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S E C R E T ROME 001506

SIPDIS

BAGHDAD PLEASE PASS TO BG VANGJEL;

JUSTICE FOR ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION

EO 12958 DECL: 05/02/2015

TAGS PREL, MOPS, KJUS, IT, IZ, IRAQI FREEDOM

SUBJECT: IRAQ/ITALY: BERLUSCONI TRYING TO PUT CALIPARI

INCIDENT BEHIND US - ITALIAN REPORT FINDS NO INDIVIDUAL RESPONSIBILITY

Classified By: Ambassador Mel Sembler, reasons 1.4 b and d.

¶1. (S) Summary and Recommendation: Just prior to the May 2 release of the Italian report on the March 4 killing of intelligence officer Nicola Calipari at a U.S. checkpoint in Baghdad, Ambassador, DCM and PolMilCouns were called to PM Berlusconi's office to receive an advance copy of the report and to hear from senior GOI officials their view of the way forward. The Italians stressed that the GOI wanted to put the incident behind us, that it would not damage our strong friendship and alliance, and that it would not affect the Italian commitment in Iraq. The Italians said that while U.S. cooperation with Italy in the joint investigation had been total and thoroughly professional, Italy had to stand by the Italian reconstruction of the March 4 incident. The Italian report, they said, concluded that the shooting was not intentional and that no individual responsibility could be assigned for the shooting, thus making the magistrate's criminal investigation less likely to develop into a full criminal case.

¶2. (S) Recommendation (see also Para 9): While the Italian report quibbles with many findings and much of the methodology of the US AR 15-6 report on the incident, we will be best served by resisting the temptation to attack the Italian version point-by-point, and should instead continue to let our report speak for itself. While our instinct at Post is to defend the U.S. report and criticize the Italian one, we realize the consequences of doing so could be asymmetrical: while the criticism in the Italian report is unlikely to have serious negative consequences for the USG, if the GOI appears to be disloyal to its public servants - or to be rolling over to please the USG in this matter, the consequences for Berlusconi's government and Italy's commitment in Iraq

could be severe. Therefore, we strongly recommend all USG spokespeople stand by the 15-6 report while refraining from detailed criticism of the Italian draft. End Summary and Recommendation.

¶3. (S) Ambassador, DCM and PolMilCouns were called to the PM's office late May 2 to receive an advance copy of the Italian report on the March 4 Calipari incident, based on the joint investigation carried out with the U.S., and to hear from senior GOI officials their views on the matter. Present on the Italian side were FM Fini, U/S Letta, PM Dip Advisor (NSA equivalent and Ambassador-designate to the US) Castellaneta, SISMI Chief Pollari, a few of their senior aides, and the two Italian investigators BG Campregher and MFA official Ragaglini. (Berlusconi himself was not at the meeting and, we believe, was out of Rome until the next morning.)

¶4. (S) The Italians made the following main points:

- The intent of Italian Government is that this incident should have no negative effect on our excellent bilateral relations.
- Specifically, there should be no effect on the Italian commitment in Iraq.
- The Italian government wants to put the incident behind us and hopes this report will contribute to that end (see below for explanation as to how it will serve that purpose).
- An unclassified version of report would be posted on a GOI web site May 2, with classified sections redacted. The full, classified report would be given only to PM Berlusconi, but the USG could have a copy on request after Berlusconi sees it.
- Berlusconi would discuss the report in Parliament on Thursday, May 5.
- It would be useful for President Bush to call Berlusconi Wednesday, so that he could say before Parliament the next day that he had spoken with the President about the matter.

¶5. (S) As to the report itself, the Italians generally described it as supporting the "tragic accident" thesis, and highlighted the following:

- The report says it is impossible to attribute individual responsibility for the killing.
- It also says Italian investigators found no evidence that killing was intentional.
- This last point was designed specifically to discourage further investigation by the prosecuting magistrates, since under Italian law they apparently can investigate cases of intentional homicide against Italian citizens outside of Italy, but not cases of unintentional homicide. (NOTE: Our contacts warn that Italian magistrates are infamous for bending such laws to suit their purposes, so it remains to be seen whether the GOI tactic will work in this regard.) Also, Castellaneta told us later that the GOI was hoping the prosecutors would find that, because the killing was unintentional, there would not be grounds for a case of "excessive legitimate defense."
- The Italian report was written with prosecuting magistrates in mind. The Italians stressed that USA 15-6 regulations permitted some things to be covered in the joint investigation but not others, while Italian magistrates had broader scope that had to be satisfied.

