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~~SECRET AUSTEO~~

BRIEF FOR CDF
TREATMENT AND STATUS OF CAPTURED TALIBAN AND AL QA'EDA
PERSONNEL DURING OPERATION SLIPPER

DHQ 2002/31884
HSC 102 1365

References:

A. CDF 843/02 of 30 Aug 02

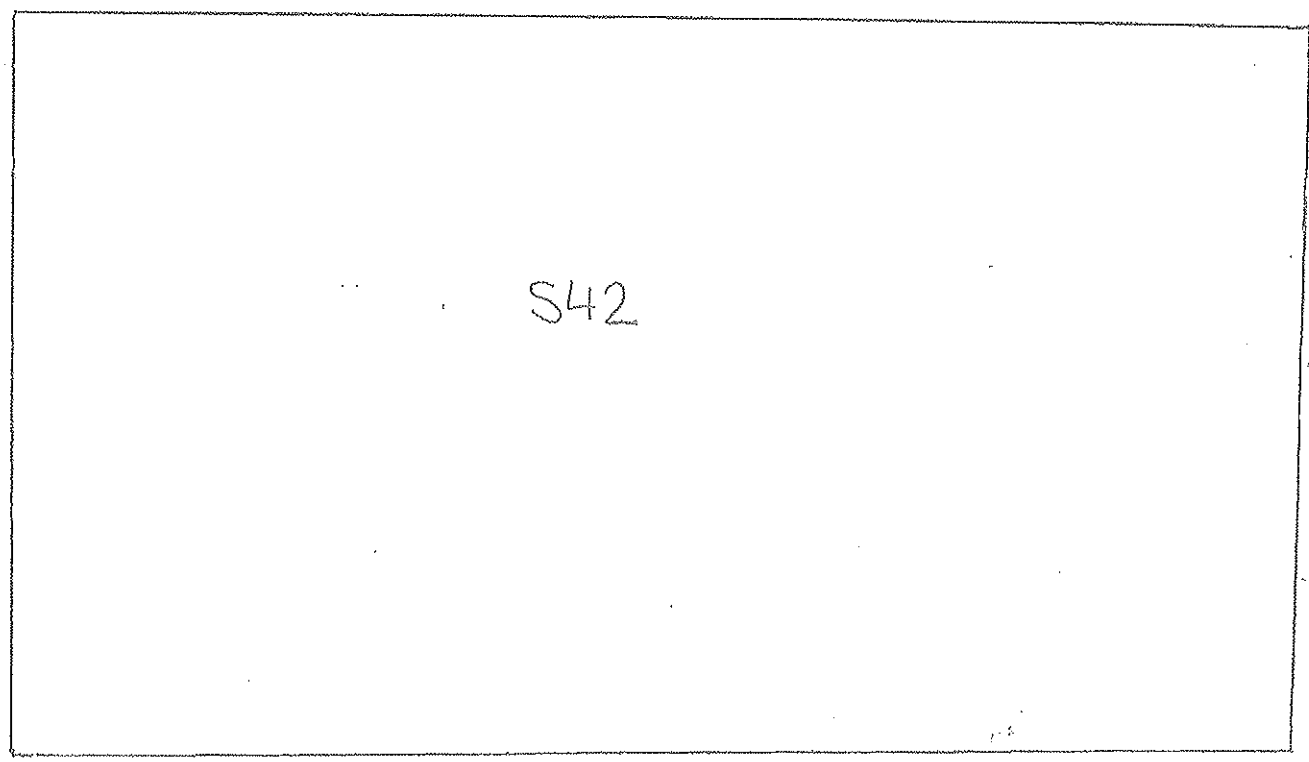
Purpose

- This brief provides a draft MINSUB with a SCNS/NSC brief attached relating to the potential capture of Taliban and al Qa'eda personnel by Australian forces operating in Afghanistan.

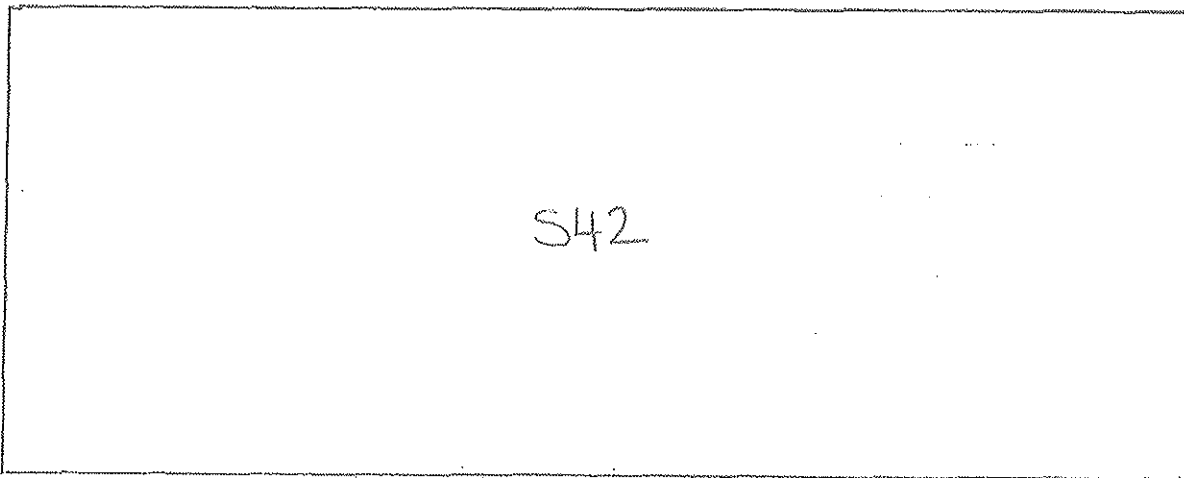
Background

- The Minister previously directed that a brief be prepared on treatment of personnel captured during ADF operations in Afghanistan, for consideration at SCNS/NSC.
- At Reference A, you indicated that this brief would be prepared once further advice from the Attorney General's Department (AGD) was obtained on certain outstanding issues. That advice, dated 27 Sep 02, has now been obtained and is attached (Flag A). The AGD took longer to settle its advice than anticipated.

Legal Advice



~~SECRET AUSTEO~~



Draft Submissions

- A draft MINSUB and the draft SCNS/NSC brief are attached for your consideration (Flags B and C).
- The most relevant parts of the legal advice from the AGD and AGS have been incorporated into the draft SCNS/NSC submission. The AGD's latest advice of 27 Sep 02, has not been attached to the draft SCNS/NSC brief because of its length and complexity. However, AGD have been closely involved in the preparation of those parts of SCNS/NSC submission that draw upon their advice. AGD's earlier advice is attached because it addresses the central issue of PW status. DFAT has not been consulted during the drafting of this specific submission. However, DFAT lawyers have been involved in previous discussions on this issue.


Timeline

- Agenda items for the 10 Oct 02 meeting of SCNS were due to be settled by 20 Sep 02, and the cleared-by-the-Minister version of the draft settled by 3 Oct 02. The Minister may consider this matter to be of sufficient importance that it should be added as a late item. This is one of the recommendations in the attached draft MINSUB.

Recommendation

- That CDF approve the attached draft MINSUB and SCNS/NSC submission.

Approved/Not Approved


K.I. GILLESPIE
MAJ GEN
HSC

P.J. COSGROVE
GEN
CDF

2 Oct 02

Oct 02