

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

-2-

Barapind has submitted materials to the Department opposing India's extradition request (Tab 5). He requests that extradition be denied because, he claims, it is more likely than not that he will be tortured if surrendered to India. He also requests that extradition be denied because, he alleges, India will refuse him access to counsel, because India will violate the rule of specialty, and because India will deny him a speedy trial.

Under Article 2 of the Convention Against Torture, the United States is

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

-3-

Attachments

[REDACTED]

UNCLASSIFIED

SENSITIVE BUT UNCLASSIFIED

-4-

Drafted:

Clearances:

UNCLASSIFIED

ei loc.

UNCLASSIFIED

UNCLASSIFIED

-6-

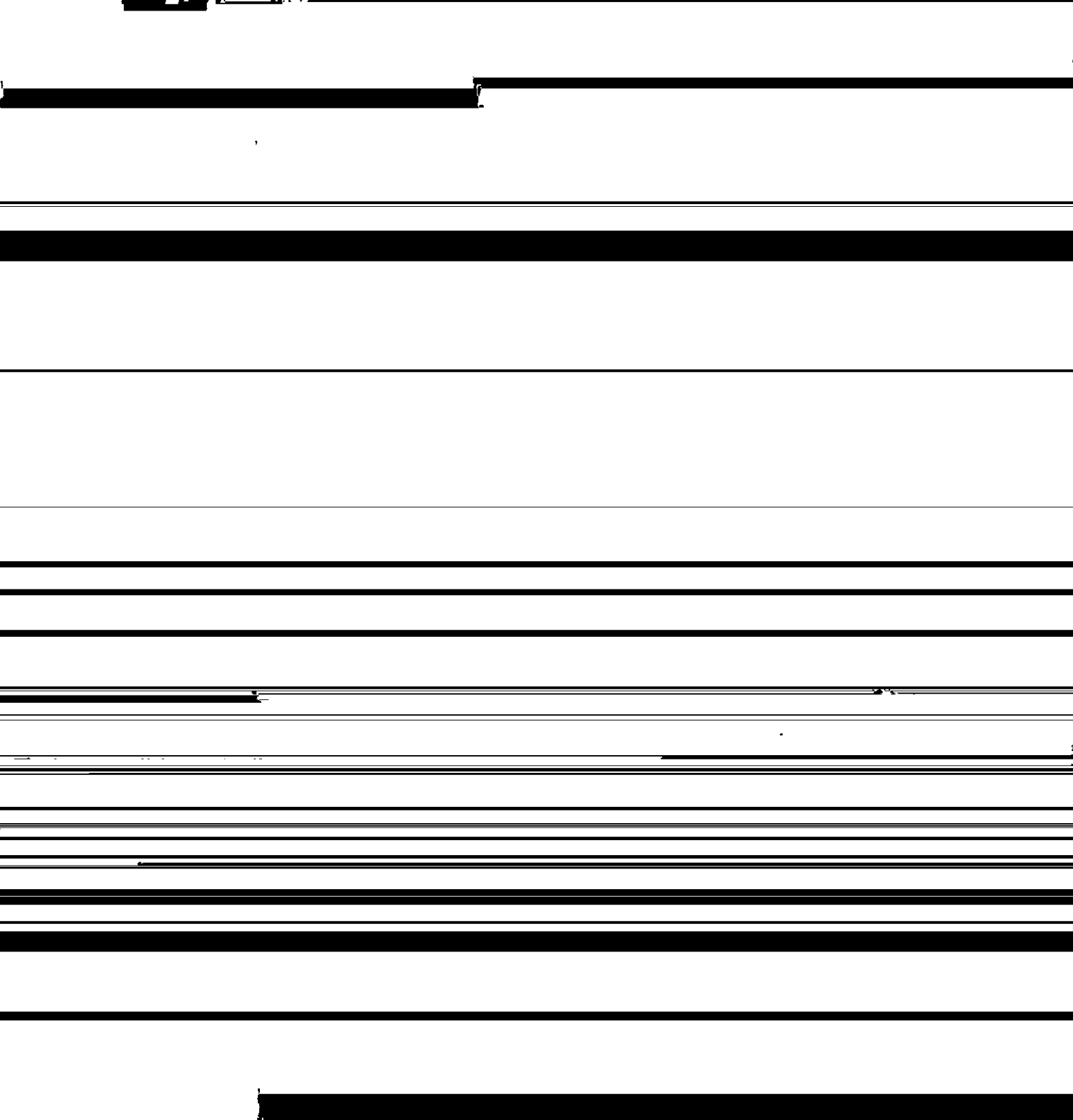
immediately detained and was placed into the custody of the Immigration and Naturalization Service (INS). On June 7, 1993, Barapind applied for asylum and withholding of deportation on the basis that, if returned to India, he would be persecuted because of his Sikh political separatist activities. On November 29, 1994, India submitted an extradition request for Barapind for the offenses enumerated above, but, because of Barapind's pending asylum and exclusion proceedings the extradition request was not filed with the court until September

