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Department of State

TELEGRAM

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SUBJECT: U.S. Proposal to Cuba on Hijacking

1. (Begin FYI and Background for Federal Political Department and for Ambassador Fischli):

On September 16, 1969 the GOC issued Law No. 1226 declaring that it was considered necessary QUOTE to adopt measures to put an end to the climate of insecurity created in air and ocean navigation by the diversion by force of ships and planes from their normal routes and activities, and to adapt the application of such measures to the attitude assumed by other States on bases of equality and reciprocity UNQUOTE. The law made it clear, as did Cuban Ambassador Alarcon's speech at the UN on October 8, that the GOC would not



199293

DRAFTED BY:  
ARA/CCA: PFWollam/RLFunseth  
ARA:RAHurwitch

DRAFTING DATE: 11/21/69  
TEL. EXT.: 29894

APPROVED BY:  
ARA - Robert A. Hurwitch

CLEARANCES:

SCA - Mr. Smith  
E/TT - Mr. Loy

L - Mr. Stevenson  
L/ARA - Mr. Feldman

WH - Mr. Vaky  
S/S - Mr. Brown

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FORM DS-322  
4-68

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enter into any multilateral negotiations for the elimination of hijacking, but would consider only bilateral arrangements on the basis of strict reciprocity. The law also provided that hijackers are criminally liable under Cuban criminal laws and may be returned to the affected ~~official~~ State upon the official request of that State.

2. The USG has long been concerned over aerial hijacking incidents which have the high potential for causing a serious air disaster with loss of lives. It is our belief (and hope) that a well-publicized understanding between the USG and Cuba to return hijackers for prosecution would have a substantial deterrent effect upon future hijacking incidents. We therefore wish to send the note stated below to the GOC stating that the USG is prepared to return to Cuba, upon request of the GOC, persons diverting Cuban ships or planes by force to the US on the basis of reciprocity and with the same exceptions for nationals and cases of political asylum established in the Cuban law.

3. While we recognize that the Cuban law is much broader than what we have proposed in that it applies to all persons entering or leaving Cuba in violation of regulations and to Cuban ships and planes that may be taken by theft or bribery, we are deliberately limiting our proposal to hijackers, ~~and will not go further.~~ Obviously, the USG will not

rpt not agree to return other persons simply because they left Cuba

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Illegally, whether through Guantanamo or some other route. Although we cannot be sure that Castro is indeed prepared to return hijackers or whether he may set conditions we cannot meet, we believe the seriousness of the hijacking problem requires us to take advantage of any possible opportunity for ameliorating the situation.

4. His Excellency, Alfred Fischli, Swiss Ambassador in Havana is fully cognizant of previous USG initiatives with the GOC on the hijacking problem and the GOC response to them. In taking this most recent initiative, on our behalf, we request that Ambassador Fischli keep in mind that the USG has the following goals: (a) achieve a well-publicized understanding with Cuba which hopefully would in itself act as a substantial deterrent against future hijackings; if for some reason, GOC objects to publication of notes we would consider other suggestions for publicity necessary to achieve deterrent effect; (b) while we are prepared to enter into a signed bilateral agreement we prefer less formal arrangements which would reflect that Cuba and the United States have adopted parallel positions on this grave problem. An affirmative reply from Cuba to our note would be acceptable. We would ~~want~~ prefer to publish both notes. ( End FYI and Background for Federal Political Department and Ambassador Fischli)

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5. In delivering the note, we request that Ambassador Fischli stress orally to the Cubans that the USG: (a) views the problem of hijacking as being most serious; (b) welcomed the Cuban Government's initiative to deter hijacking by its adoption of its Law 1226; (c) believes that a well-publicized understanding between the United States and Cuba that hijackers risked being returned for punishment would in itself act as a substantial deterrent to future acts of hijacking to the mutual advantage of both governments; (d) has taken this initiative to communicate with the GOC on Law 1226 in order to assure the GOC that the USG believes that US policy with respect to return of hijackers parallels that of the GOC; (e) is prepared to act on a basis of equality and strict reciprocity.
6. We request that the Ambassador of Switzerland, Alfred Fischli, be instructed to deliver the following note to the GOC.

BEGIN TEXT OF NOTE

The Government of the United States of America has taken note of Law Number 1226 issued by the Government of Cuba on September 16, 1969 declaring:

QUOTE The Cuban Revolutionary Government considers it necessary to adopt measures to put an end to the climate of insecurity created in air and ocean navigation by the diversion by force of ships and planes from their

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normal routes and activities, and to adapt the application of such measures to the attitude assumed by other States on bases of equality and reciprocity UNQUOTE.

In addition to punishment under the criminal laws of Cuba (Article 7), it is the understanding of the Government of the United States of America that Law 1226 contemplates the return of persons committing such acts to the State affected if they are claimed by that State in conformity with the law, reserving for the Government of Cuba its jurisdiction over Cuban nationals, and the right to grant political asylum. It is the further understanding of the Government of the United States that Law 1226 provides that hijackers are to be returned solely to those States that agree bilaterally to apply the same policy for the benefit of Cuba on a basis of equality and strict reciprocity.

The Government of the United States wishes to confirm that it shares the determination of the Government of Cuba to adopt measures to deter the diversion by force of ships and planes from their normal routes and activities. The United States is prepared, upon request, to return to Cuba persons committing such acts against Cuban ships and planes, on a basis of equality and reciprocity as specified in Law 1226, in accordance with the procedures available under United States laws and regulations.

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Accordingly, the Government of the United States hopes that the Government of Cuba will act affirmatively on requests by the United States for the return of hijackers of United States ships and planes. It is our belief that the return of hijackers for prosecution will have a substantial deterrent effect that would help to achieve the objective of Law 1226 to put an end to the climate of insecurity that has been created in air and ocean navigation. END TEXT

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END

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