

**FOREIGN
RELATIONS
OF THE
UNITED
STATES**

1981–1988

VOLUME XLI

GLOBAL ISSUES II



**DEPARTMENT
OF
STATE**

Washington



Foreign Relations of the United States, 1981–1988

Volume XLI

Global Issues II

Editor Alexander O. Poster
General Editor Adam M. Howard

United States Government Publishing Office
Washington
2017

DEPARTMENT OF STATE
OFFICE OF THE HISTORIAN
BUREAU OF PUBLIC AFFAIRS

For sale by the Superintendent of Documents, U.S. Government Publishing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512-1800; DC area (202) 512-1800
Fax: (202) 512-2250 Mail: Stop IDCC, Washington, DC 20402-0001

About the Series

The *Foreign Relations of the United States* series presents the official documentary historical record of major foreign policy decisions and significant diplomatic activity of the U.S. Government. The Historian of the Department of State is charged with the responsibility for the preparation of the *Foreign Relations* series. The staff of the Office of the Historian, Bureau of Public Affairs, under the direction of the General Editor of the *Foreign Relations* series, plans, researches, compiles, and edits the volumes in the series. Secretary of State Frank B. Kellogg first promulgated official regulations codifying specific standards for the selection and editing of documents for the series on March 26, 1925. These regulations, with minor modifications, guided the series through 1991.

Public Law 102-138, the Foreign Relations Authorization Act, established a new statutory charter for the preparation of the series which was signed by President George H.W. Bush on October 28, 1991. Section 198 of P.L. 102-138 added a new Title IV to the Department of State's Basic Authorities Act of 1956 (22 U.S.C. 4351, et seq.).

The statute requires that the *Foreign Relations* series be a thorough, accurate, and reliable record of major U.S. foreign policy decisions and significant U.S. diplomatic activity. The volumes of the series should include all records needed to provide comprehensive documentation of major foreign policy decisions and actions of the U.S. Government. The statute also confirms the editing principles established by Secretary Kellogg: the *Foreign Relations* series is guided by the principles of historical objectivity and accuracy; records should not be altered or deletions made without indicating in the published text that a deletion has been made; the published record should omit no facts that were of major importance in reaching a decision; and nothing should be omitted for the purposes of concealing a defect in policy. The statute also requires that the *Foreign Relations* series be published not more than 30 years after the events recorded. The editors are convinced that this volume meets all regulatory, statutory, and scholarly standards of selection and editing.

Sources for the Foreign Relations Series

The *Foreign Relations* statute requires that the published record in the *Foreign Relations* series include all records needed to provide comprehensive documentation of major U.S. foreign policy decisions and significant U.S. diplomatic activity. It further requires that government

agencies, departments, and other entities of the U.S. Government engaged in foreign policy formulation, execution, or support cooperate with the Department of State historians by providing full and complete access to records pertinent to foreign policy decisions and actions and by providing copies of selected records. Most of the sources consulted in the preparation of this volume have been declassified and are available for review at the National Archives and Records Administration (Archives II), in College Park, Maryland.

The editors of the *Foreign Relations* series have complete access to all the retired records and papers of the Department of State: the central files of the Department; the special decentralized files ("lot files") of the Department at the bureau, office, and division levels; the files of the Department's Executive Secretariat, which contain the records of international conferences and high-level official visits, correspondence with foreign leaders by the President and Secretary of State, and the memoranda of conversations between the President and the Secretary of State and foreign officials; and the files of overseas diplomatic posts. All of the Department's central files for 1981–1989 are available in electronic or microfilm formats at Archives II, and may be accessed using the Access to Archival Databases (AAD) tool. Almost all of the Department's decentralized office files covering this period, which the National Archives deems worthy of permanent retention, have been transferred to or are in the process of being transferred from the Department's custody to Archives II.

Research for *Foreign Relations* volumes is undertaken through special access to restricted documents at the Ronald Reagan Presidential Library and other agencies. While all the material printed in this volume has been declassified, some of it is extracted from still-classified documents. The staff of the Reagan Library is processing and declassifying many of the documents used in this volume, but they may not be available in their entirety at the time of publication. Presidential papers maintained and preserved at the Reagan Library include some of the most significant foreign-affairs related documentation from White House offices, the Department of State, and other federal agencies including the National Security Council, the Central Intelligence Agency, the Department of Defense, and the Joint Chiefs of Staff.

Some of the research for volumes in this subseries was done in Reagan Library record collections scanned for the Remote Archive Capture (RAC) project. This project, which is administered by the National Archives and Records Administration's Office of Presidential Libraries, was designed to coordinate the declassification of still-classified records held in various Presidential libraries. As a result of the way in which records were scanned for the RAC, the editors of the

Foreign Relations series were not always able to determine whether attachments to a given document were in fact attached to the paper copy of the document in the Reagan Library file. In such cases, some editors of the *Foreign Relations* series have indicated this ambiguity by stating that the attachments were "Not found attached."

Editorial Methodology

The documents are presented chronologically according to time in Washington, DC. Memoranda of conversation are placed according to the time and date of the conversation, rather than the date the memorandum was drafted.

Editorial treatment of the documents published in the *Foreign Relations* series follows Office style guidelines, supplemented by guidance from the General Editor and the Chief of the Declassification and Publishing Division. The original document is reproduced as exactly as possible, including marginalia or other notations, which are described in the footnotes. Texts are transcribed and printed according to accepted conventions for the publication of historical documents within the limitations of modern typography. A heading has been supplied by the editors for each document included in the volume. Spelling, capitalization, and punctuation are retained as found in the original text, except that obvious typographical errors are silently corrected. Other mistakes and omissions in the documents are corrected by bracketed insertions: a correction is set in italic type; an addition in roman type. Words or phrases underlined in the original document are printed in italics. Abbreviations and contractions are preserved as found in the original text, and a list of abbreviations and terms is included in the front matter of each volume. In telegrams, the telegram number (including special designators such as Secto) is printed at the start of the text of the telegram.

Bracketed insertions are also used to indicate omitted text that deals with an unrelated subject (in roman type) or that remains classified after declassification review (in italic type). The amount and, where possible, the nature of the material not declassified has been noted by indicating the number of lines or pages of text that were omitted. Entire documents withheld after declassification review have been accounted for and are listed in their chronological place with headings, source notes, and the number of pages not declassified.

All brackets that appear in the original document are so identified in the footnotes. All ellipses are in the original documents.

The first footnote to each document indicates the sources of the document and its original classification, distribution, and drafting information. This note also provides the background of important docu-

ments and policies and indicates whether the President or his major policy advisers read the document.

Editorial notes and additional annotation summarize pertinent material not printed in the volume, indicate the location of additional documentary sources, provide references to important related documents printed in other volumes, describe key events, and provide summaries of and citations to public statements that supplement and elucidate the printed documents. Information derived from memoirs and other first-hand accounts has been used when appropriate to supplement or explicate the official record.

Advisory Committee on Historical Diplomatic Documentation

The Advisory Committee on Historical Diplomatic Documentation, established under the *Foreign Relations* statute, monitors the overall compilation and editorial process of the series and advises on all aspects of the preparation of the series and declassification of records. The Advisory Committee does not necessarily review the contents of individual volumes in the series, but it makes recommendations on issues that come to its attention and reviews volumes as it deems necessary to fulfill its advisory and statutory obligations.

Declassification Review

The Office of Information Programs and Services, Bureau of Administration, conducted the declassification review for the Department of State of the documents published in this volume. The review was conducted in accordance with the standards set forth in Executive Order 13526 on Classified National Security Information and applicable laws.

The principle guiding declassification review is to release all information, subject only to the current requirements of national security as embodied in law and regulation. Declassification decisions entailed concurrence of the appropriate geographic and functional bureaus in the Department of State, other concerned agencies of the U.S. Government, and the appropriate foreign governments regarding specific documents of those governments. The declassification review of this volume, which began in 2014 and was completed in 2016, resulted in the decision to withhold 1 document in full, excise a paragraph or more in 4 documents, and make minor excisions of less than a paragraph in 13 documents.

The Office of the Historian is confident, on the basis of the research conducted in preparing this volume and as a result of the declassification review process described above, that the documentation and editorial notes presented here provide a thorough, accurate, and reliable

record of the Reagan administration's approach toward non-military global issues.

Stephen P. Randolph, Ph.D.
The Historian

Adam Howard, Ph.D.
General Editor

Bureau of Public Affairs
November 2017

Preface

Structure and Scope of the Foreign Relations Series

This volume is part of a subseries of volumes of the *Foreign Relations* series that documents the most important issues in the foreign policy of the administration of Ronald Reagan. The subseries will present a documentary record of major foreign policy decisions and actions of President Reagan's administration from 1981 to 1989.

