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THE WHITE HOUSE

WASHINGTON

January 9, 1976

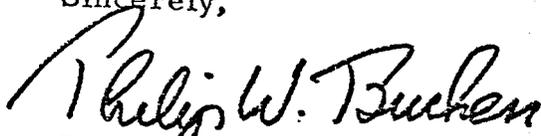
Dear Mr. Attorney General:

In response to your letter of December 24, the White House Counsel's Office believes that the paroling of up to 11,000 additional Indochina refugees into the United States is consistent with the President's program. Our opinion presumes that State will provide you, as Attorney General, and the appropriate Congressional committees with a complete analysis of all the refugee information that is presently known or that can be reasonably estimated.

Although the Administration clearly indicated in consultations with the appropriate Congressional committees that the level of Vietnamese, Cambodian and Laotian refugees to be permanently resettled in the United States would not exceed approximately 130,000, it is our understanding that this assurance was based on inadequate information and that State now has available more accurate and recent information to support the request for additional parolees. It also is our understanding that sufficient appropriated funds remain in the 1975 Migration and Refugee Assistance Act for this new group of refugees and that sufficient American sponsors are available to enable the refugees to proceed directly to homes in the United States.

Please let me know if I can be of further assistance.

Sincerely,



Philip W. Buchen
Counsel to the President

The Honorable Edward H. Levi
Attorney General
Washington, D.C. 20530



THE WHITE HOUSE

WASHINGTON

January 9, 1976

Phil --

I have eliminated any mention of the 150,000 number. I had obtained the information of a Congressional authorization of 150,000 from Ken Quinn of the NSC and it is explicitly stated in Scowcroft's memo. In addition, the letter from the Attorney General speaks in terms of exercising the "authority vested in the Attorney General to permit the entry to the United States of up to 150,000 Vietnamese, Cambodians and Laotian refugees who met certain criteria, with the understanding that not more than approximately 130,000 of them would be permanently resettled in the United States."

However, after talking at length with Mark Wolf, who is on the Attorney General's personal staff, I think that the mention of 150,000 raises so many questions that it is better to omit it.

Bobbie



THE WHITE HOUSE
WASHINGTONLIMITED OFFICIAL USEURGENT ACTION

December 30, 1975

MEMORANDUM FOR PHILIP BUCHEN

FROM: BRENT SCOWCROFT *W&J for*

SUBJECT: Parole Authority for Indochina Refugees in Thailand

Deputy Secretary Ingersoll sent the Attorney General a letter on December 19 (Tab A) requesting that the Department of Justice approve our seeking to parole up to 11,000 more Indochina refugees into the United States. Some 1000 qualify under the criteria of being former U.S. Government employees, or else relatives of Americans or refugees in the United States. The rest are in the high risk category. The Attorney General's office has informed us that they plan to send this issue to you for policy guidance.

On December 19 I sent a letter to the Attorney General (Tab B) urging approval of the State Department request. I still believe that we have a real obligation to assist these people. The Meo refugees from Laos had a long and close association with the CIA. The Khmer resisted the Communists in large part because of promises we made to them. Our reports from Cambodia indicate that high-risk refugees would face almost certain death if they were returned to Cambodia.

That return is an ever-present threat. Aside from the humanitarian motive of alleviating the suffering of these individuals, most of whom are living under deplorable camp conditions, there is the additional consideration that Thailand might force them to return home.

Questions of obligation and humanitarianism aside, these new refugees are not likely to cause a significant problem. They would not enter refugee camps in the United States, but would move from Thailand directly to the homes of U.S. sponsors. The resettlement of the

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refugees already in the United States has gone more quickly and smoothly than we originally anticipated. These individuals should also fit well into our society.

Congress has already given us authorization to bring in 150,000 refugees. I realize that we indicated to congressional committees that we would be using only about 134,000 spaces. At that time, however, we were not aware of these additional high-risk refugees.

Julia Taft believes that low-level consultations could produce the needed approval for these additional 11,000. She discussed this subject with Congressman Eilberg's committee on December 18 and received no strong objection to the State proposal. Moreover, Senator Kennedy has written to the President (Tab C) indicating his support for the additional parole authority.

I would appreciate your giving favorable consideration to the State Department request and hope you will consult with us prior to providing Justice with a White House position.



NSC

THE WHITE HOUSE
WASHINGTON

February 10, 1976

MEMORANDUM FOR: BRENT SCOWCROFT

FROM: PHIL BUCHEN *P.*

After our talk this morning, I thought you would be amused by the attached letter.

Attachment

2/11/76
Positively brilliant!
Brent



Feb 4, 1956

Dear Mr. Bicker,

I commend to your attention
Miss May McGraw as our
next permanent representative to
the U.N.

Sincerely,

David L. Jenkins

3725 Haystack - Park
Box 117 10763



NSC

THE WHITE HOUSE

WASHINGTON

March 2, 1976

Dear Congressman Fascell:

In further response to your letter to the President of January 19, we have reviewed carefully the material supplied to the Congress and to the General Accounting Office concerning the Mayaguez incident, as well as the material which had been requested by the GAO but which we had been unable to supply. We have also asked the individual agencies to conduct a similar review.

As we informed the GAO orally, the minutes of NSC meetings have traditionally not been made available outside the Executive Branch. We believe it is necessary that the participants in these meetings feel able to provide the President with candid advice. Knowledge that the views expressed during these meetings would be subject to Congressional or GAO scrutiny would have an inhibiting effect which might deprive the President of the frank and honest opinion of his senior advisers, so necessary for the effective conduct of our foreign relations. For these reasons, we were unable to provide the minutes and records of discussions of NSC meetings, the options and recommendations prepared for these meetings, or the intelligence briefings provided the Council or the President in connection with them. For similar reasons, we were unable to provide the papers concerning the NSC staff preparations for such meetings. We have, however, prepared a list of statutory and agency participants in the NSC meetings on the Mayaguez incident, which is attached.

Although we were unable to provide the GAO investigators with the internal NSC material they sought, in an effort to be responsive to their desires for information, we arranged for several of the NSC staff members who had been most closely associated with the hour-to-hour developments in the Mayaguez incident to be interviewed by the investigators. I understand that these interviews were extremely detailed and that the staff members answered the GAO questions, with



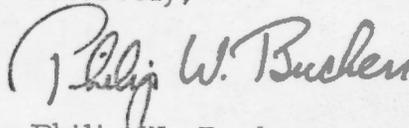
the exception of those directly concerning information and options presented to the President, on the basis of their extensive personal knowledge of the events.

The GAO representatives also asked for "pre- and post-meeting communications to other agencies and officials." The only such communication we could identify was a classified May 12, 1975 memorandum from the President to the Secretary of Defense concerning the use of riot control agents. We provided the GAO representatives with a copy of this memorandum.

With regard to the request for post-mortems, the GAO representatives were given the After Action Report prepared by the Department of Defense. A separate CIA post-mortem was prepared at the direction of the President. Although the document remains highly sensitive, we are prepared to provide a copy of it on loan to your Committee. It should, of course, be protected as a classified document and its contents should not be made public in any way. You or a member of your staff should contact Mrs. Jeanne W. Davis, Staff Secretary of the National Security Council (395-3440) who will make the copy of this document available to you.

I note that the GAO has finished its report on the Mayaguez incident and, on February 3 provided a copy to the NSC Staff for review and comment. This review is almost completed. The report appears to be a comprehensive and detailed account of the events surrounding the seizure and release of the Mayaguez. I hope you will agree that the large volume of material supplied by the various departments and agencies, supplemented by the material enclosed herewith, provides a detailed report to the Congress on events connected with this incident.

