

~~SECRET AUSTEO~~
~~CABINET IN CONFIDENCE~~

Smith/2012: MA12-702076
CDF(S)/OUT/2012/902
B2329378



Australian Government
Department of Defence

MINISTERIAL SUBMISSION

Priority

Date Dept Approved:	Date Rec in Office:	Date Due:
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For Action: Minister for Defence

Copies to: Secretary, CDF, VCDF, CJOPS, CA, DEPSEC I & S, SOCAUST, FASIP, DDIO, DDS, HMSC, FASMECC, DG STRATCOM

Subject: Update on the apprehension and deportation of OBJECTIVE JUNGLE EFFECT

Purpose: To update you on the possible apprehension and prosecution of OBJECTIVE JUNGLE EFFECT and the various scenario options.

Background:

- On 5 October 2012 you were provided with a submission MA12-702037 (Attachment A) informing you of the options for the apprehension and prosecution of OBJECTIVE JUNGLE EFFECT. The Secretaries Committee of National Security discussed JUNGLE EFFECT issues on 11 October 2012. A third Inter-Departmental Committee (IDC) was also held on 11 October 2012 to further consider the scenarios for apprehending and prosecuting JUNGLE EFFECT; this submission will update you on these discussions.
- The latest intelligence indicates that JUNGLE EFFECT remains in Pakistan, where he has rendezvoused with his brother who has moved from Afghanistan. JUNGLE EFFECT had arranged a job for his brother in Quetta, Pakistan which possibly indicates that his move to Iran may not be imminent.
- As a result of the telephone call between s34, s33(a)(iii)

[Redacted]

Apprehension in Pakistan and deportation to Afghanistan

- s34, s33(a)(iii)
- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]
- There is potential for JUNGLE EFFECT to be detained by Coalition elements in Afghanistan. This is in effect the same outcome that would have been enacted if JUNGLE EFFECT was detained by other coalition forces when he was originally transiting from Afghanistan to Pakistan.
- Another option for JUNGLE EFFECT's detention in Afghanistan is for him to be detained by


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Afghanistan authorities, which would result in him stepping through the Afghan justice system, as he is an Afghan citizen. This would allow Afghanistan to exercise sovereign rights to prosecute perpetrators of criminal acts and administer justice, including perhaps the death penalty.

8. s33(a)(iii)



9.

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s33(a)(iii)

10. *Approvals.* The key approvals for all four scenarios are:

a) s33(a)(ii), s33(a)(iii)

b)

c)

Apprehension in Pakistan and extradition to Australia.

11. This option was discussed at length at the IDC with the Attorney General's Department (AGD) raising concerns about s33(a)(iii), s42

12. AGD also indicated that s42, s33(a)(iii)

13. The feasibility of this approach is now questionable. If this option becomes the only option available, it would be appropriate to hand over the lead for this issue to either DFAT or AGD.

s33(a)(ii), s33(a)(iii)

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Recommendations:

That you:

- i. **note** that Defence lead a third IDC on JUNGLE EFFECT where the scenarios for his apprehension and prosecution were further considered.

Noted / Please Discuss

- ii. **note** that the ^{s42} [redacted]

Noted / Please Discuss

- iii. **note** that once the information brief has been ^{s33(a)(iii)} [redacted]

Noted / Please Discuss

- iv. **note** that it is considered unlikely that ^{s33(a)(iii)} [redacted]

Noted / Please Discuss

- v. ^{s33(a)(ii), s33(a)(iii)} [redacted]

Noted / Please Discuss

- vi. **note** that if JUNGLE EFFECT is detained by the ADF, ^{s33(a)(ii)} [redacted]

Noted / Please Discuss

Approved By: *I don't agree with [redacted] s33(a)(iii) S. It would not represent a good response to our request.*
D.J. HURLEY
 GEN
 CDF
 12 October 2012

^{s47F} [redacted]

Contact Officer: LTCOL ^{s47E} [redacted]

Phone: 02 6265-4597

Primary Addressee *I will reach to have the IDC raised to DEPSEC level and agreement at SEC/CDF level.*

Stephen Smith
/ / 2012

Consultation:

- 15. The following agencies were represented at the IDC: Defence, Department of Prime Minister and Cabinet, Department of Foreign Affairs and Trade, Australian Secret Intelligence Service, Attorney Generals Department, Australian Federal Police.

Attachment:

- A. MA 12-702037 – Possible apprehension and prosecution of OBJECTIVE JUNGLE EFFECT dated 5 October 2012.