Focus of Research and Principles of Selection for Foreign Relations, 1981–1989, Volume XLI

The compilations included in this volume illustrate the formulation of U.S. policy toward seven distinct global issues: law of the sea, human rights, African famine, AIDS, international population policy, whaling, and the ozone layer. The compilation on the Law of the Sea treaty examines the Reagan administration's decision not to sign the United Nations Convention on the Law of the Sea and the subsequent Rumsfeld mission and reciprocating states agreements. The compilation on human rights looks at general, rather than bilateral, human rights issues with one exception: U.S.-Soviet human rights negotiations are presented in detail, as they were the major focus of the Bureau of Human Rights and Humanitarian Affairs in the Department of State. The compilation on the famine in Africa delineates the Reagan administration's response to African and Third World hunger from a thematic and regional perspective rather than examining feeding efforts in individual countries. The compilation on AIDS looks at how policymakers used foreign policy in response to a frightening epidemic, from immigration and visa issues to the Soviet disinformation campaign on AIDS. The population compilation examines the Reagan administration's decisions regarding funding population programs in other countries, with an emphasis on the United Nations International Conference on Population (ICP) in 1984. The whaling compilation describes efforts to manage the 1982 ban on commercial whaling enacted by the International Whaling Commission (IWC) in 1982, which affected relations among the United States and Norway, Iceland, Japan, and the Soviet Union. The compilation on ozone looks mainly at the negotiation of the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer rather than examining all international air pollution issues, such as the U.S.-Canadian consultations on acid rain, which will be discussed in *Foreign Relations, 1981–1988, Volume VII, Western Europe,*

1981–1984 and *Foreign Relations*, 1981–1988, Volume VIII, Western Europe, 1985–1988 as a bilateral issue.

Throughout Reagan's term in office, there was considerable tension between the Department of State and the White House on foreign policy matters. This tension was the most visible during the debate over what is now considered the "Mexico City Policy," which placed restrictions on U.S. foreign assistance to non-governmental organizations and some states that performed or supported abortion services. In 1984, shortly before the ICP conference which took place in Mexico City, the Department of State, the Agency for International Development, the National Security Council, and the White House staff each circulated plans that aimed to redefine U.S. population policy. After intense bureaucratic infighting, the details of these plans were leaked to the press, the bulk of the White House's plan became policy, and Richard Benedick, the Department's Coordinator for Population Activities, requested reassignment.

The tension between the White House and the Department is, in fact, a theme of many of the compilations in this volume. Counselor to the President (1981–1984) and Attorney General (1985–1989) Edwin Meese was the prime mover in an effort to keep the United States and other Western nations from signing the Law of the Sea treaty, and Meese opposed the Department when he pressed for stringent testing requirements for immigrants at the height of the AIDS epidemic. Although Meese is best known for his input on domestic issues, this volume will show that he played an important role in the creation of foreign policy, particularly when international problems with domestic ramifications arose.

This volume highlights the contributions of several key policy-makers. Elliott Abrams, perhaps best known for his involvement in Latin American issues, served as Assistant Secretary of State for Human Rights and Humanitarian Affairs during Reagan's first term in office and was key to the salvation of human rights policy during Secretary Haig's tenure. Abrams and Director of Policy Planning Paul Wolfowitz each sent memos that laid the foundation for the Reagan administration's approach to human rights. Abrams also helped to initiate the Reagan administration's concern for Soviet Jews, which became a central feature of U.S.-Soviet dialogue during Reagan's second term. The aforementioned Richard Benedick also helped to negotiate much of the Department's ozone policy and was a strong advocate for a treaty which banned the manufacture of chlorofluorocarbons, a goal which was eventually realized with the ratification of the Montreal Protocol. M. Peter McPherson, the Administrator for the Agency for International Development, played a central role in several policy discussions involving global issues. McPherson fought to be the point of

contact during the famine in the Horn of Africa, and his actions following the International Conference on Population helped to cement the Mexico City Policy.

Overall, the Reagan administration's record toward public health and the environment was complicated, and contradictory impulses existed throughout the bureaucracy. Although the Department of State advocated for an international ban on whaling in 1982, Department officials also allowed Icelandic officials to conduct scientific whaling expeditions and negotiated with the Department of Commerce so that Iceland would avoid sanctions under the Pelly Amendment. The Reagan administration's international response to the AIDS epidemic originated from the bottom-up, when Foreign Service officers expressed concern about the virus at a conference in 1983. It was not until Reagan's second term when policymakers outside of the Department, National Institutes of Health (NIH), and Centers for Disease Control (CDC) began to focus on the global dimensions of the crisis. On the other hand, the administration's generally positive response to the Vienna and Montreal Protocols may surprise some environmentalists.

Finally, the breadth of some of these global issues required an astonishing level of interagency coordination. The decision not to sign the Law of the Sea Treaty required a year and a half of cooperation, or at the very least, resignation, from the National Security Council; the Departments of State, Commerce, Defense, and the Interior; the White House staff; and the Joint Chiefs of Staff. Responding to the African famine proved even more complex, as numerous presidentially mandated studies, interagency groups, and agency turf battles made ameliorating the catastrophe a very difficult affair. There were no simple answers to the global problems of the 1980s, and it is unsurprising that the dialogue surrounding these problems was complex as well. This volume illuminates the bureaucratic maelstrom from which policy emerged.

Acknowledgements

The editor wishes to acknowledge the assistance of officials at the Ronald Reagan Presidential Library, as well as Myra Burton, David Geyer, Carl Ashley, Adam Howard, Stephen Randolph, Cate Sewell, Lisa Jones, Mark Patrick, Greg Murphy, Alan Lipton, Mark Ellcessor, Jim Graybill, Tina Spiker, Renée Goings, Michael McCoyer, James Graham Wilson, Elizabeth Charles, Forrest Barnum, Kristin Ahlberg, Laura Kolar, Madeline Poster, John Poster, Peter Hahn, and Robert McMahon. The editor gives special thanks to his wife Leslie, who has brightened his spirit in innumerable ways.

The editor collected and selected documentation and edited the volume under the supervision of Myra Burton, Chief of the Africa and

Americas Division, and Adam Howard, General Editor of the *Foreign Relations* series. Kerry Hite coordinated the declassification review under the supervision of Carl Ashley, Chief of the Declassification Coordination Division. Heather McDaniel completed the copy and technical editing under the supervision of Mandy Chalou, Chief of the Editing and Publishing Division.

Alexander O. Poster
Historian

Contents

About the Series	III
Preface	IX
Sources	XV
Abbreviations and Terms	XXI
Persons	XXIX
Global Issues	
AIDS Policy	1
Human Rights	112
Law of the Sea	345
African Famine	574
International Population Policy	722
International Regulation of Whaling Practices	851
Protection of the Ozone Layer	996

Sources

Sources for Foreign Relations, 1981–1989, Volume XLI

In preparing this volume, the editors made extensive use of Presidential papers and other White House records at the Reagan Library. Within the Reagan Library's collection, Michael Guhin's files, the National Security Council Subject File, Ralph Bledsoe's records of the Domestic Policy Council, and a copy of the George P. Shultz Papers organized by subject were the most helpful.

The records of the Department of State were another important source. The Department's central files contain both cable traffic as well as key memoranda. The Department's lot files were particularly useful, especially when looking for inter-bureau memoranda regarding whaling, the ozone layer, AIDS, and population control. Two Assistant Secretaries of State for Human Rights and Humanitarian Affairs, Elliott Abrams and Richard Schifter, both have voluminous lot files. The lot files for Deputy Secretaries William Clark, Kenneth Dam, and John Whitehead contained valuable documentation.

Research for this volume also involved examining records from the Department of Defense, the Central Intelligence Agency, the Joint Chiefs of Staff, and the Vice Presidential Materials at the George H.W. Bush Library. Some material from the Agency for International Development is already declassified and available at the National Archives and Records Administration at College Park in Record Group 286. The Office of the Historian was also able to gain access to the Alexander M. Haig Papers at the Library of Congress.

Researchers will find records in Department of State lot files helpful. Lot 90D327 contains most of the records from the United Nations Third World Conference on Women in Nairobi, and Lot 92D207 has several boxes with information about the Reagan administration's policy regarding acid rain.

Almost all of this documentation has been made available for use in the *Foreign Relations* series thanks to the consent of the agencies mentioned, the assistance of their staffs, and especially the cooperation and support of the National Archives and Records Administration.

