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- DRAFTED BY D/WHYR:RDPALMERCLAE.
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- AID/PPC - MR. SHACKM (DRAFT)
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- AE - MR. WHITING (DRAFT)
- NEA - MR. HOLLY (DRAFT)
- EUR - MR. GOETT (DRAFT)
- ARA - MR. LISTER (DRAFT)
- T - MR. LEWIS (DRAFT)
- L/HR - MR. RUNYON (DRAFT)
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- L - MR. ALJICH (DRAFT)

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FOR AMBASSADORS, ALSO FOR POLADS

F.R. 11652: N/A

TAGS: SHUX, PFOR, PINS, PINT, FORG, SAID, EFIN

SUBJECTS: HUMAN RIGHTS: 1976 REPORTING REQUIREMENT

KUWAIT PLEASE POUCH BAGHDAD

INFORM CONSULS AS APPROPRIATE

REFERENCE: A) STATE W12320, JANUARY 17, 1976; B) W12320, JANUARY 14, 1976; C) STATE W05725, JANUARY 7, 1976.

1. A PRINCIPAL GOAL OF U.S. POLICY IS TO PROMOTE INCREASED OBSERVANCE OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS BY ALL COUNTRIES. TO THIS END (REF. A) DEPT. HAS INFORMED CONGRESS IT IS ELICITING REPORTING FROM ALL POSITIONS SIGNIFICANT HUMAN RIGHTS DEVELOPMENTS TO ESTABLISH FACTS RELEVANT TO FURTHERANCE OF THIS POLICY. ADDITIONALLY, SUCH REPORTING SERVES PURPOSE OF RESPONDING TO SPECIFIC HUMAN RIGHTS LEGISLATION AS WELL AS INCREASED NUMBER OF CONGRESSIONAL AND PUBLIC QUERIES.

2. HUMAN RIGHTS REPORTS SUBMITTED BY POST IN RESPONSE TO REF A HAVE PROVIDED VALUABLE BACKGROUND INFORMATION FOR MANY PURPOSES, INCLUDING MAKING OF DECISIONS ON BILATERAL AND MULTILATERAL ISSUES. THEY FORM BASIS FOR DEPARTMENT'S INTERNAL REVIEW OF HUMAN RIGHTS PROBLEMS IN CONNECTION WITH FORMULATION FY 1976 SECURITY ASSISTANCE PROGRAM. THOUGH HUMAN RIGHTS COUNTRY REPORTS ON INDIVIDUAL COUNTRIES WERE NOT SENT TO CONGRESS AS PART OF FY 1976 SECURITY ASSISTANCE CONGRESSIONAL PRESENTATION, REPORTING SECURITY ASSISTANCE LEGISLATION MAY MAKE IT NECESSARY TO PROVIDE COUNTRY-BY-COUNTRY HUMAN RIGHTS ANALYSES. THERE

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REPORTS IF EVENTUALLY REQUIRED, WILL BE BASED LARGELY ON MISSION SUBMISSIONS REQUESTED LATER IN THIS MESSAGE.

3. POSTS ARE NOW AWARE OF CONSIDERABLE PUBLIC AND MEDIA ATTENTION TO HUMAN RIGHTS QUESTIONS IN U.S. FOREIGN AFFAIRS. IN CONGRESS PRIMARY FOCUS OF THIS ATTENTION HAS BEEN IN CONNECTION WITH THE RESTRICTION OF ECONOMIC AND SECURITY ASSISTANCE TO RECIPIENT COUNTRIES WHERE THERE ARE SERIOUS DEFICIENCIES IN OBSERVANCE OF HUMAN RIGHTS WITH RESPECT TO THE SECURITY OF THE PERSON, OR, ALTERNATIVELY, TO DIMINISH U.S. IDENTIFICATION WITH REPRESSIVE PRACTICES. DEPARTMENT HAS RESISTED CONCEPT AUTOMATIC CUT-OFF OF ASSISTANCE BECAUSE OF HUMAN RIGHTS VIOLATIONS, CITING POSSIBLE DANGER TO U.S. SECURITY AND OTHER INTERESTS AND INEFFECTIVENESS OF SUCH CUT-OFFS FOR LONG-TERM IMPROVEMENT HUMAN RIGHTS OBSERVANCE IN MOST COUNTRIES. PENDING SECURITY ASSISTANCE LEGISLATION NEVERTHELESS GIVES EXECUTIVE BRANCH RESPONSIBILITY FOR FOLLOWING HUMAN RIGHTS OBSERVANCE BY FOREIGN GOVERNMENTS AND ALSO TIES ASSISTANCE TO SUCH OBSERVANCE.

