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COPY ADVANCED TO:

National Security Council Meeting on Detainees

ACTION REQUESTED:

\_\_\_\_ MEMORANDUM FOR:  
☒ APPROPRIATE HANDLING  
\_\_\_\_ FOR YOUR INFORMATION  
\_\_\_\_ OTHER  
\_\_\_\_ VOA EDITORIAL:  
\_\_\_\_ CALL/FAX OR E-MAIL COMMENTS/CLEARANCE TO:

REMARKS:

UNITED STATES DEPARTMENT OF STATE  
REVIEW AUTHORITY: WILLIAM E LANDFAIR  
DATE/CASE ID: 12 OCT 2004 200303827

LPB, RML, KLB, B  
P/MAT

D. DATE IN S/ES: \_\_\_\_\_

AUTHORIZED BY  
S/ES, ROOM 7241  
EXT. 7- 6590  
FAX. 7-2283

Saadia Sarkis

YOUR RESPONSE SHOULD BE ACCOMPANIED BY A COPY OF THIS TASKER.

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APPROVED BY: S/ES-O:DJBAME  
S/WCI:JCROCK

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MILITARY ADDE - HANDLE AS SPECAT EXCLUSIVE

FOLLOWING SENT ACTION TO [REDACTED] RIYADH, [REDACTED]

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QUOTE:

S E C R E T STATE 212937

UNITED STATES DEPARTMENT OF STATE  
REVIEW AUTHORITY: WILLIAM E LANDFAIR  
DATE/CASE ID: 02 NOV 2004 200303827

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E.O. 12958: DECL: 12/10/2011

TAGS: PREL, PTER, KAWC, [REDACTED]

SUBJECT: PROSECUTION OF NON-AFGHANIS FIGHTING WITH AL  
QAEDA OR TALIBAN

CLASSIFIED BY AMBASSADOR PIERRE-RICHARD PROSPER (S/WCI)  
FOR REASONS 1.5 (B) AND (D)

1. (U) THIS IS AN ACTION MESSAGE.  
2. (S) SUMMARY. EVENTS IN AFGHANISTAN HAVE RESULTED IN  
DETENTION OF NON-AFGHANIS FIGHTING WITH AL QAEDA OR THE  
TALIBAN, AND WE BELIEVE THERE WILL BE AN INCREASING NUMBER  
OF PERSONS DETAINED. ONE OPTION TO DEAL WITH THEM IS TO  
REPATRIATE SUCH PERSONS TO THEIR COUNTRIES OF NATIONALITY.  
TO ASSIST IN EVALUATING POSSIBLE DISPOSITION OF THESE  
PERSONS, DEPARTMENT IS SEEKING INFORMATION CONCERNING  
WHETHER SUCH PERSONS WOULD BE PROSECUTED IF REPATRIATED.  
END SUMMARY.

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6. (SBU) USG IS GATHERING INFORMATION ON THE IDENTITIES AND NATIONALITY OF DETAINEES. THIS INFORMATION CANNOT BE SHARED WITH HOST GOVERNMENTS AT THIS EARLY STAGE. POSTS SHOULD NOTE TO HOST GOVERNMENT THAT AT THIS POINT IT IS THE AFGHANS THEMSELVES THAT HAVE DETAINED PERSONS RELATED TO THIS CONFLICT (THE USG HOLDS ONLY ONE, WHO IS AN AMCIT), BUT THE USG WOULD HOPE TO PROVIDE INFORMATION TO THE HOST GOVERNMENTS ABOUT THEIR NATIONALS IN THE FUTURE.

7. (SBU) ACTION ADDRESSEES ARE IN COUNTRIES WHOSE NATIONALS ARE KNOWN OR PREDICTED TO BE AMONG DETAINEES. IT MAY TURN OUT THAT NATIONALS OF INFO ADDRESSEES HOST COUNTRIES WILL ALSO BE DETAINED, IN WHICH EVENT DEPARTMENT MAY REQUEST THAT DEMARCHES BE MADE IN THOSE COUNTRIES.