By: CDF: *I don't agree with ^{s33(a)(iii)} [redacted] It would not represent a good response to our request. I will seek to have the IDC raised to DEPSEC level and agreement at SEC/CDF level.*

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For Action: Minister for Defence

Copies to: Secretary, CDF, VCDF, CIOPS, DEPSEC S, DEPSEC I&S, CA, SOCAUST, FASIP, HMSC, FASMECC, DG STRATCOM

Subject: Possible apprehension and prosecution of OBJECTIVE JUNGLE EFFECT.

Purpose: To inform you of the options being developed for the possible apprehension and prosecution of OBJECTIVE JUNGLE EFFECT.

Background:

1. On the evening of 29 August 2012, OBJECTIVE JUNGLE EFFECT (Sergeant Hekmatullah), an Afghan National Army (ANA) soldier, is alleged to have murdered three and wounded two Australian soldiers in Afghanistan. After the attack, OBJECTIVE JUNGLE EFFECT absconded and is now currently located in Pakistan, being sponsored by insurgent commanders from Uruzgan Province. There are concerns that insurgents will look to exploit OBJECTIVE JUNGLE EFFECT for propaganda value, and that his actions could be used to inspire future insider attacks.

2. In my previous submission, MA12 -70960 (Attachment A), you agreed to my proposal s33(a)(iii)

[Redacted]

3. In addition to s33(a)(iii)

[Redacted]

Inter-Departmental Committee (IDC) – Options for the apprehension and prosecution of OBJECTIVE JUNGLE EFFECT

4. Defence chaired an IDC on 04 October 2012 to further discuss issues raised at the 24 September 2012 IDC, and to discuss the best options for OBJECTIVE JUNGLE EFFECT's apprehension in Pakistan and prosecution in either Afghanistan or Australia. Defence, DFAT, PM&C and the Australian Intelligence Community were represented at this IDC (Attorney General's Department were not represented at the IDC).

See below
s47F
10/10/12

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CDF (S/OUT/2012/889)

5. Legal advice is that s42
[Redacted]
6. During the IDC, DFAT indicated s42
[Redacted]
7. The Australian Defence Force Investigative Service (ADFIS) provided an update on the strength of the evidence pack that they have for OBJECTIVE JUNGLE EFFECT, indicating that s42, s47E(d)
[Redacted]
8. Australian Special Operations Command (SOCOMD) has s33(a)(ii)
[Redacted]
9. s33(a)(iii)
[Redacted]
10. s33(a)(ii)
[Redacted]
11. Discussion at the IDC identified that there are two options that exist for the apprehension and prosecution of OBJECTIVE JUNGLE EFFECT. The first option is for s33(a)(iii)
[Redacted]
12. Option 1 – s33(a)(iii)
[Redacted]

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13. The advantages of this option are that s33(a)(iii)

[Redacted]

14. However, there are some disadvantages with this option. s33(a)(iii)

[Redacted]

15. **Option 2** – s33(a)(iii)

[Redacted]

16. The disadvantages of this option are that s33(a)(iii)

[Redacted]

17. **IDC Recommended Option** – s33(a)(iii)

[Redacted]

18. **'Shaping' OBJECTIVE JUNGLE EFFECT to return to Afghanistan.** A preferred outcome would be for OBJECTIVE JUNGLE EFFECT to voluntarily return to Afghanistan where he can be apprehended by ISAF or Afghan National Security Forces (ANSF) and prosecuted. Accordingly, as an additional approach to be pursued in parallel to the IDC option above, I have tasked Chief of Joint Operations (CJOPS) with s33(a)(iii)

[Redacted]

Way Ahead

19. Defence will continue to hold IDC's to refine these options. s33(a)(iii)

[Redacted]

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Smith/MA12-702037
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[Redacted]

Recommendations:

That you:

- i. note that I anticipate further advice from s33(a)(iii) [Redacted]
 Noted / ~~Please Discuss~~ *See below* s47F [Redacted] 0/10/12
- ii. note that the IDC held on 04 October 2012 to further develop options for future NSC consideration determined that, s33(a)(iii) [Redacted]
 Noted / ~~Please Discuss~~ *See below* s47F [Redacted] 0/10/12
- iii. note that Defence will lead a further IDC to further develop options for NSC consideration.
 Noted / ~~Please Discuss~~ *See below* s47F [Redacted] 10/10/12
- iv. note that CJOPS will develop options for s33(a)(iii) [Redacted]
 Noted / ~~Please Discuss~~
- v. agree to s33(a)(iii) [Redacted] s47F
 Agree / ~~Not Agree~~ *Subject to below* [Redacted] 0/10/12
- vi. agree to NSC receiving a verbal update on this issue on 10 October 2012.
 Agree / ~~Not Agree~~

