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RELEASED IN PART
B1, 1.4(B), 1.4(D)

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ACTION EUR-00

INFO	LOG-00	NP-00	AID-00	AMAD-00	ACQ-00	CIAE-00	INL-00
	DODE-00	DOTE-00	SRPP-00	DS-00	EB-00	FAAE-00	UTED-00
	VC-00	H-01	TEDE-00	INR-00	IO-00	L-00	VCE-00
	AC-01	NEA-00	NSAE-00	NSCE-00	OIC-02	OMB-01	OPIC-01
	PA-00	PC-01	PM-00	PRS-00	ACE-00	P-00	SCT-00
	SP-00	IRM-00	SSO-00	SS-00	STR-00	TEST-00	TRSE-00
	T-00	USIE-00	SA-00	R-00	SNIS-00	NISC-00	PMB-00
	DSCC-00	PRM-00	DRL-02	G-00	SAS-00	/009W	

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O 171259Z JAN 02
FM AMEMBASSY BERN
TO SECSTATE WASHDC IMMEDIATE 3733
INFO USMISSION GENEVA IMMEDIATE
USMISSION USUN NEW YORK
AMEMBASSY THE HAGUE
EUROPEAN POLITICAL COLLECTIVE

UNITED STATES DEPARTMENT OF STATE
CLASSIFIED BY DEPT. OF STATE, L. R. LOHMAN, DAS, A/RPS
REVIEW AUTHORITY: SHARON E AHMAD
CLASSIFICATION: CONFIDENTIAL REASON: 1.4(B), 1.4(D)
DECLASSIFY AFTER: 17 JAN 2012
DATE/CASE ID: 17 DEC 2004 200303827

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DEPT FOR EUR/AGS, PRM KRECZKO, IO/P AND L-CUMMINS
GENEVA FOR MICHAEL PEAY

E.O. 12958: N/A
TAGS: PHUM, PREL, PREF, IO, AF, SZ
SUBJECT: SWISS RAISE APPLICATION OF GENEVA CONVENTIONS TO
TREATMENT OF PRISONERS

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1. ACTION REQUEST IN PARAGRAPH 7.

2. SUMMARY: [REDACTED]

B1

[REDACTED] TOLD THE AMBASSADOR IN
SEPARATE MEETINGS JANUARY 16-17 THAT SWITZERLAND IS
CONCERNED OVER WHETHER CONDITIONS FOR U.S. PRISONERS
CAPTURED IN AFGHANISTAN MEET INTERNATIONAL HUMANITARIAN LAW
REQUIREMENTS. THE GOS WILL SOON RAISE WITH THE DEPARTMENT
ITS INTEREST IN DEFINING THE STATUS OF PRISONERS CAPTURED IN
THE AFGHAN CONFLICT IN TERMS OF THE GENEVA CONVENTION.
SWITZERLAND WISHES TO DISCUSS THE APPLICABILITY OF CERTAIN

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GENEVA CONVENTION ARTICLES TO THE U.S. TREATMENT OF AFGHAN PRISONERS. END SUMMARY

3. IN A SEPTEMBER 17 MEETING, [REDACTED] RAISED SWISS CONCERN OVER THE NEED TO DEFINE THE STATUS OF THOSE HELD BY THE U.S. [REDACTED] SAID THAT, IF THOSE HELD ARE NOT PRISONERS OF WAR, THEY SHOULD BE ACCORDED TREATMENT GOVERNED BY UN RULES FOR DETAINEES. RAISING THE SAME ISSUE ON SEPTEMBER 16, [REDACTED] NOTED THAT IT WILL BE NECESSARY TO DEFINE THE STATUS OF THE PRISONERS (E.G. CIVILIANS OR COMBATANTS) TO DETERMINE WHETHER A SPECIFIC GENEVA CONVENTION APPLIES AND WHAT RIGHTS MUST BE ACCORDED TO THEM (E.G., POSSIBLE ICRC VISITS).

4. BOTH SENIOR OFFICIALS SAID THAT SWITZERLAND TAKES ITS ROLE AS DEPOSITARY OF THE GENEVA CONVENTIONS VERY SERIOUSLY. THEY INDICATED THAT HUMAN RIGHTS ADVOCATES IN SWITZERLAND WERE ASKING THE GOS RAISE TO THE ISSUE OF THE GENEVA CONVENTIONS' APPLICABILITY TO THE TREATMENT OF THE AL QAIDA

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AND TALIBAN PRISONERS IN AFGHANISTAN AND GUANTANAMO, CUBA.

5. AT BOTH MEETINGS, THE AMBASSADOR RESPONDED THAT, TO HIS KNOWLEDGE, THESE PRISONERS OBTAINED FAIR TREATMENT -- ESPECIALLY IN LIGHT OF THEIR OFTEN VOLATILE BEHAVIOR.

[REDACTED] COMMENTED THAT U.S. STEPS IN SELF-DEFENSE IN AFGHANISTAN HAD CREATED AN UNPRECEDENTED SITUATION. DRAFTERS OF THE GENEVA CONVENTIONS HAD NOT FORESEEN THIS NEW KIND OF ARMED CONFLICT. HE BELIEVED IT WOULD BE A CHALLENGE TO RESOLVE THE ISSUES OF INTERNATIONAL HUMANITARIAN LAW RAISED BY THE LEGITIMATE ARMED U.S. INTERVENTION. HE EXPRESSED CONCERN THAT SENIOR U.S. OFFICIALS HAD REPORTEDLY TOLD THE PRESS THAT PRISONERS IN GUANTANAMO HAD NO LEGAL RIGHTS.

6. COMMENT: [REDACTED]

[REDACTED] A JANUARY 16 ARTICLE IN THE GENEVA "LE TEMPS" QUOTED CRITICISMS BY A UNIVERSITY OF GENEVA INTERNATIONAL LAW PROFESSOR THAT THE US LEGAL APPROACH TO THE AFGHANI PRISONERS WAS A VIOLATION OF INTERNATIONAL HUMANITARIAN LAW. AMONG OTHER CRITICISMS IN THE ARTICLE, THE PROFESSOR ALLEGED THAT THE U.S. WAS NOT ACCORDING THE CORRECT COMBATANT STATUS TO THE FORMER TALIBAN FIGHTERS.

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7. ACTION REQUEST: EMBASSY SUGGESTS THE USEFULNESS OF THE DEPARTMENT PROVIDING A "FACT SHEET" SUMMARY ON AFGHAN PRISONER CONDITIONS FOR POST'S USE IN RESPONDING TO GROWING OFFICIAL AND PUBLIC INQUIRIES ABOUT THE ISSUE.

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