

## Message Text

CONFIDENTIAL

PAGE 01 STATE 068545

15/12

ORIGIN AID-20

INFO OCT-01 AF-05 ARA-10 EUR-06 EA-07 NEA-05 ISO-00 L-03

PM-03 H-01 SS-20 IGA-02 /083 R

66619

DRAFTED BY L/HR:CRUNYON

APPROVED BY P:JOSEPH SISCO

GC:AZGARDINER

AA/LA:HKLEINE(DRAFT)

NEA/RPDAVIES(DRAFT)

ARA/LA:HWSHLAUDEMAN(DRAFT)

PM/SAS:RGREY

H:ACHERNE

AA/PPC:PBIRNBAUM(DRAFT)

DOD/GC:JSSILBER(DRAFT)

S/S:WLUERS

AF:JBLAKE(DRAFT)

EUR:RZSMITH(DRAFT)

EA/RA:RDNETHERCUT(DRAFT)

----- 122174

R 042315Z APR 74

FM SECSTATE WASHDC

TO AID PRIN POSTS

AMEMBASSY ATHENS

AMEMBASSY BEIRUT

AMEMBASSY CARACAS

AMEMBASSY HELSINKI

AMEMBASSY JIDDA

AMEMBASSY KUALA LUMPUR

AMEMBASSY LISBON

AMEMBASSY MADRID

AMEMBASSY OUAGADOUDOU

AMEMBASSY TEL AVIV

AMEMBASSY VIENNA

INFO USCINCEUR VAIHAIGEN GERMANY

USCINCSO

CINCPAC HONOLULU HI

DOD

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 STATE 068545

CONFIDENTIAL STATE 068545

CORRECTED COPY //(GARBLED PORTIONS IN TEXT)

AIDAC

JOINT STATE/AID MESSAGE

E.O. 11652: GDS

SUBJECT: FAA SECTION 32 - POLITICAL PRISONERS

1. SUMMARY. THIS MESSAGE PROVIDES INFORMATION ON A NEW PROVISION OF THE FOREIGN ASSISTANCE ACT (FAA) OF 1973 AND REQUESTS AFFECTED MISSIONS TO CABLE APPROPRIATE RESPONSE PRIOR TO APRIL 22.

2. SECTION 32 OF THE FAA OF 1973 IS AS FOLLOWS:

"IT IS THE SENSE OF CONGRESS THAT THE PRESIDENT SHOULD DENY ANY ECONOMIC OR MILITARY ASSISTANCE TO THE GOVERNMENT OF ANY FOREIGN COUNTRY WHICH PRACTICES THE INTERNMENT OR IMPRISONMENT OF THAT COUNTRY'S CITIZENS FOR POLITICAL PURPOSES."

3. EMBASSIES ARE REQUESTED TO PROVIDE ASSESSMENT OF HOW THIS LEGISLATION COULD AFFECT THE STATUS OF ASSISTANCE PROGRAMS IN THEIR COUNTRIES. SPECIFICALLY, WE WOULD APPRECIATE ASSESSMENTS OF THE EXTENT AND NATURE, IF ANY, OF THE INTERNMENT OR IMPRISONMENT OF CITIZENS FOR POLITICAL PURPOSES; WHETHER THROUGH LEGISLATION AND/OR PRACTICE, THERE IS A CONSISTENT PATTERN OF RELIABLY ATTESTED VIOLATION OF THE RIGHT TO BE FREE OF ARBITRARY DETENTION AND CERTAIN OTHER CLOSELY RELATED RIGHTS (SEE PARA 5 (B) BELOW), AND THE POSITION OF THE HOST GOVERNMENT ON THIS MATTER. NO REPRESENTATIONS TO HOST GOVERNMENTS SHOULD BE MADE IN DEVELOPING THIS INFORMATION. PREVIOUS REPORTS MAY BE REFERENCED. IF IT APPEARS TO EMBASSY THAT CONDITION AT WHICH SEC. 32 DIRECTED MAY EXIST, IT IS REQUESTED TO SUGGEST ANY OPPORTUNITIES FOR APPROPRIATE U.S. ACTION OR REPRESENTATION TO IMPROVE THE SITUATION, INCLUDING COMMENTS ON APPROPRIATENESS AND PROBABLE EFFECT OF DENYING ECONOMIC OR MILITARY ASSISTANCE ON BASIS OF SEC 32.

