The original documents are located in Box 26, folder "Sinai Accords" of the Ron Nessen Papers at the Gerald R. Ford Presidential Library.

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August 14, 1975

MEMORANDUM TO:

THE PRESIDENT

THROUGH:

DON RUMSFELD

FROM:

JACK MARSH

Attached is a copy of asmemo to Secretary of State Kissinger summarizing the responses to Members to the Sinai Surveillance question.

JOM:cb

MEMORANDUM TO:

HENRY KISSINGER

FROM

JACK MARSH

In reference to the Sinai Surveillance matter, set out below are short summaries of Members of the House and Senate who were contacted as to their views on Congressional reaction:

Congressman Thomas Morgan: He had no objection to non-military personnel being used, but felt there would be some opposition. He felt most House members would go along with it.

Senator Robert P. Griffin: He raised the question as to why not have the U.N. do it, but said if it was the only way to get an agreement, then it would be worth a try.

Congressman William Broomfield: He felt he could probably go along with a small number of civilian personnel, if it was part of an overall settlement package.

Senator Bob Byrd: He indicated concern about the proposal, and pointed out this is the way we got involved in Vietnam. His first response was "it concerns me".

Eongressman John Rhodes: He had a cautious attitude, and is of the opinion that it can be sold asproperly presented and must be certain of an overall plan. Rhodes also asked a question about cost.

Congressman Elford Cederberg: He says we cannot let the situation there break down inasmuch as the alternative is not acceptable, and was of the view that the Congress would go along. He asked the question as to whether they would be U. S. employees of a private outfit.

Congressman George Mahon: He had a very cautious attitude. Cited the Vietnam experience, but said we have got to do something. Felt this would not sound too bad, and he wants to be with the President, and was not shocked by such a proposal. He feels it must be part of a total settlement.

See attachments for Senators John McCiellan, Clifford Case, Milton Young and Congressman Wayne Hays.

August 14, 1975

MEMORANDUM TO:

THE PRESIDENT

THROUGH:

DICK CHENEY

FROM:

JACK MARSH

Attached is a summary of Lee Hamilton's comments on the Sinai Surveillance matter. I was able to speak with Lee personally.

I might add that on the previous list that I sent, Cederberg was contacted personally by me at the Office rather than by phone as the memo indicated.

JOM:cb

cc: BMcFarlane

L Janka

Change

MEMORANDUM TO:

SECRETARY KISSINGER

FROM:

JACK MARSH

I had an opportunity to see Lee Hamilton on the Hill today, and I brought up the Sinai Surveillance matter to him as to his views, and how he thought the Congress would react.

Lee was very sautious in his response, and indicated reluctant approval. He recognizes the need for an interim agreement. He feels that if this is the linchpin necessary to pull it together, he could probably support it. He has reservations about the introduction of any American personnel ento the ground in this volatile situation.

My own assessment of his attitude is that he will not be an advocate, but neither will he encourage opposition, and probably would vote to support the effort.

ce: BMcFarlane LJanka JOM:cb

THE WHITE HOUSE

WASHINGTON

August 13, 1975

CONFIDENTIAL

MEMORANDUM FOR:

JACK MARSH

FROM:

WILLIAM T. KENDALL W

SUBJECT:

Notifying Senators regarding the Sinai

Surveillance Arrangements

The following Senators were notified on August 13, 1975:

Senator Clifford Case: Reached in Alaska at 7:30 a.m. their time. Thinks this arrangement is "essential" if we are going to reach agreement between both sides. Was concerned that we could be ordered out by either side or by the U.N. Feels both sides must agree that we cannot be thrown out.

Senator John McClellan: Reached in Alsaka at 7:45 a.m. their time. Senator sees nothing wrong with this arrangement if both sides agree and it is for technical personnel only. His questions were: What is the time frame? Will we man on both sides of the passes? He said he hopes the plan succeeds.

August 11, 1975

MEMORANDUM TO:

HENRY KISSINGER

FROM

JACK MARSH

The attached list shows the location of House and Senate leaders during the present week. With the exception of Senator Sparkman and Congressman Cederberg, all are away from Washington. Cederberg will be leaving the leth, and if you desire you might be able to meet with him Wednesday.

I would not recommend bringing any of the leaders back to Washington for a meeting because of the speculation that would ensue. However, you may wish to make calls to several of them, in which event I would suggest the following:

Senator Robert Byrd
Senator Griffin
Senator Case (he's in Alaska)
Congressman Rhodes
Congressman Morgana
Congressman Broomfield

If your schedule will not permit phoning, I will be glad to call or have contacted any whose views you may wish to obtain.

JOM:cb

THE WHITE HOUSE

WASHINGTON

August 13, 1975

ADDENDUM REPORT FROM W. T. KENDALL TO J. MARSH RE SINAI PASSES

Senator Milton Young was contacted at 6:00 p.m. Washington time: The Senator has no objection to this arrangement. He feels that the plan has merit but thinks there will be some criticism. He asked this question: "Would the information obtained by U.S. personnel be available to the United Nations?" He feels this would be essential to avoid the charge that we might be favoring Israel in a dispute.

