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## WAR POWERS

Q Has the President met his responsibilities under the War Powers Act to ~~consult~~ consult with ~~Congress~~ Congress before taking any military action?

A The consultations that occurred last night between members of the President's staff and Congressional leaders would have taken place if there was no War Powers Act, because it is this President's firm desire to keep Congress fully informed of his actions regarding the seizure of the Mayaguez. ~~We consider the~~ discussions <sup>to be</sup> ~~the~~ the appropriate way for the Executive and Legislative branches to meet <sup>an</sup> ~~external problems~~ <sup>(such as we now face.)</sup> But it is also fair to say that these calls are consistent with the wishes of Congress as expressed in the War Powers Act.

Q: Were the calls last night for notification, or for consultation?

A: It was certainly more than notification! There was discussion with the Congressmen and Senators and their comments were passed on to the President. "Our action was not limited to just notification. (Stay away from using the word "notification.")

(FYI ONLY: Rod Hills and Jack Marsh don't think you should get into a discussion of the legal technicalities of the War Powers Act. Leave that to the lawyers.)

Q. Are there any restrictions on the President's ability to act because of Cooper-Church on the War Powers Act?

A. The President, under the Constitution, has the ~~right~~ <sup>authority</sup> to defend American life and property from acts of aggression.

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Cooper-Church amendment was not designed to limit protection of American life or property. It was aimed at stopping American participation in hostilities which were not principally a threat to American life.

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(FYI: Seizure of an American ship and crew on the high ~~under~~ <sup>illegal under international law</sup> seas is considered an ~~Act of War~~ and there are no legal restrictions on the President's ability to act, commensurate with the situation with which he is faced, according to Rod Hills.)

(The last phrase means that any U.S. action would have to be limited to the area of the ship and crew. The President could not order bombing of Phnom Penh, for instance, as a retaliation.)



~~SECRET/SENSITIVE~~

DECLASSIFIED  
E.O. 12356, Sec. 3.4 (b)  
White House Guide Lines, Feb. 24, 1983  
BY DDO NARS, Date 3/7/85

TALKING POINTS FOR CONGRESSIONAL NOTIFICATION

I am calling to inform you, on a classified basis, of certain developments with regard to the seizure of an American merchant vessel by Cambodian naval vessels off the coast of Cambodia yesterday. The United States has demanded the immediate release of the ship and its crew. There has been no Cambodian response to this demand.

As a precautionary measure, the President has ordered the U. S. military forces to take certain actions:

-- to prevent the American seamen from being transferred from the vessel or the nearby island to the Cambodian mainland, placing their lives in jeopardy and restricting our ability to rescue them.

-- to prevent reinforcement from the Mainland of the Cambodian forces detaining the American vessel and crew.

With these objectives in mind, the President has directed that U. S. aircraft should attempt to stop the movement of Cambodian boats ~~between the ship or the island and the Cambodian mainland~~ between the ship or the island and the Cambodian mainland / Our military commanders have been directed to use the minimum force required to achieve these objectives.

FYI. You may draw on, but not go beyond, the attached fact sheet in answering questions on this subject.

April 4, 1975

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 93-148, their sole mission is to assist in the evacuation including the maintenance of order on board the vessels engaged in that task.

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.

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.



~~SECRET~~

DECLASSIFIED

E.O. 12356, Sec. 3.4 (b)

White House Guide Lines, Feb. 24, 1983

By DBO NARS, Date 3/8/85

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FM JACK MARSH

TO DONALD RUMSFELD FOR THE PRESIDENT

ZEM

~~SECRET~~ WH50624

NOTE: CORRECTED COPY. PLEASE SUBSTITUTE THIS MESSAGE FOR ONE SENT YOU EARLIER.

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 STATUE. 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.

DRAFT LETTER:

APRIL 4, 1975

DEAR MR. SPEAKER: & (PRESIDENT PRO TEMPORE)

END OF PAGE 01

~~SECRET~~



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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 93-148, THEIR SOLE MISSION IS TO ASSIST IN THE EVACUATION INCLUDING THE MAINTENANCE OF ORDER ON BOARD THE VESSELS ENGAGED IN THAT TASK.

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

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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.

PUBLIC LAW 93-~~140~~ 149

CONSULTATION

*Ronald R. Ford*

*Pres signed at*

*1734 - 4/4/75*

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. (U) 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

END OF PAGE 03

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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.