In addition to the paper files cited below, a growing number of documents are available on the Internet. The Office of the Historian maintains a list of these Internet resources on its website and encourages readers to consult that site on a regular basis.

Unpublished Sources

Department of State

Central Foreign Policy File

Lot Files

- Lot File 06D379; Intelligence Research Reports (IRR), 1953–1998
- Lot File 82D127; Files of the Deputy Secretary of State—William P. Clark, 1981–1982
- Lot File 82D273; Department of State, Subject Files—Human Rights Files, 1981
- Lot File 83D288; Secretariat Memorandums—Secretary Alexander Haig Correspondence, 1981–1982
- Lot File 85D105; Subject and Country Files—Law of the Sea, 1982–1983
- Lot File 85D206; Assistant Secretary Subject Files—Human Rights Subject Files, 1981–1984
- Lot File 85D308; Files of the Deputy Secretary of State—Deputy Secretary Kenneth Dam Official Files, 1982–1985
- Lot File 85D353; Subject Files—Fisheries Legislation, 1972–1984
- Lot File 85D357; Law of the Sea—Third UN Conference, 1968–1983
- Lot File 86D184; Health Issues, 1977–1985
- Lot File 86D220; Assistant Secretary Subject Files—Human Rights Country Files, 1984
- Lot File 86D221; Assistant Secretary Subject Files—Human Rights Country Files, 1984
- Lot File 86D362; Chronological Files [OES], 1984–1985
- Lot File 87D37; Organization and Conference Files—Meetings/Governing Council 1984 Meetings/Governing Council, 1983–1984,
- Lot File 87D205; Human Rights Subject Files, 1985
- Lot File 87D258; Subject Files—Edward J. Derwinski, 1982–1985
- Lot File 87D326; Deputy Assistant Secretary of State Subject Files—Edward Derwinski, 1984–1985
- Lot File 87D452; Law of the Sea—Third UN Conference, 1970–1983
- Lot File 88D242; Subject Files—Human Rights, 1986
- Lot File 89D56; Subject and Chron Files, 1985–1986
- Lot File 89D136; Subject Files—Other Agency and Channel Messages and Substantive Material—World Health Organization (WHO), 1985
- Lot File 89D137; AIDS, 1984–1987
- Lot File 89D139; Correspondence of Deputy Secretary John Whitehead, 1982–1989
- Lot File 89D149; Director's Correspondence File—Policy Planning Director, 1981–1988
- Lot File 89D169; U/S Michael Armacost CHRON and Country Files, 1979–1989;
- Lot File 89D184; Assistant Secretary Files—Elliott Abrams Subject and CHRON Files, 1981–1987
- Lot File 89D186; Subject Files—Human Rights Files, 1987

Lot File 89D265; U/S for Political Affairs Michael Armacost Correspondence, 1969–1988

Lot File 90D36; Other Agency and Channel Messages and Substantive Material—World Health Organization (WHO), 1986

Lot File 90D46; Subject Files—Human Rights Files, 1988

Lot File 90D327; Organization and Conference Files—Other Federal Agency and Channel: Nairobi World Conference for Women, 1985

Lot File 90D438; Soviet Union, 1958–1984

Lot File 91D356; Program Files, 1973–1988

Lot File 92D49; Subject Files—Human Rights Files, 1981–1990

Lot File 92D165; Subject Files—Human Rights Files, 1979–1981

Lot File 92D207; Chemicals, Hazardous Waste, Ozone, 1981–1990

Lot File 92D223; CSCE; Vienna Follow Up Meeting, 1986–1989

Lot File 92D227; Chemicals, Hazardous Waste, and Ozone, 1982–1989

Lot File 92D228; Arctic, Antarctic, and Whaling, 1975–1987

Lot File 92D308; Subject Files—Other Agency and Channel Messages and Substantive Material: United Nations Children's Fund (UNICEF), United Nations Disaster Relief Organization (UNDRO), United Nations Institute for Training and Research (UNITAR), 1985–1988

Lot File 92D622; Marine Law and Policy Division Subject and Country Files—Law of the Sea, 1981–1982

Lot File 93D188; Secretary Subject and Country Files—MemCons on US-USSR Relations, 1981–1990

Lot File 93D390; Subject Files: Population, 1961–1992

Lot File 93D393; Country Files—Miscellaneous Population Files, 1974–1992

Lot File 93D395; Environmental Issues, 1979–1993

Lot File 94D4; Law of the Sea, 1981–1991

Lot File 94D411; Correspondence File—Ambassador Richard Schifter CHRON and Subject Files, 1984–1991

Lot File 94D419; Dumping; Arctic; Whaling; Antarctic; Scientific Research, 1976–1987

Lot File 94D542; Pacific Fishery Issues, 1974–1988

INR-IL Files

Vol. 8, Roger Channel Channel

National Archives and Records Administration, College Park, Maryland

RG 218, Records of the U.S. Joint Chiefs of Staff

Papers of David C. Jones

RG 286, Records of the Agency for International Development

USAID/O/ADMIN/ExecSec

USAID/Office of Foreign Disaster Assistance

Bush Presidential Library

Vice Presidential Records, Domestic Policy Office, Garrett Files

Reagan Presidential Library

1985 SYS 4 INT Files

African Affairs Directorate, NSC
Bandow Files
Bledsoe Files
Boggs Files
Carlucci Files
Cobb Files
Collection RR–NSC, Numbered National Security Policy Papers 1981–1989
European and Soviet Affairs Directorate, NSC
Executive Secretariat
 NSC: Meeting File
 National Security Council Decision Directives
 National Security Council Study Directives
 NSC: Subject File, Human Rights
 NSC Subject File, Law of the Sea
 NSC: Subject File, Population—too late to file
 NSC: Subject File, Population
 NSC: System File
Guhin Files
Lisa R. Jameson Files
Robert Johnson Files
McFarlane Files
Meese Files
NR002 Natural Resources Classified
Risque Files
Rodman Files
Rosenberg Files
George P. Shultz Papers
Sweet Files
WHORM: Subject File PR014–08

Central Intelligence Agency

Community Management Staff [formerly known as the Intelligence Community Staff], Job 00B01635R: Committees, Task Forces, Boards, Councils Files
National Intelligence Council, Job 83B00140R: Policy Files (1979–1982)
National Intelligence Council, Job 87T00573R: Intelligence Publications Files (1979–1986)
National Intelligence Council, Job 91B00776R: Policy Files, Lectures, Briefings Files (1980–1989)
Office of Support Services (DI), Job 85T00287R: Production Case Files
Office of Support Services (DI), Job 90T00114R: Intelligence Publications Files (1986–1987)
Office of the Deputy Director for Intelligence, Job 93T01142R: Policy Files (1982–1987)
Office of the Director of Central Intelligence, Job 90B01013R: Policy Files (1981–1988)
Office of Transnational Issues [also known as the Office of Global Issues] (DI), Job 97B00624R: Appropriations and Budget Files

Library of Congress

Papers of Alexander Haig

Washington National Records Center

RG 330, Records of the Department of Defense

OASD Files, FRC 330-91-0033

Records of the Assistant Secretary of Defense for Health Affairs Policy

OASD Files, FRC 330-91-0088

Records of the Assistant Secretary of Defense for Health Affairs Policy

OSD Files, FRC 330-83-0103

Records of the Secretary of Defense

Published Sources

A.C. Bayley, R. Chiengsong-Popov, A.G. Dalgleish, R.G. Downing, R.S. Tedder, R.A. Weiss, "HTLV-III Serology Distinguishes Atypical and Endemic Kaposi's Sarcoma in Africa," *The Lancet*, Vol. 325, No. 8425, February 16, 1985, pp. 359-414.

Brun-Vezinet F., Rouzioux C., Montagnier L., Chamaret S., Gruet J., Barre-Sinoussi F., Geroldi D., Chermann J.C., McCormick J., Mitchell S., et al., "Prevalence of Antibodies to Lymphadenopathy-Associated Retrovirus in African Patients with AIDS," *Science*, 1984 Oct 26; 226(4673).

Chicago Tribune

Choucri, Nazli. *Multidisciplinary Perspectives on Population and Conflict*, Syracuse, NY: Syracuse University Press, 1984.

Christian Science Monitor

Goldstone, J.A. "The Comparative and Historical Study of Revolutions," *Annual Review of Sociology*, Vol. 8, August 1982, 187-207.

John Paul II, *Redemptor Hominis*, Encyclical Letter, March 4, 1979

New York Times

Pittsburgh Press

Sarasota Herald-Tribune

The Herald-Journal (Spartanburg)

The Wall Street Journal

United Nations, "Convention on the Prevention and Punishment of the Crime of Genocide".