RED TAG

THE WHITE HOUSE

WASHINGTON

August 13, 1975

MEMORANDUM FOR:

JACK MARSH

FROM:

CHARLES LEPPERT, JR. 6

SUBJECT:

Report on Conversation with Rep. Wayne

Hays (D-Ohio)

Talked by telephone to Rep. Wayne Hays on the Egyptian - Israeli Agreement on the Sinai. The report is as follows:

Date of Contact:

August 13, 1975

Time:

4:40 p.m.

Place:

St. Clairville, Ohio

Comment:

It's O.K. with me but I can't say what the say what up there will say. I don't think there will be a bad reaction to the use of civilian personnel. If there is any criticism it will be muted on the Hill because of the Israeli involvement. You will not get the same kind of reaction that you got on the

Greek-Turkey on Turkish aid situation.

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TAGS: PFOR, IS, US, EG

SUBJECT: SECOND DRAFT STATEMENT FOR SPRC APPEARANCE ON SINAI ACCORDS

FOR SECRETARY FROM LEIGH

TEXT OF SECOND DRAFT PROMISED IN TOSEC 148868 BEGINS AT PARA 3 THIS MESSAGE, SISCO THINKS YOU SHOULD DRAW UPON BOTH HIS DRAFT AND ONE WHICH FOLLOWS IN PREPARA-TION FOR TESTIMONY TOMORROW, SINCE LATTER CONTAINS SOME ARSUMENTATION NOT POUND IN FORMER.

2. AS SOON AS WE RECEIVE TEXT OF SISCO DRAFT, WE WILL CABLE COMMENTS ON LEGAL POINTS.

BEGIN TEXTS IN MY PRIOR APPEARANCES BEFORE THIS COMMITTEE, I HAVE EMPHASIZED TO THE MEMBERS THE IMPORTANCE OF THE RECENTLY SIGNED SINAL ACCORD. THE SIGNING OF THIS ACCORD WAS NOT ONLY A SIGNIFICANT ACT OF ITSELF, PROVIDING AS IT DOES FOR THE WITHDRAWAL OF ISRAELI FORCES FROM PORTION OF OCCUPIED AREAS AND THE AFFIRMATION OF OBLIGATIONS BY BOTH PARTIES REGARDING RENUNCIATION OF THE USE OF FORCE, BUT ALSO, AND MORE IMPORTANTLY, IT WAS A HARD FIRST STEP IN THE DIRECTION THAT BOTH PARTIES MUST MOVE IF LASTING PEACE IS TO BE FOUND IN AN AREA WHICH HAS BEEN AFFLICTED WITH WARS AND THREATS OF WARS FOR MORE THAN THENTY-FIVE YEARS. INDEED, THE SIGNIFICANCE OF THE SINAL ACCORD LIES MORE IN THE POSSIBILITIES WHICH



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DECLASSIFIED E.O. 12356, Sec. 3.4. MR 94-5, \$28; State Itr. By Lt NARA Date 4 21 94 IT OPENS UP FOR FURTHER STEPS IN THE FUTURE THAN IT DOES IN THE HARD FIRST STEP ALREADY TAKEN.

A. THE BALANCE OF FORCES IN THE MIDDLE EAST IS STILL PRECARIOUS! IT SHOULD NOT BE ASSUMED THAT BECAUSE THE EGYPTIAN STRAELI AGREEMENT WAS SIGNED EARLY LAST MONTH THE URGENCY OF FINDING A SOLUTION IN THE MIDDLE EAST HAS DIMINISHED. ON THE CONTRARY, THE SITUATION IN THE MIDDLE EAST REMAINS EXPLOSIVE.

I AM WELL AWARE OF THIS COMMITTEE'S CONCERN ABOUT THE PUBLICATION OF CERTAIN OF THE DOCUMENTS WHICH HAVE BEEN PURNISHED TO THE COMMITTEE AND ITS DESIRE TO ASSURE ITSELF THAT THE COMMITTEE HAS CONSIDERED EVERY DOCUMENT TRULY RELEVANT TO THE CONSIDERATION OF THE U.S. PROPOSAL FOR AN EARLY WARNING SYSTEM.

G. WE HAVE MADE, I BELIEVE, AN HISTORICALLY UNPRECEDENTED EFFORT TO MEET THE COMMITTEE'S CONCERNS, WE
HAVE SUPPLIED TO THE COMMITTEES OF CONGRESS ON A
CLASSIFIED BASIS SOME OF THE MOST SENSITIVE MATERIAL KNOWN
TO THE DIPLOMATIC PROCESS AND, INCIDENTALLY AMONG THESE
DOCUMENTS, MATERIAL PROM THE RECORD OF THE SINAI NEGO+
TIATIONS OF THE VERY CATEGORY WHICH PRESIDENT WASHINGTON
DECLINED TO FURNISH TO THE HOUSE OF REPRESENTATIVES IN
HIS FAMOUS LETTER OF REFUSAL IN 1794.