-- The government will block attempts by parliamentary committees to open their own investigations (there are already several calls for this from the opposition), on the grounds that this report answers questions sufficiently.

-- The report stands behind the accounts given by Sgrena, the driver, and SISMI's Baghdad Station Chief; i.e., the "Italian reconstruction" of the incident.

¶6. (S) The copy of 67-page Italian report that they handed to us was a draft that was still being proofread in another room (in fact, they said it was the only hard copy in existence, and they swapped out a couple pages during the meeting as typos were corrected). We have translated and e-mailed to State EUR/WE high points (see para 10) and faxed the complete text in Italian to State EUR/WE. Our quick scan indicates that there are several pages in which the Italian investigators take issue with specific facts and findings in the USA 15-6 report, generally on the grounds that the accounts of the Italian witnesses differed significantly from those of the American soldiers. There is also an extensive critique of the inadequacy of SOPs for Traffic control Points and Blocking Positions. It argues that more complete notification to US authorities would not have changed the outcome. In a subsequent meeting with the DCM, Castellaneta said the main difference in the reports was that the US report focused on communications while the Italian report focused on preparation of the soldiers and the stress under which they were operating. The final conclusions, though, are as stated by the Italians in our meeting: no individual responsibility, no deliberate intent.

¶7. (S) Ambassador Sembler told the Italians that the USG shared the Italian desire to put this incident behind us and not let it affect overall bilateral relations. In that regard, it was important for the Italian government not to point accusing fingers at the U.S. or complain about lack of cooperation, and we would endeavor to continue doing so ourselves. Fini said Italy could not complain about cooperation from U.S.; the Italian report clarified that the Italian investigators had full access and he would ask Berlusconi to stress that fact in parliament on May 5. Ragaglini and BG Campregher were effusive about the "total and complete" cooperation they received from the USA investigators, including access to all evidence. The one caveat was that for five days before they arrived in Baghdad BG Vangjel had been conducting interviews within the USA chain of command re communications and U.S. knowledge of the rescue operation. The Italians, however, were given copies of everything done prior to their arrival.

¶8. (S) The Italians were clearly not happy about the classified portions of the USA 15-6 posted on the web being "unredacted" so easily and asked the Ambassador for an explanation. They did not push the issue after he explained it was solely a technical mistake. The Italians said they had pulled from Baghdad the SISMI Station Chief whose name was revealed in the "unredacted" version of the 15-6; he will not go back.

¶9. (S) Embassy recommendations for immediate next steps:

-- The NSC should try to schedule a POTUS-Berlusconi call on Wednesday.

-- The USG public reaction for now should be limited to "We've just received Italian report and are studying it." (Italian press will be furiously nit-picking, and it will not serve a useful purpose for us to get into point-by-point refutation at this stage, although we might want to do backgrounders later in Baghdad, Washington, or Rome.)

-- The Department should consider a SecState-Fini call in the next few days to confirm that we share Italy's desire to put incident behind us.

¶10. (U) Informal Embassy Translation of Italian Report's Conclusions:

"The Italian representatives - based on the evidence they were able to obtain - did not find elements that would allege that the facts indicate deliberate murder.

It is realistic that tension felt by the soldiers and some inexperience and stress may have made them react instinctively and with little control.

The lack of formal references to clear rules that should have been observed makes it problematic to assign specific individual responsibilities.

The facts asserted by Ms. Sgrena, the car's driver and the SISMI Chief of Station in Baghdad can be considered realistic. Based on the overall analysis, their reconstruction is coherent and plausible."

End Informal Embassy Translation of Conclusions.

¶11. (U) Baghdad minimize considered.

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