4. COMMON THEME OF INTERNATIONAL DEVELOPMENT AND FOOD ASSISTANCE ACT OF 1975 (REF C) AND PENDING SECURITY ASSISTANCE LEGISLATION IS ANNOUNCED POLICY AGAINST PROVIDING U.S. ASSISTANCE TO GOVERNMENTS OF ANY COUNTRY WHICH ENGAGES IN "A CONSISTENT PATTERN OF GROSS VIOLATIONS OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS."

5. INTERNATIONAL DEVELOPMENT AND FOOD ASSISTANCE ACT OF 1975 DOES NOT REQUIRE THAT EXECUTIVE BRANCH REPORT TO CONGRESS WHICH COUNTRIES EXHIBIT SUCH A PATTERN BUT NEVERTHELESS THE EXECUTIVE BRANCH WILL HAVE TO GATHER ALL NECESSARY INFORMATION RELEVANT TO QUESTIONS AS TO WHETHER SUCH A PATTERN EXISTS SO THAT ASSISTANCE PROGRAMS ARE DESIGNED TO "DIRECTLY BENEFIT THE NEEDY PEOPLE IN SUCH COUNTRY." (FYI: AUTHORIZING LEGISLATION FOR FUNDING OF U.S. CONTRIBUTION TO INTER-AMERICAN DEVELOPMENT BANK AND AFRICAN DEVELOPMENT FUND AS PASSED BY HOUSE AND FAVORABLY CONSIDERED IN SENATE FOREIGN RELATIONS COMMITTEE INCLUDES HUMAN RIGHTS RESTRICTIONS SIMILAR TO THOSE IN FOREGOING AID LEGISLATION. END FYI).

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6. PENDING SECURITY ASSISTANCE LEGISLATION IN HOUSE INCLUDES LANGUAGE WHICH WOULD REQUIRE EXECUTIVE BRANCH, ON REQUEST OF EITHER HOUSE, TO PROVIDE ALL INFORMATION ON HUMAN RIGHTS PERFORMANCE AND WITH RESPECT TO ANY COUNTRY, STATEMENT WHETHER COUNTRY'S PERFORMANCE RAISES A "SERIOUS QUESTION" OF A "CONSISTENT PATTERN" IN SENSE OF PARA 4 ABOVE. SENATE BILL WHICH PASSED ON FEBRUARY 18, 1976 DOES NOT REQUIRE SUCH STATEMENT BUT WOULD MAKE DEPARTMENT SUBMIT "A FULL REPORT ON THE HUMAN RIGHTS PRACTICES OF EACH PROPOSED RECIPIENT OF SECURITY ASSISTANCE AS PART OF THE CONGRESSIONAL PRESENTATION MATERIALS EACH YEAR". FURTHER, ON SUBSEQUENT REQUEST OF EITHER HOUSE DEPARTMENT WOULD HAVE TO SUBMIT ADDITIONAL STATEMENT SETTING OUT 1) DETAILED DESCRIPTION OF HUMAN RIGHTS PRACTICES IN ANY COUNTRY; 2) STEPS TAKEN BY U.S. TO DISCOURAGE PRACTICES INIMICAL TO HUMAN RIGHTS IN SUCH COUNTRY, TO CALL ATTENTION TO SUCH PRACTICES AND TO DISSOCIATE ANY U.S. ASSISTANCE FROM SUCH PRACTICES AND 3) OPINION OF SECRETARY OF STATE WHETHER EXCEPTIONAL CIRCUMSTANCES WARRANT CONTINUED ASSISTANCE NOTWITHSTANDING SUCH PRACTICES AND IF SO, DESCRIPTION SUCH CIRCUMSTANCES AND EXTENT TO WHICH ASSISTANCE SHOULD BE CONTINUED.