7. TO GO FURTHER THAN WE HAVE ALREADY GONE IN MAKING SENSITIVE MATERIALS AVAILABLE TO THE COMMITTEE WOULD RAISE PROBLEMS OF TRANSCENDENT IMPORTANCE TO THE INTEGRITY OF THE PROCESSES AND THUS THE SUBSTANCE OF OUR FOREIGN POLICY.

S. THE FIRST PROBLEM IS THAT IT WOULD EXPOSE TO THE RISK OF COMPROMISE DIPLOMATIC EXCHANGES WHICH IF MADE PUBLIC WOULD IN ALL PROBABILITY UPSET THE PRECARIOUS BALANCE OF POLITICAL FORCES IN THE MIDDLE EAST WHICH I REFERRED TO ABOVE. WHILE I AM SECRETARY OF STATE I WILL NOT ADVISE OR RECOMMEND THAT THE PRESIDENT RUN THESE RISKS. THE DANGERS TO AMERICAN INTERESTS AND THE INTERESTS OF OUR FRIENDS IN THE MIDDLE EAST IS TOO GREAT. I CANNOT FAIL TO TAKE ACCOUNT OF THE FACT THAT ALL OF THE CLASSIFIED DOCUMENTATION WHICH WE FURNISHED TO THIS COMMITTEE AND TO THE HOUSE INTERNATIONAL



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RELATIONS COMMITTEE HAS FOUND ITS WAY INTO THE PAGES OF THE LARGE METROPOLITAN DAILIES, THESE UNAUTHORIZED DISCLOSURES HAVE HAD A STRONGLY PREJUDICAL EFFECT ON THE SITUATION IN THE MIDDLE EAST AND ON OUR PROSPECTS FOR CAPITALIZING ON WHAT MAY BE A FLEETING OPPORTUNITY FOR SIGNIFICANT PURTHER STEPS TOWARD A PERMANENT PEACE IN THE AREA.

9. THERE IS, HOWEVER, A SECOND PROBLEM IN CONNECTION WITH THE DEMAND FOR FURTHER SENSITIVE DOCUMENTATION. ACQUIERCENCE IN THIS DEMAND WOULD ESTABLISH A PRECEDENT WHICH WOULD IN MY CONSIDERED OPINION GRAVELY IMPAIR THE ABILITY OF THE PRESIDENT TO DISCHARGE HIS CONSTITUE TIONAL RESPONSIBILITIES FOR THE CONDUCT OF FOREIGN RE-LATIONS. SUCCESS IN THE CONDUCT OF POREIGN POLICY DEPENDS ON THE CONFIDENTALITY OF PRESIDENTIAL EXCHANGES WITH OTHER GOVERNMENTS. CONFIDENTIALITY NEED NOT BE MAINTAINED FOREVER! INDEED. NO GOVERNMENT IN THE WORLD PUBLISHES THE RECORDS OF ITS DIPLOMATIC HISTORY SOONER AND MORE FULLY THAN THE UNITED STATES. BUT CONFIDENTIALITY MUST BE MAINTAINED, IN SOME CASES FOR A SHORT PERIOD, IN OTHER CASES, FOR A LONGER PERIOD. IF OTHER GOVERNMENTS BECOME AWARE THAT THEIR MOST SENSITIVE DIPLOMATIC EXCHANGES WITH THE PRESIDENT WILL BE SUBJECT TO PREMATURE DISCLOSURE OUTSIDE THE MARROW CONFINES OF THE PRESIDENTIAL OFFICE. THOSE GOVERNMENTS WILL NOT BE WILLING TO ENGAGE IN CONFIDENTIAL EXCHANGES WITH THE UNITED STATES. THE PRESIDENT WILL BE UNABLE TO UTILIZE AN ESSENTIAL INSTRUMENT FOR THE CONDUCT OF DIPLOMACY AND THE IMPLEMENTATION OF POREIGN POLICY: AN INSTRUMENT THAT DEPENDS UPON CONFIDENCE IN THE FIDELITY AND DISCRETION OF THE AUTHORIZED REPRESENTATIVES OF THE UNITED STATES. ANY DEMAND BY THE CONGRESS FOR SENSITIVE DIPLOMATIC EXCHANGES WOULD INFRINGE UPON THE CONSTITUTIONAL PREROGATIVES AND OBLIGATION OF THE PRESIDENT TO CONDUCT THE POREIGN RELATIONS OF THE UNITED STATES. ON

GROUND OF PRINCIPLE, I WILL NOT AS SECRETARY OF STATE ADVISE THE PRESIDENT TO COMPROMISE HIS CONSTI-TUTIONAL PREROGATIVE AND IMPAIR HIS ABILITY TO MEET HIS CONSTITUTIONAL OBLIGATIONS. ON GROUND OF PRACTICE --OF THE YIABILITY OF THE DIPLOMACY OF THE UNITED STATES -- I CAN ONLY ADVISE THE PRESIDENT TO MAINTAIN THE CONFIDENTIALITY OF THOSE DIPLOMATIC COMMUNICATIONS WHOSE CONTENT REQUIRES CONFIDENTIALITY, I SAY THAT WITH THE UTHOST RESPECT FOR THE CONSTITUTIONAL ROLE OF THE CONGRESS AND FOR THE DEDICATED MEN AND WOMEN WHO MAKE UP ITS PRESENT MEMBERSHIP.