Sincerely,



Philip W. Buchen
Counsel to the President

The Honorable Dante B. Fascell
Chairman
Subcommittee on International
Political and Military Affairs
House of Representatives
Washington, D. C. 20515



NSC Meetings on the
Seizure of American Ship by Cambodians

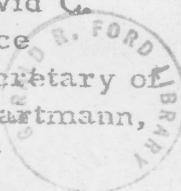
1. May 12, 1975
Principals: President, Vice President, Secretary of State, Secretary of Defense, Acting Chairman of JCS David C. Jones, Director of Central Intelligence
Others: Deputy Secretary of State, Deputy Secretary of Defense, Donald Rumsfeld, Brent Scowcroft, W. Richard Smyser

2. May 13, 1975, 10:15 am
Principals: President, Vice President, Under Secretary of State for Political Affairs Joseph Sisco, Secretary of Defense, Acting Chairman of JCS David C. Jones, Director of Central Intelligence
Others: Deputy Secretary of Defense, Donald Rumsfeld, Robert Hartmann, John Marsh, Brent Scowcroft, W. Richard Smyser

3. May 13, 1975, 10:40 pm
Principals: President, Vice President, Secretary of State, Secretary of Defense, Acting Chairman of JCS David C. Jones, Director of Central Intelligence
Others: Deputy Secretary of State, Deputy Secretary of Defense, Donald Rumsfeld, John Marsh, Robert Hartmann, Philip Buchen, Brent Scowcroft, W. Richard Smyser

4. May 14, 1975
Principals: President, Vice President, Secretary of State, Secretary of Defense, Acting Chairman of JCS David C. Jones, Director of Central Intelligence
Others: Deputy Secretary of State, Deputy Secretary of Defense, James L. Holloway, Donald Rumsfeld, John Marsh, Robert Hartmann, Philip Buchen, Brent Scowcroft, W. Richard Smyser

5. May 15, 1975
Principals: President, Secretary of State, Secretary of Defense, Acting Chairman of JCS David C. Jones, Director of Central Intelligence
Others: Deputy Secretary of State, Deputy Secretary of Defense, Donald Rumsfeld, Robert Hartmann, Brent Scowcroft, W. Richard Smyser



VSC

THE WHITE HOUSE
WASHINGTON

March 2, 1976

TO: JACK MARSH
MAX FRIEDERSDORF
BRENT SCOWCROFT

FROM: PHIL BUCHEN P.

Why not a signing ceremony after the Florida primary? I would think it desirable to call attention to these Conventions and the U. S. Ratification at this time.



4:25 p.m.

Tuesday, March 2, 1976

One of the reasons the signing ceremony for the United Nations Documents on Women was rejected was because of the Florida primary.

When you bring the subject up at Sr. Staff Meeting tomorrow morning, you might suggest the President having a signing ceremony after Florida. There is no required signing date.

Bobbie

*In view of
this message
from Bobbie
do you want the
note to Marsh.
Grienderdorf &
Scarver
to go?*



THE WHITE HOUSE
WASHINGTON

Prepare note to be
attached for Marsh,
Friedersdorf, a Scowcroft:
the Florida
primary?

"Why not ^{after} signing
ceremony? I would think
it desirable to call
attention to these Conventions
and the U.S. Ratification
at this time"



NATIONAL SECURITY COUNCIL

February 28, 1976

TO: MR. BUCHEN ✓
MR. MARSH
MR. FRIEDERSDORF

FROM: Jeanne W. Davis
(x-3440) Room 374

Attached for your clearance and/or comment is a package on the Instrument of Accession to the Convention on the Political Rights of Women, and the Instrument of Ratification of the Inter-American Convention on the Granting of Political Rights to Women prepared by Hal Horan on the NSC Staff. If you concur, please initial the President's memo at Tab I and send package on to next person and return to me.

Thank you.

Attachment



ACTION

February 26, 1976

MEMORANDUM FOR: BRENT SCOWCROFT

FROM: Hal Horan *HH*

SUBJECT: Instrument of Accession to the Convention on the Political Rights of Women, and the Instrument of Ratification of the Inter-American Convention on the Granting of Political Rights to Women

The attached memo to the President forwards for his signature, in duplicate, the subject Convention and Ratification concerning political rights to women. It was originally planned to have a signing ceremony, but now it has been decided that this will not take place.

RECOMMENDATION:

That you forward the memo at Tab I to the President for signature.



ACTION

MEMORANDUM FOR: THE PRESIDENT

FROM: Brent Scowcroft

SUBJECT: Signing of the Instrument of Accession to the Convention on the Political Rights of Women, and the Instrument of Ratification of the Inter-American Convention on the Granting of Political Rights to Women

On January 22, 1976 the Senate gave its advice and consent to the U. N. Convention on the Political Rights of Women, done at New York on March 31, 1953, and the Ratification of the Inter-American Convention on the Granting of Political Rights to Women, done at Bogota on May 2, 1948.

The Conventions provide that women shall have equal rights with men in the enjoyment and exercise of political rights.

The Conventions require your signature in duplicate.

RECOMMENDATION:

That you sign the two Conventions, in duplicate, at Tab A.

Messrs. Buchen, Marsh and Friedersdorf concur.

J.W.B.



THE WHITE HOUSE

WASHINGTON

March 13, 1976

nse

MEMORANDUM FOR:

JEANNE DAVIS

FROM:

PHIL BUCHEN *P.*

SUBJECT:

Letter to the President from
Idaho Governor Andrus Requesting
Presidential Letter of Introduc-
tion to the Shah of Iran

In response to your memo of March 12, 1976, I suggest telling Governor Andrus of our policy, and at the same time having someone other than the President write to Ambassador Helms -- either Secretary Kissinger, Secretary Richardson or General Scowcroft.



MEMORANDUM

NATIONAL SECURITY COUNCIL

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March 12, 1976

MEMORANDUM FOR: MR. JACK MARSH
MR. PHIL BUCHEN ✓
MR. DOUG SMITH

FROM: JEANNE W. DAVIS

SUBJECT: Letter to the President from Idaho
Governor Andrus Requesting Presidential
Letter of Introduction to the Shah of Iran

This is in response to the request to provide General Scowcroft's view to the President on the letter to him from Governor Andrus of Idaho at Tab B of the attached package.

We have prepared this draft memo to the President based on our understanding of the existing policy on Presidential letters of introduction to foreign government officials for Americans travelling abroad in an unofficial Federal Government capacity. We would very much appreciate having your views, concurrence and/or suggested revisions so that these could be incorporated in a final memo.

In particular, we would appreciate your views on the approach suggested in the memo, including whether or not we should recommend the gesture of a Presidential letter to Ambassador Helms. The alternative to this would be including the memo with a recommendation that the Governor's office be told of our policy, with no message to the Ambassador.



THE WHITE HOUSE
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MEMORANDUM FOR THE PRESIDENT
FROM: BRENT SCOWCROFT
SUBJECT: Request from Governor Andrus of Idaho
for a Message to the Shah of Iran

At Tab B is the letter from Idaho Governor Andrus expressing the hope that you would write a letter of introduction to the Shah of Iran for personal presentation by him and a group of Idaho businessmen. The Governor notes that Senator McClure and former Representative Harding will accompany this mission.

This travel is in line with our policy of encouraging expanded trade opportunities between the US and nations of the Middle East and Persian Gulf. As is the practice, the Departments of State and Commerce are providing assistance and we also understand that Ambassador Zahedi is recommending to his Government that the Shah meet with the Governor and his colleagues.

However, I do not believe that it would be appropriate for you to write a letter of introduction to His Majesty. It has been the practice to recommend against letters addressed to foreign government officials and provided to Americans who are not travelling abroad on official Federal Government missions. This policy has evolved for several reasons:

1. Presidential letters of this kind might suggest official endorsement by the USG of the activities and statements of American citizens who are visiting foreign countries in unofficial capacities. Though the Governor's trip may be a constructive one, he is not travelling to Iran as a representative of the Federal Government.
2. Such letters might further be used by individuals involved to gain special access or courtesies from foreign government officials which they are unable to receive on their own.

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LIMITED OFFICIAL USE -- 2

Also, we want to avoid any potential embarrassment should foreign government officials be unable to meet or not want to meet with travelling Americans carrying Presidential messages.

4. Such letters might also suggest official USG preference for one group of American businessmen over another in private sector business dealings with foreign governments, even though this may not be intended.
5. Finally, the appropriateness of this policy would seem especially relevant against the backdrop of recent problems arising from improper activities of US firms seeking contracts with foreign governments.

Under this policy a wide range of similar requests from prominent Americans travelling abroad on business and other special interests involving the private sector have been regretted. Making an exception in this instance would create problems with others seeking similar treatment and embarrassment for those who have not received it in the past.

On the other hand, if you have an interest in responding in some way to the Governor, there is one option which has been employed in the past. You could send a letter to Ambassador Helms indicating that the Governor plans this trip to Iran and requesting appropriate courtesies. A copy could be given to Governor Andrus. This would fall within the framework of being helpful but through official USG channels.

I would suggest that an appropriate member of the staff here be in touch with the Governor's office to explain that as a matter of policy such messages are not provided to foreign leaders. Should you decide to write a letter to Ambassador Helms along the lines of Tab A, we would inform the Governor and forward a copy.

RECOMMENDATION: That you approve the approach above, including signing the letter to Ambassador Helms should you wish to do this.

_____ APPROVE, including letter

_____ DISAPPROVE; explain our policy to the Governor but no letter to the Ambassador is necessary.

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A



Dear Mr. Ambassador:

I understand that Governor Cecil Andrus of Idaho will lead a delegation of businessmen from his State to Iran in the near future and that the Departments of State and Commerce are rendering the appropriate assistance in line with our policy of encouraging expanded trade opportunities and increasing mutual United States-Iranian understanding. I just want to let you know that I appreciate the efforts which you will make in ensuring that they have a constructive visit.