7. PENDING SECURITY ASSISTANCE LEGISLATION IN HOUSE (PUT NOT RECENTLY ENACTED DEVELOPMENT ASSISTANCE LEGISLATION) WOULD ALSO REQUIRE EXECUTIVE BRANCH TO STATE (1) STEPS U.S. HAS TAKEN TO DISCOURAGE PRACTICES INIMICAL TO HUMAN RIGHTS ON PART OF OFFENDING GOVERNMENTS, AND TO PROMOTE RESPECT FOR AND OBSERVANCE OF HUMAN RIGHTS IN THAT COUNTRY AND (2) STEPS BEING TAKEN PUBLICLY AND PRIVATELY TO CALL ATTENTION TO SUCH PRACTICES AND TO DISSOCIATE U.S. AND SECURITY ASSISTANCE PROGRAMS FROM SUCH PRACTICES.

8. NEW DEVELOPMENT ASSISTANCE LEGISLATION AND PENDING SECURITY ASSISTANCE LEGISLATION INCLUDE VARIATIONS OF IDEA THAT IN APPRAISING AND REPORTING HUMAN RIGHTS RECORDS, CONSIDERATION WILL BE GIVEN TO RELEVANT FINDINGS OF APPROPRIATE INTERNATIONAL ORGANIZATIONS INCLUDING NON-GOVERNMENTAL ORGANIZATIONS HAVING CONSULTATIVE STATUS

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WITH THE UNITED NATIONS (INTERNATIONAL COMMITTEE OF THE RED CROSS, AMNESTY INTERNATIONAL, INTERNATIONAL COMMISSION OF JURISTS, INTERNATIONAL LEAGUE FOR THE RIGHTS OF MAN, ETC.) AND ORGANIZATIONS ACTING UNDER THE AUTHORITY OF THE UNITED NATIONS OR OF APPROPRIATE REGIONAL ORGANIZATION OF STATES AND EXTENT OF COOPERATION OF GOVERNMENTS WITH SUCH ORGANIZATIONS.

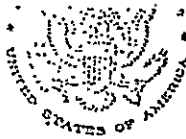
9. IN DEFINING "A CONSISTENT PATTERN OF GROSS VIOLATIONS OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS" ALL VERSIONS SINGLE OUT PRIMARY CONGRESSIONAL INTEREST IN TORTURE OR CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT, AND PROLONGED DETENTION WITHOUT CHARGES. NONETHELESS, IT CLEARLY CONGRESS' INTENT THAT REPORTING, ANALYSIS AND POLICY DECISIONS SHOULD TAKE ACCOUNT OF THE BROAD RANGE OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS TO WHICH THE UNITED STATES IS COMMITTED UNDER ARTICLES 55 AND 56 OF THE UN CHARTER.

10. DEPARTMENT WILL NEED INFORMATION AND ANALYSIS FROM ALL POSTS IN COUNTRIES RECEIVING U.S. DEVELOPMENT ASSISTANCE OR SECURITY ASSISTANCE (MAP, FMS, SECURITY SUPPORTING ASSISTANCE, MILITARY EDUCATION AND TRAINING, FMS CASH SALES AND COMMERCIAL PURCHASES OF DEFENSE ITEMS) TO ENABLE IT TO RESPOND AS FULLY AS POSSIBLE TO REQUIREMENTS ANTICIPATED BY LEGISLATION. REQUEST REPORTS BY AIRGRAM TO REACH DEPARTMENT BY MARCH 15. TELEGRAMS SHOULD CONCENTRATE ON ISSUES OF PRIMARY CONGRESSIONAL CONCERN (TORTURE, CRUEL, INHUMAN OR DEGRADING TREATMENT AND

PROLONGED DETENTION WITHOUT CHARGES) SHOULD BE PROVIDED WHEN AIRGRAM REACHED IN ORDER TO TAKE ACCOUNT VARIOUS POLICY DELIVERY. POSTS IN COUNTRIES RECEIVING BOTH DEVELOPMENT ASSISTANCE AND SECURITY ASSISTANCE SHOULD MAKE ONLY ONE SUBMISSION OF NECESSARY INFORMATION REQUESTED BELOW. IN UPDATED, RESPECTED REPORT POSTS SHOULD INCORPORATE, BY PREFERENCE EARLIER RELEVANT REPORTS. A LIST IS INCLUDED IN PARA 14 OF DEVELOPMENT ASSISTANCE COUNTRIES AND SA COUNTRIES.