_____. "Elements in an International Development Strategy for the 1980s. Report Prepared by the Secretariat," 1979.

_____. "World Population Plan of Action," 1974.

United States. *Congressional Record—Daily Digest*.

_____. Department of State, *Bulletin*.

_____. Centers for Disease Control, *Morbidity and Mortality Weekly Reports*.

_____. National Archives and Records Administration, *Public Papers of the Presidents of the United States: Ronald Reagan, 1981-1988*.

_____. Public Health Service, Office of the Surgeon General, "Surgeon General's Report on Acquired Immune Deficiency Syndrome," 1986.

_____. U.S. Agency for International Development, "USAID Policy Paper—Population Assistance."

_____. White House Press Briefing, October 15, 1982.

U.S. News and World Report

Washington Post

Woods, Alan, *An Investment in Global Growth: The Administrator's Statement for the Fiscal Year 1989 Congressional Presentation*, Institute for Development Anthropology document no. 1481, Washington: U.S. Agency for International Development, 1988.

Abbreviations and Terms

ABA, American Bar Association

AF, Bureau of African Affairs, Department of State

AF/EPs, Economic Policy Staff, Bureau of African Affairs, Department of State

AF/I, Office of Inter-African Affairs, Bureau of African Affairs, Department of State

AFMIC, Armed Forces Medical Intelligence Center

AF/P, Public Affairs Staff, Bureau of African Affairs, Department of State

AF/RA, Office of Regional Affairs, Bureau of African Affairs, Department of State

AF/S, Office of Southern African Affairs, Bureau of African Affairs, Department of State

AFR/DP, Office of Development Planning, Bureau for Africa, Agency for International Development

AID, Agency for International Development

AID/AA/DS, Assistant Administrator, Bureau for Development Support, Agency for International Development

AID/AA/LEG, Assistant Administrator, Office of Legislative Affairs, Agency for International Development

AID/AA/PDC, Assistant Administrator, Bureau for Private and Development Cooperation, U.S. Agency for International Development

AID/AA/PPC, Assistant Administrator, Bureau for Program and Policy Coordination, U.S. Agency for International Development

AID/AF, Bureau for Africa, Agency for International Development

AID/AFR, Bureau for Africa, Agency for International Development

AID/AFR/DR, Office of Development Resources, Bureau for Africa, Agency for International Development

AID/AFR/EA, Office of East Africa Affairs, Bureau for Africa, Agency for International Development

AID/AFR/TR, Office of Technical Resources, Bureau for Africa, Agency for International Development

AID/ANE/TR, Office of Technical Resources, Bureau for Asia and the Near East, Agency for International Development

AID/ASIA/TR, Office of Technical Resources, Bureau for Asia, Agency for International Development

AID/DAA/ST, Deputy Assistant Administrator, Bureau for Science and Technology, Agency for International Development

AID/DS/POP, Office of Population, Bureau for Development Support, Agency for International Development

AID/ES, Office of the Executive Secretary, Agency for International Development

AID/GC, Office of the General Counsel, Agency for International Development

AID/LAC/DR, Office of Development Resources, Bureau for Latin America and the Caribbean, Agency for International Development

AID/NE/TECH, Office of Technical Support, Bureau for Near East, Agency for International Development

AID/PPC, Bureau for Program and Policy Coordination, Agency for International Development

AID/PPC/PDPR, Office of Policy Development and Program Review, Bureau for Program and Policy Coordination, Agency for International Development

AID/S, Directorate for Health and Population, Bureau of Science and Technology, Agency for International Development

AID/S&T/H, Office of Health, Bureau for Science and Technology, Agency for International Development

AID/S&T/POP, Office of Population, Bureau for Science and Technology, Agency for International Development

AID/SER/MP, Office of Management Planning, Bureau for Program and Management Services, Agency for International Development

AIDS, Acquired Immune Deficiency Syndrome

AMB, Ambassador

AMCITS, U.S. citizens

AP, adjusted protection

APA, American Psychiatric Association

ARA, Bureau of Inter-American Affairs, Department of State

ARA/ECP, Office of Regional Economic Policy, Bureau of Inter-American Affairs, Department of State

ARC, AIDS-related complex

AZT, azidothymidine

BBC, British Broadcasting Corporation

BIWS, Bureau of International Whaling Statistics

C, Counselor of the Department of State

CA/PC, Program Planning and Coordination Staff, Bureau of Consular Affairs, Department of State

CBW, chemical and biological weapons

CCC, Commodity Credit Corporation

CDC, Centers for Disease Control

CDE, confidence- and security-building measures and disarmament in Europe

CDU, Christian Democratic Union

CEFIC, European Chemical Industry Council

CEQ, Council on Environmental Quality

CFC, chlorofluorocarbons

CIA, Central Intelligence Agency

COMUSNAVPHIL Subic Bay, Commander, U.S. Naval Forces, Philippines, Subic Bay

CPSCU, Communist Party of the Soviet Union

CSCE, Commission on Security and Cooperation in Europe

CW, chemical weapons

D, Deputy Secretary of State

DAA/AFR, Deputy Assistant Administrator, Bureau for Africa, Agency for International Development

DAS, Deputy Assistant Secretary

DCIT, Draft Convention Informal Text

DCM, Deputy Chief of Mission

DI, Directorate of Intelligence, Central Intelligence Agency

DIA, Defense Intelligence Agency

DOC/NOAA/OME, Office of Oceans, Minerals, and Energy, National Oceanic and Atmospheric Administration, Department of Commerce

DOD, Department of Defense

DOE, Department of Energy

DOH, Department of Health

DPC, Domestic Policy Council

E, Undersecretary of State for Economic Affairs

EA, Bureau of East Asian and Pacific Affairs, Department of State

- EA/RA**, Office of Regional Affairs, Bureau of East Asian and Pacific Affairs, Department of State
- EAP**, Bureau of East Asian and Pacific Affairs, Department of State
- EAP/J**, Office of Japanese Affairs, Bureau of East Asian and Pacific Affairs, Department of State
- EAP/PHL**, Office of Philippine Affairs, Bureau of East Asian and Pacific Affairs
- EB**, Bureau of Economic and Business Affairs, Department of State
- EB/ICD**, Office of International Commodities, Bureau of Economic and Business Affairs, Department of State
- EB/MPM**, Marine and Polar Minerals Division, Office of International Commodities, Bureau of Economic and Business Affairs, Department of State
- EB/OIA**, Office of Investment Affairs, Bureau of Economic and Business Affairs, Department of State
- EC**, European Community
- ECOSOC**, Economic and Social Council, United Nations
- EEC**, European Economic Community
- EEZ**, Exclusive Economic Zone
- EIF**, entry into force
- ELISA**, enzyme-linked immunosorbent assay
- EO**, Executive Order
- EOC**, Ethiopian Orthodox Church
- EPA**, Environmental Protection Agency
- EPA/A**, Administrator, Environmental Protection Agency
- EPA/OAR**, Office of Air and Radiation, Environmental Protection Agency
- EPA/OIA**, Office of International Activities, Environmental Protection Agency
- ESAF**, enhanced structural adjustment facility
- ESF**, Economic Support Fund
- EUR**, Bureau of European and Canadian Affairs, Department of State; Bureau of European Affairs, Department of State
- EUR/P**, Public Affairs Adviser, Bureau of European and Canadian Affairs, Department of State
- EUR/RPE**, Office of Organisation for Economic Co-operation and Development, European Community, and Atlantic Political-Economic Affairs, Bureau of European Affairs, Department of State
- EUR/SOV**, Office of Soviet Union Affairs, Bureau of European and Canadian Affairs, Department of State
- EUR/SOV/SOBI**, Bilateral Political Relations, Office of Soviet Union Affairs, Bureau of European and Canadian Affairs, Department of State
- Exdis**, Exclusive distribution
-
- FAA**, Federal Aviation Administration
- FAM**, *Foreign Affairs Manual*
- FBIS**, Foreign Broadcast Information Service
- FCO**, Foreign and Commonwealth Office, United Kingdom
- FDA**, Food and Drug Administration
- FFN**, food for the north
- FFP**, Food for Peace
- FON**, Freedom of Navigation
- FonMin**, Foreign Minister
- FR**, *Federal Register*
- FRG**, Federal Republic of Germany
- FWPCA**, Federal Water Pollution Control Act
- FVA**, Food for Peace and Voluntary Assistance Bureau, Agency for International Development