With best wishes,

The Honorable Richard Helms
American Ambassador
Tehran

[Sample of similar letter attached]



February 3, 1976

Dear Mr. Ambassador:

Under the leadership of Mr. Mortimer Doyle, the International Committee of the American Society of Association Executives will, I understand, be visiting Singapore and other Asian countries. The Committee is made up of prominent citizens whose visit to Singapore will surely strengthen ties of trade and friendship.

I hope that you will find time to provide appropriate assistance to them during their stay.

With kindest personal regards,

The Honorable John H. Holdridge
American Ambassador
Singapore

cc: Mr. Mortimer Doyle
Chairman, International Committee
American Society of Association Executives
1101 - 16th Street, NW
Washington, D. C.



(Mr. Doyle's copy sent to Russ Roarke for meeting with him on 2/4)

GRF:Hasek:jmc

cc: D. E. Downton/R. Nessen/R. Hartmann/G. Anderson/J. Connor/
E. Hasek/CF

Cleared by NSG Davis, NSC

B





STATE OF IDAHO

OFFICE OF THE GOVERNOR

BOISE

CECIL D. ANDRUS
GOVERNOR

March 2, 1976
file

The President
The White House
Washington, D.C.

Dear Mr. President:

In the near future, it will be my pleasure, as Governor of Idaho, to lead a delegation of prominent Idaho business executives to Iran to exchange ideas and viewpoints related to energy, mining, agriculture and recreation with Iranian government officials and business leaders of Iran. Senator James McClure will also be accompanying the mission.

I believe it would be of great assistance to the success of the mission and also a matter of courtesy if you would be so kind as to write a letter of introduction to His Imperial Majesty the Shah of Iran for my personal presentation to him upon our arrival. We will also extend an invitation to the Iranian government and business officials to visit the United States and Idaho this summer.

At a recent luncheon at the Iranian Embassy, His Excellency Ardeshir Zahedi, Ambassador of Iran, was most complimentary to our country and to you personally in a toast. Ambassador Zahedi is most anxious for the success of this mission and has been very helpful to Senator McClure and myself in making the necessary arrangements. We will also be accompanied by one of your former colleagues in the House of Representatives, Ralph Harding, who is also assisting us.

Your favorable consideration to furnish us with a letter of introduction will be greatly appreciated; and I shall look forward to your reply at your earliest convenience.

Sincerely,

CECIL D. ANDRUS
GOVERNOR

wmb



IRAN - IDAHO SYNERGISTIC
P. O. Box 1559
Boise, Idaho 83701
Telephone Number: (208) 343-5454

ATTENTION: Blaine F. Evans

PARTICIPATING IDAHO COMPANIES

OFFICIAL AND COMPANY

BUSINESS ACTIVITIES

James (Jim) McClary
Chairman of the Board
Morrison-Knudsen Company, Inc.
400 Broadway Avenue
Boise, Idaho 83729
(208) 345-5000

Construction

William (Bill) Bridenbaugh
Senior Vice President
Boise Cascade Corporation
One Jefferson Square
Boise, Idaho 83702
(208) 384-6527

Lumber, Housing,
Building materials,
Paper products and
packaging

J. R. (Jack) Simplot
Chairman of the Board
J. R. Simplot Company
One Capitol Center
Boise, Idaho 83701
(208) 336-2110

Agriculture,
Livestock, Produc-
tion, Food processi-
ng, Fertilizer producti-
on, Mining

William C. (Bill) Janss
President
Sun Valley Company
Sun Valley, Idaho 83353
(208) 622-4111

Recreation and reso-
urce operations, Condomi-
um construction, sales
rentals.

Charles (Chuck) Rice
President
Energy, Incorporated
381 Shoup Avenue
Idaho Falls, Idaho 83401
(208) 524-1000

Nuclear Energy
technology and
alternative energy
sources

Sam Bennion
President
V 1 Oil Company
1800 North Holmes Avenue
Idaho Falls, Idaho 83401
(208) 522-1210

Oil Refining, Petro-
leum Products distri-
bution. Member of
Federal Reserve Bo-



OFFICIAL AND COMPANY

J. H. (Jack) Hume
Chairman of the Board
American Potato Company
4600 Bank of America Center
San Francisco, California 9404
(415) 981-5590

G. T. (Bud) Newcomb
President
G. T. Newcomb, Inc.
P. O. Box 246
Ketchum, Idaho 83340
(208) 726-5641
(602) 991-1899

Robert (Bob) Rebholtz
President
Snake River Cattle Company
P. O. Box 549
American Falls, Idaho 83221
(208) 226-5126

BUSINESS ACTIVITIES

Potato and Onion and
Garlic Processing

Sprinkler Irrigation
Systems, Land develop-
ment, Potato production

Cattle ranching and
Cattle feeding



IRAN - IDAHO SYNERGISTIC
P. O. Box 1559
Boise, Idaho 83701
Telephone Number: (208) 343-5454

ATTENTION: Blaine F. Evans
ELECTED OFFICIALS, DELEGATION LEADERS AND STAFF

Honorable Cecil D. Andrus
Governor
State of Idaho
State Capitol
Boise, Idaho 83221
(208) 382-2100

Honorable James McClure
United States Senator
Room 460 Russell Building
Washington, D. C. 20510
(202) 224-2752

Ralph R. Harding
General Manager - Iran-Idaho Synergistic
Route 4, Box 164
Blackfoot, Idaho 83221
(208) 785-1248

Blaine F. Evans
General Counsel - Iran-Idaho Synergistic
Elam, Burke, Jeppesen, Evans & Boyd
1010 Bank of Idaho Building
P. O. Box 1559
Boise, Idaho 83701
(208) 343-5454

Wayne Mittleider
Assistant to Governor Andrus
State Capitol
Boise, Idaho 83720
(208) 382-2100

Mike Hathaway
Assistant to Senator McClure
Room 460, Russell Senate Office Building
Washington, D. C. 20510
(202) 224-2752

James A. Goller (NOT GOING TO IRAN)
Assistant to Senator McClure
8th and Bannock Streets
Boise, Idaho 83702
(208) 343-1421



Allen Suderman (NOT GOING TO IRAN)
Treasurer & Controller
Iran-Idaho Synergistic
Elmer Fox, Westheimer and Co.
515 Bank of Idaho Building
Boise, Idaho 83702
(208) 344-2527

Claude J. Greene (NOT GOING TO IRAN)
Travel Agent
Travel, Inc.
217 N. 10th Street
P. O. Box 420
Boise, Idaho 83701
(208) 343-4667



IRAN - IDAHO SYNERGISTIC
P. O. Box 1559
Boise, Idaho 83701
Telephone Number: (208) 343-5454

ATTENTION: Blaine F. Evans

AUXILIARY

Mrs. Cecil D. Andrus (Carol)
1805 North 21st Street
Boise, Idaho 83702
(208) 345-5570

Mrs. James McClure (Louise)
3467 North Venice Street
Arlington, Virginia 22207
(703) 536-8562

Mrs. James McClary (Mary Jane)
4903 Roberts Road
Boise, Idaho 83705
(208) 343-9535

Mrs. J. R. Simplot (Esther)
1500 Harrison Blvd.
Boise, Idaho 83702
(208) 343-2457

Mrs. William C. Janss (Gleann)
Sun Valley, Idaho 83353
(208) 622-5975

Mrs. Ralph R. Harding (Willa)
Route 4, Box 164
Blackfoot, Idaho 83221
(208) 785-1248

Mrs. Blaine F. Evans (Lucille)
6700 Randolph Drive
Boise, Idaho 83705
(208) 375-6896

Mrs. Sam Bennion (Faye)
635 11th Street
Idaho Falls, Idaho 83401
(208) 523-1950



Mrs. G. T. Newcomb (Debbie)
Box 325
Sun Valley, Idaho 83353
(208) 726-3287

Mrs. J. H. Hume (Betty)
3355 Pacific Avenue
San Francisco, California 94118
(415) 929-2345

Mrs. Robert Reboltz (Dorothy)
Route 1
American Falls, Idaho 83221
(208) 226-5615

nsc

THE WHITE HOUSE
WASHINGTON

March 17, 1976

MEMORANDUM FOR: RICHARD OBER
FROM: PHILIP BUCHEN *P.W.B.*
SUBJECT: Draft Preamble for NSCIDs

Attached is a copy of the Lansdale memo which you furnished me. On it I have marked two suggested word changes which avoid the problem of using the word "inherent."

