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DEPARTMENT OF STATE
WASHINGTON

March 18, 1975

CONFIDENTIAL - NODIS

MEMORANDUM FOR: THE PRESIDENT

From: Robert S. Ingersoll, Acting Secretary *RSI*Subject: Cambodia: Consultations with
Congressional Leaders Regarding the
Possible Evacuation of AmericansProblem

Section 3 of the War Powers Resolution requires that the President consult with Congress,

"in every possible instance. . .before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances"

Congressman Zablocki has asked that the Administration send someone to the Hill on Thursday to discuss with his subcommittee the War Powers Resolution as it relates to Cambodia. I feel obliged to be responsive to this request. Since our evacuation contingency plans provide for the possible use of U.S. military forces to effect an evacuation of Americans from Phnom Penh, and since Congressman Zablocki is certain to raise this question Thursday, it must be decided urgently whether and, if so, in what manner we wish to consult with the Congress regarding our evacuation contingency plans.

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E.O. 12356, Sec. 3.4.

MR 89-18, #7 NSC ltr. 11/21/89

By: KBH, NARA, Date 12/7/89

Section 4(a) of the War Powers Resolution requires the President to report within 48 hours to the Congress

"in any case in which the United States Armed Forces are introduced, into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances."

Discussion

Our legal situation with respect to the War Powers Resolution seems to be as follows: the situation around Phnom Penh does not seem to be such that consultations are legally required now; consultations would, however, be called for at some time prior to the time the President introduces armed forces into Cambodia to effect an evacuation; and a report on this introduction, pursuant to Section 4(a)(1) of the Resolution, would almost certainly have to be submitted to the Congress within 48 hours after such action was taken.

Even though consultations may not yet be a legal requirement, it is undoubtedly true that the sooner key congressmen are briefed on this matter the easier it will be to deal with them at such time as our plans might actually be implemented. Furthermore, the Zablocki invitation has effectively eliminated the option of not addressing the question of consultations. Thus, between now and Thursday we must tell the Congress something about our evacuation plans or we will be put in the posture of having refused, in the face of Section 3 of the War Powers Resolution, to discuss this most important matter with the Congress.

The manner in which we discuss with the Congress the possible evacuation of Americans from Phnom Penh should be carefully considered from two perspectives: the effect of such consultations, should they become known, on the morale of the Cambodian army and government, and, thereby, on the security of an evacuation operation; and the effect of such consultations on our chances of obtaining additional military assistance for Cambodia. With regard

to the former, it would obviously be preferable if the fact of such consultations could be kept from the public. If this is not possible, I believe we should strive to make the consultations appear as routine and nonurgent as we can. It might make a great deal of difference in its effect on morale whether a news story said "the President met late last night to discuss with congressional leaders the possible evacuation of Americans from Phnom Penh," or "at the committee's request, the Secretary described contingency plans for the evacuation of Americans from Phnom Penh."

I also believe that a concern for obtaining additional assistance for Cambodia argues in favor of down-playing the consultations and, if possible, limiting them to a few congressmen. Of course, should it become clear that no additional assistance will be forthcoming, the whole question of consultations takes on a different character.

The term consultation is not defined in the War Powers Resolution. Presumably, however, it means something more than merely informing Congress of a decision taken by the President. The term consultation carries the connotation that there will be some exchange of views as a minimum even though it does not require that the parties exchanging views come into agreement as to what is to be done. In view of the foregoing, it seems desirable that the consultation occur sufficiently in advance of the proposed deployment to permit the President to receive ideas and suggestions from representatives of Congress, to consider them in good faith, and to act upon them if he agrees with their ideas. Obviously this does not mean that consultation cannot take place in advance of the actual Presidential decision regarding introduction of armed services. Indeed, the latter is the situation which we now face. The President has a variety of options. It is within his power to describe these options to representatives of Congress without at this time committing himself as to exactly which option he will adopt. This approach is all the better in that it avoids the accusation which might otherwise be made that he was merely confronting the Congress with a fait accompli.

Consultation Options

Option 1

For the time being, refuse to discuss our contingency plans with Congress, noting that we do not believe such consultations are yet required by Section 3 of the War Powers Resolution.

Pro:

avoids risk of damage to Cambodian morale and, thereby, to the safety of a future evacuation.

Con:

- (a) congress would react negatively to such a posture on the ground that failure to consult under present circumstances indicates that the President does not desire meaningful consultations;
- (b) such a posture might encourage Congress to pass even more restrictive legislation regarding Presidential authority or add even more restrictive riders to pending legislation;
- (c) would have a negative effect on Congress' attitude toward assistance for Cambodia.

Option 2

The President would consult personally with key members of Congress either (a) by inviting them to the White House or (b) by personal telephone calls.

Option 2(a)

Leadership meeting at the White House.

Pro:

- (a) would satisfy legal requirements of Section 3 of the War Powers Resolution;
- (b) would probably be viewed by most members of Congress as a satisfactory means of consulting pursuant to Section 3.

Con:

any consultations conducted at the instance of the executive branch may give rise to the inference that we regard evacuation of Americans as imminent, thereby damaging Cambodian morale. Since leadership meetings are public events, the likelihood is very high that the subject of such a meeting would become known with the above consequences.

Option 2(b)

Personal telephone calls by the President.

Pro:

- (a) would satisfy legal requirements of Section 3;
- (b) phone calls would attract less public attention than a leadership meeting.

Con:

- (a) involves the same risks of damaging Cambodian morale as Option 2(a), except that the risk of consultations becoming public knowledge would be less;
- (b) in an other than urgent situation congressmen may be only temporarily satisfied with telephone consultations.

Option 3

The Acting Secretary of State and the Secretary of Defense would personally consult with congressional leaders either by meeting with them at the State Department or by personal telephone calls.

Option 3(a)

Meeting at State Department.

Pro:

- (a) would satisfy legal requirements of Section 3 of the War Powers Resolution;
- (b) depending on the size of the group consulted, would be viewed as a more or less satisfactory means of consultation by most members of Congress;
- (c) less likely than options 1 or 2(a) to become public knowledge.

Con:

atmospherics of such a meeting would be such that, if it did become public knowledge, evacuation might appear much more imminent than is really the case and, thereby, have a disproportionately negative effect on Cambodian morale.

Option 3(b)

The Acting Secretary of State and the Secretary of Defense would telephone key congressional leaders regarding our evacuation plans.

Pro:

Same as Option 3(a) except that this option would be less likely to attract public attention than would summoning a similar number of congressmen to the State Department for consultation.

Con:

- (a) in an other than urgent situation congressional leaders might regard telephone consultations as an unsatisfactory substitute for a personal meeting;
- (b) could not go into much detail regarding evacuation plan and therefore further briefings would need to be offered to those members of Congress who requested it.

Option 4

The Acting Secretary of State, or other appropriate person or persons, would meet with the Zablocki committee (7 members) on Thursday, as requested, and would, as necessary in response to questions, describe our evacuation plans. There would be no consultations prior to this meeting.

Pro:

- (a) would probably satisfy legal requirements of Section 3, insofar as House was concerned;
- (b) since consultations would be held at the request of Congress, the fact of such consultations would not indicate that the executive branch viewed the situation as such that evacuation was imminent -- thus lowering the risk of damage to Cambodian morale;
- (c) a meeting with the Zablocki committee may be unavoidable.

Con:

- (a) would not meet requirements of Section 3 insofar as Senate is concerned.

- (b) by waiting until the Zablocki hearings to consult we would appear to be entering into consultations unwillingly (we may already have substantially incurred this liability);
- (c) since consultations under Section 3 would be the sole subject of the Zablocki committee meeting, the purpose of the meeting, if not the content, would be certain to become public knowledge.

Congressmen to be Consulted:

Option 5

In executing any of the options set forth above, except options 1 and 4, any or all of the following senators and congressmen would be appropriate objects of consultations:

Senator Mansfield
Senator Scott
Senator Sparkman
Senator Case
Senator Javits
Senator Stennis
Senator Thurmond
Congressman Albert
Congressman Rhodes
Congressman Morgan
Congressman Broomfield
Congressman Zablocki
Congressman Price
Congressman Wilson (Bob)

Congressman Zablocki should be included in any consultations so that he may be approached about cancelling his meeting on War Powers consultations now scheduled for Thursday.

Option 5(a)

Consultations would involve all of the senators and representatives listed above; that is, the majority and minority leaders of both Houses, the chairmen and the ranking minority members of the Foreign Affairs and Foreign Relations Committees and of the Armed Services Committees, and Senator Javits and Congressman Zablocki, who were principal authors of the War Powers Resolution.

Pro:

consultations involving all of these senators and representatives probably would be regarded by Congress as fairly complete.

Con:

- (a) the greater the number of congressmen consulted, the higher the risk that someone will discuss the consultations publicly and possibly present an alarmist view of our situation;
- (b) sets a rather broad precedent for who should be consulted under Section 3 of the War Powers Resolution.

Option 5(b)

Consultations would involve all of the above listed congressmen except the majority and minority leaders of each House.

Pro:

- (a) somewhat lower risk consultations will become public knowledge;
- (b) sets a narrower precedent for future consultations under Section 3.

Con:

lowers likelihood consultations will be regarded as adequate.

Option 5 (c)

Consultations would involve only the chairmen and ranking minority members of both the Foreign Affairs and Foreign Relations Committees, and Senator Javits and Congressman Zablocki.

Pro:

- (a) minimizes the chances that these consultations will become public knowledge;
- (b) sets the narrowest precedent for what constitutes "consultation" under Section 3.

Con:

scope of consultation might be viewed by members of Congress as unacceptably narrow.

Recommendations:

I recommend that you approve Option 1 and direct that no consultations with the Congress regarding our evacuation plans take place at this time.

Approve _____ Disapprove _____

Alternatively, you may wish to approve one of the following:

Option 3 (a) authorizing the Acting Secretary of State and the Secretary of Defense to invite congressional leaders to meet with them at the State Department to discuss our evacuation plans;

Approve _____ Disapprove _____

Or, Option 3 (b) authorizing the Acting Secretary of State and the Secretary of Defense to telephone congressional leaders regarding our evacuation plans;

Approve _____ Disapprove _____

Or, Option 2 (a) and meet with congressional leaders yourself at the White House;

Approve _____ Disapprove _____

Or, Option 4 authorizing no consultations until we meet the Zablocki committee on Thursday.