8. (U) BEGIN TALKING POINTS:

A. THE UNITED STATES APPRECIATES THE VITAL ROLE PLAYED BY YOUR GOVERNMENT IN THE FIGHT AGAINST TERRORISM. AN IMPORTANT NEXT STEP IN THAT FIGHT WILL BE TO BRING TO JUSTICE PERSONS WHO HARBORED OR FOUGHT WITH AL QAEDA OR THE TALIBAN AND HAVE COMMITTED PROSECUTABLE CRIMES.

B. LOCAL AFGHAN FORCES HAVE DETAINED NON-AFGHANIS WHO HAVE BEEN MEMBERS OF OR FOUGHT ALONG SIDE AL QAEDA OR THE TALIBAN. MANY OF THEM POSE SERIOUS DANGERS TO OUR SOCIETIES AND CAN BE EXPECTED TO COMMIT ACTS OF TERRORISM OR TAKE UP ARMS AGAINST US IN THE FUTURE IF ALLOWED TO GO FREE.

C. SOME OF THESE PERSONS MAY BE NATIONALS OF YOUR COUNTRY. IN THE EVENT THAT SOME TURN OUT TO BE YOUR NATIONALS, ONE POSSIBILITY WOULD BE FOR SUCH PERSONS TO BE REPATRIATED AND SUBJECT TO PROSECUTION UNDER YOUR LAWS.

D. WHAT IS YOUR GOVERNMENT'S VIEW ON HOW SUCH PERSONS WOULD BE DEALT WITH IF RETURNED TO YOUR COUNTRY? IN PARTICULAR:

-- WOULD SUCH PERSONS BE SUBJECT TO PROSECUTION IN YOUR COUNTRY, AND IF SO, FOR WHAT CRIMES? FOR CRIMES COMMITTED INSIDE YOUR COUNTRY? FOR CRIMES COMMITTED OUTSIDE, INCLUDING FOR ACTS RELATED TO THE AFGHAN CONFLICT OR TERRORIST ACTS?

-- DO YOU HAVE CHARGES PENDING AGAINST ANY OF YOUR NATIONALS (OR OTHERS) WHO YOU KNOW OR SUSPECT HAVE JOINED OR FOUGHT WITH AL QAEDA OR THE TALIBAN? WHAT ARE THOSE CHARGES, AND AGAINST WHOM HAVE THEY BEEN BROUGHT?

-- WOULD YOUR GOVERNMENT ACTIVELY SEEK TO PROSECUTE THESE

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TYPES OF PERSONS AND SEEK APPROPRIATE PUNISHMENTS? WHAT  
TYPES OF PUNISHMENTS ARE APPROPRIATE FOR OFFENSES THAT ARE  
LIKELY TO BE BROUGHT AGAINST YOUR NATIONALS?

END TALKING POINTS.

9. (U) FOR RIYADH: DURING HIS DECEMBER 7 MEETING WITH  
THE PRESIDENT, FOREIGN MINISTER SAUD DISCUSSED THE NEED TO  
BRING TO JUSTICE TERRORISTS WHO ARE CAPTURED IN  
AFGHANISTAN. IN ADDITION, A DEC. 9 REUTERS STORY REPORTED

ON A STATEMENT BY FOREIGN MINISTER SAUD THAT SAUDI ARABIA  
WOULD RECEIVE SAUDI CITIZENS WHO HAD FOUGHT WITH THE  
TALIBAN, AND THAT "THOSE WHO ARE CRIMINALLY INVOLVED WILL  
BE PUNISHED: BUT THEY ARE OUR RESPONSIBILITY." POST  
SHOULD SEEK ADDITIONAL INFORMATION ON HOW THESE  
PROSECUTIONS WOULD OCCUR AND TO WHICH CRIMES THEY WOULD  
RELATE.

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