Approved By:
D.J. HURLEY
GEN
CDF
October 2012

[Redacted] s47F

Contact Officer: LTCOL s47E(d) [Redacted]

Phone: 02 6265 4597

Primary Addressee
See under

[Redacted] s47F
Stephen Smith
10/10/2012

Consultation:

- 20. Department of Prime Minister and Cabinet, Department of Foreign Affairs and Trade, Australian Secret Intelligence Service, International Policy Division, Defence Intelligence Organisation, Special Operations Command Australia.

Attachment:

- 21. MA 12-701960 – MINSUB: Potential apprehension of OBJECTIVE JUNGLE EFFECT and s22 [Redacted] dated 26 September 2012.

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CDF (S)/OUT/2012/889

CDF

s33(a)(ii) [Redacted]

①

② IDC can not / not continue without A&D participation. A&D participation from outset & continuing is essential.

③ IDC needs to be at high level

s42, s47E(d) [Redacted]

④ My instruction is that [Redacted]

s33(a)(ii) [Redacted]

⑤ My instruction is also that [Redacted]

s33(a)(ii) [Redacted]

⑥

⑦ In any event, all activity subject to consideration and decision by Govt via NSC

s47F [Redacted]

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For Action: Minister for Defence

Copies to: Secretary, CDF, VCDF, CJOPS, DEPSEC S, DEPSEC I&S, CA, SOCAUST, FASIP, HMSC,FASMECC, DG STRATCOM

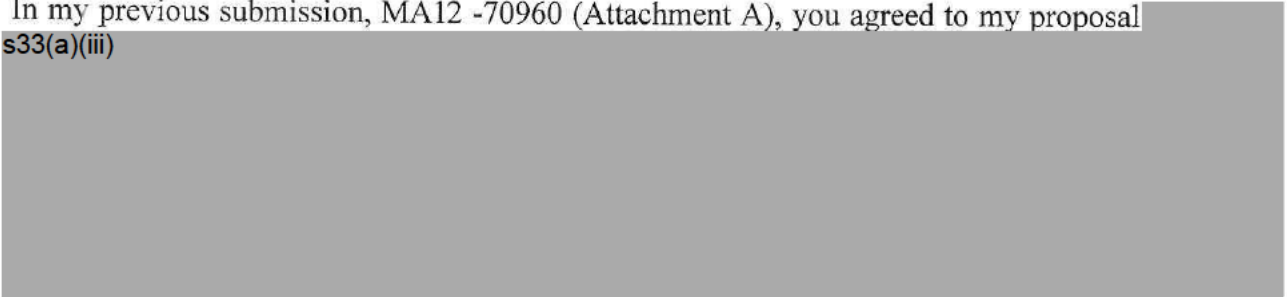
Subject: Possible apprehension and prosecution of OBJECTIVE JUNGLE EFFECT.

Purpose: To inform you of the options being developed for the possible apprehension and prosecution of OBJECTIVE JUNGLE EFFECT.

Background:

1. On the evening of 29 August 2012, OBJECTIVE JUNGLE EFFECT (Sergeant Hekmatullah), an Afghan National Army (ANA) soldier, is alleged to have murdered three and wounded two Australian soldiers in Afghanistan. After the attack, OBJECTIVE JUNGLE EFFECT absconded and is now currently located in Pakistan, being sponsored by insurgent commanders from Uruzgan Province. There are concerns that insurgents will look to exploit OBJECTIVE JUNGLE EFFECT for propaganda value, and that his actions could be used to inspire future insider attacks.

2. In my previous submission, MA12 -70960 (Attachment A), you agreed to my proposal s33(a)(iii)



3. In addition to s33(a)(iii)



Inter-Departmental Committee (IDC) – Options for the apprehension and prosecution of OBJECTIVE JUNGLE EFFECT

4. Defence chaired an IDC on 04 October 2012 to further discuss issues raised at the 24 September 2012 IDC, and to discuss the best options for OBJECTIVE JUNGLE EFFECT's apprehension in Pakistan and prosecution in either Afghanistan or Australia. Defence, DFAT, PM&C and the Australian Intelligence Community were represented at this IDC (Attorney General's Department were not represented at the IDC).