If the President does not have the authority either under the Constitution or under statutes, he has no authority and therefore the language as I have changed it is preferable.

Attachment

cc: Bill Hyland



MEMORANDUM

NATIONAL SECURITY COUNCIL

March 15, 1976

*Jim,
Right away?
Larry - 1/10*

MEMORANDUM FOR: PHILIP BUCHEN
FROM: Richard Ober *RO*
SUBJECT: Draft Preamble for NSCIDs

The attached memorandum from Dick Lansdale gives proposed language to be used as a preamble for each of the National Security Council Intelligence Directives which are being redrafted in accordance with the President's instructions in Executive Order 11905, February 18, 1976. I anticipate that at least some of these NSCIDs will be unclassified and that all of them will at some time be furnished to the appropriate committees of the Congress.

It appears to me that citing "inherent authorities vested in the President" may create problems unnecessarily. It is requested that you clear the language of the proposed preamble with particular reference to the desirability of including or excluding the reference to "inherent authorities."

Since several of the revised NSCIDs are to be presented to the Committee on Foreign Intelligence for approval on Friday, March 19, prior to submission to the NSC for final approval, an early response from you will be most helpful.

Attachment

cc: Bill Hyland



OGC 76-1122

8 March 1976

FOR RICHARD H.
Room 3607A
OW EOB

MEMORANDUM FOR: General Thomas

SUBJECT : NSCID Preamble Boilerplate Language

I have discussed with John Warner the matter of boilerplate language for inclusion in the preambles of all the NSCIDs in line with our agreement at your meeting this morning. We suggest the following:

By virtue of and pursuant to the Constitutional and ~~inherent~~ ^{statutory} authorities vested in the President of the United States ~~and the~~ ^{, including} authorities conferred on the President and the National Security Council by the National Security Act of 1947, as amended, and delegated to the Council by Executive Order 11905, and in order to provide for the security and defense of the United States and to further the policies, purposes and objectives of the National Security Act and Executive Order 11905, it is hereby directed:

The thought of course is to make clear that all of the relevant authorities available to the President and the NSC are the legal basis for the NSCIDs, this to avoid any subsequent charge or question that the authority delegated by an NSCID was outside the scope of the National Security Act or Executive Order 11905 and therefore was an invalid delegation.

Richard H. Lansdale

RICHARD H. LANSDALE
Associate General Counsel
Chief, General Law Division



MEMORANDUM

NATIONAL SECURITY COUNCIL

March 15, 1976

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The attached memorandum from Dick Lansdale gives proposed language to be used as a preamble for each of the National Security Council Intelligence Directives which are being redrafted in accordance with the President's instructions in Executive Order 11905, February 18, 1976. I anticipate that at least some of these NSCIDs will be unclassified and that all of them will at some time be furnished to the appropriate committees of the Congress.

It appears to me that citing "inherent authorities vested in the President" may create problems unnecessarily. It is requested that you clear the language of the proposed preamble with particular reference to the desirability of including or excluding the reference to "inherent authorities."

Since several of the revised NSCIDs are to be presented to the Committee on Foreign Intelligence for approval on Friday, March 19, prior to submission to the NSC for final approval, an early response from you will be most helpful.

Attachment

cc: Bill Hyland



*American Egt. Captured
in Indochina*

Wednesday 3/17/76

2:00 Bobbie said they have approved this by phone to Granger's office (Granger was out so she gave the message to his secretary -- and later McDonnell, who works for Granger, called and she repeated the message to him). She asked them to be sure they notify Treasury of its role.

They said that was enough -- and we don't need to put it in writing.

ITEM WITHDRAWAL SHEET
WITHDRAWAL ID 01369

Collection/Series/Folder ID : 001900293
Reason for Withdrawal : NS,National security restriction
Type of Material : MEM,Memo(s)
Creator's Name : Antonin Scalia
Receiver's Name : Bobbie Kilberg
Description : re American equipment captured in
Indochina
Creation Date : 02/05/1976
Volume (pages) : 1
Date Withdrawn : 07/13/1988

ITEM WITHDRAWAL SHEET
WITHDRAWAL ID 01370

Collection/Series/Folder ID : 001900293
Reason for Withdrawal : NS,National security restriction
Type of Material : MEM,Memo(s)
Creator's Name : Ronald Taylor
Creator's Title : Attorney - Adviser,Office of Legal
Counsel
Receiver's Name : Antonin Scalia
Description : re American equipment captured in
Indochina
Creation Date : 02/02/1976
Volume (pages) : 7
Date Withdrawn : 07/13/1988

Wednesday 3/17/76

9:30 Attached is the previous memo (1/22/76) -- which I find Bobbie requested a legal opinion from Nino Scalia, and which she sent to NSC (she promises to send us a copy).

She said she would like to see the latest memo to see if it follows --

Shall we send her a copy?
come over?

Or would you like her to

MEMORANDUM

NATIONAL SECURITY COUNCIL

~~SECRET~~ACTION

January 22, 1976

MEMORANDUM FOR: PHIL BUCHEN

FROM: JEANNE W. DAVID *JWD*

SUBJECT: American Equipment Captured in Indochina

With the fall of South Vietnam and Cambodia to the Communists forces, an estimated \$6.0 billion worth of supplies and U.S. military equipment was captured. During recent months the United States has been approached by several friendly governments concerning our position relative to their possible purchase of some of this equipment and our willingness to cooperate in supplying spare parts and technical services.

An interagency study has been completed concerning this issue and has been forwarded to the NSC Staff for review prior to being submitted to the President. Several options have been identified ranging from complete opposition to any possible sale of equipment to that of active U.S. encouragement to potential buyers.

One area that requires legal review is how to deal with the question of U.S. firms or persons subject to U.S. jurisdiction becoming involved in any potential sale. While the NSC Staff has not completed its analysis of the study, we are leaning toward a position of quietly encouraging friendly governments to acquire this equipment and cooperating with them in providing spare parts and technical services. We are not anxious to have U.S. firms and persons subject to U.S. jurisdiction involved in the action. If licenses were granted for this trade, it would represent a major departure from the current policy of not permitting trade with Hanoi. Further, this could erode our ability to maintain the existing embargo in other areas, such as banking, export-import trade, etc.

Subject to GDS of E.O. 11652
Automatically Downgraded at Two
Year Intervals and Declassified on
December 31, 1984.

~~SECRET~~ - GDS

WJM 5/8/00

*Copy sent
to Bobbie*

SECRET

-2-

The legal ramifications and the advisability of favoring the purchase of this equipment on a government-to-government basis and at the same time denying U.S. firms and persons subject to U.S. jurisdiction permission to engage in such transfers represents an area where your legal advice and possibly that of the Department of Justice is required.

Since this issue is extremely sensitive and requires the President's attention as soon as possible, your analysis and thoughts on this aspect of the problem will represent a key consideration for the NSC Staff in reaching its recommendations. We appreciate your prompt assistance on this question.

SECRET

NATIONAL SECURITY COUNCIL

March 15, 1976

MEMO FOR: PHIL BUCHEN
FROM: CLINT GRANGER *cl*
SUBJECT: American Equipment Captured
in Indochina

Brent has requested your review of the attached package concerning American Equipment Captured in Indochina prior to being forwarded to the President. John Marsh is also reviewing the package at this time.

The issue is time sensitive and I would appreciate your concurrence (ext 4996) as soon as possible.

wall

MEMORANDUM

NATIONAL SECURITY COUNCIL

SECRET - GDSACTION

March 3, 1976

MEMORANDUM FOR: BRENT SCOWCROFT *✓*

FROM: CLINTON E. GRANGER *✓*
 THOMAS J. BARNES *✓*

SUBJECT: American Equipment Captured in Indochina

The memorandum for the President at Tab I explains the issues and options pertaining to the American equipment captured in Indochina, and presents the Senior Review Group recommended position developed on February 27, 1976.

The Department of State is developing a public statement for release at an appropriate time. State will forward the statement to the NSC for clearance.

The NSDM at Tab A, if approved, would implement the policy approach that the Senior Review Group recommended.

RECOMMENDATION

That you sign the memorandum for the President at Tab I.

DF *J*
 Max Friedersdorf and Les Janka concur.

Subject to GDS of E.O. 11652
 Automatically Downgraded at Two
 Year Intervals and Declassified on
 December 31, 1984.

SECRET - GDS*wam 5/8/00*

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

1290
ACTION

SECRET - GDS

MEMORANDUM FOR: THE PRESIDENT
FROM: BRENT SCOWCROFT
SUBJECT: American Equipment Captured in Indochina

The Problem

There are a number of indications that North Vietnam is preparing to sell some U.S. manufactured military equipment it captured in South Vietnam. A U.S. policy position with respect to the possibility of such a sale is required. An interagency study (Tab B) has identified a range of policy options. The Senior Review Group considered this study on February 27, and recommends a policy of public opposition to North Vietnam's sale of this equipment but quiet cooperation with any friendly countries who actually purchase it.