Approve _____ Disapprove _____

THE WHITE HOUSE
WASHINGTON

April 30, 1975

Dear Mr. President:

On April 4, 1975, I reported that U.S. naval vessels had been ordered to participate in an international humanitarian relief effort to transport refugees and U.S. nationals to safety from Danang and other seaports in South Vietnam. This effort was undertaken in response to urgent appeals from the Government of South Vietnam and in recognition of the large-scale violations by the North Vietnamese of the Agreement Ending the War and Restoring the Peace in Vietnam.

In the days and weeks that followed, the massive North Vietnamese attacks continued. As the forces of the Government of South Vietnam were pushed further back toward Saigon, we began a progressive withdrawal of U.S. citizens and their dependents in South Vietnam, together with foreign nationals whose lives were in jeopardy.

On April 28, the defensive lines to the northwest and south of Saigon were breached. Tan Son Nhut Airfield and Saigon came under increased rocket attack and for the first time received artillery fire. NVA forces were approaching within mortar and anti-aircraft missile range. The situation at Tan Son Nhut Airfield deteriorated to the extent that it became unusable. Crowd control on the airfield was breaking down and the collapse of the Government forces within Saigon appeared imminent. The situation presented a direct and imminent threat to the remaining U.S. citizens and their dependents in and around Saigon.

On the recommendation of the American Ambassador there, I ordered U.S. military forces to proceed by means of rotary wing aircraft with an emergency final evacuation out of consideration for the safety of U.S. citizens.

In accordance with my desire to keep the Congress fully informed on this matter, and taking note of the provision of section 4 of the War Powers Resolution (Public Law 93-148), I wish to report to you that at about 1:00 A.M. EDT, April 29, 1975, U.S. forces entered South Vietnam airspace.



A force of 70 evacuation helicopters and 865 Marines evacuated about 1400 U.S. citizens, together with approximately 5500 third country nationals and South Vietnamese, from landing zones in the vicinity of the U.S. Embassy, Saigon, and the Defense Attache Office at Tan Son Nhut Airfield. The last elements of the ground security force departed Saigon at 7:46 P.M. EDT April 29, 1975. Two crew members of a Navy search and rescue helicopter are missing at sea. There are no other known U.S. casualties from this operation, although two U.S. Marines on regular duty in the compound of the Defense Attache Office at Tan Son Nhut Airfield had been killed on the afternoon (EDT) of April 28, 1975, by rocket attacks into a refugee staging area. U.S. fighter aircraft provided protective air cover for this operation, and for the withdrawal by water of a few Americans from Can Tho, and in one instance suppressed North Vietnamese anti-aircraft artillery firing upon evacuation helicopters as they departed. The ground security forces on occasion returned fire during the course of the evacuation operation.

The operation was ordered and conducted pursuant to the President's Constitutional executive power and his authority as Commander-in-Chief of U.S. Armed Forces.

The United States Armed Forces performed a very difficult mission most successfully. Their exemplary courage and discipline are deserving of the nation's highest grati...

Sincerely,

GERALD R. FORD

The Honorable James O. Eastland
 President Pro Tempore of the Senate
 United States Senate
 Washington, D. C.



3/20
MEMORANDUM

NATIONAL SECURITY COUNCIL

March 20, 1975

MEMORANDUM FOR: MAX FRIEDERSDORF
✓ PHILLIP BUCHEN

FROM: LES JANKA *LJ*

SUBJECT: War Powers Resolution

Under the 1973 War Powers Resolution the President is required to consult with Congress before introducing US Armed Forces into hostilities or into situations where such involvement is clearly possible.

Should we have to evacuate American citizens from Phnom Penh under conditions of collapsing security, it is possible that US military forces could become involved to protect American lives. Any consultations or actions taken by the President would set precedence under the War Powers Resolution, and we must therefore carefully consider the range of options available to the President. Your comments on, and concurrence in, the attached memorandum are needed as soon as possible.

Thank you.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

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E.O. 12356, Sec. 3.4.

MR 89-17, #6 NSC CR. 10/27/89

By KBH, NARA, Date 12/7/89

MEMORANDUM FOR: THE PRESIDENT

FROM: HENRY A. KISSINGER

SUBJECT: Consultations on Cambodia Under War Powers Resolution

As events force us to consider having to evacuate our people from Phnom Penh along with the possibility that U. S. military forces may have to take part in that effort, two provisions of the 1973 War Powers Resolution will also have to be considered.

In the memorandum at Tab B, Deputy Secretary Ingersoll presents a series of options on how the Administration might fulfill the consultation requirements of the War Powers Resolution in the event we have to introduce U. S. troops into Cambodia to evacuate American citizens. His concern over Congressman Zablocki's request for a hearing on Thursday, March 20, is no longer relevant since the State Department was successful in persuading Zablocki to delay such a hearing.

Section 3 of the War Powers Resolution requires that the President consult with Congress,

"in every possible instance...before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances."

Section 4(a) of the Resolution requires the President to report within 48 hours to the Congress,

"in any case in which the United States Armed Forces are introduced, into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances."

~~CONFIDENTIAL~~ XGDS

The term consultation is not defined in the Resolution (full text at Tab A). However, the legislative history indicates the word means something more than merely informing Congress after the fact of a decision made by the President. The term carries the connotation that there will be some exchange of views sufficiently in advance of any deployment of forces to permit the President to receive the opinions and suggestions of Congress, to consider them and act upon them if appropriate. A lack of consultation in advance of a decision to introduce troops into Cambodia would lead to accusations that confronting Congress with such a fait accompli constitutes a breach of the law; a report on the actual introduction would certainly have to be submitted to the Congress within 48 hours after such an action was taken.

In such an event, compliance with the latter requirement would pose no particular problem. However, the question of advance consultations raises a number of serious questions which must be carefully considered. The act of consultation on evacuation possibilities itself would probably become known and would have an impact on the morale of the Cambodians that could precipitate the very crisis we seek to avoid. Further, consulting in advance on the various options available could lead Congress to demand that U. S. citizens be evacuated before the necessity of using troops arises. If you failed to heed such warnings, any later use of troops contrary to this Congressional advice would be severely condemned.

Because of the precedential nature of any steps taken now under this Resolution, your consideration and guidance is needed on the various available options regarding the advance consultation procedures which might be followed should events in Cambodia require the use of troops in an evacuation effort. Three basic decisions are now needed concerning: (1) the timing of such consultations; (2) what members of Congress should be consulted; and (3) who should conduct the consultations.

Timing of Consultations

While early consultation might marginally temper Congressional reaction to whatever course of action we ultimately follow, we must consider the effect of such consultations, should they become known, on the morale of the Cambodian Government and the security of our evacuation plans.

Even if the number of members consulted is very small, we must assume that the fact of consultations will quickly become public knowledge. Therefore, you may decide that the situation prevailing in Cambodia is so

precarious that American lives should not be jeopardized by any consultations in advance of the actual introduction of U. S. forces. It is possible, of course, that we could not consult until after an evacuation has begun since events in Phnom Penh could compel our Ambassador to order an evacuation before an order can come from Washington. However, a slowly but progressively deteriorating situation there would make eventual evacuation such an obvious necessity that Congress may itself initiate further demands for consultation. You may then want to select a timing which would meet Congressional expectations while not restricting your flexibility to meet any contingency. This would indicate the initiation of consultations within 24 hours or less of a decision to launch evacuation procedures which might involve the use of troops should a deteriorating situation require. The disadvantages of delaying consultation and thereby possibly ruling out time for any meaningful consultations are that Congress would react negatively to such a precedent under the Resolution and therefore pass even more restrictive legislation regarding Presidential authority.

Therefore, the two basic options are:

- No advance consultation.
- Consultation only minimally in advance of a decision to evacuate if conditions permit.

In light of expected Congressional sensitivities, I would recommend the second course if time permits.

Members of Congress to be Consulted

While the Resolution clearly indicates that the Speaker of the House and the President pro tem of the Senate would receive the report required by Section 4, it does not indicate with whom the President should consult in advance of any reportable action. While the need for security would dictate a minimum number of members, the importance attached by the Congress to the provisions of this resolution would indicate that the need for Congressional support may offset to some degree the risk of public exposure of the consultations.

There are three basic options listed below, all of which assume sufficient time to contact all the members listed. The time constraints of a late night or a genuine crisis situation would dictate a more restricted list.

-- The majority and minority leaders of both Houses.

-- The four leaders plus the chairman and ranking minority members of the Foreign Affairs and Foreign Relations Committees and of the two Armed Services Committees, a total of 12.

-- The 12 above plus Senator Javits and Congressman Zablocki, who were the principal authors of the War Powers legislation.

To the degree that time and considerations of security allow, I would recommend the second consultation option. Follow-up courtesy calls could be placed to Javits and Zablocki.

Consultation Procedures

The wording of the Resolution indicates that it is the President who shall consult with Congress. With no precedents established, there are perhaps several procedures which may be acceptable, bearing in mind that it will be preferable to keep any consultations from public notice for legitimate reasons of security and that the amount of time available will considerably affect the exact procedures chosen. Your guidance on who should conduct the consultations as well as your general preferences on the procedures will be helpful to our contingency planning.

The principal options are:

-- To consult personally with the appropriate members of Congress either by (a) inviting them to the White House or (b) by personal telephone calls.

-- To ask the Secretary of State and Secretary of Defense to consult with the appropriate members of Congress either by (a) individual meetings on the Hill, (b) a meeting at the State Department, or (c) individual telephone calls.

Again bearing in mind Congressional sensitivities, I recommend that you conduct the consultations personally. However, under emergency conditions, urgent telephone calls to the designated members of Congress can be divided among yourself and other senior members of your administration.

RECOMMENDATION

That you indicate below your preferences and guidance on whether and how any consultations with Congress on our plans for evacuating Americans from Cambodia should be undertaken under the provisions of the War Powers Resolution.

Timing of Consultations

- _____ No consultations in advance of decision to evacuate.
- _____ Consultations only shortly in advance of decision to evacuate, if events permit.

Members of Congress to be Consulted

- _____ Only leadership of both Houses.
- _____ Leadership plus chairmen and ranking minority members of the four key committees.
- _____ All of the above plus Senator Javits and Congressman Zablocki.