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10. THIS IS NOT TO SAY THAT THE EXECUTIVE DOES NOT HAVE A CONSTITUTIONAL OBLIGATION TO PROVIDE THE CONGRESS WITH THE TEXTS OF INTERNATIONAL AGREEMENTS TO WHICH THE UNITED STATES IS A PARTY. THIS OBLIGA-TION WE RECOGNIZE, OF COURSE, WHETHER THE AGREEMENT IS IN THE FORM OF A TREATY OR OF AN EXECUTIVE AGREE-MENT. HOWEVER, WITH RESPECT TO THE SINAI ACCORD WE HAVE FURNISHED THE TEXT OF EVERY DOCUMENT WHICH IN OUR JUDGMENT GIVES RISE TO AN INTERNATIONAL COMMIT-MENT OR CONSTITUTES AN INTERNATIONAL AGREEMENT. WE MAVE HELD BACK NOTHING WHICH WOULD FALL WITHIN THE SCOPE OF THE CASE ACT OR EVEN WITHIN THE SCOPE OF THE NATIONAL COMMITMENTS RESOLUTION. INDEED, WE HAVE FURNISHED SOME DOCUMENTS WHICH, ALTHOUGH ADMITTEDLY RELEVANT, HAVE NOT YET BECOME INTERNATIONAL AGREE-MENTS BECAUSE THEY AWAIT SIGNATURE, THAT IS, THE MEMORANDA OF AGREEMENT BETWEEN THE UNITED STATES AND ISRAEL.

AMONG THE DIPLOMATIC COMMUNICATIONS WHOSE TEXTS ARE NOW BEING SOUGHT ARE HIGHLY SENSITIVE DOCUMENTS WHICH RELATE TO ONGOING NEGOTIATIONS IN THE MIDDLE EAST. THIS PARTICULAR MATERIAL IS TOO DELICATE TO DISCLOSE, IF IT WERE TO BE DISCLOSED, ONGOING NEGO-

TIATIONS COULD GO BACKWARD RATHER THAN FORWARD; THEY EVEN COULD COLLAPSE ALTOGETHER. THE DOCUMENTS IN QUESTION CONTAIN NOTHING WHICH CONSTITUTES AN INTER-NATIONAL AGREEMENT BINDING ON THE CONGRESS OR ON THE UNITED STATES AS A GOVERNMENT. HOMEVER, PUBLIC DISCLOSURE OF THESE ITEMS WOULD GRAVELY PREJUDICE OUR ABILITY TO CONTINUE THE PROCESS OF STEP-BY-STEP NEGOTIATION WHICH WE ARE CONVINCED HOLDS THE BEST HOPE FOR SUCCESS IN THE MIDDLE EAST. DISCLOSURE WOULD DRIVE THE ARAB STATES AND ISRAEL APART) IT WOULD UNDERMINE THE MEN OF PEACE AND PROMOTE THE RESUMPTION OF WAR.

CONSTRENTIAL

MY ATTENTION HAS BEEN DRAWN TO ONE OF THE EARLIEST CONSTITUTIONAL PRECEDENTS WHICH EXISTS ON THE RELATIONSHIP BETWEEN THE CONGRESS AND THE PRESIDENT IN THE FIELD OF FOREIGN POLICY, NAMELY, THE REQUEST BY THE HOUSE OF REPRESENTATIVES IN 1794 THAT PRESIDENT WASHINGTON SUPPLY THE CORRESPONDENCE MAND OTHER

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DOCUMENTS RELATIVE TO THAT (THE JAY) BEGIN UNDERLINE. TREATY EXCEPTING SUCH OF SAID PAPERS AS ANY EXISTING NEGOTIATION MAY RENDER IMPROPER TO BE DISCLOSED. " END UNDERLINE. I CALL PARTICULAR ATTENTION TO THE EXCEPTION EVEN IN MAKING A DEMAND WHICH THE PRESIDENT IN FACT LATER REJECTED, THE HOUSE OF REPRESENTATIVES EXCEPTED FROM THAT DEMAND ITEMS RELATING TO ON-GOING NEGOTIATIONS. A NUMBER OF THE DOCUMENTS WHICH ARE NOW BEING DEMANDED BY SOME SENATORS FALL PRECISELY IN THIS CATEGORY. THEIR DISCLOSURE WOULD BRAVELY PREJUDICE OUR OPPORTUNITIES FOR NEGOTIATING FURTHER STEEBY STEP APPROACH TO GENERAL PEAGE IN THE MIDDLE EAST. THEY WOULD EQUALLY PREJUDICE THE OPPORTUNITIES FOR PEACE OF ARABS AND ISRAELIS.