Background

With the fall of South Vietnam and Cambodia, Hanoi acquired an estimated \$6.0 billion worth of U.S. equipment, ranging from sidearms to sophisticated transport and fighter aircraft. The right to war booty under international law gives the Vietnamese clear title to the captured equipment. While the Foreign Assets Control Regulations, issued under the Trading With the Enemy Act, prohibit persons or firms subject to U.S. jurisdiction from unlicensed dealings with North Vietnam in this equipment, our ability to influence and control the movement of the captured equipment, particularly into unfriendly hands, is obviously quite limited.

We have a number of intelligence reports that North Vietnam may be attempting to sell some of this equipment. Moreover, during recent months, representatives of such friendly governments as Singapore and Nigeria have approached the United States for advice regarding potential purchases. We have also received from private arms merchants and other sources several reports of possible equipment transfers. To date, however, there have been no confirmed sales or transfers.

Subject to GDS of E.O. 11652
Automatically Downgraded at Two
Year Intervals and Declassified on
December 31, 1984

SECRET - GDS

WBTM 5/28/00

A number of friendly countries want weapons of the type that the Vietnamese captured. We do not at this time supply this equipment, either for policy reasons, lack of available materiel in our inventory or in timely production, or because of funding limitations. It could thus be in the United States interest that captured stockpiles fill these requirements at bargain prices. This action would also forestall unfriendly forces from acquiring these weapons and provide a basis for continuing our defense relationship with friendly countries through future supply of spare parts and rehabilitation services.

Options

An interagency review identified the following alternative responses to attempts by Vietnam to sell captured American equipment:

Option I. Use all practicable means to prevent the outflow of U.S. equipment from Vietnam. We would inform all potential purchasers that we would object to any acquisition and that we would furnish no spares or support for such equipment.

This course of action could minimize criticism by Congress or the public. Its disadvantages are that it could involve the U.S. in lengthy and possibly counterproductive disputes with foreign governments, restrict the arms flow to friendly countries, and still not prevent the equipment from reaching unfriendly hands.

Option II. Attempt to insure that friendly governments acquire the equipment. We would actively encourage friendly governments to negotiate with Hanoi and would assure them of our willingness to furnish spare parts and rehabilitation assistance insofar as legally possible. We would also be prepared to license private transactions by U.S. firms on condition that any subsequent resale be subject to prior USG approval. We would ask purchasing governments to treat the equipment as subject to the same restrictions applicable under the Foreign Military Sales Act with respect to use and disposition.

This approach would be based on the assumption that Vietnam will export much of the equipment in any case, and that it is therefore in the U.S. interest to influence the flow to the maximum extent possible. Although we could not prevent entirely the delivery of equipment to unfriendly governments or groups, we would through this option maximize the amount which would go to friendly countries.

This course of action could produce serious Congressional and public criticism. Licensing U.S. firms to participate in this trade could open the door to heavy pressure for comparable arrangements by oil companies, export-import dealers, and banks.

Option III. Take no formal policy action in advance concerning the captured equipment. We would respond to potential foreign governmental purchasers by stating that we would not look with favor on their acquisition of the equipment, and we would review the question of spare parts on a case-by-case basis. We would take all reasonable steps to inhibit the flow of the equipment to unfriendly hands.

This approach would provide the USG with considerable flexibility, since it would not require us to take action until after Vietnam had made or begun to make its sales. Therefore, we could adjust our responses to the circumstances and to our bilateral relationships with the countries involved.

Despite our efforts to prevent this equipment from falling into the hands of terrorist groups, this course of action could prove inadequate. We could be criticized for not attempting more vigorous efforts to control the flow of the equipment. We could also be criticized for assisting some recipients with spare parts and rehabilitation support, while denying such support to others.

Domestic Legal Considerations

The Department of Justice has reviewed the legal issues that could arise from prohibiting U.S. firms and persons from engaging in such transactions. It has concluded that such a prohibition is fully and directly within Executive authority under present law and regulations, particularly Munitions Control authority delegated to the Secretary of State; various regulations of the Departments of Transportation and Commerce affecting shipment of Munitions List items in U.S. vessels or aircraft; and the Trading With the Enemy Act.

SRG Recommendation

The Senior Review Group has recommended a course of action which is a combination of Options II and III. We would discourage Vietnam from selling this equipment by taking a public stance against the sale; do what we can to impede those countries that oppose us from acquiring this

equipment; and discreetly help those countries that are friendly to us if they decide to purchase equipment from Vietnam despite our pronouncement. There is little we can do to prevent the movement of equipment into unfriendly hands and this approach avoids favoring our enemies over our friends. We would hope that an announced policy of not favoring the sale of the equipment would raise doubts concerning availability of U.S. - supplied spare parts and services, thereby reducing both selling price and the number of sales. This case-by-case approach retains maximum USG flexibility concerning whom we cooperate with and, since we would not be actively promoting sales, public and Congressional criticism would be minimized.

More specifically, we would pursue the following course of action:

- The basic approach of the United States concerning Hanoi's possible sale of this equipment will be one of quiet cooperation with those countries friendly to the United States who are potential purchasers. The United States will not actively promote such equipment acquisitions, however.
- The United States will determine its response to requests for spare parts and technical service support on a case-by-case basis, and in accordance with our bilateral relations with the foreign governments concerned.
- We will not authorize private transactions by U.S. firms, or by persons subject to U.S. jurisdiction. The Department of the Treasury, in coordination with other interested agencies, will be responsible for developing the regulatory definitions, procedures, and restrictions necessary to implement and enforce this policy.
- The Department of State, in coordination with the Department of Defense, will administer United States cooperation with foreign governments concerning this equipment.
- United States agreement to cooperate in the provision of spare parts and technical services to a specific foreign government purchasing this equipment will require White House approval.

I concur in this approach, as does Max Friedersdorf. If you agree with this position, the Department of State will release at an appropriate moment a statement indicating that the United States looks with disfavor on the Vietnamese sale of this captured equipment.

RECOMMENDATION

That you approve the approach recommended by the SRG and authorize me to sign the implementing NSDM at Tab A.

Approve _____ Disapprove _____

ITEM WITHDRAWAL SHEET
WITHDRAWAL ID 01374

Collection/Series/Folder ID : 001900293
Reason for Withdrawal : NS,National security restriction
Type of Material : MEM,Memo(s)
Creator's Name : Brent Scowcroft
Receiver's Name : Secretary of State, et. al.
Description : re American euipment captured in
Indochina
Creation Date : 03/1976?
Volume (pages) : 2
Date Withdrawn : 07/13/1988



DEPARTMENT OF STATE

Washington, D.C. 20520

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AMERICAN ARMS CAPTURED IN INDOCHINA

I. Introduction

This paper responds to a request by the Assistant to the President for National Security Affairs for a review of the full range of options and recommendations regarding the question of American arms captured in Indochina. As directed, the review addresses the following issues:

--Should the United States attempt to control the transfer of captured U.S. military equipment out of Vietnam?

--How should the United States respond to queries from friendly governments that have been approached by the Vietnamese Communists as potential recipients of captured U.S. military equipment?

--What measures can the United States take to influence the flow of U.S. military equipment out of Vietnam?

--What actions might the United States take in order to influence the transfer of U.S. military equipment under domestic or international law?

II. Background

With the fall of Cambodia and South Vietnam to the Communist forces, an estimated \$6 billion worth of U.S. supplied military equipment was captured. A list of estimated quantities of major items is at attachment 1; it should be noted that some of these items are undoubtedly non-operational and unsaleable because of battle damage, deterioration, lack of spare parts, or other reasons.

The United States has been approached by representatives of such friendly governments as Singapore and Nigeria for advice regarding the potential purchase of some of this captured equipment, and many reports of possible transfers have also been received from private arms merchants and other sources. The North Vietnamese have publicly denied some

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GDS

WAM 5/8/00

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- 2 -

published stories about their intentions, and six months after the fall of Indochina there are no confirmed reports of actual sales or transfers of the US-manufactured arms and equipment from Indochina. Nevertheless, recent indications point to the probability that the Vietnamese, at least, are ready to start sales efforts, including non-lethal captured U.S. materiel, ranging from heavy construction equipment to clothing. A summary of reports of alleged transactions is at attachment 2.

