

**Memorandum of the Understanding between the Ministry of Defense of the
Islamic Republic of Afghanistan
and
the Ministry of Defense of the Kingdom of Denmark concerning the transfer of
persons between the Danish Contingent of the International Security Assistance
force and Afghan authorities**

The Ministry of Defense of the Islamic Republic of Afghanistan and the Ministry of Defense of the Kingdom of Denmark, hereinafter referred to as the Parties, hereby establish the following procedures in the event of the transfer from the military forces of Denmark to Afghan authorities of persons apprehended in Afghanistan, presently pursuant to United Nation Security Council Resolution 1563 of 17 September 2004 authorizing the Member States participating in the International Security Assistance Force to take all necessary measures to fulfill its mandate, which with reference to United Nations Security Council Resolutions 1386 and 1510 includes the support of the Afghan Transitional Administration and its successors in the maintenance of security.

The Parties undertake to establish all necessary contacts with the relevant respective national authorities with a view to fulfilling this Memorandum of Understanding, bearing in mind the need to respect basic international humanitarian standards such as the right to life, to a fair trial and the protection against torture.

The Parties have reached the following understanding:

Article 1

The purpose of the MoU is to ensure that the Parties will continue to observe applicable national law of the Islamic Republic of Afghanistan and international law pertaining to the treatment and transfer of persons from the military forces of Denmark to Afghan authorities.

Article 2

The Danish military forces will be responsible for maintaining and safeguarding persons detained by them and will treat these persons in accordance with the relevant provisions of international law, including providing humane treatment.

Article 3

The Afghan authorities will accept the transfer of persons detained by the Danish military forces for investigation and possible legal proceedings. The Afghan authorities will be responsible for maintaining and safeguarding all such individuals in accordance with the relevant provisions of international law, including providing humane treatment.

Article 4

Representatives of the Afghan Independent Human Rights Commission, the Danish military forces and others as agreed between the Participants will have full access to any persons transferred from the Danish military forces to Afghan authorities while such persons are in custody. The International Committee of the Red Cross and Red Crescent (ICRC) will be allowed to visit such persons. The military forces of

Denmark will notify the ICRC and the Afghan Independent Human Rights Commission when a person has been transferred to Afghan authorities.

Article 5

The Afghan authorities will be responsible for the accurate accountability of all persons transferred to them by the Danish military forces. Records kept will be available upon request.

Article 6

Danish military forces will be notified prior to the initiation of legal proceedings involving persons transferred from the Danish military forces and prior to the transfer to third parties or release of such persons. Danish military forces will also be notified if other significant changes concerning such persons occur.

Article 7

No person transferred from the Danish military forces to Afghan authorities will be subject to the execution of the death penalty.

Article 8

Any dispute about the interpretation or application of this MoU will be resolved exclusively by negotiation between the Parties.

Article 9

This MoU may be amended at any time by mutual written consent of the Parties.

Article 10

This MoU will come into force on the date of the last signature and will remain in effect until terminated by any of the Parties giving thirty days written notice to the other Party.

Article 11

This MoU was signed in Kabul on 8/6/05, in two original copies in Dari and English, all texts being equally authentic. In case of any divergence in interpretation, the English text shall prevail.

**For the Ministry of Defense
of the Islamic Republic of Afghanistan**

General Muhibullah Khan
Deputy Minister of Defense for
Policy and Strategy

**For the Ministry of Defense
of the Kingdom of Denmark**

Dr. Jens Haarlov
Charge d'Affaires e.p.
For Denmark