13. THE LATEST MEMORANDA OF AGREEMENT WITH ISRAEL ARE SIMILAR TO EARLIER MEMORANDA OF UNDERSTANDING WITH ISRAEL WHICH HAVE BEEN SENT TO THE CONGRESS UNDER THE CASE ACT THUS, IN JANUARY 1974 FOLLOWING THE SUCCESSFUL CONCLUSION OF THE DISENGAGEMENT AGREEMENT, HE TRANSMITTED UNDER THE CASE ACT A MEMORANDUM OF UNDERSTANDING BETWEEN THE UNITED STATES AND ISRAEL WHICH WAS DATED JANUARY 18, 1974. LIKE THE LATEST MEMORANDA OF AGREEMENT, THE JANUARY 18, 1974 MEMORANDUM OF UNDERSTANDING CONTAINED PROVISIONS RELATING TO AID; TO ASSURANCES FROM EGYPT THROUGH THE UNITED STATES TO ISRAELS TO DIRECT U.S. ASSURANCES TO ISRAEL OF DIPLOMATIC SUPPORT WITH RESPECT TO SUCH MATTERS AS THE STRAITS OF BABWEL-MANDES; TO U.S. DIPLOMATIC ACTIONS IN THE EVENT OF VIOLATIONS OF THE CONTEMPORANEOUS AGREEMENT BETWEEN EGYPT AND ISRAELS TO U.S. POLICY OR INTENTION WITH RESPECT TO THE GENEVA CONFERENCE, TO THE U.S. POSITION ON THE MITHDRAWAL OF THE UNITED NATIONS EMERGENCY FORCE, IN PARTICULAR, PARAGRAPH 9 OF THE JANUARY 18, 1974 MEMORANDUM OF UNDERSTANDING PRO-VIDED THAT THE UNITED STATES WILL MAKE EVERY EFFORT TO BE FULLY RESPONSIVE ON A CONTINUING AND LONG TERM BASIS TO ISRAEL IS MILITARY REQUIREMENTS INDEED THE LANGUAGE OF THE JANUARY 1974 UNDERSTANDING IS CLOSELY PARALLEL TO PARAGRAPH 1 OF THE LATEST MEMORANDUM OF AGREEMENT EXCEPT THAT THE LATTER IS, IF ANYTHING, MORE GUARDED. THE SAME MAY BE SAID OF THE MEMORANDUM OF UNDERSTANDING OF THE UNITED STATES AND ISRAEL CONCLUDED ON SEPTEMBER 16, 1974. FOLLOWING THE DISENGAGEMENT AGREEMENT BETWEEN ISRAEL AND SYRIA, COPIES OF WHICH WERE TRANSMITTED UNDER THE CASE ACT ON A CLASSIFIED BASIS.

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******* O N F T D E N T T A LW***** COPY

BUT THIS LANGUAGE DOES NOT LEGALLY COMMIT THE CONGRESS OR THE UNITED STATES UNDER EITHER AGREEMENT TO SUPPLY MILITARY AID -- ONLY TO CONSIDER IT. CONGRESS IN PARTICULAR IS PERFECTLY FREE TO WORK ITS WILL ON ANY AID PROPOSAL WHICH THE EXECUTIVE MAY SUBMIT FOR AID TO ISRAEL.

15. THE LANGUAGE CALLING FOR THE UNITED STATES TO USE BEST EFFORTS TO BE FULLY RESPONSIVE TO ISRAEL'S NEEDS FOR MILITARY AID IS NO MORE THAN A CONFIRMATION OF THE POLICY WHICH WE HAVE FOLLOWED FOR YEARS. THE CONGRESS AND THE PRESIDENT HAVE EACH PARTICIPATED IN THE FORMULATION AND IMPLEMENTATION OF THAT POLICY.

IT DOES NOT SEEM TO ME THAT ANYTHING IN THE MEMORANDA OF AGREEMENT CHANGES WHAT HAS BEEN OUR LONG-STANDING POLICY. LOOKING BACK, I DO NOT SEE THAT PARAGRAPH 9 OF THE EARLIER UNDERSTANDING OF JANUARY 18, 1974 CAN BE SAID TO HAVE CAUSED ANY CHANGE IN OUR POLICY ON AID DURING THE LAST YEAR AND A HALF. NOR WOULD I EXPECT THE OPENING PARA-GRAPHS OF THE LATEST AGREEMENT WITH ISRAEL TO CHANGE OUR ONEDING POLICY IN THIS RESPECT.