Consultation Procedures

- _____ You would conduct the consultations either by:
 - _____ a meeting in the White House, or
 - _____ by telephone calls.
- _____ The Secretary of State and Secretary of Defense to conduct the consultations by
 - _____ personal meetings or
 - _____ by telephone calls.



Public Law 93-148
 93rd Congress, H. J. Res. 542
 November 7, 1973

Joint Resolution

Concerning the war powers of Congress and the President.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

War Powers
Resolution.

SHORT TITLE

SECTION 1. This joint resolution may be cited as the "War Powers Resolution".

PURPOSE AND POLICY

SEC. 2. (a) It is the purpose of this joint resolution to fulfill the intent of the framers of the Constitution of the United States and insure that the collective judgment of both the Congress and the President will apply to the introduction of United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and to the continued use of such forces in hostilities or in such situations.

(b) Under article I, section 8, of the Constitution, it is specifically provided that the Congress shall have the power to make all laws necessary and proper for carrying into execution, not only its own powers but also all other powers vested by the Constitution in the Government of the United States, or in any department or officer thereof.

(c) The constitutional powers of the President as Commander-in-Chief to introduce United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, are exercised only pursuant to (1) a declaration of war, (2) specific statutory authorization, or (3) a national emergency created by attack upon the United States, its territories or possessions, or its armed forces.

CONSULTATION

SEC. 3. The President in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and after every such introduction shall consult regularly with the Congress until United States Armed Forces are no longer engaged in hostilities or have been removed from such situations.

REPORTING

SEC. 4. (a) In the absence of a declaration of war, in any case in which United States Armed Forces are introduced—

(1) into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances;

87 STAT. 555

(2) into the territory, airspace or waters of a foreign nation, while equipped for combat, except for deployments which relate solely to supply, replacement, repair, or training of such forces; or

87 STAT. 556

(3) in numbers which substantially enlarge United States Armed Forces equipped for combat already located in a foreign nation;

(X)

the President shall submit within 48 hours to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, setting forth—

(A) the circumstances necessitating the introduction of United States Armed Forces;

(B) the constitutional and legislative authority under which such introduction took place; and

(C) the estimated scope and duration of the hostilities or involvement.

(b) The President shall provide such other information as the Congress may request in the fulfillment of its constitutional responsibilities with respect to committing the Nation to war and to the use of United States Armed Forces abroad.

(c) Whenever United States Armed Forces are introduced into hostilities or into any situation described in subsection (a) of this section, the President shall, so long as such armed forces continue to be engaged in such hostilities or situation, report to the Congress periodically on the status of such hostilities or situation as well as on the scope and duration of such hostilities or situation, but in no event shall he report to the Congress less often than once every six months.

CONGRESSIONAL ACTION

SEC. 5. (a) Each report submitted pursuant to section 4(a)(1) shall be transmitted to the Speaker of the House of Representatives and to the President pro tempore of the Senate on the same calendar day. Each report so transmitted shall be referred to the Committee on Foreign Affairs of the House of Representatives and to the Committee on Foreign Relations of the Senate for appropriate action. If, when the report is transmitted, the Congress has adjourned sine die or has adjourned for any period in excess of three calendar days, the Speaker of the House of Representatives and the President pro tempore of the Senate, if they deem it advisable (or if petitioned by at least 30 percent of the membership of their respective Houses) shall jointly request the President to convene Congress in order that it may consider the report and take appropriate action pursuant to this section.

(b) Within sixty calendar days after a report is submitted or is required to be submitted pursuant to section 4(a)(1), whichever is earlier, the President shall terminate any use of United States Armed Forces with respect to which such report was submitted (or required to be submitted), unless the Congress (1) has declared war or has enacted a specific authorization for such use of United States Armed Forces, (2) has extended by law such sixty-day period, or (3) is physically unable to meet as a result of an armed attack upon the United States. Such sixty-day period shall be extended for not more than an additional thirty days if the President determines and certifies to the Congress in writing that unavoidable military necessity respecting the safety of United States Armed Forces requires the continued use of such armed forces in the course of bringing about a prompt removal of such forces.

(c) Notwithstanding subsection (b), at any time that United States Armed Forces are engaged in hostilities outside the territory of the United States, its possessions and territories without a declaration of war or specific statutory authorization, such forces shall be removed by the President if the Congress so directs by concurrent resolution.

CONGRESSIONAL PRIORITY PROCEDURES FOR JOINT RESOLUTION OR BILL

Sec. 6. (a) Any joint resolution or bill introduced pursuant to section 5(b) at least thirty calendar days before the expiration of the sixty-day period specified in such section shall be referred to the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be, and such committee shall report one such joint resolution or bill, together with its recommendations, not later than twenty-four calendar days before the expiration of the sixty-day period specified in such section, unless such House shall otherwise determine by the yeas and nays.

(b) Any joint resolution or bill so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents), and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by yeas and nays.

(c) Such a joint resolution or bill passed by one House shall be referred to the committee of the other House named in subsection (a) and shall be reported out not later than fourteen calendar days before the expiration of the sixty-day period specified in section 5(b). The joint resolution or bill so reported shall become the pending business of the House in question and shall be voted on within three calendar days after it has been reported, unless such House shall otherwise determine by yeas and nays.

(d) In the case of any disagreement between the two Houses of Congress with respect to a joint resolution or bill passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such resolution or bill not later than four calendar days before the expiration of the sixty-day period specified in section 5(b). In the event the conferees are unable to agree within 48 hours, they shall report back to their respective Houses in disagreement. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than the expiration of such sixty-day period.

CONGRESSIONAL PRIORITY PROCEDURES FOR CONCURRENT RESOLUTION

Sec. 7. (a) Any concurrent resolution introduced pursuant to section 5(c) shall be referred to the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be, and one such concurrent resolution shall be reported out by such committee together with its recommendations within fifteen calendar days, unless such House shall otherwise determine by the yeas and nays.

(b) Any concurrent resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by yeas and nays.

(c) Such a concurrent resolution passed by one House shall be referred to the committee of the other House named in subsection (a) and shall be reported out by such committee together with its recommendations within fifteen calendar days and shall thereupon become the pending business of such House and shall be voted upon within

three calendar days, unless such House shall otherwise determine by yeas and nays.

(d) In the case of any disagreement between the two Houses of Congress with respect to a concurrent resolution passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such concurrent resolution within six calendar days after the legislation is referred to the committee of conference. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than six calendar days after the conference report is filed. In the event the conferees are unable to agree within 48 hours, they shall report back to their respective Houses in disagreement.

INTERPRETATION OF JOINT RESOLUTION

Sec. 8. (a) Authority to introduce United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances shall not be inferred—

(1) from any provision of law (whether or not in effect before the date of the enactment of this joint resolution), including any provision contained in any appropriation Act, unless such provision specifically authorizes the introduction of United States Armed Forces into hostilities or into such situations and states that it is intended to constitute specific statutory authorization within the meaning of this joint resolution; or

(2) from any treaty heretofore or hereafter ratified unless such treaty is implemented by legislation specifically authorizing the introduction of United States Armed Forces into hostilities or into such situations and stating that it is intended to constitute specific statutory authorization within the meaning of this joint resolution.

(b) Nothing in this joint resolution shall be construed to require any further specific statutory authorization to permit members of United States Armed Forces to participate jointly with members of the armed forces of one or more foreign countries in the headquarters operations of high-level military commands which were established prior to the date of enactment of this joint resolution and pursuant to the United Nations Charter or any treaty ratified by the United States prior to such date.

(c) For purposes of this joint resolution, the term "introduction of United States Armed Forces" includes the assignment of members of such armed forces to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such military forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities.

(d) Nothing in this joint resolution—

(1) is intended to alter the constitutional authority of the Congress or of the President, or the provisions of existing treaties; or

(2) shall be construed as granting any authority to the President with respect to the introduction of United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances which authority he would not have had in the absence of this joint resolution.

59 Stat. 1031.

"Introduction
of United
States Armed
Forces."

November 7, 1973

- 5 -

Pub. Law 93-148

SEPARABILITY CLAUSE

Sec. 9. If any provision of this joint resolution or the application thereof to any person or circumstance is held invalid, the remainder of the joint resolution and the application of such provision to any other person or circumstance shall not be affected thereby.

EFFECTIVE DATE

Sec. 10. This joint resolution shall take effect on the date of its enactment.

CARL ALBERT

Speaker of the House of Representatives.

JAMES O. EASTLAND

President of the Senate pro tempore.

IN THE HOUSE OF REPRESENTATIVES, U.S.,

November 7, 1973.

The House of Representatives having proceeded to reconsider the resolution (H. J. Res. 542) entitled "Joint resolution concerning the war powers of Congress and the President", returned by the President of the United States with his objections, to the House of Representatives, in which it originated, it was

Resolved, That the said resolution pass, two-thirds of the House of Representatives agreeing to pass the same.

Attest:

W. PAT JENNINGS

Clerk.

I certify that this Joint Resolution originated in the House of Representatives.

W. PAT JENNINGS

Clerk.

IN THE SENATE OF THE UNITED STATES

November 7, 1973.

The Senate having proceeded to reconsider the joint resolution (H. J. Res. 542) entitled "Joint resolution concerning the war powers of Congress and the President", returned by the President of the United States with his objections to the House of Representatives, in which it originated, it was

Resolved, That the said joint resolution pass, two-thirds of the Senators present having voted in the affirmative.

Attest:

FRANCIS R. VALEO
Secretary.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 93-287 (Comm. on Foreign Affairs) and No. 93-547 (Comm. of Conference).

SENATE REPORT No. 93-220 accompanying S. 440 (Comm. on Foreign Relations).

CONGRESSIONAL RECORD, Vol. 119 (1973):

June 25, July 18, considered and passed House.

July 18 - 20, considered and passed Senate, amended, in lieu of S. 440.

Oct. 10, Senate agreed to conference report.

Oct. 12, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 9, No. 43:

Oct. 24, vetoed; Presidential message.

CONGRESSIONAL RECORD, Vol. 119 (1973):

Nov. 7, House and Senate overrode veto.

