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B1, 1.4(D)

@INFO: CIAE(01) D(01) DODE(01) EUR(01) S(01)
INR(01) L(01) NSCE(01) P(01) SSOX(01)
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@COMMENT: TOPAR #80

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FM AMEMBASSY
TO SECSTATE WASHDC IMMEDIATE 4351

C O N F I D E N T I A L

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E.O. 12958: DECL: 01/16/2012

TAGS: PREL,

SUBJECT: PROSECUTION OF NATIONALS DETAINED IN

REF: STATE 212937

Classified By: REASON 1.5 (B/D)

1. (C) Responding to reftel demarche delivered December 13 regarding prosecution of non-Afghanis fighting with Al-Qaeda or the Taliban,

presented a non-paper to PolMinCouns January 16. Below follows an informal Embassy translation of the text.

2. (SBU) BEGIN TEXT:

CONCERNING COURT PROSECUTION OF PERSONS FIGHTING EITHER ON THE SIDE OF AL QAEDA OR THE TALIBAN MOVEMENT (TM) WHO ARE ASSUMED TO BE CITIZENS OF

If it will become established that the indicated persons are citizens, and if given well-founded suspicions we can assume that these persons have committed criminal acts according to the legislation (for example either on the territory of , we intend to insist on their return to

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An investigation of these persons will be carried out and, in the event that it is established that criminal acts were perpetrated by them, these individuals will then be prosecuted by the courts pursuant to existing legislation for any criminal acts committed on the territory of as well as those that were committed beyond its borders. legislation envisages invoking the criminal code specifically for such crimes as mercenary service

, terrorism, taking hostages, banditry, organizing criminal associations

Court prosecution of citizens who had committed crimes on the territory of or on a third nation's territory will be done in a manner that shall take into

UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: WILLIAM E LANDFAIR
DATE/CASE ID: 10 NOV 2004 200303827

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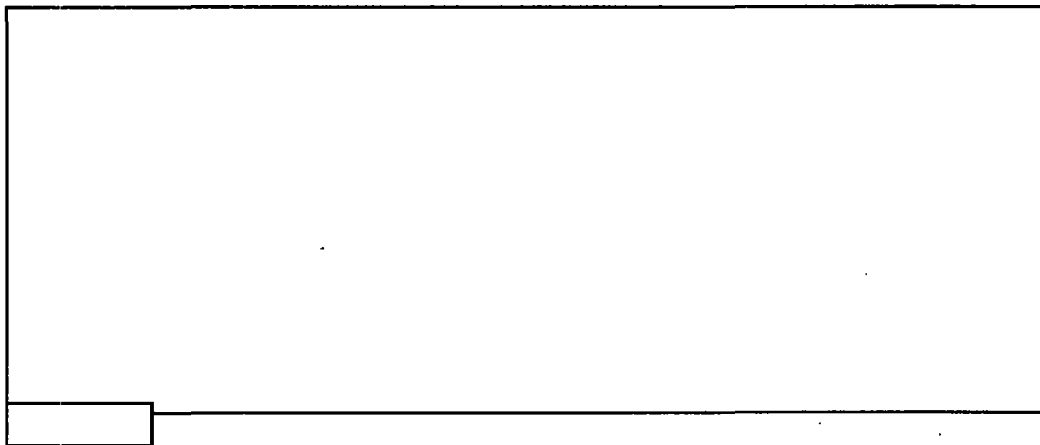
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account the laws that are in force in that country. In accordance with the Criminal Code of [redacted] citizens of [redacted] who have committed crimes outside the borders of [redacted] are subject to criminal liability under [redacted] Criminal Code if the act perpetrated by such individuals are considered to be criminal actions by the nation on whose territory such acts were committed. When sentencing such persons the punishment cannot exceed the maximum sentence allowed for by law of the foreign state on the territory of which the crime was committed. Proceeding from this, the [redacted] citizens who provided sanctuary to members of either al Qaeda or the Taliban Movement (TM), or fought on their side and had committed no crime on the territory of [redacted] may be deemed criminally culpable if their actions constitute a crime according to the laws of the country where such actions were committed, in this instance [redacted]

[redacted] side will strive to prosecute the indicated individuals through court in accordance with [redacted] and International law.

END TEXT.

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