

RESTRICTED

C09003816-WLN

Your Reference:

Our Reference:

FROM: Wellington (MEA)

TO: Tehran

CC: Wellington, Washington, The Hague, Canberra, Ottawa, Defence, EAB, New York, Brussels, Berlin, Geneva, Stockholm, Madrid, Riyadh

MFAT: MEA, ISED, LGL, AMER, AUS, DSP1, DSP3, DSP4, CEO

AGENCIES: SEEMail: Defence MOD (Sec Def, TI  
Manual: Defence HQNZDF (VCDF, Defence, PMC [FPA DES)

ATTACHMENTS: 2217727-v1-  
Afghanistan\_ATD\_with\_new\_op7\_and\_preambl  
2217728-v1-Afghanistan\_ATD\_with\_new\_op7\_(

Special Delivery Instructions: RIYADH: PLEASE PASS TO DA

AFGHANISTAN: MILITARY TECHNICAL ARRANGEMENT

Summary

We provide alternative language for the Arrangement covering the Treatment of Detainees (ATD).

Message

**Action**

*Tehran* : Sanders to pass a copy of New Zealand 's proposed alternative language for the ATD to the Afghan Government and to register the message in paragraph 3.

**Report**

Thanks for your C09000060-TEH **PSR(R)1**

2 We have drafted and confirmed with NZDF DLS an alternative to paragraph 7 of the Arrangement covering the Treatment of Detainees (ATD) and an additional paragraph for the preamble, referring to New Zealand 's obligations under the Second Optional Protocol to the International Covenant on Civil and Political Rights. The language, while not explicitly referring to the death penalty, has the same force as our original draft and would require any detainees handed to Afghan authorities by New Zealand forces to be

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treated in accordance with New Zealand's obligations under international humanitarian and human rights law – i.e. including the non-use of the death penalty.

3 Grateful PSR(IC)3 pass the attached copy of the arrangement (with both the alternative paragraph 7 and preambular reference) to the Afghan Government. During discussions on the revision Sanders should make clear that New Zealand's stance on the death penalty, to which all political parties subscribe, means that there is a domestic debate about our military deployments that will make it very difficult for our government should there be future actions contrary to Afghanistan's assurances which affect any person detained by New Zealand forces and handed over to Afghan authorities.

4 If necessary, we would be able to conclude the arrangement without the preambular paragraph. (A clean copy of the arrangement with alternate wording for paragraph 7 only is also attached). We are happy with Afghanistan's edit to paragraph 4 of the ATD.

5 If the Afghan government agrees to the alternative language Sanders should take the opportunity to conclude the ATD while in Kabul. Ferguson could then conclude the updated Afghanistan / New Zealand Military Technical Arrangement (MTA) in Washington