CONGRESSIONAL PRIORITY PROCEDURES FOR JOINT RESOLUTION OR BILL

Sec. 6. (a) Any joint resolution or bill introduced pursuant to section 5(b) at least thirty calendar days before the expiration of the sixty-day period specified in such section shall be referred to the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be, and such committee shall report one such joint resolution or bill, together with its recommendations, not later than twenty-four calendar days before the expiration of the sixty-day period specified in such section, unless such House shall otherwise determine by the yeas and nays.

(b) Any joint resolution or bill so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents), and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by yeas and nays.

(c) Such a joint resolution or bill passed by one House shall be referred to the committee of the other House named in subsection (a) and shall be reported out not later than fourteen calendar days before the expiration of the sixty-day period specified in section 5(b). The joint resolution or bill so reported shall become the pending business of the House in question and shall be voted on within three calendar days after it has been reported, unless such House shall otherwise determine by yeas and nays.

(d) In the case of any disagreement between the two Houses of Congress with respect to a joint resolution or bill passed by both Houses, conferees shall be promptly appointed and the committee of conference shall make and file a report with respect to such resolution or bill not later than four calendar days before the expiration of the sixty-day period specified in section 5(b). In the event the conferees are unable to agree within 48 hours, they shall report back to their respective Houses in disagreement. Notwithstanding any rule in either House concerning the printing of conference reports in the Record or concerning any delay in the consideration of such reports, such report shall be acted on by both Houses not later than the expiration of such sixty-day period.

CONGRESSIONAL PRIORITY PROCEDURES FOR CONCURRENT RESOLUTION

Sec. 7. (a) Any concurrent resolution introduced pursuant to section 5(c) shall be referred to the Committee on Foreign Affairs of the House of Representatives or the Committee on Foreign Relations of the Senate, as the case may be, and one such concurrent resolution shall be reported out by such committee together with its recommendations within fifteen calendar days, unless such House shall otherwise determine by the yeas and nays.

(b) Any concurrent resolution so reported shall become the pending business of the House in question (in the case of the Senate the time for debate shall be equally divided between the proponents and the opponents) and shall be voted on within three calendar days thereafter, unless such House shall otherwise determine by yeas and nays.

(c) Such a concurrent resolution passed by one House shall be referred to the committee of the other House named in subsection (a) and shall be reported out by such committee together with its recommendations within fifteen calendar days and shall thereupon become the pending business of such House and shall be voted upon within

B

as added to
West Coast

THE WHITE HOUSE
WASHINGTON

April 4, 1975

MEMORANDUM FOR: THE PRESIDENT
THROUGH: DON RUMSFELD
FROM: JACK MARSH

It has been determined that the reporting requirements of Section 4A (2) of the War Powers Resolution requiring reporting to the Speaker and the President Pro Tempore should be observed. They are applicable for the reasons set out in the attached draft of a letter accompanying this memo. Attached are the applicable provisions of the War Powers Resolution.

This report must be made by you to these two Congressional officers within 48 hours from the time of the incident that invokes the statute. This occurred at 0400 a.m., EDT, April 3. Therefore, this report must be filed by you no later than 0400 a.m., April 5. Brent has sent a similar draft of the attached to Henry at Palm Springs. We will stand by for your response and suggestions as well as any changes which you feel should be made in the attached report.

You should be aware that John Finney of the New York Times has the story of this incident, which apparently involved the USS Durham, and has made inquiry to the Department of Defense. Defense is awaiting guidance on how to respond to both the activities of the vessel and your possible action under the War Powers which were the questions Finney asked.

The determination of the application of the War Powers is based on the opinion of the Counsel's Office at: The White House; Defense; and State. The draft letter is their joint effort.



THE WHITE HOUSE
WASHINGTON

*War
Powers
Resolution*

April 30, 1975

MEMORANDUM FOR THE PRESIDENT

FROM:

PHIL BUCHEN

T.W.B.

Enclosed for your signature are letters to the President Pro Tempore of the Senate and the Speaker of the House dealing with the start and accomplishment of the final emergency evacuation from South Vietnam. This notice form has been cleared by State, Defense, NSC, Counsel's Office, and Congressional Relations. It is similar to the communications you sent in connection with Operation Eagle Pull.

There is a deadline for delivering these communications which is 48 hours from the start of the mission. Congressional Relations plans to deliver these letters after you have signed them today, April 30.



THE WHITE HOUSE

WASHINGTON

April 30, 1975

Dear Mr. Speaker:

On April 4, 1975, I reported that U.S. naval vessels had been ordered to participate in an international humanitarian relief effort to transport refugees and U.S. nationals to safety from Danang and other seaports in South Vietnam. This effort was undertaken in response to urgent appeals from the Government of South Vietnam and in recognition of the large-scale violations by the North Vietnamese of the Agreement Ending the War and Restoring the Peace in Vietnam.

In the days and weeks that followed, the massive North Vietnamese attacks continued. As the forces of the Government of South Vietnam were pushed further back toward Saigon, we began a progressive withdrawal of U.S. citizens and their dependents in South Vietnam, together with foreign nationals whose lives were in jeopardy.

On April 28, the defensive lines to the northwest and south of Saigon were breached. Tan Son Nhut Airfield and Saigon came under increased rocket attack and for the first time received artillery fire. NVA forces were approaching within mortar and anti-aircraft missile range. The situation at Tan Son Nhut Airfield deteriorated to the extent that it became unusable. Crowd control on the airfield was breaking down and the collapse of the Government forces within Saigon appeared imminent. The situation presented a direct and imminent threat to the remaining U.S. citizens and their dependents in and around Saigon.

On the recommendation of the American Ambassador there, I ordered U.S. military forces to proceed by means of rotary wing aircraft with an emergency final evacuation out of consideration for the safety of U.S. citizens.

In accordance with my desire to keep the Congress fully informed on this matter, and taking note of the provision of section 4 of the War Powers Resolution (Public Law 93-148), I wish to report to you that at about 1:00 A.M. EDT, April 29, 1975, U.S. forces entered South Vietnam airspace.



A force of 70 evacuation helicopters and 865 Marines evacuated about 1400 U.S. citizens, together with approximately 5500 third country nationals and South Vietnamese, from landing zones in the vicinity of the U.S. Embassy, Saigon, and the Defense Attache Office at Tan Son Nhut Airfield. The last elements of the ground security force departed Saigon at 7:46 P.M. EDT April 29, 1975. Two crew members of a Navy search and rescue helicopter are missing at sea. There are no other known U.S. casualties from this operation, although two U.S. Marines on regular duty in the compound of the Defense Attache Office at Tan Son Nhut Airfield had been killed on the afternoon (EDT) of April 28, 1975, by rocket attacks into a refugee staging area. U.S. fighter aircraft provided protective air cover for this operation, and for the withdrawal by water of a few Americans from Can Tho, and in one instance suppressed North Vietnamese anti-aircraft artillery firing upon evacuation helicopters as they departed. The ground security forces on occasion returned fire during the course of the evacuation operation.

The operation was ordered and conducted pursuant to the President's Constitutional executive power and his authority as Commander-in-Chief of U.S. Armed Forces.

The United States Armed Forces performed a very difficult mission most successfully. Their exemplary courage and discipline are deserving of the nation's highest gratitude.

Sincerely,

GERALD R. FORD

The Honorable
The Speaker
United States House of Representatives
Washington, D. C. 20515



GENERAL COUNSEL

April 2

Mr. Buchen:
As promised.

Martin R. Hoffmann



Dear Mr. Speaker:

As you know, last Saturday I directed U.S. participation in an international humanitarian relief effort to transport refugees from Danang and other seaports to safer areas farther south in Vietnam. This effort was undertaken in response to urgent appeals from the Government of the Republic of Vietnam and because of the extremely grave nature of the circumstances involving the lives of hundreds of thousands of refugees. The U.S. has been joined in this effort by a number of other countries, including the Governments of Australia, United Kingdom, Republic of China, Republic of the Philippines,

In accordance with Section 4(a)(2) of the War Powers Resolution (Public Law 93-148), and with my own desire to keep the Congress fully informed on this matter, I wish to report to you concerning one aspect of U.S. participation in the refugee evacuation effort. Because of the large number of refugees and the overwhelming dimensions of the task, I have ordered U.S. naval vessels to assist in this effort. The specific unit which has been sent to assist is Amphibious Task Group 76.8 (with 12 embarked helicopters and approximately 600 Marines), composed of an Amphibious Command Ship, an Amphibious Transport Dock, a Dock Landing Ship, and a Landing Ship Tank (LST). This unit has been authorized to approach the coast of South Vietnam to pick up refugees and evacuate U.S. nationals, and transport them to safety farther south. Elements of this task group initially entered SVN's



territorial waters at 10:00 a.m. EDT on April 1, 1975. 2.

These forces are equipped for combat within the meaning of Section 4(a)(2) of Public Law 93-148. However, they are under orders not to enter any area where they would be exposed to serious danger from hostile fire and not to disembark any U.S. military personnel. Should a serious risk from hostilities develop at a particular location, their orders require that they withdraw. The sole mission of the 600 Marines attached to the Task Group is to keep order on board the ships while receiving and transporting refugees.

As stated above, the purpose of the introduction of U.S. naval vessels into Vietnamese waters is to assist in an international humanitarian effort involving vessels of several nations, including both military and civilian craft. U.S. participation in this effort includes the charter of commercial vessels, the use of military sea-lift command vessels with civilian crews, as well as U.S. naval vessels with military crews. This effort is being undertaken pursuant to the President's constitutional authority as Commander-in-Chief and Chief Executive in the conduct of foreign relations and pursuant to the Foreign Assistance Act of 1974. Section 36 of that Act authorizes assistance for South Vietnam to provide humanitarian assistance to refugees, civilian war casualties and other persons disadvantaged by hostilities or conditions relating to hostilities in South Vietnam.



3.

You will appreciate, I am sure, my difficulty in telling you precisely how long U.S. vessels may be needed in this effort. Our present estimate, however, is that this operation may involve the presence of U.S. naval vessels in Vietnamese waters for a period of two to four weeks.



4/30/75

Xtra copies
of ltr to
the Speaker of
the House &
President of Sen.

re
War Powers Resolution



THE WHITE HOUSE

WASHINGTON

April 30, 1975

Dear Mr. Speaker:

On April 4, 1975, I reported that U.S. naval vessels had been ordered to participate in an international humanitarian relief effort to transport refugees and U.S. nationals to safety from Danang and other seaports in South Vietnam. This effort was undertaken in response to urgent appeals from the Government of South Vietnam and in recognition of the large-scale violations by the North Vietnamese of the Agreement Ending the War and Restoring the Peace in Vietnam.