16. IN ANY EVENT, IF ANY SUCH REQUEST REQUIRES EITHER AUTHORIZATION OR APPROPRIATION, THEN THE AGREEMENT BY ITS SPECIFIC TERMS REQUIRES SEPARATE AND INDEPENDENT ACTION BY CONGRESS. THERE IS NO LEGAL COMMITMENT IN THE AGREEMENT OR IN ANY OF THE OTHER DOCUMENTS WHICH REQUIRES CONGRESS TO ACT. PUT THE MATTER BLUNTLY, ISRAEL HAS TAKEN THE RISK OF CONGRESSIONAL INACTION, ALBEIT WITH THE KNOWLEDGE THAT THERE IS LONGUSTANDING SYMPATHY IN CONGRESS FOR ITS CAUSE.

17. THE UNDERTAKINGS IN THE MEMORANDUM OF AGREE MENT WITH RESPECT TO MAKING OIL AVAILABLE FOR PUR-CHASE BY ISRAEL ON A CASH AND CARRY BASIS IN THE EVENT OF EMBARGO ARE ADMITTEDLY OF A SOMEWHAT DIFFERENT CHARACTER, THEIR PERFORMANCE WILL NOT UNDER PRESENT LAW REQUIRE CONGRESSIONAL ACTION, AND THE UNITED STATES IS AUTHORIZED UNDER CURRENT LAW TO MAKE AND IF NEEDS BE IMPLEMENT THESE UNDER-TAKINGS. IT SHOULD BE NOTED THAT, IN ANY EVENT,

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******** O N P 2 D E N T T A L ****** S COPY

ISRAELI DOMESTIC CONSUMPTION IS RELATIVELY SMALL COMPARED TO TOTAL SUPPLIES AVAILABLE TO THE UNITED STATES. ASSURANCE TO ISRAEL ON THIS VITAL ISSUE OBVIOUSLY HAD AN IMPORTANT BEARING ON ISRAELI ACCEPTANCE OF THE BASIC AGREEMENT.

APART FROM THE FOREGOING, ALL THE OTHER PROVI-SIONS OF THE MEMORANDUM OF AGREEMENT FALL IN THE CATEGORY OF ACTIONS WHICH THE PRESIDENT IS AUTHORIZED TO CONDUCT OUR DIPLOMATIC RELATIONS, THESE FALL IN THE CATEGORY OF STATEMENTS OF POLICY OR INTENTION NOT NORMALLY CONSIDERED INTERNATIONAL AGREEMENTS. IN ANY EVENT THEY ARE WELL WITHIN THE PRESIDENTIS INDEPENDENT AUTHORITY.

19. I RECOGNIZE THAT SPECIAL ATTENTION HAS BEEN FOCUSED BY SOME MEMBERS ON PARAGRAPH 18 OF THE MEMORANDUM OF AGREEMENT WITH ISRAEL. FRANKLY, I HAVE BEEN SURPRISED THAT THE LANGUAGE OF THIS PARA-GRAPH, WHICH IN ITS OPERATIVE SECTION DOES NO MORE THAN SAY THE PRESIDENT WILL CONSULT WITH ISRAEL IN THE EVENT ITS SECURITY IS THREATENED BY A WORLD POWER, SHOULD HAVE BEEN CONSIDERED BY SOME TO BE APPROPRIATE ONLY FOR A SECURITY TREATY. IN THE EVERYDAY PRACTICE OF DIPLOMACY NATIONS AGREE TO CONSULT ON HUNDREDS OF SUBJECTS. MOREOVER, IRRESPECTIVE OF PARAGRAPH 18, HE WOULD SURELY CONSULT WITH ISRAEL IF SHE WERE THREATENED. BUT I SATHER THE CON-CERN WITH PARAGRAPH 10 RESTS AS WELL ON THE PRECEDING SENTENCE, WHICH SPEAKS OF THE LONGUSTANDING UNITED STATES COMMITMENT TO THE SURVIVAL AND SECURITY OF ISRAEL# AND THEN SAYS THE U.S. WOULD TAKE A GRAVE VIEW OF ANY THREAT TO ISRAEL FROM A WORLD POWER. BOTH PARTS OF THAT SENTENCE IN MY VIEW ARE NO MORE THAN A RESTATEMENT OF EXISTING UNITED STATES POLICY AS DEVELOPED JOINTLY BY PRESIDENTS AND CONGRESSES SINCE 1948 IN A VAREITY OF WAYS, SUCH AS IN THE MIDDLE EAST RESOLUTION OF 1957, WHICH IS A PART OF THE LAW OF THE LAND, ANOTHER STATEMENT IS FOUND IN PUBLIC LAW 91-411 AS FOLLOWS:

CONGRESS VIEWS WITH GRAVE CONCERN THE DEEPENING INVOLVEMENT OF THE SOVIET UNION IN THE MIDDLE EAST AND THE CLEAR AND PRESENT DANGER TO WORLD PEACE RESULTING FROM SUCH INVOLVEMENT WHICH CANNOT BE IGNORED BY THE UNITED STATES.