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11. ALL OTHER POSTS WITH IMPORTANT HUMAN RIGHTS PROBLEMS SHOULD UPDATE REPORTS SUBMITTED IN RESPONSE TO REF A. OUTLINE AS SUGGESTED PARA 12, BELOW BY APRIL 15. IN REG MATURING POSTS WHERE HUMAN RIGHTS SITUATION EXEMPLARY OR UNACCEPTABLE, BRIEF REPORTS ONLY ARE TO BE SUBMITTED.

THE FOLLOWING IS SUGGESTED OUTLINE FOR REPORTS ON COUNTRIES WITH HUMAN RIGHTS PROBLEMS:

(A) SUMMARIZE IMPORTANT ORDINARY LEGAL GUARANTEES.

STATE WHETHER A "STATE OF SIEGE", "STATE OF EMERGENCY," "MARTIAL LAW" OR THE LIKE EXISTS AND WHETHER CONSTITUTIONAL PROVISION FOR SUCH A STATE OF EXCEPTION IS PROVIDED.

(B) DISCUSS FACTUALLY AND CONCISELY ACTUAL PRACTICE OF GOVERNMENT WITH RESPECT TO HUMAN RIGHTS UNDER RELEVANT ARTICLES OF UNIVERSAL DECLARATION OF HUMAN RIGHTS (REF B, TAB E).

THE PATTERN WHICH WILL EMERGE FROM THIS ANALYSIS WILL BE HELPFUL IN ESTABLISHING A CORRECT AND BALANCED UNDERSTANDING OF THE COUNTRY'S HUMAN RIGHTS RECORD AND PUTTING VIOLATIONS, IF ANY, IN PERSPECTIVE. WE REITERATE, HOWEVER, THAT LEGISLATIVE HISTORY OF STANDARD WHICH COULD POTENTIALLY TRIGGER ASSISTANCE CUT-OFFS IS INITIALLY DIRECTED TOWARDS FORCEFUL VIOLATIONS OF THE PERSON, (INCLUDING FORCED CONFINEMENT), I.E. ARTICLES 3, 4, 5, 6, 9, 10 AND 11. HOWEVER ANALYSIS STATUS OTHER RIGHTS IS OFTEN CRUCIAL IN ASSESSING JUSTIFICATION OF VIOLATIONS OF PERSON (E.G. DETENTION OF PROTESTER MAY BE JUSTIFIED AS BEING FOR MAINTENANCE LAW AND ORDER BUT EXAMINATION OF LAW MAY SHOW LAW ITSELF IMPINGES ON RIGHTS OF OPINION, SPEECH, ASSEMBLY, ETC.)

ALSO STATE ANY EVIDENCE BEARING ON QUESTION WHETHER GOVERNMENT CONDOLES OR ENCOURAGES ITS OFFICIALS IN VIOLATIONS OF HUMAN RIGHTS WITH RESPECT TO KILLINGS, ARBITRARY ARREST AND PROLONGED DETENTION, TORTURE AND OTHER INHUMAN OR DEGRADING TREATMENT, UNFAIR TRIALS OR OTHER FLAGRANT DENIALS OF THE RIGHT TO LIFE, LIBERTY AND THE

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SECURITY OF THE PERSON, WHAT ADMINISTRATIVE CONTROLS AND CRIMINAL SANCTIONS INHIBIT SUCH PRACTICES?

(D) SUMMARIZE AVAILABLE RELEVANT RECENT REPORTS AND FINDINGS OF APPROPRIATE INTERNATIONAL ORGANIZATIONS (PARA 9) AND COMMENT ON THEIR ACCURACY AND RELEVANCE, ESPECIALLY IN LIGHT OF POSTS' OWN REPORTS AND FINDINGS.