CONFIDENTIAL

CONFIDENTIAL

PAGE 03 STATE 068545

4. FOR YOUR BACKGROUND, OTHER FAA PROVISIONS, SHOWING RELATED CONGRESSIONAL CONCERN AND INTENT ARE SECTION 102(STATEMENT OF POLICY) SECTIONS, 201(B), 211(A), AND 251(B), DEALING WITH THE RESPONSIVENESS OF GOVERNMENTS TO THE CONCERNS OF THEIR PEOPLE, RULE OF LAW,(AND INDIVIDUAL FREEDOMS, SECTION 207(A) CALLING FOR "THE ENCOURAGEMENT OF STRONG ECONOMIC, POLITICAL, AND SOCIAL INSTITUTIONS NEEDED FOR A PROGRESSIVE DEMOCRATIC SOCIETY", AND SECTION 501 DESCRIBING ONE OBJECTIVE OF MILITARY ASSISTANCE

AS "CREATING AN ENVIRONMENT OF SECURITY AND STABILITY IN THE DEVELOPING FRIENDLY COUNTRIES ESSENTIAL TO THEIR MORE RAPID SOCIAL, ECONOMIC AND POLITICAL PROGRESS."

5. A. "POLITICAL PRISONERS" IS NOT DEFINED. AN AMENDMENT TO REQUIRE CUTTING OFF ASSISTANCE FAILED OF ADOPTION AFTER DEBATE IN WHICH DIFFICULTY OF DEFINITION NOTED AND FROM WHICH IT WOULD APPEAR THAT IN ORDER GIVE EFFECT OF TOTALITY OF CONGRESSIONAL PURPOSE EMBODIED IN ACT, EXECUTIVE SHOULD PROCEED CASES BY CASE ON BASIS OF ALL FACTS AND WITH REGARD TO ALL PURPOSES OF ACT, GIVING FULL AND DUE WEIGHT TO INTEREST IN PROMOTING RESPECT FOR RULE OF LAW AND HUMAN RIGHTS WHERE ERODED OR VIOLATED BY POLITICAL IMPRISONMENTS.

(B) IN EFFORT TO GIVE EFFECT TO SENSE OF CONGRESS EXPRESSED IN SECTION 32, WE BELIEVE DIFFICULTY IN DEFINING "POLITICAL PRISONER" CAN BEST BE DEALT WITH BY REFERENCE TO STANDARD ENJOYING ALREADY ESTABLISHED INTERNATIONAL APPROVAL AND RESPECT. ACCORDINGLY, IN APPRAISING DEGREE TO WHICH PARTICULAR SITUATIONS MAY COME WITHIN SECTION 32, EMBASSY SHOULD CONSIDER (A) WHETHER PERSONS HAVE BEEN ARRESTED, DETAINED OR IMPRISONED ARBITRARILY IN THE SENSE OF ARTICLE 9 OF UN DECLARATION OF HUMAN RIGHTS (ARTICLE 9 READS: "NO ONE SHALL BE SUBJECT TO ARBITRARY ARREST, DETENTION OR EXILE. FOR TEST OF DECLARATION, SEE 5 WHITEMAN DIGEST 237-242.) (B) WHETHER BY LAW OR IN PRACTICE SUCH PERSONS ARE DEPRIVED OF (1) RIGHTS UNDER ARTICLES 10 AND 11 OF UNIVERSAL DECLARATION RELATING TO PROPER CHARGES AND TRIAL AND/OR (2) RIGHTS UNDER ARTICLES 18,19,20 AND 21, RELATING TO SUCH FUNDAMENTAL POLITICAL FREEDOMS AS FREEDOM OF THOUGHT AND CONSCIENCE, OF OPINION AND EXPRESSION, OF PEACEFUL ASSEMBLY AND ASSOCIATION AND PARTICIPATION IN SELF-GOVERNMENT. WHILE SUCH TESTS MIGHT INCLUDE PERSONS ARBITRARILY IMPRISONED BECAUSE OF RACE OR RELIGION OR SOME OTHER FACTOR RATHER THAN STRICT POLITICS, THIS RESULT APPEARS REASONABLE AND NOT IN-CONFIDENTIAL