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******* B N F T D E N T L A L****** COPY

IF I WERE IN AN ARGUMENTATIVE MOOD, I MIGHT CONTEND THAT THE LANGUAGE I HAVE JUST QUOTED IS MORE FAR REACHING IN ITS TERMS THAN ANYTHING IN PARAGRAPH 10 OF THE HEMORANDUM OF AGREEMENT.

20. FINALLY, I SINCERELY BELIEVE, WITH ALL RESPECT TO THOSE OF YOU WHO MAY DISAGREE, THAT AN UNDERTAKING MERELY TO CONSULT IS FAR, FAR DIFFERENT FROM ANY SECURITY TREATY THE UNITED STATES IS PARTY TO.

21. I TURN NOW TO A QUESTION WHICH I RECOGNIZE HAS CAUSED CONSIDERABLE CONCERN AMONG THE MEMBERS. WHETHER, IF THE CONGRESS APPROVES THE PROPOSAL, IT WILL THEREAFTER HAVE NO CHOICE EXCEPT TO APPROVE WITHOUT FURTHER ADD AND IRRESPECTIVE OF CURRENT CIRCUMSTANCES THE REGUESTS FOR AID WHEN REQUESTS ARE MADE FOR AID UNDER THE MEMORANDA OF AGREEMENT, I HAVE ALREADY POINTED OUT WHY THIS IS NOT TRUE UNDER THE LANGUAGE OF THE MEMORANDA OF AGREEMENT. THE IBRAELIS UNDER THE MEMORANDA OF AGREEMENT HAVE TAKEN THE RISK OF CONGRESSIONAL INACTION. BUT THEN IT IS FURTHER ARGUED THAT IF CONGRESS FAILS TO ACT ON AID REQUESTS. ISRAEL WILL BE ENTITLED TO REPUDIATE ITS UNDERTAKINGS UNDER THE BASIC AGREEMENT WITH EGYPT. THIS ARQUMENT IS TOTALLY WITHOUT FOUNDATION. NEITHER AS A PRACTICAL MATTER, NOR AS A LEGAL MATTER WILL ISRAEL BE JUSTIFIED IN REPUDIATING ITS UNDERTAKING TO WITHDRAW IF CONGRESS IN ITS WISDOM SHOULD IN THE PUTURE PROVIDE LESS ATD THAN ISRAEL HAD REQUESTED OR EXPECTED.

22. IN THE FIRST PLACE, WITHDRAWAL WOULD ALREADY HAVE OCCURRED FROM THE DESIGNATED SINAI TERRITORIES. THUS AS A PRACTICAL MATTER, THE REPUDIATION WOULD BE WITHOUT PRACTICAL EFFECT.

23. IN THE SECOND PLACE, AS A POLITICAL MATTER, ISRAEL RECOGNIZES THAT ITS CASE FOR AID MUST BE MADE AND JUSTIFIED ON AN ANNUAL, YEAR-BY-YEAR BASIS WITH THE CONGRESS.

24. IN THE THIRD PLACE, THERE IS NO LEGAL RIGHT OF REPUDIATION IN THESE DOCUMENTS. THE UNITED STATES IS NOT A PARTY TO THE SINAL AGREEMENT BETWEEN ISRAEL AND EGYPT ONLY; THEY ARE THE ONLY SIGNATORIES TO THAT AGREEMENT;

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THEY ARE THE ONLY STATES THAT ARE BOUND BY IT. THE AGREEMENT REPEATEDLY SPEAKS OF THE OBLIGATIONS OF THE PARTIES# AND IT IS BEYOND DISPUTE THAT THE PARTIES ARE EGYPT AND ISRAEL AND NO THIRD STATE, THE AGREEMENT DOES PROVIDE, IN AN ANNEX, THAT, IN THE BUFFER ZONE BETWEEN EGYPT AND ISRAEL IN WHICH THE UNITED NATIONS EMERGENCY FORCE WILL CONTINUE TO PERFORM ITS FUNCTIONS, THERE WILL BE ESTABLISHED AN EARLY WARNING SYSTEM ENTRUSTED TO UNITED STATES CIVILIAN PERSONNEL. A SEPARATE PROPOSAL OF THE UNITED STATES, FOR WHICH APPROVAL OF THE CONGRESS IS BEING SOUGHT, PROVIDES DETAILS OF THAT EARLY WARNING SYSTEM. THAT PROPOSAL IS DESCRIBED AS A PART OF THE AGREEMENT BETWEEN EGYPT AND ISRAELI BUT THAT IN NO SENSE SAYS OR MEANS THAT THE UNITED STATES IS A PARTY TO THE

AGREEMENT BETWEEN EGYPT AND ISRAEL. IT IS AS IF FORD MOTOR COMPANY AGREES WITH THE CITY OF DETROIT TO PROVIDE BUSES FOR MUNICIPAL TRANSPORTATION CONTAINING GLASS BUILT TO ITS SPECIFICATIONS BY PITTSBURGH PLATE GLASS COMPANY. THE PARTIES TO THE CONTRACT ARE JUST FORD AND DETROIT -- EVEN THOUGH THEY BOTH WANT PITTSBURGH PLATE GLASS AND PITTSBURGH PLATE GLASS COMPANY WISHES TO PROVIDE IT.