In the days and weeks that followed, the massive North Vietnamese attacks continued. As the forces of the Government of South Vietnam were pushed further back toward Saigon, we began a progressive withdrawal of U.S. citizens and their dependents in South Vietnam, together with foreign nationals whose lives were in jeopardy.

On April 28, the defensive lines to the northwest and south of Saigon were breached. Tan Son Nhut Airfield and Saigon came under increased rocket attack and for the first time received artillery fire. NVA forces were approaching within mortar and anti-aircraft missile range. The situation at Tan Son Nhut Airfield deteriorated to the extent that it became unusable. Crowd control on the airfield was breaking down and the collapse of the Government forces within Saigon appeared imminent. The situation presented a direct and imminent threat to the remaining U.S. citizens and their dependents in and around Saigon.

On the recommendation of the American Ambassador there, I ordered U.S. military forces to proceed by means of rotary wing aircraft with an emergency final evacuation out of consideration for the safety of U.S. citizens.

In accordance with my desire to keep the Congress fully informed on this matter, and taking note of the provision of section 4 of the War Powers Resolution (Public Law 93-148), I wish to report to you that at about 1:00 A.M. EDT, April 29, 1975, U.S. forces entered South Vietnam airspace.



A force of 70 evacuation helicopters and 865 Marines evacuated about 1400 U.S. citizens, together with approximately 5500 third country nationals and South Vietnamese, from landing zones in the vicinity of the U.S. Embassy, Saigon, and the Defense Attache Office at Tan Son Nhut Airfield. The last elements of the ground security force departed Saigon at 7:46 P.M. EDT April 29, 1975. Two crew members of a Navy search and rescue helicopter are missing at sea. There are no other known U.S. casualties from this operation, although two U.S. Marines on regular duty in the compound of the Defense Attache Office at Tan Son Nhut Airfield had been killed on the afternoon (EDT) of April 28, 1975, by rocket attacks into a refugee staging area. U.S. fighter aircraft provided protective air cover for this operation, and for the withdrawal by water of a few Americans from Can Tho, and in one instance suppressed North Vietnamese anti-aircraft artillery firing upon evacuation helicopters as they departed. The ground security forces on occasion returned fire during the course of the evacuation operation.

The operation was ordered and conducted pursuant to the President's Constitutional executive power and his authority as Commander-in-Chief of U.S. Armed Forces.

The United States Armed Forces performed a very difficult mission most successfully. Their exemplary courage and discipline are deserving of the nation's highest gratitude.

Sincerely,

The Honorable
The Speaker
United States House of Representatives
Washington, D. C. 20515



THE WHITE HOUSE

WASHINGTON

April 30, 1975

Dear Mr. President:

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In the days and weeks that followed, the massive North Vietnamese attacks continued. As the forces of the Government of South Vietnam were pushed further back toward Saigon, we began a progressive withdrawal of U.S. citizens and their dependents in South Vietnam, together with foreign nationals whose lives were in jeopardy.

On April 28, the defensive lines to the northwest and south of Saigon were breached. Tan Son Nhut Airfield and Saigon came under increased rocket attack and for the first time received artillery fire. NVA forces were approaching within mortar and anti-aircraft missile range. The situation at Tan Son Nhut Airfield deteriorated to the extent that it became unusable. Crowd control on the airfield was breaking down and the collapse of the Government forces within Saigon appeared imminent. The situation presented a direct and imminent threat to the remaining U.S. citizens and their dependents in and around Saigon.

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The United States Armed Forces performed a very difficult mission most successfully. Their exemplary courage and discipline are deserving of the nation's highest gratitude.

Sincerely,

The Honorable James O. Eastland
President Pro Tempore of the Senate
United States Senate
Washington, D. C.



REQUEST/RECEIPT FOR LDX TRANSMISSION

MCC STATION SERIAL NUMBER 300

TIME PROCESSED AT NYQC

30 APR 75

NYQC

ADDRESSEE: PLSE ENTER STATION, TOR, OPERATORS SIGNATURE AND RETURN TO NMCC:

FROM: WHITE HOUSE
STATE ROOM

TOR: _____

NAME: '75 APR 30 AM 9:24

TO BE FILLED IN BY REQUESTER

FROM: Col Jane Finkelstein OFFICE/DESK: OCJCS

PHONE NR: OX7-1309

TO:

WHITE HOUSE Mrs Philip Buchen
Cabinet Room Advisor

STATE DEPT Mrs. Mansoor Loe
Legal Advisor

CIA 632-9598

NSA _____

ANMCC _____

DIA (PENT) _____

DIA (ARL HALL) _____

DNA _____

NPIC (NAVY YARD) _____

SPECIAL INSTRUCTIONS _____

CLASSIFICATION None PAGES 3



On 4 April 1975, I reported that US naval vessels had been ordered to participate in an international humanitarian relief effort to transport refugees and US nationals to safety from Danang and other seaports in South Vietnam. This effort was undertaken in response to urgent appeals from the Government of South Vietnam and in recognition of the large-scale violations by the North Vietnamese of the Agreement Ending the War and Restoring the Peace in Vietnam.

In the days and weeks that followed, the massive North Vietnamese attacks continued. As the forces of the Government of South Vietnam were pushed further back toward Saigon, a drawdown of US personnel and their dependents was conducted.

On 28 April, the defensive lines to the northwest and south of Saigon were breached. Tan Son Nhut Airfield and Saigon came under increased rocket fire and for the first time received artillery fire. NVA forces were approaching within mortar and anti-aircraft missile range. The situation at Tan Son Nhut Airfield deteriorated to the extent that the airfield was unusable. Crowd control on the airfield was breaking down and the collapse of the Government forces within Saigon appeared imminent.

Notwithstanding the use of diplomatic and other means to terminate the conflict, the situation presented a direct and imminent threat to the remaining US citizens and their dependents.



In accordance with my desire to keep the Congress fully informed on this matter, and taking note of the provision of section 4 of the War Powers Resolution (Public Law 93-148), I wish to report to you that I ordered the US Armed Forces to evacuate US nationals and dependents of US nationals, together with foreign nationals, including South Vietnamese to whose lives a direct and imminent threat existed and who could be accommodated by the operation. At about 1:00 AM EDT, 29 April 1975, US armed forces rotary wing aircraft entered South Vietnam airspace. Preliminary reports indicate that approximately 70 helicopters protected by an armed security force of about 850 Marines evacuated nearly 1400 US citizens, together with approximately 5500 third country nationals and South Vietnamese from landing zones in the vicinity of the US Embassy, Saigon, and the Defense Attache Office at Tan Son Nhut. The last elements of the ground security force departed Saigon at 7:46 PM EDT 29 April 1975. Two US Marines were killed in the early afternoon (EDT) of 28 April 1975 as a result of North Vietnamese rocket attacks on refugee staging area in the Defense Attache Office compound. Two crew members of a Navy search and rescue helicopter are missing at sea. There are no other known US casualties. US fighter aircraft were tasked to support the operation and in one instance were required to silence North Vietnamese anti-aircraft artillery firing upon the civilian laden helicopters as they departed. The ground security force was required to return fire during their extraction.



The reason for the introduction of US military forces equipped for combat into the Saigon area was to bring about the evacuation of US citizens and their dependents, together with certain other alien noncombatants whose lives were directly and imminently threatened. The operation was ordered and conducted pursuant to the President's Constitutional executive power and authority as Commander-in-Chief of US Armed Forces.

In the proud tradition of professionalism that has characterized their performance in Southeast Asia and elsewhere, the United States Armed Forces performed the difficult and hazardous mission with discrimination and dispatch. They have once again earned the nation's gratitude.



5:00 p.m.

Friday, April 4, 1975

Dr. Marrs called to let you know that Cong. Eilberg will attempt to hold hearings on the policies of the U. S. Government in regard to evacuation of people from South East Asia, with the State Department and the Immigration and Naturalization Service on Tuesday, April 8.

Also, he advises that a PanAm 547 with 500 passengers aboard is expected at 11:00 p.m. Saturday night in Seattle. 400 of the passengers are children; 100 documented adults.



THE WHITE HOUSE

WASHINGTON

April 4, 1975

Dear Mr. Speaker:

As you know, last Saturday I directed United States participation in an international humanitarian relief effort to transport refugees from Danang and other seaports to safer areas farther south in Vietnam. The United States has been joined in this humanitarian effort by a number of other countries who are offering people, supplies and vessels to assist in this effort. This effort was undertaken in response to urgent appeals from the Government of the Republic of Vietnam because of the extremely grave nature of the circumstances involving the lives of hundreds of thousands of refugees. This situation has been brought about by large-scale violations of the Agreement Ending the War and Restoring the Peace in Vietnam by the North Vietnamese who have been conducting massive attacks on the Northern and Central provinces of South Vietnam.

In accordance with my desire to keep the Congress fully informed on this matter, and taking note of the provision of Section 4(a)(2) of the War Powers Resolution (Public Law 93-148), I wish to report to you concerning one aspect of United States participation in the refugee evacuation effort. Because of the large number of refugees and the overwhelming dimensions of the task, I have ordered U. S. naval vessels to assist in this effort, including Amphibious Task Group 76.8 with 12 embarked helicopters and approximately 700 marines. These naval vessels have been authorized to approach the coast of South Vietnam to pick up refugees and U. S. nationals, and transport them to safety. Marines are being detailed to vessels participating in the rescue mission. The first vessel entered South Vietnam territorial waters at 0400 a.m. EDT on April 3, 1975.



Although these forces are equipped for combat within the meaning of Section 4 (a) (2) of Public Law 83-148, ~~they are under orders to avoid involvement in hostilities and combat activities~~ Should a serious risk from hostilities develop at a particular location, their orders require that they withdraw, unless engaged in activities to save the lives of U. S. citizens. ~~The sole mission of the Marines~~ aboard the Task Group ships and the military sealift command ships ~~is~~ to assist in maintaining order on board the ships while receiving and transporting refugees.