GA, General Assembly, United Nations
GATT, General Agreement on Tariffs and Trade
GI, gastrointestinal
GIFA, governing international fishery agreement
GDR, German Democratic Republic
GNP, gross national product
GOA, Government of Argentina
GOI, Government of Indonesia; Government of Iceland
GOJ, Government of Japan
GON, Government of the Netherlands; Government of Norway
GOP, Government of Philippines
GOZ, Government of Zaire

H, Legislative and Intergovernmental Affairs, Department of State
HA, Bureau of Human Rights and Humanitarian Affairs, Department of State
HA/HR, Office of Human Rights, Bureau of Human Rights and Humanitarian Affairs
HHS, Department of Health and Human Services
HIV, human immunodeficiency virus
HMG, Her Majesty's Government (United Kingdom)
HR, House Resolution
HRC, Human Rights Commission, United Nations
HTLV, human T-cell lymphotropic virus

IBRD, International Bank for Reconstruction and Development
ICC, International Commerce Commission
ICJ, International Court of Justice
ICP, International Conference on Population
ICRC, International Committee of the Red Cross
IDF, Icelandic Defense Force
IE&C, information, education, and communication
IFPRI, International Food Policy Research Institute
IG, interdepartmental group; interagency group
IMCO, Intergovernmental Maritime Consultative Organization
IMEC, industrial market economy countries
IMET, International Military Education and Training
IMF, International Monetary Fund
INA, Immigration and Naturalization Act
INF, Intermediate Range Nuclear Force Treaty
INR, Bureau of Intelligence and Research, Department of State
INR/AMR, Office of Active Measures, Analysis, and Response, Bureau of Intelligence and Research, Department of State
INR/ID, Deputy Assistant Secretary for Inter-Departmental Affairs, Bureau of Intelligence and Research, Department of State
INR/RSE, Office of Research and Analysis, Bureau of Intelligence and Research, Department of State
INS, Immigration and Naturalization Service
IO, Bureau of International Organization Affairs, Department of State
IO/D, Deputy Assistant Secretary of State, Bureau of International Organization Affairs
IO/ECO, Economic Development Division, Office of the Deputy Assistant Secretary for International Economic and Social Affairs, Bureau of International Organization Affairs, Department of State
IO/HR, Office of Human Rights Affairs, Bureau of International Organization Affairs, Department of State

IO/T/SCT, Deputy Director for Scientific Programs, Bureau of International Scientific Affairs, Department of State

IPPF, International Planned Parenthood Federation

ITM, Institute of Tropical Medicine, Antwerp

ITSH, international transport, storage and handling

IUSAC, Institute for the United States and Canada

IV, intravenous

IWC, International Whaling Commission

JCS, Joint Chiefs of Staff

KGB, *Komitet gosudarstvennoy bezopasnost* (Soviet security agency)

L, Legal Adviser, Department of State

L/EBC, Assistant Legal Adviser, Economic, Business, and Communication Affairs, Department of State

L/HRR, Assistant Legal Adviser, Human Rights and Refugees, Department of State

L/OES, Office of Oceans and International Environmental and Scientific Affairs, Legal Adviser, Department of State

L/T, Treaty Affairs, Legal Adviser, Department of State

LAV, lymphadenopathy-associated virus

LDC, less developed country

LDP, Liberal Democratic Party of Japan

LOS, Law of the Sea

LOU, limited official use

M/COMP, Office of the Comptroller, Bureau of Management, Department of State

M/MED, Office of Medical Services, Bureau of Management, Department of State

M/MO, Management Operations, Bureau of Management, Department of State

MAUT, Multi-attribute Utility Theory

MBFR, Mutual and Balanced Force Reductions

MC, Missionaries of Charity

MDB, multi-lateral development bank

MFA, Minister of Foreign Affairs

MMPA, Marine Mammal Protection Act

MMWR, Mortality and Morbidity Weekly Report

MOU, memorandum of understanding

MT, metric ton

NAS/IOM, National Academy of Sciences, Institute of Medicine

NASA, National Aeronautics and Space Administration

NATO, North Atlantic Treaty Organization

NEA, Bureau of Near Eastern and South Asian Affairs, Department of State

NEA/IAI, Office of Israel and Arab-Israeli Affairs, Bureau of Near Eastern and South Asian Affairs, Department of State

NEA/RA, Office of Regional Affairs, Bureau of Near Eastern and South Asian Affairs, Department of State

NEPA, National Environmental Policy Act

NFP, natural family planning

NGO, non-governmental organization

Niact, night action

NIAID, National Institute of Allergy and Infectious Diseases

NIEO, New International Economic Order

NIH, National Institutes of Health

NMFS, National Marine Fisheries Service
NOAA, National Oceanic and Atmospheric Administration
NOAA/NMFS, National Marine Fisheries Service, National Oceanic and Atmospheric Administration
NODIS, no distribution
NOFORN, no foreign dissemination
NPW, nuclear-powered warships
NSC, National Security Council
NSDD, National Security Decision Directive
NSSD, National Security Study Directive

OAU, Organization of African Unity
OECD, Organisation for Economic Co-operation and Development
OES, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
OES/CP, Coordinator of Population Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
OES/E, Office of Environment, Health and Natural Resources, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
OES/ENH, Office of Environment and Health, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
OES/ENR, Office of Food and Natural Resources, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
OES/O, Deputy Assistant Secretary of State, Oceans and Fisheries Affairs, Bureau of Oceans and International Environmental and Scientific Affairs
OES/OLP, Office of Ocean Law and Policy, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
OFDA, Office of U.S. Foreign Disaster Assistance, Agency for International Development
OMB, Office of Management and Budget
OPD, Office of Policy Development, Executive Office of the President
OSD, Office of the Secretary of Defense
OSTP, Office of Science and Technology Policy, Executive Office of the President
OTEC, Ocean Thermal Energy Conversion

P, Under Secretary of State for Political Affairs
PA, Bureau of Public Affairs, Department of State
PAO, Public Affairs Officer
PDM, Presidential Decision Memorandum
PEES, pre-enactment explorers
PEN, Poets, Essayists, and Novelists
PIP, Preparatory Investment Protection
PLO, Palestine Liberation Organization
PM, Bureau of Politico-Military Affairs, Department of State
PMGSE, Provisional Military Government of Socialist Ethiopia
PPC/PDPR, Office of Policy Development and Program Review, Bureau for Program and Policy Coordination, Agency for International Development
PRC, People's Republic of China
PREL, External Political Relations
Prepcom, Preparatory Commission
PSA, politically sensitive area; public service announcement
PVO, private voluntary organization

R&D, research and development
RAF, Royal Air Force (United Kingdom)

- REIO**, regional economic integration organizations
RP, Bureau for Refugee Programs, Department of State
RP/RAP, Office of Refugee Admissions and Processing, Bureau for Refugee Programs, Department of State
RP/RAP/AP, Admission Programs Division, Office of Refugee Admissions and Processing, Bureau for Refugee Programs, Department of State
RRC, Relief and Rehabilitation Commission (Ethiopia)
RSA, Reciprocating States Agreement
- S**, Secretary of State
S/CSCE, Ambassador to the Commission on Security and Cooperation in Europe
S/AL, Ambassador at Large, Department of State
S/P, Policy Planning Staff, Department of State
S/R, Ambassador at Large and Coordinator for Refugee Affairs
S/S, Executive Secretariat, Department of State
S/S-O, Operations Center, Executive Secretariat, Department of State
S&T/HP, Directorate for Health and Population, Bureau of Science and Technology, Agency for International Development
S&T/PO, Office of Program, Bureau for Science and Technology, Agency for International Development
SAA/S&T, Senior Assistant Administrator, Bureau for Science and Technology, Agency for International Development
SAF, structural adjustment facility
SC, Security Council, United Nations
SecNav, Secretary of the Navy
Secto, series indication for telegrams from the Secretary of State or his party to the Department of State
SHUM, Social Affairs—Human Rights
SIG, Senior Interdepartmental Group
SR, Senate Resolution
SS, *Schutzstaffel* (Adolf Hitler's personal bodyguards)
Stadis, standard distribution
START, Strategic Arms Reduction Treaty
STD, sexually transmitted disease
SWAPO, South West Africa People's Organization
- T**, Under Secretary of State for Security Assistance, Science, and Technology
T/HEALTH, Directorate for Health and Population, Bureau for Science and Technology, Agency for International Development
TDY, temporary duty
TG, Toronto Group
TPRG, Trade Policy Review Group
TTPI, Trust Territory of the Pacific Islands
- UK**, United Kingdom
UN, United Nations
UNCLOS, United Nations Conference on Law of the Sea
UNDP, United Nations Development Programme
UNDRO, United Nations Disaster Relief Organization
UNEP, United Nations Environment Programme
UNFPA, United Nations Fund for Population Activities
UNGA, United Nations General Assembly
UNHCR, United Nations High Commissioner for Refugees
UNHRC, United Nations Human Rights Commission