The very size of the capture indicates that final disposition could be world wide. The equipment ranges from very sophisticated aircraft and electronics equipment to infantry automatic weapons and vehicles. Some may be utilized by the Vietnamese armed forces, some could be sold or traded abroad for needed foreign exchange or bartered commodities, and some could be used for ideological purposes in support of "wars of national liberation" and other dissident or extremist terrorist groups. The Communists may be very selective in their choice of weapons to serve these various purposes, but their need for foreign exchange to finance essential imports will probably impel them to sell at least some of the equipment excess to their minimum perceived domestic needs.

The United States Government cannot be indifferent to the disposition of such vast quantities of lethal equipment of U.S. manufacture. However, our ability to influence and control the movement of the captured arms and equipment under Communist control is severely limited.

Legal Position:

International Law

The right to war booty under international law is clear and gives the Communists title to the equipment captured in Indochina. The status of this captured equipment is entirely different from that of the equipment recovered from representatives of the defeated friendly regimes. In the case of evacuated equipment, title reverted to the United States Government under the terms of our agreements with the friendly regimes which specified our right to reversionary ownership when the equipment could no longer be used for the purposes for which it was intended.

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Authority Under U.S. Law

The Foreign Assets Control Regulations, issued under the Trading with the Enemy Act, prohibit unlicensed dealings with North Vietnam in this equipment by persons or firms subject to U.S. jurisdiction. Licenses for such dealings, however, could be issued if a policy decision to that effect were reached; but this would represent a major departure from the current policy of denial. Further, this could erode our ability to maintain the existing embargo in other areas, such as banking, export-import trade, etc.

With respect to foreign firms which may engage in trade in the captured arms, the Foreign Assets Control Regulations could be extended to affect some transactions, e.g., by designating as an agent of North Vietnam any foreign firm engaged substantially in the disposal of this equipment. This would make such a foreign firm ineligible for even unrelated trade with a person subject to U.S. jurisdiction. Should nationals of close allies become involved in the disposition of the captured equipment, we could ask their governments to apply their national legislation, if any, comparable to the Trading with the Enemy Act, or otherwise to discourage such involvement. Approaches to governments of third countries would be particularly appropriate in the event of involvement by nationals of COCOM countries in arms sales to Communist countries because such sales would clearly be in conflict with the basic purpose of COCOM export controls.

In addition, benefits derived by foreign countries under various U.S. programs, such as those authorized by the Foreign Assistance Act, the Foreign Military Sales Act, the Mutual Education and Cultural Exchange Act, the Export-Import Bank Act and the Agricultural Trade Development and Assistance Act could be withheld. Although none of the relevant statutes would require a suspension or termination of such benefits, all of them give the Executive Branch sufficient discretion to extend or withhold benefits in furtherance of U.S. foreign policy objectives. (The single mandatory statutory sanction, section 103(d) of PL 480, has been recently amended to permit waiver of ineligibility for PL 480 sales of countries trading with North Vietnam.)

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It is, of course, possible that the U.S. Congress might impose further sanctions through the medium of domestic legislation in the event the nature of trafficking in captured arms, or the position of the U.S. Government relative thereto, becomes controversial and a matter of serious concern to the Congress. The Executive Branch could also take the initiative with the Congress to propose new legislative sanctions of various sorts against foreign firms or governments which engage in such trade, rather than rely on Executive Branch discretionary authority under existing law.

Other Measures Available

It would be theoretically possible to invoke a wide range of measures in our bilateral relations with foreign governments and in international fora in an effort to influence the flow of captured U.S. military equipment out of Indochina, or to penalize countries which act contrary to our interests. However, the effectiveness of such measures, as with the measures described above, and their relationship to present and future U.S. interests, would require careful evaluation. The recent vote in the United Nations General Assembly supporting the applications for membership from North and South Vietnam suggests that we might have considerable difficulty in rallying much international support. Diplomatic efforts with the major Communist powers during the height of the Vietnam conflict had only limited impact on the actions of the Vietnamese Communists. In view of the sensitivity with which such a major U.S. trading partner as Japan regards its relations with Hanoi, it would also appear that economic sanctions might be difficult to apply. In general, any concerted effort to deny foreign exchange to the Communist regimes in Indochina would entail controls over other trade than the arms transfers addressed in this review.

The future supply of spare parts and support for the U.S. manufactured equipment is the most effective means available to us, although only the relatively sophisticated weapons and materiel would be dependent on U.S. supplies. Even then such equipment might be maintained in operational condition for a number of years through use of captured spares, cannibalization, and the international black market in arms. U.S. denial of spare parts for purchasers of this

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equipment would probably discourage some intending purchasers and reduce the value of the sale to the Communists. If coupled with a general policy to deny access to U.S. arms supply and defense materiel to any country which purchases captured equipment, most friendly countries might be dissuaded, but in some cases, at a substantial cost to our bilateral relations.

III. Discussion

We must assume that much of the U.S. equipment remaining in Indochina is in useable condition and that the Communists, one way or another, will be able to dispose of most of what they do not wish to retain for their own use. However, the longer this equipment remains in Vietnam, the more it will deteriorate.

A number of friendly countries have need for weapons of the type captured by the Communists in Vietnam which we do not supply at this time either for policy reasons or for lack of available materiel either in our inventory or in timely production (e.g., Turkey, Pakistan, Kenya (F-5A's), Malaysia and Singapore). It therefore could be argued that it would be in the United States interest that these requirements be filled at bargain prices from the captured stockpiles, preventing these weapons from being utilized by unfriendly forces and providing a basis for continuing our defense relationship through future supply of spare parts and rehabilitation services.

A permissive attitude on the part of the United States, whether explicit or implicit, would raise major public relations problems. A sizeable increase in the foreign exchange available to Vietnam from the sale of this equipment would increase Hanoi's influence in Southeast Asia, and it would also create a largely negative impact both in Congress and with the American people.

It can be assumed that the Vietnamese Government will act in a manner inimical to our interests in many cases. Some of the equipment may be provided to insurgent groups or terrorists, while some may go to governments unfriendly to us. Transfers even to neutral governments whose security requirements in our view do not require the kinds of U.S.

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equipment now available from Vietnam may bring pressures on us for offsetting supply to neighboring countries.

On the other hand, any USG efforts to control arms exports from Vietnam and deny foreign exchange to the Communist governments would entail many complications in our bilateral relations with other governments concerned. The Vietnamese themselves would probably regard our efforts as a sign of U.S. hostility and interference in their affairs, raising another issue to be considered in any future normalization of US-Vietnamese relations.

Regardless of the position we take on this issue, there will most likely be a significant public and Congressional relations problem.

Finally, we must recognize that there are severe limitations on our ability to influence the flow of arms and equipment from Vietnam and that, regardless of the course upon which we embark, we cannot hope to be completely successful. The potential customers with whom we can expect to have the most influence are those with whom we have the closest relations. Conversely, we have the least ability to influence the decisions of those governments which we would least like to see acquire the captured arms.

IV. Options

Option I -- USG would use all practicable means to prevent the outflow of U.S. equipment from Vietnam. We would inform all possible purchasers that we would strenuously object to any acquisitions and that no spares or support would be furnished for such equipment. We would announce publicly to all U.S. firms that no commercial transactions involving these arms and falling within the scope of the Foreign Assets Control Regulations would be licensed regardless of circumstances.

Although this option could not be completely successful, it could have considerable impact on Vietnam's ability to earn sizeable amounts of foreign exchange. This option could be particularly effective in restraining the transfer of the more sophisticated captured equipment. Furthermore, such efforts to minimize proliferation would be well received by a considerable part of the American public and Congress.

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- 7 -

On the other hand, this option does eliminate any possibility of cooperating and thus influencing the potential arms flow to friendly countries. We would have to recognize that regardless of the USG position, some equipment will undoubtedly reach governments and groups whose objectives are inimical to our interests. Indeed, there is not only no practical way to prevent it altogether, but the outflow to unfriendly customers might actually be increased under this option.

This option could also involve the U.S. in lengthy and possibly counter-productive disputes with foreign governments entailing risks of hostile publicity and strained relations, which could undermine our position.

Option II -- The USG would undertake to insure that the equipment is acquired by friendly governments. We would encourage these governments to undertake negotiations with Vietnam and would assure them of our willingness to furnish spare parts and rehabilitation assistance as far as legally possible. We would also be prepared to license private transactions by U.S. firms on condition that any subsequent resale be subject to prior USG approval. As a condition of our cooperation, we would ask the purchasing government to agree to treat the property as subject to the same U.S. Government controls as are applicable under the Foreign Military Sales Act with respect to use and disposition.

This option would be based on the assumption that Vietnam will export much of the equipment in any case, and that therefore, it is in the U.S. interest to influence the flow to the maximum extent possible. Although we could not prevent entirely the delivery of some of the equipment to unfriendly governments or groups, we would have a better opportunity for influence since this option would presumably be financially more profitable to Vietnam than any other process.