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FM THE SITUATION ROOM

TO DONALD RUNSFELD - SAN FRANCISCO

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DECLASSIFIED

E.O. 12356, Sec. 3.4 (b)

White House Guide Lines, Feb. 24, 1983

By DAO NARS, Date 3/8/85

APRIL 4, 1975

FOR: DONALD RUNSFELD

FROM: BRENT SCOWCROFT

FOLLOWING ARE THE DETAILS YOU REQUESTED SURROUNDING THE INCIDENT WHICH LED TO THE REPORT TO CONGRESS UNDER THE WAR WAR POWERS RESOLUTION:

1. ON 1 APRIL 1975, JCS AUTHORIZED FOUR USS AMPHIBIOUS SHIPS TO APPROACH WITHIN ONE MILE OF THE RVN COAST TO CONDUCT HUMANITARIAN CIVILIAN REFUGEE EVACUATION.

2. ON 3 APRIL 1975, THE USS DURHAM (LST-114) PENETRATED RVN TERRITORIAL WATERS IN THE VICINITY OF PHU RANG SUB. AT 030000Z, APRIL 1975. A TOTAL OF 1,404 REFUGEES WERE PICKED UP BY THE DURHAM.

3. AUTHORITY FOR PENETRATION OF RVN TERRITORIAL WATERS WAS GRANTED IN JCS 6059/010216Z, APRIL 1975 MESSAGE TO CINCPAC.

4. RADM WHITWIRE IS COMMANDER, AMPHIBIOUS TASK FORCE, SEVENTH FLEET (CTF 76) WHO HAS THE DURHAM UNDER HIS COMMAND.

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DECLASSIFIED

E.O. 12356, Sec. 3.4 (b)

White House Guide Lines, Feb. 24, 1983

By DAO NARS, Date 3/8/85

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FM THE SITUATION ROOM  
TO DONALD RUNSFELD - SAN FRANCISCO  
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APRIL 4, 1975

FOR: DONALD RUNSFELD  
FROM: BRENT SCOVROFT

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3. AUTHORITY FOR PENETRATION OF RVN TERRITORIAL WATERS WAS GRANTED IN JCS 6039/010210Z, APRIL 1975 MESSAGE TO CINCPAC.

4. ADM WHITWIRE IS COMMANDER, AMPHIBIOUS TASK FORCE, SEVENTH FLEET (CTF 76) WHO HAS THE DURHAM UNDER HIS COMMAND.

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May 13, 1975

Status of the U.S. Merchant Ship Seized by Cambodians

The S. S. Mayaguez, seized by Cambodian Communist forces, May 12, is now about 20 miles outside the port of Kompong Som, just north of Koh Tang Island. The ship is dead in the water, and there is reason to believe that most or all of its crew has been transferred to the island. The ship is being kept under surveillance by U.S. reconnaissance aircraft.

As a precautionary measure, several U.S. Navy combat vessels have been ordered to proceed to the general area of Koh Tang Island.

The U.S. has requested that Phnom Penh authorities have the ship released immediately. We have, so far, received no reply.

An NSC meeting was convened this morning.



MAY 15, 1975

Office of the White House Press Secretary

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THE WHITE HOUSETEXT OF A LETTER TO THE SPEAKER  
AND THE PRESIDENT PRO TEM

May 15, 1975

Dear Mr. Speaker: (President Pro Tem)

On 12 May 1975, I was advised that the S. S. Mayaguez, a merchant vessel of United States registry en route from Hong Kong to Thailand with a U. S. citizen crew, was fired upon, stopped, boarded, and seized by Cambodian naval patrol boats of the Armed Forces of Cambodia in international waters in the vicinity of Poulo Wai Island. The seized vessel was then forced to proceed to Koh Tang Island where it was required to anchor. This hostile act was in clear violation of international law.

In view of this illegal and dangerous act, I ordered, as you have been previously advised, United States military forces to conduct the necessary reconnaissance and to be ready to respond if diplomatic efforts to secure the return of the vessel and its personnel were not successful. Two United States reconnaissance aircraft in the course of locating the Mayaguez sustained minimal damage from small firearms. Appropriate demands for the return of the Mayaguez and its crew were made, both publicly and privately, without success.

In accordance with my desire that the Congress be informed on this matter and taking note of Section 4(a) (1) of the War Powers Resolution, I wish to report to you that at about 6:20 a.m., 13 May, pursuant to my instructions to prevent the movement of the Mayaguez into a mainland port, U. S. aircraft fired warning shots across the bow of the ship and gave visual signals to small craft approaching the ship. Subsequently, in order to stabilize the situation and in an attempt to preclude removal of the American crew of the Mayaguez to the mainland, where their rescue would be more difficult, I directed the United States Armed Forces to isolate the island and interdict any movement between the ship or the island and the mainland, and to prevent movement of the ship itself, while still taking all possible care to prevent loss of life or injury to the U. S. captives. During the evening of 13 May, a Cambodian patrol boat attempting to leave the island disregarded aircraft warnings and was sunk. Thereafter, two other Cambodian patrol craft were destroyed and four others were damaged and immobilized. One boat, suspected of having some U. S. captives aboard, succeeded in reaching Kompong Som after efforts to turn it around without injury to the passengers failed.