25. IN MY VIEW, THE ASSURANCES AND UNDERTAKINGS GIVEN BY THE UNITED STATES ON ITS OWN BEHALF IN THE MEMORANDA OF AGREEMENT WITH ISRAEL FALL ESSENTIALLY INTO TWO CATESORIES. ONE IS ASSURANCES BY THE UNITED STATES OF ITS POLITICAL INTENTIONS. THE OTHER IS COMMITMENTS BY THE UNITED STATES WHICH ARE CONDITIONED ON EXISTING OR PRIOR AUTHORIZATION AND APPROPRIATION OF THE CONGRESS OF THE UNITED STATES. TAKEN TOGETHER, MIXED TOGETHER, THESE VARIOUS STATEMENTS OF POLITICAL INTENTION AND CONDITIONAL LEGAL COMMITMENTS COMPRISE EXECUTIVE AGREE-MENTS. BUT THE CONTENT AND THE LEGALLY BINDING CHARACTER -- IF ANY -- OF THE DISPARATE ELEMENTS ON THOSE AGREE-MENTS CAN ONLY BE UNDERSTOOD BY CONSIDERATION OF EACH, PARTICULAR ELEMENT, WHEN THOSE ELEMENTS ARE ANALYZED, IT IS CLEAR TO ME THAT THEY CONSTITUTE POLICY STATEMENTS, EXPRESSIONS OF POLITICAL INTENT ON THE PART OF THE UNITED STATES, AND COMMITMENTS WHICH, HOWEVER, WILL BE DEFIN NITELY UNDERTAKEN ONLY WHEN THE CONGRESS SO AGREES OR HAS ALREADY AGREED.

26. IN SHORT, MANY OF THE PROVISIONS OF THE DOCUMENTS IN QUESTION DO NOT BY ANY STANDARD RISE TO THE LEVEL OF INTERNATIONAL COMMITMENTS, THEY ARE NO MORE THAN STATE-

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MENTS OF INTENTION TYPICAL OF DIPLOMATIC EXCHANGES. THIS IS NOT TO SAY THAT THE INTENTIONS OF THE UNITED STATES, AND THE STATEMENTS OF THOSE INTENTIONS, ARE NOT IMPORTANT. THEY ARE VERY IMPORTANT. LET US ENDEAVOR TO ENSURE THAT THEY CONTINUE TO BE. BUT THEY DO NOT BIND, AND ARE NOT UNDERSTOOD TO BIND, THE UNITED STATES.

27. THE THO MEMORANDA OF AGREEMENT BETWEEN THE UNITED STATES AND ISRAEL WILL BE TRANSMITTED, AFTER SIGNATURE, IN ACCORDANCE WITH THE CASE ACT. THEY WILL BE TRANS-MITTED TO THIS COMMITTEE AND TO THE COMMITTEE ON INTER-NATIONAL RELATIONS OF THE HOUSE OF REPRESENTATIVES IN PURSUANCE OF THE PROVISIONS OF THE CASE ACT GOVERNING ABREEMENTS THE IMMEDIATE PUBLIC DISCLOSURE OF WHICH WOULD. IN THE OPINION OF THE PRESIDENT, BE PREJUDICIAL

TO THE NATIONAL SECURITY -- AND, I MAY ADD, THE DIPLOMATIC CAPACITY -- OF THE UNITED STATES.

I THINK IT IS BEYOND QUESTION THAT, IN THIS CASE, THE EXECUTIVE BRANCH HAS GIVEN THE CONGRESS EXTRAORDINARY ACCESS TO THE CONTENT OF THE DIPLOMATIC NEGOTIATIONS AS WELL AS THE TERMS OF THE ASSURANCES AND UNDERTAKINGS OF THE UNITED STATES. WE HAVE BEEN FORTHCOMING, NOT LEAST BECAUSE WE WANT YOU TO BE PORTHCOMING. IT IS TIME --IT IS PAST TIME -- FOR THE EXECUTIVE AND LEGISLATIVE BRANCHES OF THIS GOVERNMENT TO ACT TOGETHER IN SUPPORT OF AN EARLY WARNING PROPOSAL WHICH PROMISES TO MAKE A SIGNIFICANT CONTRIBUTION TO THE MAINTENANCE OF INTER-NATIONAL PEACE IN WHAT HERETOFORE HAS BEEN THE COCKPIT OF WAR. THE STAKES ARE ENORMOUS: PEACE OR WAR IN THE MIDDLE EAST, WITH ALL THAT IMPLIES; AND THE INVIGORATION OR THE CASTRATION OF THE DIPLOMATIC POTENTIAL OF THE UNITED STATES. THE TIME FOR AFFIRMATIVE ACTION IS NOW. INGERSOLL 87

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