UNCLASSIFIED

UNCLASSIFIED

-7-

denial of the petition, but that decision was withdrawn by the full court. On March 9, 2005, an en banc panel of the Ninth Circuit affirmed the certification of extraditability for FIRs 89 and 100 but remanded the case to the district court for a reevaluation of the charges in FIR 34. On October 24, 2005, the district court confirmed its earlier certification of extraditability for the charges in FIR 34 (Tab 4). ~~No appeal has been taken from that decision, and consequently, there currently~~

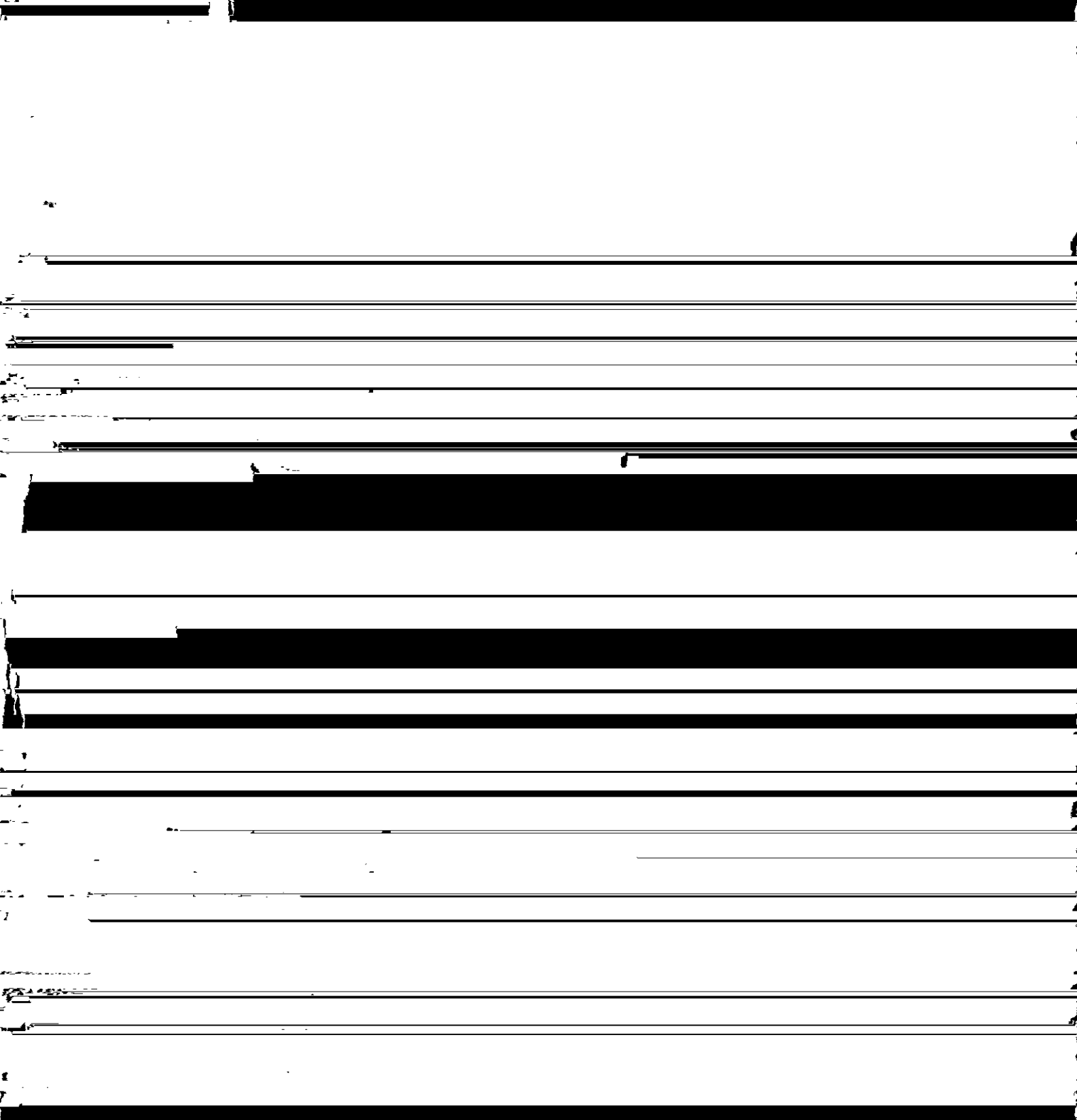


UNCLASSIFIED

UNCLASSIFIED

-8-

and continue to take place in India, in particular by the Punjab police, and
that Baranind's status as a political leader and an accused militant makes



UNCLASSIFIED

UNCLASSIFIED

-10-

associates" (Tab 10). Embassy New Delhi also has been "unable to authoritatively confirm or refute Barapind's specific claims that his family, friends, and associates were subject to torture, execution, coercion, and other mistreatment," though one of Embassy's contacts "stated that Barapind's relatives were tortured in 1988-89 as a matter of procedure, and that the police routinely tortured and/or killed terrorists' families and/or