The USG's participation in arms exports from Vietnam could undoubtedly raise serious Congressional and public relations problems. We would expect efforts on the part of the Legislative Branch either to block the Administration's efforts or at least introduce legislation which would restrict such future flexibility as we now possess. We could also expect criticism for encouraging countries which normally buy

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materiel from U.S. sources to purchase this equipment from Vietnam instead. Some Congressional support might be gained through candid and effective explanation of our policy, but opposition could not be entirely precluded. For this reason, this option should not be pursued until wide consultations have been held with members of Congress.

This option would also increase Vietnam's access to foreign exchange. On the other hand, it would diminish the opportunity for political influence that Vietnam could exercise through the selected disposition of the equipment in defiance of USG policy.

Finally, licensing U.S. firms to participate in this Vietnamese arms trade would open the door to heavy pressure for comparable treatment by oil companies, export-import dealers, banks, etc. A number of the firms may well be interested in licenses to trade with Vietnam.

Option III -- Under this option, we would not take any formal policy action in advance concerning U.S. equipment in Vietnam. We would not normally authorize any involvement by U.S. citizens, individuals, or corporations subject to U.S. jurisdiction as provided in the Foreign Assets Control Regulations, and would consider discouraging involvement by nationals or close allies, e.g., COCOM member nationals, in a case where they were promoting sales to Communist countries. We would respond to inquiring potential foreign governmental purchasers by stating that we would not look with favor on their acquisition of the captured equipment and that we would review the question of spare parts and rehabilitation assistance and other possible consequences for our bilateral relations. Such review would be guided by our established arms transfer policy vis-a-vis the country concerned.

This option would provide the USG with greater flexibility since it would not require us to take any actions, except for those which may be mandated by law, until after Vietnam had made or begun to make its sales. Therefore, we could adjust our responses to the circumstances and to our bilateral relationships with the countries involved.

We would however continue to make every effort to inhibit the transfer of U.S. equipment to Palestinian guerrillas or any other extremist terrorist or subversive groups. We would inform any governments involved, including any acting as

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intermediaries, that we would view most seriously any transfer or import of U.S. equipment from Vietnam destined to extremist organizations. We would also make clear that we would take whatever action we legally could against U.S. and foreign firms participating in such transactions.

Despite our efforts to prevent this equipment from falling into the hands of terrorist groups, this option could be seen as inadequate. We could be criticized for not attempting more vigorous efforts to control the flow of the equipment. We could also be criticized for assisting some recipients with spare parts and rehabilitation support, while denying others.

V. Agency Views/Recommendations

A. The Department of State recommends that Option III be adopted as USG policy. This option provides the USG with maximum flexibility in dealing with problems as they arise on a case by case basis. Moreover, this option recognizes the fact that there are practical and political limits on measures we can take to prevent the sale by North Vietnam of equipment that clearly belongs to it under international law.

B. The Central Intelligence Agency also recommends that Option III be adopted as USG policy. Further, the Central Intelligence Agency concurs with the State Department's view that this option provides the USG with maximum flexibility in dealing with problems as they arise on a case by case basis.

C. The Department of the Treasury supports a variation of Option III. Under this variation the U.S. would make a policy statement at the outset outlining its position. We would not indicate at the outset, however, what actions might be taken to limit purchases by other countries. The U.S. would remain silent, for example, on the question of whether it would sell replacement parts or provide technical services. This would be handled on a case by case basis as it suits our national interest.

The lack of a definitive USG position on the availability of parts and technical services from the U.S. obviously would impose some risk on purchasers. The reason for raising this doubt is to reduce the volume of sales and the price purchasers might pay for sophisticated items which require parts and services from U.S. controlled sources -- thereby reducing Vietnam's potential foreign exchange earnings.

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The main difference between Option III and the Treasury recommendation is that Option III does not call for a formal statement of policy by the U.S. Treasury takes this position in the hope that a public announcement at the outset would discourage certain purchasers, thereby reducing Vietnam's foreign exchange earnings from this source. If we do not state our position some purchasers may consummate transactions which might have been inhibited if our position were known.

D. The Department of Defense recommends the adoption of Option I as the preferred USG option. DOD believes that the U.S. Government should not remain publicly passive to any efforts by Hanoi to profit economically from the sale of U.S. equipment captured during the conquest of South Vietnam. On the contrary, DOD feels the only publicly defensible policy is a clear and firm U.S. stance in opposition to the purchase of the equipment by any country. Option I would achieve this objective by clearly stating at an appropriate time our strenuous objection to the acquisition of this equipment by other countries and by barring follow-on support for the equipment to countries who choose to ignore our warnings. This option provides clearly and unequivocally a strong U.S. position that will be understood by friends and foe alike. Moreover, it provides the only policy relating to this subject which will be able to withstand a critical Congressional review, particularly during the forthcoming Presidential election year.

Attachments:

1. Estimated Quantities of Captured Equipment.
2. Reports of Alleged Transactions Involving Captured Military Equipment.

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Some items in this folder were not digitized because it contains copyrighted materials. Please contact the Gerald R. Ford Presidential Library for access to these materials.

THE WHITE HOUSE
WASHINGTON

April 2, 1976

MEMORANDUM FOR: ROBERT MCFARLANE

FROM: PHILIP BUCHEN *P-*

When communicating with the President's party on the incident in New York involving the Soviet Mission to the United Nations, I suggest you make the following points:

1. The shooting involved both a violation of Federal and State laws.

Whether the persons committing the act when apprehended will be charged initially under Federal or State law, cannot be decided now.

2. This Mission is under the sole protection of the New York Police Department; therefore, it is important not to leave any impression that the protection afforded this Mission is not adequate or that it could be improved upon. (The only times that EPS services are provided for the protection of Missions are when the New York Police Department declines for lack of manpower or other reasons to provide the protection and it is usually afforded only on a temporary basis.)



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SHOOT 4-2

NEW YORK (UPI) -- TWO SHOTS FROM A HIGH-POWERED RIFLE WERE FIRED EARLY TODAY INTO THE SOVIET MISSION TO THE UNITED NATIONS, POLICE SAID. THERE WERE NO INJURIES.

A RIFLE WAS FOUND A BLOCK AWAY AT A CONSTRUCTION SITE, A POLICE SPOKESMAN SAID. HE SAID THE SHOOTING INCIDENT OCCURRED ABOUT 3:50 A.M. BUT POLICE WOULD NOT BE ALLOWED INSIDE TO INVESTIGATE UNTIL LATER IN THE DAY.

IN A TELEPHONE CALL TO UNITED PRESS INTERNATIONAL AN HOUR AFTER THE SHOOTING, AN UNIDENTIFIED MALE CALLER WHO SAID HE WAS FROM THE JERUSALEM ARMED RESISTANCE MOVEMENT READ A STATEMENT CLAIMING RESPONSIBILITY FOR THE SHOOTING AND CLAIMING A ".222 CALIBER HIGH-POWERED RIFLE" WAS USED.

SGT. JAMES J. PYNE SAID POLICE GUARDING THE MISSION HEARD TWO SHOTS. A MAN WHO SAID HE WAS FIRST SECRETARY IN CHARGE OF SECURITY AT THE MISSION TOLD POLICE HE HAD FOUND A BULLET EMBEDDED IN THE WALL OF AN UNOCCUPIED NINTH FLOOR ROOM. THE BULLET HAD SHATTERED A WINDOW. THREE POLICE OFFICERS WERE ASSIGNED TO GUARD THE MISSION AT THE TIME.

UPI 04-02 10:06 RES



Friday 4/2/76

11:05 Bud McFarlane brought up the attached.
Would like to get your signoff and would like you
to clear it also with Justice and Treasury.





Rifle Shots Are Fired Into Soviet U.N. Mission

By KATHLEEN TELTSCH

Special to The New York Times

UNITED NATIONS, N. Y., April 2—Shots were fired into the Soviet Union's Mission to the United Nations during the night and an underground group called the Jewish Armed Resistance claimed responsibility later today.

The group said that it was prepared to kidnap Russian

man, Stanley H. Lowell, declared that terrorist attacks could only hurt the cause of Soviet Jews petitioning for a right to emigrate or seeking their religious and cultural rights.

Dov Fisch, associate director of the Jewish Defense League, exhibited a crudely lettered note that he said was found

NATIONAL SECURITY COUNCIL

May 14, 1976

MEMORANDUM FOR: JACK MARSH
PHIL BUCHEN
MAX FRIEDERSDORF

FROM: LES JANKA *lee*

SUBJECT: Security Assistance Bill

Both the House and Senate Committees have reported new versions of the Security Assistance Bill the President vetoed. They have made major improvements but a few areas of concern remain. We are urgently seeking the President's guidance for use when the bills go to Conference Committee next week. I would, therefore, appreciate your comments on the attached draft ASAP.