As stated above, the purpose of the introduction of United States naval vessels into Vietnamese waters is to assist in an international humanitarian effort involving vessels of several nations, including both military and civilian craft. The United States' participation in this effort includes the charter of commercial vessels, the use of military sealift command vessels with civilian crews, as well as United States naval vessels with military crews. This effort is being undertaken pursuant to the President's constitutional authority as Commander-in-Chief and Chief Executive in the conduct of foreign relations and pursuant to the Foreign Assistance Act of 1961, as amended, which authorizes humanitarian assistance to refugees, civilian war casualties and other persons disadvantaged by hostilities or conditions relating to hostilities in South Vietnam.

You will appreciate, I am sure, my difficulty in telling you precisely how long United States forces may be needed in this effort. Our present estimate, however, is that this operation may involve the presence of United States naval vessels in Vietnamese waters for a period of at least several weeks.



CONSULTATION

Sec. 3. The President in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and after every such introduction shall consult regularly with the Congress until United States Armed Forces are no longer engaged in hostilities or have been removed from such situations.

REPORTING

Sec. 4. (a) In the absence of a declaration of war, in any case in which United States Armed Forces are introduced --

(1) into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances:

(2) into the territory, airspace or waters of a foreign nation, while equipped for combat, except for deployments which relate solely to supply, replacement, repair, or training of such forces; or

(3) In numbers which substantially enlarge United States Armed Forces equipped for combat already located in a foreign nation;

the President shall submit within 48 hours to the Speaker of the House of Representatives and to the President pro tempore of the Senate a report, in writing, setting forth-

(A) the circumstances necessitating the introduction of United States Armed Forces;

(B) the constitutional and legislative authority under which such introduction took place; and,

(C) the estimated scope and duration of the hostilities or involvement.

(b) The President shall provide such other information as the Congress may request in the fulfillment of its constitutional responsibilities with respect to committing the Nation to war and to the use of United States Armed Forces abroad.

(c) Whenever United States Armed Forces are introduced into hostilities or into any situation described in subsection (a) of this section, the President shall, so long as such armed forces continue to be engaged in such hostilities or situation, report to the Congress periodically on the status of such hostilities or situation as well as on the scope and duration of such hostilities or situation, but in no event shall he report to the Congress less often than once every six months.



Friday 4/4/75

12:40 Yui Brynner called to thank you very much for
your help with the airlift.



THE WHITE HOUSE
WASHINGTON

4/2/75

Mr. Buchen
talked to Mr. Powell
at State 632-0751

Talked to Ted Marris,
who will call
Yul Brynner



4/2/75

4:30 Yul Brynner called from his dressing room and would appreciate a call back.

(617) 426-9291

He is with an organization called "Friends for All Children" ADRR Dept. of State

Said they had a donation from AID for \$100,000 ?? for orphans of Vietnam. The situation is desperate for Saigao. They have 500 kids already adopted waiting for the legalization of papers. Supplies are at the minimum.

He said you and he talked about this at lunch at the Swedish Embassy?? and you said if there was ever anything ~~he/could~~ you could do to help to let him know.

He said what they really need is an airlift by a 747 from Saigon to the United States -- to Oakland or Denver -- with even temporary visas for the kids who are to be adopted by Americans, Europeans, Canadians, etc. They're looking for places for the kids.

He would appreciate a call.



War Powers
Resolution

Thursday 4/3/75

3:30 Virginia Olson said she had called Cong. Findley's office to let them know the letter would be coming up either today or tomorrow morning.

Advised them that it was a turndown -- and they weren't unhappy -- understood.

Especially concerned since Cong. Findley is helping us with the Cambodian Aid Stuff.



LANE AND EDSON, P. C.

SUITE 707

1025 CONNECTICUT AVENUE

WASHINGTON, D. C. 20036

BRUCE S. LANE
 CHARLES L. EDSON
 EDWARD C. BERKOWITZ
 HERBERT M. FRANKLIN
 DAVID FALK
 FRANK H. PEARL
 ARTHUR R. HESSEL
 JOHN H. BETZ
 RICHARD N. TAGER
 ALAN G. ROSENBERG
 SUSAN J. LUTZKER

TELEPHONE (202) 432-9300

CABLE ADDRESS "LIBPA"

TELEX 64448

OF COUNSEL
 STEPHEN C. GLASSMAN

*War Powers
 Resolution*

April 2, 1975

HAND DELIVERY

Philip W. Buchen, Esquire
 Counsel to the President
 The White House
 Washington, D. C.

Dear Mr. Buchen:

I am writing at your suggestion, made in your telephone conversation yesterday with my partner, Bruce Lane, and myself. The deterioration of the military situation has progressed so rapidly in South Viet Nam that since our conversation, Camranh City, the home of the little girl of whom we spoke, has in fact been captured by the North Viet Nameese and clearly any evacuation of the girl is most likely impossible at this time.

For your information, I thought I would explain in more detail the circumstances that prompted our telephone call. My brother-in-law, Anton Anderegg of Boring, Oregon, served as a para-medical in Viet Nam in the years 1970 and 1971. During that time he was stationed at Camranh Bay and made the acquaintance of the young girl named Vuong Le Thu who lived in the Camranh Bay Christian Orphanage. In the course of his tour of duty there he undertook to help the young girl both personally and financially and continues today to pay her support in the orphanage. About a year ago, Mr. Anderegg began corresponding with Mr. Ha, the director of the orphanage, in an attempt to adopt the little girl and have her brought to the United States to live with his family. For a variety of reasons he was unable to make any progress toward this goal.

We had hoped, when we spoke to you, that some steps might be taken to expedite her transfer to the United States and the adoption by the Andereggs. We, of course, understood that many Americans and other South Viet Nameese who were in imminent danger had to be evacuated from South Viet Nam on a priority basis, and we did not expect that Vuong would preempt any air accommodations.



Philip W. Buchen, Esquire

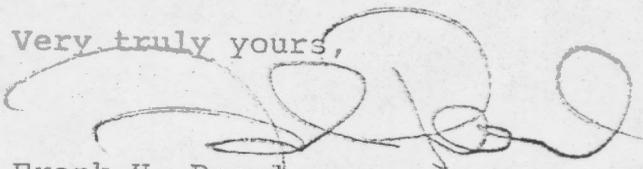
April 2, 1975

Page Two

Unfortunately, the problem seems to have become moot, due to the capture of Camranh Bay by the North Viet Nameese this morning.

The Andereggs join Bruce Lane and me in thanking you for the consideration you have shown in this matter.

Very truly yours,



Frank H. Pearl



Dear Mr. Speaker:

As you know, last Saturday I directed U.S. participation in an international humanitarian relief effort to transport refugees from Danang and other seaports to safer areas farther south in Vietnam. This effort was undertaken in response to urgent appeals from the Government of the Republic of Vietnam and because of the extremely grave nature of the circumstances involving the lives of hundreds of thousands of refugees. The U.S. has been joined a number of other countries, including in this effort by the Governments of Australia, United Kingdom, Republic of China, Republic of the Philippines,



In accordance with Section 4(a)(2) of the War Powers Resolution (Public Law 93-148), and with my own desire to keep the Congress fully informed on this matter, I wish to report to you concerning one aspect of U.S. participation in the refugee evacuation effort. Because of the large number of refugees and the overwhelming dimensions of the task, I have ordered U.S. naval vessels to assist in this effort. The specific unit which has been sent to assist is Amphibious Task Group 76.8 (with 12 embarked helicopters and approximately 600 Marines), composed of an Amphibious Command Ship, an Amphibious Transport Dock, a Dock Landing Ship, and a Landing Ship Tank (LST). This unit has been authorized to approach the coast of South Vietnam to pick up refugees and evacuate U.S. nationals, and transport them to safety farther south. Elements of this task group initially entered SVN's

territorial waters at 10:00 a.m. EDT on April 1, 1975. 2.

These forces are equipped for combat within the meaning of Section 4(a)(2) of Public Law 93-148. However, they are under orders not to enter any area where they would be exposed to serious danger from hostile fire and not to disembark any U.S. military personnel. Should a serious risk from hostilities develop at a particular location, their orders require that they withdraw. The sole mission of the 600 Marines attached to the Task Group is to keep order on board the ships while receiving and transporting refugees.

As stated above, the purpose of the introduction of U.S. naval vessels into Vietnamese waters is to assist in an international humanitarian effort involving vessels of several nations, including both military and civilian craft. U.S. participation in this effort includes the charter of commercial vessels, the use of military sea-lift command vessels with civilian crews, as well as U.S. naval vessels with military crews. This effort is being undertaken pursuant to the President's constitutional authority as Commander-in-Chief and Chief Executive in the conduct of foreign relations and pursuant to the Foreign Assistance Act of 1974. Section 36 of that Act authorizes assistance for South Vietnam to provide humanitarian assistance to refugees, civilian war casualties and other persons disadvantaged by hostilities or conditions relating to hostilities in South Vietnam.



3.

You will appreciate, I am sure, my difficulty in telling you precisely how long U.S. vessels may be needed in this effort. Our present estimate, however, is that this operation may involve the presence of U.S. naval vessels in Vietnamese waters for a period of two to four weeks.



Informal Briefing
ASD/PA Joseph Laitin
Wednesday, April 2, 1975

Mr. Laitin: My name is Joe Laitin for those of you who don't know me. I see a lot of familiar faces here.

The Secretary has been out of the building for a couple of hours and I've deferred the start of this briefing to await his return. Although he has some urgent business coming up he is deferring some of his own appointments so that he can come down here and address you himself. I anticipate that we'll have about 20 minutes, so keep your questions short.

Q: Will he have an opening statement?

A: I anticipate that he might make an opening statement, but we want to reserve most of the time for questions, which I assume is what you would want. I remind you, he only has about 20 minutes, so let's try to make the most of it. He'll be down here within a minute or two. Meantime, is there anything you want to ask me?

Q: What's the present location of those four ships and what are their orders?

A: They're off Nha Trang and Cam Ranh Bay. Before the end of the day we can give you more details. They're moving in that offshore area. We'll give you their precise location later, John.

Q: How far off Nha Trang are they?

A: I can fine that out for you. I read in the New York Times this morning that they're a mile off shore. You may be right, but I'm trying to check.

Q: The story didn't say they were one mile off. It said they had permission to go in one mile.

A: I believe that is an accurate statement on your part.

Q: Nha Trang is now under North Vietnamese control, isn't it?

A: I can't add to that right now, but we certainly can get the answer for you before long. I think it is, but I have not read all the cables. I've read a lot of the traffic this morning but I was not concentrating on that aspect at the time.