UNICEF, United Nations Children's Fund
UNIDO, United Nations Industrial Development Organization
UNIFEM, United Nations Development Fund for Women
UNITAR, United Nations Institute for Training and Research
UNLOSC, United Nations Law of the Sea Conference
UNSYG, United Nations Secretary-General
USAID, United States Agency for International Development
UCINCLANT, U.S. Commander in Chief, Atlantic Command
USCINCPAC, U.S. Commander in Chief, Pacific Command
USCINCSO, U.S. Commander in Chief, Southern Command
USDel, U.S. delegation
USDH, U.S. direct hire
USDOL, U.S. Dollar
USG, U.S. Government
USIA, United States Information Agency
USPHS, U.S. Public Health Service
USSR, Union of Soviet Socialist Republics
USTR, United States Trade Representative
USUN, United States Mission to the United Nations
UVB, ultraviolet radiation

VOA, Voice of America

WEO, Western Europe and Others Group, United Nations
WEOG, Western Europe and Others Group, United Nations
WFP, World Food Programme, United Nations
WG, Working Group
WHO, World Health Organization
WHO/GPA, Global Programme on AIDS, World Health Organization
WJC, World Jewish Congress
WMO, World Meteorological Organization
WPPA, World Population Plan of Action
WSJ, *Wall Street Journal*
WVRO, World Vision Relief Organization

Z, Zulu (Greenwich Mean) time

Persons

- Abramovitz, Morton I.**, Director, Bureau of Intelligence and Research, Department of State, from 1985 until 1986; Assistant Secretary of State for Intelligence and Research from 1986 until 1989
- Abrams, Elliott**, Assistant Secretary of State for International Organizations from 1981; Assistant Secretary of State for Human Rights and Humanitarian Affairs from 1981 until 1985; Assistant Secretary of State for Inter-American Affairs from 1985 until 1989
- Adamishin, Anatoly L.**, Deputy Minister of Foreign Affairs, Union of Soviet Socialist Republics, from 1986 until 1990
- Adelman, Kenneth L.**, Deputy Ambassador to the United Nations
- Aguiar, Andrés, M.**, Chairman, Second Committee, Third United Nations Conference on the Law of the Sea
- Aldrich, George H.**, Ambassador and Deputy Special Representative of the President for the United Nations Law of the Sea Conference from 1977 until 1981
- Allen, Richard V.**, Assistant to the President for National Security Affairs from January 21, 1981, until January 4, 1982
- Anderson, Gerald C.**, Office of the Executive Secretariat, Department of State
- Anderson, L. Desaix**, Director, Office of Japanese Affairs, Bureau of East Asian and Pacific Affairs, Department of State
- Anderson, Martin**, Assistant to the President for Policy Development from 1981 until 1982
- Andropov, Yuri V.**, General Secretary of the Central Committee of the Communist Party, Union of Soviet Socialist Republics, from 1982 until 1984
- Armocost, Michael H.**, Deputy Assistant Secretary of State for East Asian and Pacific Affairs from 1980 until 1982; U.S. Ambassador to the Philippines from 1982 until 1984; Under Secretary of State for Political Affairs from 1984 until 1989
- Armstrong, Anne L.**, member, Foreign Intelligence Advisory Board from 1981 until 1982; chair, Foreign Intelligence Advisory Board from 1982 until 1990
- Arnaudo, Raymond V.**, Office of Fisheries Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
- Ásgrímsson, Halldór**, Minister of Fisheries, Republic of Iceland from 1983 until 1991; Minister of Nordic Cooperation, Republic of Iceland from 1985 until 1987
- Atherton, Alfred L. "Roy," Jr.**, Director-General of the Foreign Service and Director of Personnel
- Austin, Robert C.**, Rear Admiral, USN
- Avery, Dennis T.**, Office of Economic Analysis, Bureau of Intelligence and Research, Department of State
- Bache, G. Michael**, Economics Officer, Bureau of Human Rights and Humanitarian Affairs, Department of State, from 1980 until 1982
- Bailey, Eugene**, Office of the Coordinator for Counterterrorism, Department of State
- Bailey, Martin J.**, Office of the Under Secretary of State for Economic Affairs
- Baker, Howard H., Jr.**, Senator (R-Tennessee) until 1985; White House Chief of Staff from 1987 until 1988
- Baker, James A., III**, White House Chief of Staff from 1981 until 1985; Secretary of the Treasury from 1985 until 1988
- Baldrige, Malcolm H.**, Secretary of Commerce from 1981 until 1987

- Ball, William L., III**, Assistant Secretary of State for Legislative and Intergovernmental Affairs from 1985 until 1986; White House Staff from 1986 until 1988; Secretary of the Navy from 1988 until 1989
- Bandow, Doug L.**, Special Assistant to the President, Office of Policy Development, Executive Office of the President
- Barr, William P.**, Office of Policy Development, Executive Office of the President
- Beahler, John L.**, Senior Deputy Assistant Secretary of State, Office of Medical Services
- Becton, Julius W.**, Lieutenant General, USA; Director, Office of Foreign Disaster Assistance, Agency for International Development, from 1984 until 1985; Director, Federal Emergency Management Agency from 1985 until 1989
- Begun, Josef Z.**, Soviet dissident
- Bemis, Robert C.**, member, National Security Council Staff from 1987 until 1988
- Benedick, Richard, E.**, Coordinator of Population Services, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State, from 1978 until 1984; Deputy Assistant Secretary of State for Environment, Health, and Natural Resources, Bureau of Oceans and International Environmental and Scientific Affairs from 1984 until 1987
- Bennett, William J.**, "Bill," Chair, National Endowment for the Humanities from 1981 until 1985; Secretary of Education from 1985 until 1988
- Bernhardt, John Peter A.**, Office of Oceans and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
- Bessmertnykh, Aleksandr**, Minister-Counselor at the Soviet Embassy in Washington
- Billo, Charles G.**, Chief, Food Programs Division, Office of Food Policy and Programs, Bureau of Economic and Business Affairs, Department of State
- Blakeslee, Katherine**, Special Projects Division, Office of Policy Development and Program Review, Bureau for Program and Policy Coordination, Agency for International Development
- Blanchard, Jack W.**, Office of Environment and Health, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
- Bledsoe, Ralph C.**, Associate Director, Office of Planning and Inventory, from 1981 until 1982; Office of Policy Development, Executive Office of the President, from 1982 until 1985; Executive Secretary, Domestic Policy Council, from 1985 until 1988
- Bloch, Julia C.**, Assistant Administrator of the Bureau for Food for Peace and Voluntary Assistance, Agency for International Development
- Block, John R.**, Secretary of Agriculture from 1981 until 1986
- Blumberg, Robert C.**, Office of Oceans and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
- Boggs, Danny**, Office of Policy Development, Executive Office of the President from 1981 until 1983; Deputy Secretary of Energy from 1983 until 1986
- Bogosian, Richard W.**, Director, Office of East African Affairs, Bureau of African Affairs, Department of State
- Bohn, John A.**, Vice-Chair, Export-Import Bank of the United States; Chairman and Chief Executive Officer, Export-Import Bank of the United States
- Bosworth, Stephen W.**, Chairman, Policy Planning Council, Department of State, from 1983 until 1984
- Bowen, Otis R.**, Secretary of Health and Human Services from 1985 until 1989
- Boyer, Neil A.**, Deputy Director for Health and Transportation Programs, Bureau of International Organization Affairs, Department of State
- Bradford, William G.**, Bureau of Human Rights and Humanitarian Affairs, Department of State
- Brady, Nyle C.**, Senior Assistant Administrator, Bureau for Science and Technology, Agency for International Development
- Brazeal, Aurelia E.**, Office of Development Finance, Bureau of Economic and Business Affairs, Department of State