*Final draft
OK'd*



MEMORANDUM FOR: The President

FROM: Brent Scowcroft

SUBJECT: Revised Security Assistance Legislation

Revised security assistance legislation has been reported out by both House and Senate committees and could come to a vote on the floor in both Houses as early as Wednesday, May 14. The committees have produced two-year bills which go part way toward meeting the objections you raised in vetoing the FY 1976 legislation. However, neither bill is acceptable in its present form; both retain certain restrictive amendments and have added questionable new provisions. We urgently need your guidance on what position the Administration should take regarding this revised legislation, and on the strategy we should follow in obtaining a final bill acceptable to you.

We have reached tentative agreement with the leaders in both houses to oppose all floor amendments and concentrate on reaching accommodation in conference. (The sole exception will be our support for a likely amendment in the House to restore a 50% cut in Korean assistance levels.) We believe we will be in a strong position in conference: Both houses are weary of the debate and anxious to provide money to ease the Israeli cash flow problem; enthusiasm for restrictive



amendments is waning. Nevertheless, some accommodation on your part may still be necessary to ensure passage of a thoroughly acceptable bill.

In this regard, the key element remains the issue of Transition Quarter funding for Israel. There is some evidence that Congress expects you to be forthcoming on the TQ in reaction to what the Hill feels are significant Congressional concessions to your position on authorizing legislation. Meanwhile, the Israelis have signaled to us that they need \$281.0 million by the end of the TQ to avoid the risk of default on commercial purchases. This figure is, coincidentally, almost exactly the amount which can be provided without exceeding the outlay figures in your original budget request. If you are willing to provide this amount in the TQ, we believe Congress will eliminate all major objectionable provisions from the revised bill in conference.

There follows a list of the troublesome provisions which remain in one or the other of the committee bills. They are arranged in three categories: those which, if they remain in the final bill, would be grounds for consideration of a veto; those we will fight to alter or eliminate, but which we can probably accept; and those which, although undesirable, are of lesser importance. With regard to each major provision we have included a recommended course of action; we will use your guidance as the basis for our negotiations with the conferees.



The following, if retained unaltered in the final bill, would be grounds for consideration of a veto:

1. Discrimination -- The Senate has added a joint resolution as the means of terminating assistance because of discrimination. (In the previous bill, termination was automatic.) In two other respects, however, the Senate bill is worse than before: it no longer provides waiver authority, and it limits the period provided for finding a diplomatic solution to 60 days (previously this period was open-ended). The House bill retains a statement of policy but has dropped the termination sanction.

RECOMMENDATION: An all out fight against the Senate version, including a veto threat if necessary; support for the House version.

agree

disagree

2. Human Rights -- The House bill retains a concurrent resolution terminating aid for human rights abuses. The Senate substitutes a joint resolution. Since a joint resolution is subject to veto, this procedure is not constitutionally objectionable, but it does complicate the foreign policy process by raising the constant specter of Congressional intervention.

RECOMMENDATION: Fight for elimination of termination provisions in favor of a policy statement; accept the Senate version (joint resolution) if necessary, use veto threat against



the House version (concurrent resolution).

agree

disagree

3. \$9.0 Billion Ceiling: The House retained unchanged the \$9.0 billion ceiling on arms sales which was one major reason for your previous veto. The Senate bill drops the ceiling. There is talk in the House of a compromise retaining the ceiling principle but requiring you only to report every sale over \$9.0 billion. The principle, however, has always been our main concern, along with the precedent set for future, more restrictive legislation. We think compromises should be avoided and that we should mobilize in support of the Senate on this issue.

RECOMMENDATION: No compromise on the House version, support for the Senate deletion of the ceiling.

agree

disagree

4. Nuclear Transfers: A Symington amendment added to the legislation by the Senate would prohibit assistance except for P.I. 480 to countries which either receive or deliver nuclear fuel reprocessing or enrichment technology --unless managed multilaterally and under IAEA auspices. As written the provision is broad brush and could affect our programs with Israel, Brazil, Spain, Pakistan, South Korea and others. Moreover, it would hinder our diplomatic efforts



to solve the proliferation problem. The House has no similar provision. We think the best available compromise is a Congressional study of the issue.

RECOMMENDATION: That we press for deletion of the Symington amendment in favor of a Congressional study of the proliferation issue.

_____ agree

_____ disagree

5. Korea Funding Level: The House committee accepted a Frazier amendment limiting military assistance to Korea to \$290 million in the period FY 1976-TQ-77 (vs. your request for \$490 million) and economic assistance to \$175.0 million in the same period (vs. your request for \$281.0 million. Cuts of this magnitude would have a serious effect on all of our Korean programs and, in particular, greatly impede progress of the Korean force modernization plan. Reprograming could, however, ease the potential assistance shortfall.

RECOMMENDATION: Major effort to raise the Korea PMS and economic assistance levels to acceptable levels, including a veto threat.

_____ agree

_____ disagree



The following provisions, although troublesome, would not warrant a veto:

6. Concurrent Resolutions: If we are successful in deleting the House concurrent resolution terminating assistance on human rights grounds, the single remaining concurrent resolution authority in both bills will be the Nelson Pingham amendment, whereby Congress can forbid certain arms sales. In the new Senate bill, this authority is applicable to all FMS and commercial sales of "major defense equipment" over \$7.0 million; the House bill applies only to FMS sales. As you know, there is similar authority in the present bill covering FMS sales over \$25 million. Although the concurrent resolution authority is onerous, we believe Congress would resist strongly any attempt to delete this provision (during mark-up we could find no one, even among staunch supporters, to sponsor such a move).

RECOMMENDATION: Be prepared to accept continuation of concurrent resolution authority to forbid individual weapon sales, while attempting to retain existing language covering only FMS sales over \$25 million. (If you sign a bill containing any concurrent resolution we recommend a strong signing statement.)

agree

disagree



7. MAP and MAAG Termination: Both bills retain provisions terminating MAP and MAAGS after FY 1977, except as specifically authorized by Congress. We feel we have sufficient legislative history on this subject to support a presumption that both MAP and MAAGS will be authorized, and that the new authority will amount to no more than line-item authorization for both. Although we were prefer to see this otherwise, we don't think it is a major concern. Congress appears adamant on retaining the MAP and MAAG provisions, which could be useful facesavers.

RECOMMENDATION: Be prepared to accept the MAP and MAAG provisions, but emphasize our expectation that authorization for both will be forthcoming after FY 1977.

agree

disagree

7. Assistance to Chile: A Kennedy amendment imposes a total embargo on military sales to Chile after October 1, 1976. Hence pipeline sales which have been held up could go forward and other minor sales could be made before October 1. The House has retained the Buchanan amendment cutting off assistance but permitting cash sales of military equipment. Obviously we prefer the House version, but we do not believe the Senate version in itself would be grounds for veto of an otherwise acceptable bill.



RECOMMENDATION: All out support for the House version.

agree

disagree

In addition to the foregoing, there are other undesirable features of the new legislation which we will be working to correct in conference. Included are:

- A Senate cut of MAP for Jordan from \$70 million to \$40 million,
- A Senate cut in authorization for Stockpiles of Defense Articles for Foreign Countries from \$125 million to \$50 million,
- A Senate cut in overall FWS authorization of about 10%.
- A House provision embodying funds for Greece and Turkey in the FY 1977 security assistance appropriation. We would rather this issue were addressed in the context of base agreement ratification, as the Senate intends.

On the other hand, the new bills have several minor improvements:

- deletion of the requirement that ACDA draft the annual arms impact statement; the statement requirement remains, but as an Administration document.
- automatic termination of assistance for violation of the terms under which it was granted (existing law) has been replaced in the Senate version by termination through joint resolution or Presidential action. The Senate has also added a Presidential waiver and procedures for reinstatement.



Strategy

Chairman Morgan is anxious to reach some accommodation with you as quickly as possible. He believes it is possible to complete Congressional action on an acceptable bill by the end of next week (May 21), but feels that you should meet personally with the conferees to ensure this outcome.

I agree with the Chairman that speed is essential and that your personal intervention with the conferees would be especially useful. Such a meeting would be an ideal forum for reaching a final compromise based on some TQ funding for Israel in return for Congressional concessions on the legislation.

Accordingly, I recommend that you call Chairman Morgan and Senator Humphrey to ask their advice on how we should now proceed (talking-point papers for these calls are attached).