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Smith/MA12-702037
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5. Legal advice is that ^{s42} [REDACTED]
6. During the IDC, DFAT indicated ^{s42} [REDACTED]
7. The Australian Defence Force Investigative Service (ADFIS) provided an update on the strength of the evidence pack that they have for OBJECTIVE JUNGLE EFFECT, indicating that ^{s42, s47E(d)} [REDACTED]
8. Australian Special Operations Command (SOCOMD) has ^{s33(a)(ii)} [REDACTED]
9. ^{s33(a)(iii)} [REDACTED]
10. ^{s33(a)(ii)} [REDACTED]
11. Discussion at the IDC identified that there are two options that exist for the apprehension and prosecution of OBJECTIVE JUNGLE EFFECT. The first option is for ^{s33(a)(iii)} [REDACTED]
12. **Option 1** – ^{s33(a)(iii)} [REDACTED]

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~~SECRET AUSTEO~~

Smith/MA12-702037
CDF (S)/OUT/2012/889

13. The advantages of this option are that

s33(a)(iii)

14. However, there are some disadvantages with this option.

s33(a)(iii)

15. s33(a)(iii)

16. The disadvantages of this option are that

s33(a)(iii)

17. **IDC Recommended Option –**

s33(a)(iii)

18. **‘Shaping’ OBJECTIVE JUNGLE EFFECT to return to Afghanistan.** A preferred outcome would be for OBJECTIVE JUNGLE EFFECT to voluntarily return to Afghanistan where he can be apprehended by ISAF or Afghan National Security Forces (ANSF) and prosecuted. Accordingly, as an additional approach to be pursued in parallel to the IDC option above, I have tasked Chief of Joint Operations (CJOPS) with

s33(a)(iii)

Way Ahead

19. Defence will continue to hold IDC’s to refine these options.

s33(a)(iii)

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~~SECRET AUSTEO~~

Smith/MA12-702037
CDF (S)/OUT/2012/889



Recommendations:

That you:

- i. note** that I anticipate further advice from s33(a)(iii) [redacted]
[redacted]
Noted / Please Discuss
- ii. note** that the IDC held on 04 October 2012 to further develop options for future NSC consideration determined that, s33(a)(iii) [redacted]
[redacted]
Noted / Please Discuss
- iii. note** that Defence will lead a further IDC to further develop options for NSC consideration.
Noted / Please Discuss
- iv. note** that CJOPS will develop options for s33(a)(iii) [redacted]
[redacted]
Noted / Please Discuss
- v. agree** to s33(a)(iii) [redacted]
[redacted]
Agree/ Not Agree
- vi. agree** to NSC receiving a verbal update on this issue on 10 October 2012.
Agree/ Not Agree

Approved By: D.J. HURLEY GEN CDF 1 October 2012	s47F [redacted]	
Contact Officer: LTCOL s47E(d) [redacted]	Phone: 02 6265 4597	
Primary Addressee <div style="text-align: right;">Stephen Smith / / 2012</div>		

Consultation:

- 20. Department of Prime Minister and Cabinet, Department of Foreign Affairs and Trade, Australian Secret Intelligence Service, International Policy Division, Defence Intelligence Organisation, Special Operations Command Australia.

Attachment:

- 21. MA 12-701960 – MINSUB: Potential apprehension of OBJECTIVE JUNGLE EFFECT and s22 [redacted] dated 26 September 2012.

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Australian Government
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~~SECRET AUSTRALIA~~

Smith/2012: MA12-701960
CDF(S)/OUT/2012/859
B2307340

MINISTERIAL SUBMISSION

Priority

Date Dept Approved: Date Rec in Office: 27/09/12 Date Due:

For Action: Minister for Defence

Copies to: Secretary, CDF, VCDF, CJOPS, CA, SOCAUST, FASIP, HMSC, DDIO, DG STRATCOM.