Our continued objective in this operation was the rescue of the captured American crew along with the retaking of the ship Mayaguez. For that purpose, I ordered late this afternoon an assault by United States Marines on the island of Koh Tang to search out and rescue such Americans as might still be held there, and I ordered retaking of the Mayaguez by other marines boarding from the destroyer escort HOLT. In addition to continued fighter and gunship coverage of the Koh Tang area, these marine activities were supported by tactical aircraft from the CORAL SEA, striking the military airfield at Ream and other military targets in the area of Kompong Som in order to prevent reinforcement or support from the mainland of the Cambodian forces detaining the American vessel and crew.

At approximately 9:00 P.M. EDT on 14 May, the Mayaguez was retaken by United States forces. At approximately 11:30 P.M., the entire crew of the Mayaguez was taken aboard the WILSON. U.S. forces have begun the process of disengagement and withdrawal.

This operation was ordered and conducted pursuant to the President's constitutional Executive power and his authority as Commander-in-Chief of the United States Armed Forces.

Sincerely,

GERALD R. FORD

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THE WHITE HOUSE

WASHINGTON

May 15, 1975

Dear Mr. President:

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This operation was ordered and conducted pursuant to the President's constitutional Executive power and his authority as Commander-in-Chief of the United States Armed Forces.

Sincerely,



The Honorable James O. Eastland  
President Pro Tempore of the Senate  
United States Senate  
Washington, D. C. 20510



"Piracy" as a technical, legal term is limited to acts of force against ships or their passengers which are carried out for private gain. More broadly, however, piracy is commonly understood to cover all illegal attacks on merchant shipping, other than acts of war. We do not yet know the motives for the attack on the U.S. merchant ship Mayaguez, but we have no reason to suspect private gain; therefore, the President was using the term in its broad non-technical sense.



Wm Simpson - Carlson  
in the feed - Albert.  
"Guts" at this direction.

2 - 2:30 am  
copies to office of Speaker,  
Pro Tem (under door at their  
direction.

The reason why the President will send his report  
to Congress, as required under the War Powers Act, <sup>Or guards</sup>  
by 6:20 a.m. this morning is that that time <sup>delivered at</sup>  
~~is~~ <sup>some trials.</sup>

is 48 hours from the time that American forces first  
~~were introduced into a situation where imminent involvement in~~  
~~engaged in fighting military~~. That action

consisted of some of our ~~jet~~ jet fighters shooting  
in front of the Mayaguez in order to dissuade the  
Cambodians from moving the ship again. It is my understanding  
that the ship had been moved twice previously from the  
time it was seized, and we did not want the ship to be  
moved into Kompong Som.

The report to Congress will not be released from  
the White House.

One notice to speaker and one to the  
President pro-tem of the Senate.  
Arrangements have been made for  
official delivery during the night.

hostile  
who  
clearly predicted by the circumstances,



Committee condemns <sup>the</sup> ~~an~~ act of armed aggression on an unarmed US merchant vessel in the course of innocent passage on ~~the~~ an established trade route.

~~The second thing that~~ the President has engaged <sup>to secure the release</sup> in diplomatic means, and we support that.

Third, ~~that~~ we support the President in the exercise of his Constitutional powers within the framework of the War Powers Resolution to secure the release of the ship and its men.

We urge the Cambodian Government to release the ship and the men forthwith.

~~SECRET/SENSITIVE~~

DECLASSIFIED  
E.O. 12356, Sec. 3.4 (b)  
White House Guide Lines, Feb. 24, 1983  
By 1042 NARS, Date 3/2/85

DISCUSSION PAPER

As a follow-up to our telephone call to you last night concerning the seizure of an American vessel in the Gulf of Thailand, I want to provide you in advance and on a private basis the following information which will be announced by the Department of Defense shortly after.

Beginning at 8:30 p.m. EDT yesterday, there were indications that the Cambodians appeared to be attempting to move U. S. captive crewmen from the ship to the mainland. After giving warning and taking precautions to avoid injury to Americans, U.S. aircraft began efforts to block this movement. Three Cambodian patrol craft were destroyed and four others were damaged and immobilized. One boat succeeded in reaching Kompong Som, possibly with some U.S. captives aboard.

The MAYAGUEZ is still anchored off Koh Tand Island. The first U.S. Navy surface vessel, the destroyer escort HOLT, arrived in the area this morning. In the meantime, a Swedish refrigerator cargo ship, the MS HIRADO, was reportedly attacked by a patrol boat off Panjang Island, which is also claimed by Cambodia. Radio contact has been lost and the fate of this ship is unknown.

The NSC held a second meeting yesterday at 1:30 p.m. EDT and will meet again today. We will keep you informed.