn up on the area.

4.3 How does your State ensure that armed forces are not used to limit the peaceful and lawful exercise of human and civil rights by persons as individuals or as representatives of groups nor to deprive them of national, religious, cultural, linguistic or ethnic identity?

According to the Danish Defence Act, section 1 (3), it is one of the purposes of the Danish defence to promote a peaceful development in the world in respect of human rights. Further reference is made to Section II (2.1).

The following additional information on women, peace and security is provided with reference to the interpretative statement FSC.DEC/2/09, 1 April 2009, Attachment 1 and to OSCE Action Plan for the Promotion of Gender Equality in accordance with ministerial decision No. 14/04 as well as

ministerial decision No. 14/05 on Women in Conflict Prevention, Crisis Management and Post-Conflict Rehabilitation - aiming at enhancing the implementation of the UN Security Council resolution 1325 (2000).

Denmark's National Action Plan for implementation of UNSCR 1325 on Women, Peace and Security 2008-2013 is based on experiences from the first Danish action plan of 2005 and emphasizes focus on women's active participation in peace negotiations and conflict resolutions, active participation of civil society and civil-military cooperation.

The plan was formulated by the Ministry of Foreign Affairs, The Ministry of Defense and the National Police in an all-of-Government approach and in close cooperation with civil society (NGOs, researchers and other relevant actors).

An Inter-Ministerial Working Group is responsible for reporting on the implementation and meets on a six monthly basis. The first joint reporting is being prepared and a follow-up meeting with civil society is planned.

The Ministry of Foreign Affairs is responsible for strengthening implementation of UNSCR 1325 in various ways, directly and indirectly, multilaterally and bilaterally, by

- working for inclusion of UNSCR 1325 elements in UN, OSCE and NATO decisions, policies and plans of action,
- promoting inclusion of UNSCR 1325 in emergency humanitarian response and humanitarian policy,
- working for wider incorporation of the various aspects of SCR 1325, including the important aspect of combating gender based violence through humanitarian activities of UN organizations such as OCHA, UNHCR, WFP, UNICEF and UNRWA,
- ensuring inclusion of UNSCR 1325 aspects in humanitarian projects and programmes of Danish relief organizations supported by the Ministry of Foreign Affairs,
- working for more women in senior international peace work by contributing female candidates to the rosters within the EU and UN,
- working for increasing the number of women recruited for the Danish International Humanitarian Services,
- promoting partnership of like-minded European countries similar to the UN Friends of 1325 groups,
- supporting capacity building and training on the prevention of sexual exploitation and abuse in UN Peacekeeping Operations,

- giving specific attention to UNSCR perspectives in UN missions, including upholding the zero tolerance of violations of code of conduct.

4.4 What has been done to provide for the individual service member's exercise of his or her civil rights and how does your State ensure that the country's armed forces are politically neutral?

Reference is made to Section II (3.3 and 2.1).

4.5 How does your State ensure that its defence policy and doctrine are consistent with international law?

Reference is made to Section II (2.1).

Section III: Public access and contact information

1. Public access

1.1 How is the public informed about the provisions of the Code of Conduct?

The public can obtain information on the provisions of the Code of Conduct via the homepage of the Danish Ministry of Foreign Affairs (www.um.dk).

1.2 What additional information related to the Code of Conduct, e.g., replies to the Questionnaire on the Code of Conduct, is made publicly available in your State?

Danish replies to the Questionnaire on the Code of Conduct are made publicly available on OSCE homepage.

1.3 How does your State ensure public access to information related to your State's armed forces?

Information to the public is made available on the official internet home page of the Danish armed forces (www.forsvaret.dk) and on the homepage of the Danish Ministry of Defence (www.fmn.dk).

Furthermore, information on the armed forces is available at public libraries and by direct contact to:

Defence Command Denmark
Danneskiold-Samsøes Allé 1
1434 København K
Ph: +45 4567 4567
E-Mail: fko@mil.dk

2. Contact information

2.1 Provide information on the national point of contact for the implementation of the Code of Conduct.

Ministry of Foreign Affairs
Office for Security Policy / SP
Asiatisk Plads 2
1448 Copenhagen K
Denmark

Ph.: +45 3392 0000
E-mail: sp@um.dk
Fax: +45 3354 0533