associates" (Tab 9). In a June 16, 1993, letter to the Immigration Judge (IJ), the Department's Office of Asylum Affairs noted "inconsistencies" and "anomalies" in Barapind's asylum application that "would raise credibility questions" about his assertions (Tab 15).²

(b) Current Practices There is no doubt that torture generally remains a

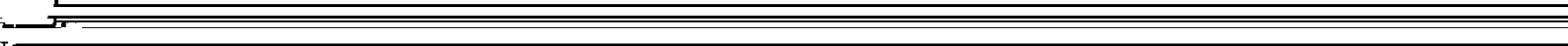


UNCLASSIFIED

UNCLASSIFIED

-11-

fortune still occurs in Danish. Embassy New Delhi discounts the possibility of a



UNCLASSIFIED

UNCLASSIFIED

-12-

Delhi and deepened divisions between India and Pakistan. Today, Punjab is one of the richest states in India with a gross regional product of about \$100 billion.

UNCLASSIFIED

UNCLASSIFIED

-14-

reciprocal basis). as described. are accurate. and it is likely the Government of

UNCLASSIFIED

UNCLASSIFIED

-15-

accountability in place in the form of Indian human rights organizations (including the National Human Rights Commission) and media, the assurances provided by the Government of India, the guaranteed monitoring,⁵ the prospect of U.S. cooperation on future extraditions and law enforcement generally, and the much-improved bilateral relationship between the two countries, we do not believe it is