Q: On the other part of John's question about the orders these ships will be under, what these ships will be doing --

A: Fred, you'll get all the information that we have available as the day goes on just as we've been doing the last couple of days.

Q: My memory is that the provisional revolutionary government of North Vietnam claims a 12-mile territorial limit.

A: You're getting into a legal question there that I don't feel qualified to address myself to, although your question is certainly a good one.

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Q: That was a legal question you got into on August of 1964.

A: I went into that with some of our people and it's a long, complicated legal thing, and if you talk to one of our general counsels, I'll be glad to arrange that later in the day, John. As I understand it, beyond three miles is generally considered as being in international waters.

Q: Does the Secretary have a specific announcement is it just going to be mainly Q&A?

A: I told you that he's been out of the building for a couple of hours and I felt that because of the recent developments you would much prefer to hear from him than from me, or any of the people in my office.

Q: What's the destination of those four ships?

A: They are in a general area off the coast of Nha Trang.

Q: What's their destination? At one time it had been Cam Ranh Bay.

A: They're in that area between Cam Ranh Bay and Nha Trang.

Q: Where are they going to go now from there is what I'm trying to find out?

A: That's one of these I'm trying to find out, too. I'm trying to be as candid as I know how to be with you.

Q: All four ships have arrived?

A: Yes.

Q: And the Marine rifle companies have been dispersed among the four ships?

A: I have not had word that the Marine rifle companies have been dispersed -- I think the term is transdecked -- because they are on the two ships that came from the Okinawa. Before the end of the day I think we should have more information on that. I'm trying to expedite some of this information. Some of it I understand won't be available until late tonight, but we'll get it to you as soon as we can. If it's important enough, I won't hesitate to wake you at 3:00 a.m.

Q: Has any thought been given to using the space on some of these cargo planes that have come in, the C-5s, to bring some of these babies out?

A: As far as I know, there are only one or two C-5s that have gone to Saigon. As for whether any thought has been given to this problem, I can only answer that by saying I've discovered that thought is being given to everything around here.

Q: I'm sure you can't answer right now, but is there any possibility whether it will be considered?

Q: Could we just ask what, if anything, the C-5s or the other airlift planes are taking out of South Vietnam?

A: I have absolutely no information on that now, but when I know, you'll know, as the day goes on.

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Q: Will you take it as a query then?

A: Of course, Mike.

Q: In the event of a general evacuation, are there any plans for preventing the loss of more U.S.-furnished military equipment? In other words, if there is a takeover by North Vietnam, the whole country, they would be turned into --

A: I think that that is one of the questions that you might address to the Secretary when he arrives here momentarily.

Ladies and gentlemen, the Secretary of Defense.



Buehen

NEWS CONFERENCE
WITH
SECRETARY OF DEFENSE JAMES R. SCHLESINGER
AT THE PENTAGON
WEDNESDAY, APRIL 2, 1975 -- 12:30 P.M.

Secretary Schlesinger: Gentlemen, I recognize that there is widespread interest and concern around the country with regard to the evolving situation in Vietnam. So I thought I would take a few minutes to answer some questions that you might have.

Generally speaking there is a continued deterioration in the Highlands. Only four major locations have not as yet been taken over by the Communist forces. Cam Ranh Bay at this point continues under the control of the government. In MR III, in the area around Saigon, there has been some reduction in the amount of combat activity. The situation around Tay Ninh has eased somewhat. There is some increased level of activity in the Delta but the situation in the Delta continues to be stable. Generally speaking, I would say that the conditions in Vietnam are serious. Two thirds of the country are now under control of the Communists. It has been a defeat of historic and tragic proportions for the Government to this point. Whether or not a line can be stabilized north of Saigon to permit the areas around Saigon and in the Deltas to continue is something that remains to be seen. We should have a testing of that in the next four weeks or possibly less.

Q: Can we have a reading on the extent, the dollar value, of the material which was lost, thrown away, destroyed, etc., by the retreating South Vietnamese forces?

A: The cost of that is not available to us at this time. As I mentioned the other day, the data that we have available indicate that at least \$600 or \$700 million worth of equipment and supplies have been lost but the sum could go to a billion dollars. I should emphasize, however, that the major losses in that connection are equipment losses and that this in no way interferes with the need for material support for the combat forces that continue to support the government in the area of Saigon and the South.

Q: Mr. Schlesinger, there's a report out of Saigon that some of the commanders over there, I believe some people high in the government, are saying that they are being betrayed by the United States, that they had an assurance that if the Communists had flagrantly violated the Paris Accords that the United States would intervene. Is there any truth to that? Do you know anything about that?

A: I think that in 1973, as Dr. Kissinger observed the other day, the United States entered into certain moral commitments; they were not legal commitments. It was plain at that time that the United States intended to support the agreements. We have not been in a position to exercise American power to support those agreements. Until January or February of this year, Hanoi in its calculations included as a very likely prospect the re-introduction of American

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power. That is a waning influence and, as you know, under the law we are not permitted to utilize American power which is the only sanction that could be effectively employed for that purpose.

Q: Do you know of any such arrangement though with the South Vietnamese government? Was there that kind of talk?

A: As I indicated earlier, I think that it was strongly stated to the South Vietnamese government that the United States Government intended to see to it that the Paris Accords were indeed enforced.

Q: Mr. Secretary, what's your reaction to the rapid deterioration of the South Vietnamese military?

A: I think that this process of unraveling is one that we all find disturbing. It is not surprising in a historical sense. Armies that have been defeated before have tended to come apart. If one reviews history, going back to the Roman Empire, one discovers that in retreat armies do have a tendency to degenerate. A retrograde operation of the sort that was ordered by President Thieu a few weeks ago is, of course, the most difficult operation to be carried out even by seasoned, disciplined, well-trained troops that are well led.

Q: If the North Vietnamese army keeps up its push southward, does the ARVN have the means to stabilize the military situation?

A: As I indicated before, that remains to be seen. If the North Vietnamese continue to move their forces to the Saigon area, that would be a very severe test of the forces remaining to the government.

Q: Does the United States have any plans to cut off the airlift to Phnom Penh?

A: The United States plans to continue the airlift to Phnom Penh so long as there is funding available for the airlift and for the supplies.

Q: But if Saigon is under siege, will you still attempt the airlift?

A: The airlift, part of it comes out of Thailand, as you know.

Q: How long do you believe President Thieu can remain in power?

A: That is a subject for the Vietnamese to determine amongst themselves. They have a constitutional system, and if there are any changes to be made in the government, of course that is something that will be determined by the Vietnamese themselves.

Q: Mr. Secretary, will you recommend to the President that he go to the Congress and ask for permission to reintroduce U.S. airpower or any other way to put U.S. forces back into Vietnam, or to use them in some way in Vietnam?

A: I think that the President's statement of March 6 is quite definitive on that subject. He indicated at that time that there would be no reintroduction of U.S. military power.

MORE



Q: Including air power?

A: U.S. military power I believe was the gist of what he said.

Q: Mr. Secretary, sir, there isn't any ambiguity in your earlier reply to the question of what kind of commitment we had to South Vietnam at the time of the peace accords; you repeated Secretary Kissinger's words, "the moral commitment." Does that -- did that commitment include a 'promise to intervene' with force in the event of a major violation by North Vietnam of the Accords?

A: I do not know the answer to that question. What I indicated earlier was that the United States indicated its determination at that time that the Accords not be grossly violated and although the Accords started to be violated by Hanoi from the very time the agreements were signed, the violations tended to be low-level, relatively discreet, rather than gross and blatant as they have become more recently.

Q: Mr. Secretary, are there any plans to reintroduce the one-for-one exchange? Are we going to try to get the number of aircraft to Vietnam -- let's say, they've lost or abandoned?

A: Any question of the putting in of additional equipment into Vietnam would be based upon what we perceive to be the present needs of the situation, reflecting the possibility of a stabilizing of a defense perimeter north of Saigon and that any details of that sort will have to be worked out with the President subsequent to the return of General Weyand when he provides his report.

Q: Mr. Secretary, do you have a worst-case/best-case forecast for what is liable in the future? In the worst case, how long do you think Saigon could hold; in the best case, how long?

A: I would care to avoid speculation on that subject. As you know, the testing period should come in the next 30 days, and I would hope -- we would all hope -- that under the circumstances that Saigon will be able to stand up to that test. The best case I think is just what has been indicated, that there will be the possibility of a defensive area in the South -- Saigon and the Delta -- that can be held with the forces available to the government.

Q: What are the ingredients going into making up this estimate period? Why do you put that kind of time limit on it?

A: What is Hanoi's strategy, whether Hanoi plans to bring its forces indeed down into the area around Saigon; whether it would plan on an assault against Saigon; whether they would consolidate their gains in the northern part of the country -- in the Highlands and MR I or would seek to disrupt by moving into the Delta areas, I think that those are the major considerations regarding the capability of the forces opposed to the government forces in that period of time. There is also the question of how successfully the government will be in pulling together the forces that are available; the troops that have been evacuated from the North making them reasonably combat effective and stemming and reversing the decline in morale of those forces.

MORE



Q: Mr. Secretary, based on what you know now, do you see any evidence that Hanoi is tilting toward any one of those options? For example, do you see any evidence that they are moving down divisions from MR I and II, for example, closer to Saigon?

A: There has been relatively little movement of that sort. There has been the further movement, however, of some of their divisions from the strategic reserve toward the South.

Q: Mr. Secretary, two more questions on the Phnom Penh airlift: are you saying that if Saigon becomes unavailable, we'll shift all of our operations to Thailand?

A: That would have to be worked out but I think that the question is a moot one unless we get additional funding from the Congress because our funding limitations are quite severe at the present time.

Q: What is our recourse if Thailand denies us permission?

A: Well, I think that we will have to deal with all of those aspects as the problem arises; I do not think the problem will arise.

Q: In the past the Administration has always said the South Vietnamese have shown the will to fight and therefore -- (inaudible) -- Now the Administration is saying -- both Mr. Habib and you are saying that the test is about to come. Are you in any way telling the South Vietnamese that it's time that they make a stand and fight; it's time that they stop this strategic withdrawal; if they do not they will have no chance of getting it when it comes.

A: That was not my intention to tell them that; but I think that the circumstances convey that message in themselves.