Subject: Potential apprehension of OBJECTIVE JUNGLE EFFECT and s22

Purpose: To inform you of initial planning relating to the potential apprehension of OBJECTIVE JUNGLE EFFECT and s22 in order for them to be prosecuted for the murder and wounding of Australian soldiers in Afghanistan, and to gain your agreement for me to s22

Background:

1. On the evening of 29 August 2012, OBJECTIVE JUNGLE EFFECT (Sergeant Hekmatulla), an Afghan National Army (ANA) soldier, is alleged to have murdered three and wounded two Australian soldiers from the 3 RAR Task Group at Patrol Base Wahab in an insider attack. After the attack, OBJECTIVE JUNGLE EFFECT absconded and, based on intelligence, we are confident he is now currently located in Pakistan, being sponsored by the Insurgent commanders from Uruzgan Province.
2. With OBJECTIVE JUNGLE EFFECT now linked in with the Insurgency in Pakistan, there is a risk that the Insurgents, through the Taliban Media Group (TMG), will exploit his actions as propaganda to undermine the Afghan National Security Force (ANSF), ADF and International Security Assistance Force (ISAF) efforts in Afghanistan. Propaganda of this nature could also inspire similar insider attacks against ISAF in the future.
3. Current intelligence indicates that s22
4. The discussions about the apprehension of OBJECTIVE JUNGLE EFFECT may also include the s22

Initial Scoping for OBJECTIVE JUNGLE EFFECT and s22 potential apprehension

5. The potential apprehension of OBJECTIVE JUNGLE EFFECT and s22 is a complex issue that will require a high level of Australian Whole of Government coordination, as well as multi-national approval to conduct the apprehension, and subsequent prosecution.
6. Defence chaired an Inter Departmental Committee (IDC) on 24 September 2012 to conduct initial scoping for a potential apprehension of OBJECTIVE JUNGLE EFFECT in Pakistan, and s22

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7. A key agreed recommendation from the IDC was for s22

8. s22

9. The Department of Foreign Affairs and Trade (DFAT) has agreed to s22

The Attorney General's Department (AGD) will work with Defence and DFAT to identify the legal issues associated with the apprehension of OBJECTIVE JUNGLE EFFECT, s22

10. Importantly, the apprehension of the fugitives has the potential to support our own information operations campaign. It will send a very strong message that anyone involved in the murder or wounding of ADF personnel via insider attacks will be brought to justice, regardless of location. Further, it will have a negative effect on any future TMG plans to exploit OBJECTIVE JUNGLE EFFECT's actions for propaganda purposes.

Way Ahead

11. Due to the time constraints regarding OBJECTIVE JUNGLE EFFECT's potential movement s22
I seek your agreement to s22

12. Government agencies will continue to meet to further discuss this issue and to allow for DFAT and AGD to update Defence since the 24 September 2012 IDC. I will keep you updated on this process, and subject to your approval, of s22

Recommendations:

That you:

i. note that intelligence indicates that s22

Noted / Please Discuss

ii. note the apprehension, and subsequent prosecution, of OBJECTIVE JUNGLE EFFECT and s22 will send a strong message that perpetrators of insider attacks against ADF personnel will be brought to justice, acting as a deterrence for future attacks and denying the TMG a propaganda opportunity.

Noted / Please Discuss

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iii. note that Defence, DFAT and AGD continue to explore the legal issues for OBJECTIVE JUNGLE EFFECT and s22 [redacted] apprehension and transfer to Afghanistan, and will provide further advice on this issue.
 (Noted) / Please Discuss

iv. agree for me to call s22 [redacted] s47F [redacted]
 (Agree) / Not Agree See below 27/09/12

v. sign the letters to the Prime Minister, Minister for Foreign Affairs and Trade and the Attorney General informing them of intent to scope the potential for apprehending OBJECTIVE JUNGLE EFFECT s22 [redacted]
 (Signed) / Not Signed See below

Approved By: D.J. HURLEY GEN CDF 26 September 2012	s47F [redacted] 27/09/12	s47F [redacted]
Contact Officer: LTCOL s47E(d) [redacted] SOLO MSC	Phone: 02 6265 4597	
Primary Addressee CDF	s47F [redacted] Stephen Smith 27/09/2012	

Consultation:

13. International Policy Division, Defence Intelligence Organisation and Australian Secret Intelligence Service. The Department of Prime Minister and Cabinet, Department of Foreign Affairs and Trade and Attorney General's Department attended the IDC on 24 September 2012 at the Senior Executive Service officer level and agreed to the proposal course of action for CDF to make contact with General Kayani.

Attachments:

oral agreement of Secretaries of DFAT and AGD

- A. Letter from the Minister of Defence to the Prime Minister.
- B. Letter from Minister of Defence to Minister for Foreign Affairs and Trade.
- C. Letter from Minister of Defence to the Attorney General,

(3) s22 [redacted]

(3) Followup s22 [redacted] subject to cross govt. Consideration at highest level (DFAT/AGD/PMSC) and report to NSC and NSC approval

s47F [redacted] 27/09/12