CONFIDENTIAL

PAGE 04 STATE 068545

CONSISTENT WITH CONGRESSIONAL PURPOSEM AUTHORITY OF UNIVERSAL DECLARATION OF HUMAN RIGHTS AS INTERNATIONAL STANDARD IS EVIDENCED BY ITS ADOPTION BY UN GENERAL ASSEMBLY IN 1948 BY OVERWHELMING MAJORITY IN FURTHERANCE UN'S DUTY UNDER ARTICLES 55 AND 56 OF UN CHARTER TO PROMOTE HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS - A DUTY IN THE DISCHARGE OF WHICH ALL MEMBERS ARE PLEDGED UNDER ARTICLE 56 TO COOPERATE.

(C) FINALLY, AID/STATE BELIEVE CONGRESS PRINCIPALLY CONCERNED ABOUT SUBSTANTIAL AND CONTINUED VIOLATIONS OF ABOVE STANDARDS OCCURRING AS MATTER OF OFFICIAL POLICY OR OF GROSS NEGLIGENCE ON PART OF GOVERNMENT.

6. SINCE, IN ACCORDANCE SECTION 32, "POLITICAL PRISONER" FACTOR AS ABOVE DISCUSSED WILL BE EVALUATED IN CONNECTION NEW OR CONTINUED ASSISTANCE PROGRAMS, POSTS SHOULD REVIEW PAST

REPORTING AND PRESENT SITUATION IN LIGHT STANDARDS OUTLINED ABOVE AND PROVIDE SUCH ADDITIONAL INFORMATION ANALYSIS AND RECOMMENDATION AS MAY BE HELPFUL TO ONGOING EVALUATION. IN ANY EVENT, APPROPRIATE ACKNOWLEDGEMENT PRESENT TELEGRAM AND CABLE REPORT OF ANY EMBASSY ASSESSMENT WOULD BE APPRECIATED BY APRIL 22, SINCE CONGRESSIONAL HEARINGS ON FY 1975 ASSISTANCE PROGRAMS ARE SCHEDULED TO START IN EARLY MAY, AND THIS SUBJECT MAY WELL BE RAISED IN HEARINGS.

7. IN PROVIDING ANY DETAILED ANALYSIS IN LIGHT STANDARDS ABOVE OUTLINED, POSTS MAY FIND FOLLOWING CONSIDERATIONS RELEVANT:

(1) THE LEGAL/JUDICIAL PROCESSES WHICH RELATE TO THE ARREST, DETENTION AND TRIAL OF THE COUNTRY'S CITIZENS.

(2) WHETHER THE COUNTRY'S LAW PROHIBITS ARBITRARY ARREST AND DETENTION.

(3) WHAT REMEDIES (DEFENSES; OPPORTUNITIES TO CHALLENGE IN COURT; OPPORTUNITIES TO SECURE REDRESS) THE LAW PROVIDES TO A PERSON WHO MAY BE ARBITRARILY ARRESTED OR DETAINED OR DENIED FAIR AND OPEN TRIAL WITH REASONABLE PROMPTNESS.

(4) SPECIFIC FACTS RELEVANT TO CASES WHICH HAVE GIVEN RISE TO A POLITICAL PRISONER ISSUE WITH ATTENTION TO WHETHER THERE IS A CONSISTENT PATTERN OF RELIABLY ATTESTED VIOLATION OF THE CONFIDENTIAL

CONFIDENTIAL

PAGE 05 STATE 068545

RIGHT TO BE FREE OF ARBITRARY ARREST, DETENTION OR IMPRISONMENT.

