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TELEGRAM

June 02, 2004

To: SECSTATE WASHDC - ROUTINE

Action: IO

From: USMISSION GENEVA (GENEVA 1563 - ROUTINE)

TAGS: PHUM

Captions: None

Subject: LETTER FROM SPECIAL RAPORTEURS ON EXTRAJUDICIAL,
SUMMARY OR ARBITRARY EXECUTIONS AND TORTURE ON THE
DETENTION OF 22 ETHNIC-UIGHURS OF CHINESE NATIONALITY
AT GUANTANAMO BAY

Ref: None

1. Mission has received the following communication from Ms. Asma Jahangir, Special Rapporteur on extrajudicial, summary or arbitrary executions and Mr. Theo Van Boven, Special Rapporteur on torture regarding 22 ethnic-Uighurs of Chinese nationality being held at Guantanamo Bay.

2. Begin text:

Excellency,

We have the honour to address you in our respective capacities as Special Rapporteur on extrajudicial, summary or arbitrary executions and Special Rapporteur on torture pursuant to the Commission on Human Rights resolutions 2001/45 and 2001/62 respectively.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received regarding about 22 ethnic-Uighurs of Chinese nationality.

It is alleged that they are held at Camp 4 at the military base in Guantanamo Bay, Cuba, and are at risk of imminent forcible return to China. The detainees were allegedly captured in the context of the armed conflict in Afghanistan and transferred to United States custody around January 2002.

It is also alleged that a Chinese government delegation

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UNITED STATES DEPARTMENT OF STATE
REVIEW AUTHORITY: WILLIAM J GEHRON
DATE/CASE ID: 16 NOV 2004 200303827

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visited Guantanamo in September 2002 and participated in interrogations of the ethnic-Uighur detainees. It is alleged that the detainees were subjected to intimidation and threats, and to "stress and duress" techniques such as environmental manipulation, forced sitting for many hours, and sleep deprivation, some of which were carried out on the instructions of the Chinese delegation.

While welcoming reports of the release of the detainees, concern is expressed that they may be at risk for torture or other forms of ill-treatment, or execution should they be returned.

Without in any way implying any determination on the facts of the case, we would like to refer your Excellency's Government to the fundamental principles set forth in the Universal Declaration of Human Rights and International Covenant on Civil and Political Rights. Articles 3 and 6 of these instruments, respectively, provide that every individual has the right to life and security of the person, that this right shall be protected by law and that no one shall be arbitrarily deprived of his or her life.

We would also like to refer your Excellency's Government to the following norms and principles which are particularly relevant to the above allegations:

Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions, Economic and Social Council resolution 1989/65 of 24 May 1989. In particular, principle 5 provides that no one shall be involuntarily returned or extradited to a country where there are substantial grounds for believing that he or she may become a victim of extra-legal, arbitrary or summary execution.

We would like to recall your Excellency's Government to the fundamental principles enunciated in article 5 of the Universal Declaration of Human Rights and reiterated in article 7 of the International Covenant on Civil and Political Rights, where it is provided that no person should be subjected to torture and other cruel, inhuman or degrading treatment or punishment. The Human Rights Committee, in its General Comment 20 on article 7, had stated that State Parties "must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of extradition, expulsion, or refoulement." We would further mention that under article

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3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, no State Party shall expel, return (refouler), or extradite a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture. In our opinion, the principle contained in the Human Rights Committee's statement and the above provision of the Convention Torture represents an inherent part of the overall fundamental obligation to avoid contributing in any way to a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment.

In relation to a previous letter of the Special Rapporteur on torture dated 8 December 2003, concerning the release of detainees from Guantanamo Bay (E/CN.4/2004/56/Add.1, para 1821), the Special Rapporteurs note your Excellency's

Government's response dated 3 March 2004. There it was stated that the United States seeks specific assurances from concerned governments, particularly of humane treatment, before return, and would take steps to investigate credible allegations of torture and taken appropriate action if there were reason to believe that those assurances were not being honoured. We would like to appeal to your Excellency's Government to refrain from deporting the aforementioned persons to China, unless your Excellency's Government obtains an unequivocal guarantee from the Government of China that they would not be subjected to torture or any other forms of ill-treatment upon return, and that a system to monitor the treatment of the persons in question has been put into place with a view to ensuring that they will be treated with respect of their human dignity.

We would greatly appreciate receiving information from your Excellency's Government concerning the steps taken by the competent authorities in compliance with the provisions contained in the international legal instruments referred to above, as they apply to the aforementioned persons.

Accept, Excellency, the assurances of our highest consideration.

Asma Jahangir, Special Rapporteur on extrajudicial, summary or arbitrary executions.

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Theo Van Boven, Special Rapporteur on torture.

End text.

3. Mission will transmit by fax a copy of the letter to
IO/SHA, attention Director.
Moley

Additional Addressees:
None

cc:
USMISSION USUN N Y

Distribution:

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ACTION IO-00

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R 020615Z JUN 04
FM USMISSION GENEVA
TO SECSTATE WASHDC 0866
INFO USMISSION USUN NEW YORK

UNCLAS GENEVA 001563

STATE FOR IO/SHA, DRL/MLA, L/HRR

E.O. 12958: N/A

TAGS: PHUM

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