- Bremer, L. Paul, "Jerry," III**, Executive Secretary, Department of State, from February 2, 1981, until March 27, 1983
- Brock, William E., III**, U.S. Trade Representative from 1981 until 1985
- Brown, Catherine W.**, Office of the Assistant Legal Adviser for Human Rights, Department of State
- Brown, Clarence J. "Bud," Jr.**, member, House of Representatives (R-Ohio) until 1983; Deputy Secretary of Commerce from 1983 until 1988; Acting Secretary of Commerce from 1987
- Brown, William A.**, Principal Deputy Assistant Secretary of State for East Asian and Pacific Affairs from 1983 until 1985
- Brunner, Eduardo**, Secretary of State for Swiss Federal Council from 1984
- Buckley, James L.**, Under Secretary of State for Security Assistance, Science, and Technology from February 28, 1981, until August 20, 1982; Counselor of the Department of State, from September 9, 1982, until September 26, 1982; President, Radio Free Europe, from 1982 until 1985
- Buerk, Michael D.**, British journalist
- Burke, W. Scott**, Deputy Assistant Secretary of State for Human Rights and Humanitarian Affairs
- Burns, Arnold I.**, Associate Attorney General from 1985 until 1986; Deputy Attorney General from 1986 until 1988
- Burt, Richard R.**, Director, Bureau of Politico-Military Affairs, Department of State, from 1981 until 1982; Assistant Secretary of State for European Affairs from 1983; Assistant Secretary of State for European and Canadian Affairs from 1983 until 1985
- Busby, Morris D.**, Deputy Assistant Secretary of State for Oceans and Fisheries Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, from 1980 until 1981
- Bush, George H.W.**, Vice President of the United States
- Bushnell, John A.**, Deputy Assistant Secretary of State for Inter-American Affairs from 1977 until 1982
- Butcher, Suzanne S.**, Office of Environment and Health, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
- Butler, Malcolm**, Executive Secretary, Agency for International Development
- Byrnes, Paul J.**, Director, Office of Technical Specialized Service, Bureau of International Organization Affairs, Department of State
- Calio, Anthony, J. "Tony,"** Deputy Administrator, National Oceanic and Atmospheric Administration, Department of Commerce, from 1981 until 1985; Administrator, National Oceanic and Atmospheric Administration, Department of Commerce, from 1985 until 1987
- Carlucci, Frank C., III**, Deputy Director of Central Intelligence until February 4, 1981; Deputy Secretary of Defense from February 4, 1981, until December 31, 1982; Secretary of Defense from November 23, 1987, until January 20, 1989
- Carpenter, Margaret**, Office of the Coordinator for Refugee Affairs, Department of State
- Casey, William J. "Bill,"** Director of Central Intelligence from January 28, 1981, until May 6, 1987
- Chapman, William K.**, Office of the Executive Secretariat, Department of State
- Chernenko, Konstantin U.**, General Secretary of the Central Committee of the Communist Party, Union of Soviet Socialist Republics from 1984 until 1985
- Cheysson, Claude**, Minister of Foreign Affairs, French Republic, from 1981 until 1984
- Christenson, Richard**, Office of Northern European Affairs, Bureau of European and Canadian Affairs, Department of State
- Cicconi, James W.**, Special Assistant to the Chief of Staff, Office of the Chief of Staff, White House Staff

- Clark, William, Jr.**, Japanese Country Director, Department of State; Deputy Chief of Mission, U.S. Embassy in Tokyo
- Clark, William P., Jr.**, Deputy Secretary of State from February 25, 1981, until February 9, 1982; Assistant to the President for National Security Affairs from January 4, 1982, until October 17, 1983; Secretary of the Interior from November 18, 1983, until February 7, 1985
- Clear, Taylor J.**, Office of the Intelligence Liaison, Bureau of Intelligence and Research, Department of State
- Clyatt, Oscar W., Jr.**, Office of Soviet Union Affairs, Bureau of European Affairs, Department of State
- Coe, Robert P.**, Deputy Director, Office of Environment and Health, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
- Coffey, Steven**, Office of the Under Secretary of State for Political Affairs
- Cohen, Herman J. "Hank,"** Principal Deputy Assistant Secretary of State for Intelligence and Research from 1980 until 1984; Special Assistant to the President for African Affairs from 1987 until 1989
- Clare, Gwen**, Office of the Executive Secretary, Department of State
- Colson, David A.**, Assistant Legal Adviser for Oceans, International Environmental and Scientific Affairs, Department of State
- Connuck, Bruce E.**, Bureau of European and Canadian Affairs, Department of State
- Cooper, James F.**, Office of Northern European Affairs, Bureau of European and Canadian Affairs, Department of State
- Cormack, Thomas B.**, Executive Secretary, Central Intelligence Agency
- Courtney, William H.**, Special Assistant to the Under Secretary of State for Political Affairs
- Cramer, Shannon D., Jr.**, Vice Admiral, USN; Department of Defense Representative for Law of the Sea Matters
- Cribb, T. Kenneth "Ken,"** Assistant to the President for Domestic Affairs
- Crocker, Chester A.**, Assistant Secretary of State for African Affairs from 1981 until 1989
- Curran, James W.**, leader, HIV/AIDS task force, Centers for Disease Control
- Dam, Kenneth W.**, Deputy Secretary of State from 1982 until 1985
- Dawit, Wolde Giorgis**, head, Relief and Rehabilitation Commission, Provisional Military Government of Socialist Ethiopia
- Dean, Robert**, member, National Security Council Staff from 1987 until 1988
- Deaver, Michael K.**, White House Deputy Chief of Staff from January 1981 until May 1985
- Dembski, Sandra, A.**, Office of Soviet Union Affairs, Bureau of European and Canadian Affairs, Department of State
- Derham, Richard**, Acting Assistant Administrator for the Bureau for Program and Policy Coordination in the Agency for International Development; Assistant Administrator for the Bureau for Program and Policy Coordination in the Agency for International Development
- Derwinski, Edward J., "Ed,"** member, House of Representatives (R-Illinois) until 1983; Counselor, Department of State from 1983 until 1987; Under Secretary of State for Arms Control and International Security Affairs from 1987 until 1989
- Dobbins, James F., Jr.**, Deputy Assistant Secretary of State for European Affairs from 1982 until 1983; Deputy Assistant Secretary of State for European and Canadian Affairs from 1983 until 1985
- Dobriansky, Paula J.**, member, National Security Council Staff from 1983 until 1984; Advisor to the U.S. Delegation to the UN Decade for Women Conference from 1985; Deputy Assistant Secretary of State for Human Rights and Humanitarian Affairs from 1987 until 1990
- Dobrynin, Anatoly F.**, Soviet Ambassador to the United States

- Donovan, Raymond "Ray" J.**, Secretary of Labor from 1981 until 1985
- Douglas, H. Eugene**, Ambassador at Large and Coordinator for Refugee Affairs, Department of State from 1981 until 1985
- Dowdle, Walter**, Deputy Director, Centers for Disease Control from 1987 until 1994
- Dustin, Eben, H.**, Director of Medical Services, Bureau of Management, Department of State
- Draper, Morris**, Deputy Assistant Secretary of State for Near Eastern and South Asian Affairs from 1978 until 1983
- Driggs, Michael A.**, Special Assistant to the President for Legal Policy, Commerce, and Trade, Office of Policy Development, Executive Office of the President from 1985; Special Assistant and Assistant Director, Commerce and Trade, Office of Policy Development, Executive Office of the President from 1987 until 1988
- Dyke, Nancy Bearg**, Assistant to the Vice President for National Security Affairs
- Eagleburger, Lawrence S.**, U. S. Ambassador to Yugoslavia from 1977 until 1981; Assistant Secretary of State for European Affairs from May 14, 1981, until January 26, 1982; Under Secretary of State for Political Affairs from February 12, 1982, until May 1, 1984
- Edwards, James B.**, Secretary of Energy from 1981 until 1982
- Eirikson, Gudmundur**, Legal Adviser, Ministry of Foreign Affairs, Republic of Iceland
- Ely, Northcutt**, attorney-at-law
- Enders, Thomas O.**, Assistant Secretary of State for Inter-American Affairs from June 23, 1981, until June 27, 1983
- Ermarth, Fritz W.**, member, National Security Council Staff from 1987
- Eskin, Otho E.**, Director, Office of Ocean Law and Policy, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
- Etzel, Edward**, Deputy Assistant Secretary of State for Health Care Programs, Office of Medical Services
- Evans, William E.**, Assistant Administrator for Fisheries, Department of Commerce
- Fairbanks, Charles H., Jr.**, Policy Planning Staff, Department of State; Deputy Assistant Secretary of State for Human Rights and Humanitarian Affairs
- Fanfani, Amintore**, Italian Prime Minister from 1982 until 1983 and again from 1987
- Farrand, Robert W.**, Principal Deputy Assistant Secretary of State, Bureau of Human Rights and Humanitarian Affairs from 1987 until 1990
- Feldman, Harvey J.**, U.S. Representative to the United Nations until 1986
- Fischer, Dean E.**, Assistant Secretary of State for Public Affairs from August 7, 1981, until August 19, 1982; Department of State Spokesman from March 28, 1981, until August 19, 1982
- Flournoy, Peter H.**, Legal Adviser, Office of Oceans, International Environmental and Scientific Affairs, Department of State
- Funseth, Robert L.**, Senior Deputy Assistant Secretary of State for Management, Bureau of Refugee Programs
- Galatz, Karen**, Policy Planning Staff, Department of State
- Gallagher, Dennis**, Office of the Assistant Legal Adviser for Management, Department of State
- Gallini, Linda S.**, Deputy Director for Scientific Programs, Bureau of International Organization Affairs, Department of State
- Gates, Robert M.**, Director, Deputy Director for Intelligence, Central Intelligence Agency from 1982 until 1986; Chairman, National Intelligence Council from September 1983 until April 1986; Deputy Director, Central Intelligence Agency from April 1986 until March 1989
- Gavin, John**, U.S. Ambassador to Mexico from 1981 until 1986