(5) AS DISCUSSED ABOVE, ANY OPPORTUNITIES FOR APPROPRIATE U.S. ACTION OR REPRESENTATION TO IMPROVE THE SITUATION, AND COMMENT ON THE APPROPRIATENESS AND PROBABLE EFFECT OF DENYING ECONOMIC OR MILITARY ASSISTANCE BECAUSE OF THE POLITICAL PRISONER ISSUE.

(6) FACTORS IN THE POLITICAL AND ECONOMIC ENVIRONMENT OF THE COUNTRY WHICH ARE RELEVANT TO THE ENCOURAGEMENT OF THE RULE OF LAW AND THE STRENGTHENING OF FREEDOM AND OPPORTUNITY FOR ITS CITIZENS.

8. ALTHOUGH FOREIGN MILITARY SALES ACT CREDITS DO NOT UNDER FMSA LEGALLY CONSTITUTE "MILITARY ASSISTANCE", RESPONSE FROM ATHENS ALSO REQUESTED.

9. DEFENSE CONCURS. RUSH

CONFIDENTIAL

NNN

## Message Attributes

**Automatic Decaptioning:** X  
**Capture Date:** 01 JAN 1994  
**Channel Indicators:** n/a  
**Current Classification:** UNCLASSIFIED  
**Concepts:** LAW, POLITICAL REPRESSION, FOREIGN ASSISTANCE, POLITICAL PRISONERS, US CONGRESSIONAL PRESENTATIONS  
**Control Number:** n/a  
**Copy:** SINGLE  
**Draft Date:** 04 APR 1974  
**Decaption Date:** 01 JAN 1960  
**Decaption Note:**  
**Disposition Action:** RELEASED  
**Disposition Approved on Date:**  
**Disposition Authority:** golinofr  
**Disposition Case Number:** n/a  
**Disposition Comment:** 25 YEAR REVIEW  
**Disposition Date:** 28 MAY 2004  
**Disposition Event:**  
**Disposition History:** n/a  
**Disposition Reason:**  
**Disposition Remarks:**  
**Document Number:** 1974STATE068545  
**Document Source:** CORE  
**Document Unique ID:** 00  
**Drafter:** CRUNYON  
**Enclosure:** n/a  
**Executive Order:** GS  
**Errors:** N/A  
**Film Number:** D740079-0085, D740077-0232  
**From:** STATE JOINT  
**Handling Restrictions:** n/a  
**Image Path:**  
**ISecure:** 1  
**Legacy Key:** link1974/newtext/t19740466/aaaacivy.tel  
**Line Count:** 222  
**Locator:** TEXT ON-LINE, ON MICROFILM  
**Office:** ORIGIN AID  
**Original Classification:** CONFIDENTIAL  
**Original Handling Restrictions:** n/a  
**Original Previous Classification:** n/a  
**Original Previous Handling Restrictions:** n/a  
**Page Count:** 5  
**Previous Channel Indicators:**  
**Previous Classification:** CONFIDENTIAL  
**Previous Handling Restrictions:** n/a  
**Reference:** n/a  
**Review Action:** RELEASED, APPROVED  
**Review Authority:** golinofr  
**Review Comment:** n/a  
**Review Content Flags:**  
**Review Date:** 19 MAR 2002  
**Review Event:**  
**Review Exemptions:** n/a  
**Review History:** RELEASED <19 MAR 2002 by collinp0>; APPROVED <06 MAY 2002 by golinofr>  
**Review Markings:**

Declassified/Released  
US Department of State  
EO Systematic Review  
30 JUN 2005

**Review Media Identifier:**  
**Review Referrals:** n/a  
**Review Release Date:** n/a  
**Review Release Event:** n/a  
**Review Transfer Date:**  
**Review Withdrawn Fields:** n/a  
**Secure:** OPEN  
**Status:** NATIVE  
**Subject:** FAA SECTION 32 - POLITICAL PRISONERS  
**TAGS:** EAID, PINS, XX, US  
**To:** AID PRIN POSTS MULTIPLE ALL POSTS  
**Type:** TE  
**Markings:** Declassified/Released US Department of State EO Systematic Review 30 JUN 2005