UNCLASSIFIED

UNCLASSIFIED

-16-

Refugee Convention







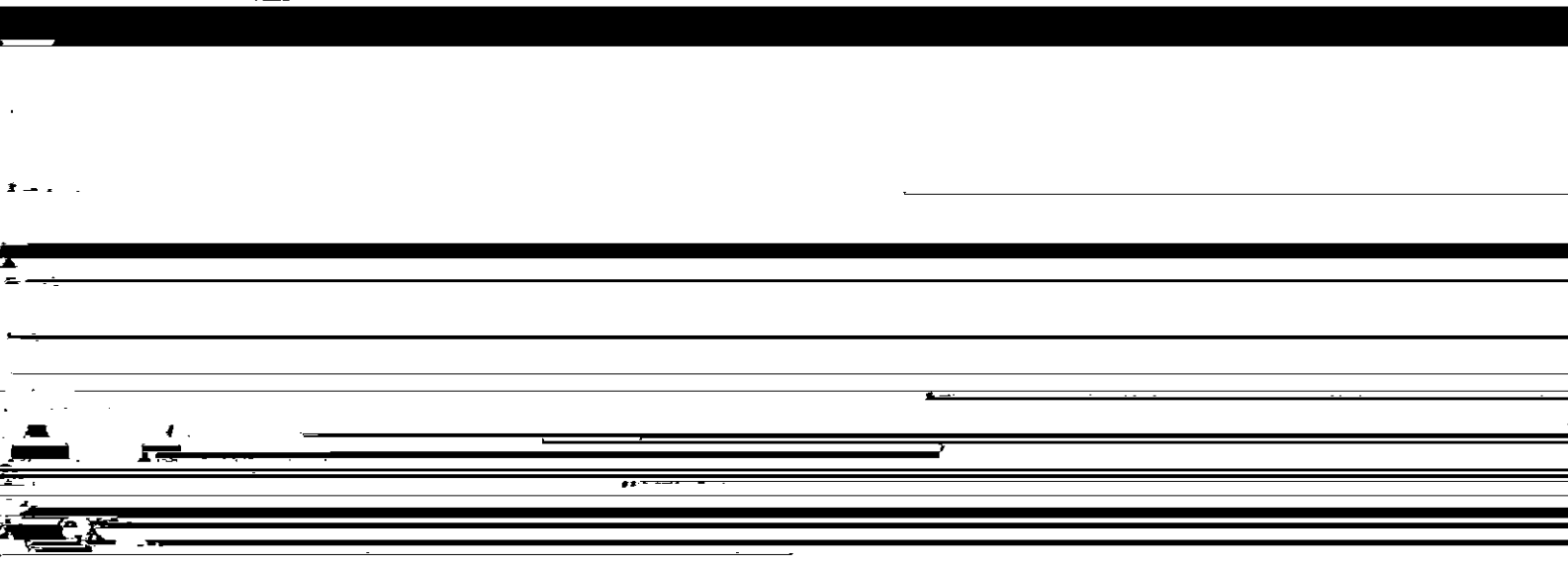
When an asylum application is pending but not finally adjudicated, the United States must take into account its international obligations under the 1967 Protocol Relating to the Status of Refugees (Refugee Protocol), which incorporates certain obligations of the 1951 Convention Relating to the Status of Refugees (Refugee Convention). The Refugee Convention prohibits the return of

UNCLASSIFIED

UNCLASSIFIED

-17-

the extradition request.⁶ As clearly shown by the Judge's Order, the Government of India has submitted: duly authenticated documents as required by the treaty; such evidence of criminality in regard to the offenses for which Barapind has been found extraditable as would have justified his apprehension and commitment in the United States; and sufficient evidence that the person sought by India was the person before the court during the extradition proceedings



UNCLASSIFIED

UNCLASSIFIED

-18-

including the United States's obligations under the Torture Convention. Though Barapind has requested notification, it is unclear whether he will file a habeas petition. If he does file a petition, we believe we would prevail, and the decision to extradite would be upheld.