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MEMORANDUM

THE WHITE HOUSE

WASHINGTON

703-2  
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May 20, 1975

MEMORANDUM FOR: THE PRESIDENT

FROM: HENRY A. KISSINGER *B*

SUBJECT: Presidential Determination for Sale of the Sidewinder Missile to Brazil *MAJ*

Deputy Secretary of State Ingersoll has recommended that you make a Determination, required by Section 4 (The Conte Amendment) of the Foreign Military Sales (FMS) Act, to permit Brazil to make credit purchases of a sophisticated weapon -- the air-to-air Sidewinder missile (Tab B). The Conte Amendment prohibits the use of funds authorized by the Act to provide credit for the sale of sophisticated weapon systems to any underdeveloped country unless you determine that it is important to U.S. security.

On May 21, 1973, President Nixon found it to be important to U.S. national security to make credit available for the sale of F-5E aircraft to five Latin American countries including Brazil. The Brazilians believed, when they purchased the F-5E aircraft for credit in 1973, that they would be permitted to purchase the Sidewinder also on the same terms.

I see no objection to agreeing to the Brazilian request. The F-5E is designed to carry the Sidewinder (AIM-9) air-to-air missile as one of its principal armaments. Although we do not normally sell consumables like munitions for credit -- only for cash -- appropriate missiles are frequently packaged in with initial sales of aircraft. The Brazilians understand in this case that future sales of the Sidewinder will be for cash, and that no new credits would have to be extended to cover the initial sale of the missiles.

Consultations with Congress, in conjunction with the possible sale of the F-5E to Brazil and the other Latin American countries, revealed a diminution of hostility to transfers of sophisticated arms to Latin America since the Conte Amendment was enacted in 1967. Although there is growing antagonism on arms sales there has been no adverse reaction in Congress to the earlier decision to sell the F-5E to Brazil. I believe -- and Mr. Friedersdorf agrees -- that Congress will accept the sale of the Sidewinder missile as an integral part of the F-5E

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weapon system. Two other countries in Latin America -- Argentina and Venezuela -- have already bought the Sidewinder without adverse reaction in Congress.

Foreign Assistance Act Section 502(B) -- concerning human rights -- potentially applies to Brazil. This is, however, a sense of Congress resolution which is not binding. The Department of State has plans to deal with the purport of Section 502(B) outside this Determination.

I recommend you make the necessary Determination that extension of credit for sale of the Sidewinder to Brazil is important to the security of the United States. The memo at Tab A will give effect to this recommendation.

Subject to your approval, the Department of State will inform Congress of your Determination along with the statement of reasons attached at Tab A. The law requires that Congress be informed and also requires that the pertinent documents be published in the Federal Register.

Mr. Lynn concurs in this recommendation to sell the Sidewinder missile to Brazil (Tab C) as does the Department of Defense.

RECOMMENDATION

That you sign the Determination at Tab A.