Q: Can I get back to your earlier point; you referred back to the President's remarks of March 6, I don't recall exactly, you said military power, but the thrust of it was no GIs would be going in. Are you ruling out the possibility that the President will make a request to the Congress to use American airpower?

A: I cannot rule that out at this time but that is a subject that would have to be reviewed very carefully with the President and I think that the likelihood even of that form of reintroduction of power is quite low.

Q: Do you anticipate a massive airlift during the next 30 days in the manner of the 1973 airlift to Israel?

A: No, sir, at this time we have the \$175 million worth of funding which is the fourth quarter's portion of the \$700 million worth of funding that was allowed to use in FY 75. We will continue to draw on that funding but the kind of operations that you describe would depend upon the availability of far greater funding than is presently available to us. At any point that we receive additional funding we would have to consider that possibility.

Q: Mr. Secretary, I've been intrigued by your comments over the last two weeks. First an attack on Saigon was expected in 1976; as recently as Monday it was expected within 30 to 60 days and now it's expected in thirty days. Are you troubled by the intelligence



you've been receiving from your best experts? That's one question and the second one is what's changed your mind so rapidly?

A: I think that what I've just said is essentially what I've said before that we could have a test in the next 30 days or so. The other day, I think I was talking about an assault on Saigon. What we're saying here is that there is that possibility in the near time frame. More generally with regard to the intelligence matter, the prevailing intelligence until March 17 was that Hanoi intended to chip away in an attempt to eliminate pacification, eliminate government strong points but the main assault, the allout offensive so frequently described would come in 1976. That could change if there were opportunities presented to Hanoi. I think that the estimate of Hanoi's intentions in retrospect probably stands up quite well. The problem with intelligence was not the estimate of the intentions but the estimate of the capabilities of South Vietnam. It is obvious in retrospect that the strength, resiliency and steadfastness of those forces were more highly valued than they should have been, so that the misestimates, I think, apply largely to Saigon's capabilities rather than to Hanoi's intention. Now, since March 17, the intelligence community generally has stated that because of the new opportunities that have been presented to Hanoi as a result of the partial collapse of the forces of Saigon in the North, that they have been altering their calculations and as a consequence an allout offensive against Saigon may well come this year. I would point out, however, that to this point the word offensive probably should be kept in quotation marks. There has been relatively little combat activity. The major combat activity occurred at Ban Me Thout which fell on the 12th of March. In addition to that relatively small scale engagement, there was a general withdrawal ordered by the government that has created the opportunity that I have spoken of. I think that in several ways that our intelligence was deficient. The ways that come to mind -- this is in retrospect -- are that we had spoken for the past two years of the major logistical effort on the part of Hanoi developing a road network and a base structure in the western part of South Vietnam. That the impact of that very substantial expansion of Hanoi's capabilities was not fully taken into account in striking the balance. Secondly, that we have been engaged since we were faced with the reduced funding of this year with the necessity of shrinking the logistical base and the force structure of the forces available to South Vietnam and that this shrinkage of the force structure has had effects that go beyond the physical and have affected morale and organizational cohesion and resiliency. That also was not taken into account sufficiently in striking the balance. And finally, I think that we must recognize that while we have talked continuously amongst ourselves of the morale effects of the sharp reduction in ammunition consumption and the ammunition allowed the South Vietnamese forces that that impact on morale has not been taken sufficiently into account as well as the fact that the economic conditions in Vietnam have deteriorated in a manner so that the real pay of civil servants and soldiers has deteriorated -- that also has affected the underlying

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cohesion of the forces of the government. Now, this is all very well to speak of in retrospect. I think that these are major problems that are easier to see in hindsight than they were in prospect.

Q: This does not add up to placing the blame on the legislature or any one place in Washington.

A: That is correct. I have steadfastly attempted to avoid placing the blame. If there is blame to be distributed, I think that the blame can be distributed in a number of places. What I have repeatedly said, and I have said this steadily during the course of last year, that with regard to the drastic reduction of assistance for Vietnam in which the President's budget request was reduced by better than 60%, before one takes into account price increases, the very substantial increase in fuel costs as well as munitions, that first it was unworthy of the United States to fail to provide material and moral support to the South Vietnamese after the Paris Agreements that permitted the reduction of our own forces. I've emphasized that. I have emphasized secondly, that as a result of the reduction in funding available, that the force structure and logistical base of the South Vietnamese forces has been shrunken. We did not think shrunken unacceptably. Thirdly, we have been aware of the impact on morale of the declining availability of ammunition and those are considerations that must be kept fully in mind.

Q: In discussions on morale, do we have any feeling yet for the state of morale which has set in the South Vietnamese divisions in the III and IV Regions, those which have not been involved in this retreat?

A: We do not know the answer to that. We know that the effects of the collapse in the North cannot but have some effect on the morale of the remaining forces. As I indicated earlier, any decline in morale must be stemmed and reversed if there is to be a substantial chance of establishment of a stabilized perimeter.

Q: For example, in the 1972 offensive in hindsight it was viewed that the North made some mistakes in not fully exploiting some of their opportunities and that they didn't have the wherewithal to respond quickly to a changing situation. You said now that they obviously have a very good logistics system. Is there any doubt in your mind that they have the capability, if they choose, to bring down a large number of divisions quickly and to launch the kind of attack that would be a very serious test for the defenders?

A: They have the capability to move those divisions forward into MR III and MR IV.

Q: If you were going to choose the word to describe the way you feel about the South Vietnamese actions, or lack of actions, how would you describe it?

A: I think that my reaction is one of sympathy. We are all distressed, I think, at the partial collapse of the forces available to the government in the North. It is plain that the strategic decision to withdraw, however wise in terms of the forces available

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to the government under those circumstances with the decline in the mobility assets available to the government, that this was executed in a way and without sufficient preparation that it has led to at least a partial debacle. That, I think, elicits sympathy on the part of myself and on the part of most Americans.

Q: Would you say that the South Vietnamese divisions and forces are sufficient to withstand a North Vietnamese attack -- it's a question of morale and ability of the government to organize these forces?

A: As I've indicated before, that will be a severe test.

Q: Are the physical forces available to the government sufficient, in your estimation, to withstand an attack?

A: As I suggested, I think the question there is the morale of those forces and how they will perform when and if the test comes. I would prefer not to speculate further on that at this time.

Q: Did President Thieu ask the United States for either troops or air cover?

A: I do not know whether there has been any formal request. I would have to check on that and we'll get back to you.

Q: Does the Defense Department have any general plans for the evacuation of Saigon, and also, any plans to save equipment the United States has supplied?

A: The United States Government has an emergency evacuation plan for all capitals around the world, so that I would suspect that we have one that is in good shape with regard to Saigon, but that is not unique to the circumstances of Saigon. With regard to the equipment, there are no such plans. That first of all presupposes that circumstances would arise in which it would be appropriate to withdraw equipment, and I do not think that there is much capability to do so.

Q: To follow up on that point, will those four U.S. ships and will those 700 Marines be available for this emergency evacuation plan if it becomes necessary to protect American citizens, not only from the North Vietnamese and the Viet Cong but from South Vietnamese soldiers?

A: In the event of an emergency evacuation plan, the forces of the United States are available at the request of the Ambassador through the Department of State.

Voice: We're run over about 12 minutes. Let's take about three more questions.

Q: Mr. Secretary, is it known how many aircraft were lost in the rout and is it known why they didn't fly them out?

A: Many of the aircraft were non-flyable; some of them were in storage. As you know, once again as a result of the decline in funding, there have been insufficient parts to maintain some of the aircraft. Contract maintenance funds were shrunken under the reduced budget and as a result the decision was made to put some of the aircraft aside and to concentrate on the maintenance of others. To what extent other

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aircraft that were flyable were not flown out and why, I do not know the answer.

Q: Do we know the total number left behind?

A: It certainly would be in excess of several hundred.

Q: Barring further aid to South Vietnam this fiscal year, is the \$175 million enough to cover the losses, and the defense of Saigon into the rainy season?

A: The question of enough is dependent upon the ability of the government effectively to organize the forces available to them. We have a request to the Congress for \$300 million in addition. The overall strategy with regard to aid will be reviewed by the Administration when General Weyand returns. The amount of aid that we can move in at the present time is quite limited.

Q: Do you plan to go out to the western White House this weekend?

A: I'm not planning on that at this time; I'm in touch with the President by phone on a daily basis.

Q: The other part of the question is, is the rainy season going to hinder the North Vietnamese -- the rains are about due to start in another month or so in MR III?

A: The restrictions on the North Vietnamese would be far less than they have been historically because of the improvement of the road net.

Q: Mr. Secretary, there always is great sensitivity when we move in Marines and our ships and we all remember the Tonkin Gulf; what exactly are the orders for the four Navy ships with the four Marine rifle companies aboard?

A: The position of the Department of Defense in its issuance of orders is to adhere strictly to the law specified in the cutoff of all combat activities in the summer of 1973. I believe August 15; at that time it was indicated to all forces that they should avoid situations that would require participation in combat. Those orders continue to apply throughout the four successive states of Indochina. In any circumstances in which it appears that American forces would be drawn into combat situations that would be circumstances that we become involved in such matters voluntarily, we would be in violation of the law.

Q: Mr. Secretary, you said earlier that the United States was determined to uphold the principles of the Paris Accords and see that they were enforced and so forth; what recourse does the United States have other than to send in troops?

A: That is the problem. I think you put it very well. The ultimate sanction after 1973 was the sanction of re-employment of U.S. military power to enforce the Accords. With the legislation that was passed August 15, 1973, the ultimate sanction disappeared for the enforcement of those Accords.

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Q: Can I switch you to something else that you commented on this week in regard to an oil embargo. You said intervention is a remote possibility; you also said on the other hand we would have to react. You spoke of the reaction being severe; do you want to elaborate on that?

A: No.

Q: Will you? Or didn't you get enough questions to clarify your thinking on the matter?

A: I think that there is inherently in such a situation a considerable degree of ambiguity as I indicated. The prospect of military intervention on which I was directly asked, continues to be a remote possibility. What I further stated was that the United States might react less tolerantly towards the reintroduction of a boycott depending on the circumstances than it did in 1973. Now, just how we might react under such hypothetical conditions has not been defined; I do not believe it can be defined until such conditions arise and decisions are made.

E N D