(E) STATE WHAT DIPLOMATIC OR OTHER STEPS (PARA 7) THE EMBASSY HAS TAKEN TO DISCOURAGE HUMAN RIGHTS VIOLATIONS INCLUDING THOSE DESCRIBED UNDER PARA 12(C) AND TO PROMOTE RESPECT FOR AND OBSEVANCE OF HUMAN RIGHTS IN SUCH COUNTRY. ALSO, STATE WHETHER AND HOW U.S. SECURITY ASSISTANCE HAS BEEN DISSOCIATED FROM ANY VIOLATIONS.

13. POSTS IN COUNTRIES WITH ACUTE PROBLEMS OF THE TYPE DESCRIBED IN PARA 12(C) SHOULD MAKE PARTICULARLY FULL AND ANALYTICAL REPORTS WITH APPROPRIATE INTERNAL CLASSIFICATION

14. ASSISTANCE RECIPIENTS-- (A) COUNTRIES RECEIVING DEVELOPMENT ASSISTANCE ARE

CAMEROON	LEBANON	RWANDA
CENTRAL AFRICAN REP.	LIBERIA	SENEGAL
CHAD	MALAWI	SIERRA LEONE
ETHIOPIA	MALI	SWAZILAND
GHANA	MAURITANIA	TANZANIA
GUINEA	MOZAMBIQUE	UPPER VOLTA
KENYA	NIGER	ZAIRE
SOMALIA		

BOLIVIA	DOMINICAN REP.	JAMAICA
BRAZIL	EL SALVADOR	PANAMA
CHILE	GUATEMALA	PARAGUAY
COLOMBIA	GUYANA	PERU
COSTA RICA	HAITI	URUGUAY

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EA

INDONESIA
LAOS
PHILIPPINES
THAILAND

ENEA

AFGHANISTAN
BANGLADESH
INDIA

NEPAL
PAKISTAN
TUNESIA

YEMEN
SRI LANKA
MOROCCO

TO COUNTRIES LIKELY TO MAKE FMS CASH PURCHASES OR WHICH ARE RECEIVING ONE OR MORE OF FOLLOWING KINDS OF SECURITY ASSISTANCE, CHARACTERIZED BY PRINCIPAL ASSISTANCE PROVIDED: MAP MATERIAL, FMS CREDITS, MILITARY TRAINING AND SECURITY SUPPORTING ASSISTANCE.

AF

ETHIOPIA (1)
GAMBIA (4)
GHANA (2)

KENYA (2)
LIBERIA (2)
MALI (4)

NIGERIA (4)
SENEGAL (2)
ZAIRE (1)

ARA

ARGENTINA (1)
BOLIVIA (2)
BRAZIL (2)

EQUADOR (2)
EL SALVADOR (1)
GUATEMALA (1)

MEXICO (2)
NICARAGUA (1)
PANAMA (1)

COLUMBIA (2)
COSTA RICA (4)
DOMINICAN REP. (1)

HAITI (2)
HONDURAS (1)
JAMAICA (4)

PERU (2)
URUGUAY (3)
VENEZUELA (2)

EA

AUSTRALIA (4)
REP. OF CHINA (TAIWAN) (1)
THAILAND (1)

JAPAN (4)
KOREA (1)
INDONESIA (1)
FIJI (4)

NEW ZEALAND (4)
PHILIPPINES (1)
MALAYSIA (1)

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EUR

AUSTRIA (2) GERMANY (4) PORTUGAL (4)
 BELGIUM (4) ICELAND (4) SPAIN (1)
 CANADA (4) ITALY (4) TURKEY (1)
 DENMARK (4) LUXEMBOURG (4) UNITED KINGDOM (4)
 FINLAND (2) NETHERLANDS (4) YUGOSLAVIA (4)
 FRANCE (4) NORWAY (4)

NEA

AFGHANISTAN (1) JORDAN (1) PAKISTAN (1)
 BAHRAIN (4) KUWAIT (4) SAUDI ARABIA (4)
 EGYPT (5) LEBANON (1) SRI LANKA (1)
 INDIA (1) MOROCCO (1) TUNISIA (1)
 IRAQ (4) NEPAL (1) YEMEN (1)
 ISRAEL (3) OMAN (4)

- (1) MAP
- (2) TRAINING
- (3) FMS CREDIT
- (4) LIKELY FMS CASH PURCHASES
- (5) SECURITY SUPPORTING ASSISTANCE KISSINGER

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