George, Clair E., Deputy Director of Operations, Central Intelligence Agency from 1984 until 1987

Gigot, Paul A., White House Fellow, Domestic Policy Council

Gladson, Charles, L., Deputy Assistant Administrator, Food for Peace and Voluntary Assistance Bureau, Agency for International Development from 1981 until 1984; Mission Director, Kenya, Agency for International Development from 1984 until 1986; Assistant Administrator, Bureau for Africa, Agency for International Development from 1987 until 1991; Board of Directors, African Development Foundation from 1987 until 1990

Glazer, Harry B., Chief, Economic Development Division, Office of the Deputy Assistant Secretary for International Economic and Social Affairs, Bureau of International Organization Affairs, Department of State

Goff, Paul, Senior Deputy Assistant Secretary of State, Office of Medical Services

Gorbachev, Mikhail S., General Secretary of the Central Committee of the Communist Party, Union of Soviet Socialist Republics, from 1985 until 1991

Gordon, Robert S., Jr., Special Assistant to the Director, National Institutes of Health, from 1976

Gorsuch, Anne M., Administrator, Environmental Protection Agency, from 1981 until 1983

Gray, Edwin J., Director, Office of Policy Development, Executive Office of the President

Green, Grant S., Jr., Colonel, USA; Executive Secretary, National Security Council from 1987

Gregg, Donald, P. member, National Security Council Staff from 1979 until 1982; Assistant to the Vice President for National Security Affairs from 1982 until 1989

Gromyko, Andrei Andreevich, Minister of Foreign Affairs, Union of Soviet Socialist Republics

Grossman, Daniel, Office of Soviet Union Affairs, Bureau of European and Canadian Affairs, Department of State

Guhin, Michael A., member, National Security Council Staff from 1981 until 1984

Habicht, Frank H. "Hank," Jr., Associate Attorney General, Land and Natural Resources Division, from 1983 until 1987

Haig, Alexander M., Jr., Secretary of State from January 22, 1981, until July 5, 1982

Hajost, Scott, Legal Adviser, Office of Oceans, International Environmental and Scientific Affairs, Department of State

Hallgrímsson, Geir, Minister of Foreign Affairs, Republic of Iceland from 1983 until 1986

Harlow, Bruce A., Representative and Vice-Chairman, U.S. Delegation to the Third United Nations Conference on the Law of the Sea

Harper, Edwin L., Assistant to the President, Office of Policy Development, Executive Office of the President; Deputy Director, Office of Management and Budget

Helms, Jesse A., Jr., Senator (R-North Carolina)

Hemmer, Carl J., Office of Population, Agency for International Development

Henderson, D. Rudolph "Rudy," Jr., Office of the Legal Adviser, Department of State

Hermannsson, Steingrímur, Icelandic Prime Minister from 1983 until 1987; and again from 1988 until 1991

Herrick, Allison B., Deputy Assistant Administrator, Bureau of Program and Policy Coordination, Agency for International Development

Herrington, John S., Assistant Secretary of the Navy for Manpower and Reserve Affairs, from 1981 until 1983; Deputy Assistant to the President for Presidential Personnel, Executive Office of the President, from 1983 until 1985; Secretary of Energy from 1985 until 1989

Hertzberg, David A., Office of Analysis for the Soviet Union and Eastern Europe, Bureau of Intelligence and Research, Department of State

Hill, A. Alan, Chair, Council on Environmental Quality, from 1981 until 1989

- Hines, Patricia R.**, Office of Policy Development, Executive Office of the President
- Hodel, Donald P.**, Secretary of Energy from 1982 until 1985; Secretary of the Interior from 1985 until 1989
- Holdridge, John H.**, Brigadier General, USA; Assistant Secretary of State for East Asian and Pacific Affairs from 1981 until 1983
- Hormats, Robert D.**, Assistant Secretary of State for Economic and Business Affairs from May 21, 1981, until August 25, 1982
- Horner, Charles E.**, Deputy Assistant Secretary of State for Science and Technology, Bureau of Oceans and International Environmental and Scientific Affairs, from 1981 until 1985
- Horsey, Sarah R.**, Office of Northern European Affairs, Bureau of European and Canadian Affairs, Department of State
- Howarth, Richard H.**, Deputy Director of Chinese Affairs, Bureau of East Asia and Pacific Affairs, Department of State
- Howe, Sir Geoffrey**, Chancellor of the Exchequer of the United Kingdom from May 1979; British Secretary of State for Foreign and Commonwealth Affairs from June 11, 1983
- Howell, Martin D.**, Director, Office of Foreign Disaster Assistance, Agency for International Development
- Hoyle, Brian J.**, Director, Office of Ocean Law and Policy, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
- Iklé, Fred C.**, Under Secretary of Defense for Policy from April 2, 1981, until January 17, 1988
- Inman, Bobby R.**, Admiral, USN; Deputy Director, Central Intelligence Agency, from February 1981 until June 1982
- Itoh, William**, Special Assistant to the Personal Assistant to the Under Secretary of State for Political Affairs
- Jameson, Lisa R.**, member, National Security Council Staff from 1987 until 1988
- John Paul II**, Supreme Pontiff of the Catholic Church and Sovereign of Vatican City from October 16, 1978
- Johnson, Gilbert**, Bureau of Economic and Business Affairs, Department of State
- Johnson, Howard V.**, Bureau of Economic and Business Affairs, Department of State
- Johnson, Robert**, White House Fellow, Domestic Policy Council, from 1987 until 1988
- Johnson, Sandra L.**, Office of Japanese Affairs, Bureau of East Asian and Pacific Affairs, Department of State
- Jones, David C.**, General, USAF; Chairman of the Joint Chiefs of Staff from 1978 until 1982
- Kampelman, Max M.**, Ambassador to the Conference on Security and Cooperation in Europe from 1980 until 1983; head of U.S. human rights mission to Europe from 1984; head of the U.S. Delegation to Negotiations with the Soviet Union on Nuclear and Space Arms in Geneva from 1985 until 1989; Counselor, Department of State from 1987 until 1989
- Kaplan, Phillip S.**, member, Policy Planning Staff, Department of State
- Kauzlarich, Richard D.**, Deputy Assistant Secretary of State for International Economic and Social Affairs, Bureau of International Organization Affairs, from 1984 until 1986; Deputy Director, Policy Planning Staff, Department of State, from 1986 until 1989
- Keating, Robert B.**, Lieutenant Commander, USN; member, U.S. Delegation to the United Nations Convention on the Law of the Sea; U.S. Ambassador to Madagascar and Comoros from 1983 until 1986; Chairman, Third World Hunger Study

Keel, Alton Gold, Jr., Associate Director, Office of Management and Budget from 1982 until 1986; member, National Security Council Staff; Deputy National Security Assistant to the President

Kelly, Debra, Operations Center, Executive Secretariat, Department of State

Kelly, John Hubert, Principal Deputy Assistant Secretary of State for European and Canadian Affairs from 1983 until 1985

Kemp, Jack F., House of Representatives (R–New York)

Kendrew, Claudia D., Office of Oceans and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State

Kennedy, Richard T., Colonel, USA; Under Secretary of State for Management from 1981 until 1982, Ambassador at Large and Special Advisor on Non-Proliferation and Nuclear Energy Affairs from 1982

Keyes, Alan L., U.S. Ambassador to the United Nations Economic and Social Council from 1983 until 1985; Assistant Secretary of State for International Organization Affairs from 1985 until 1987

Keyworth, George Albert, II, Director, Office of Science and Technology Policy, Executive Office of the President

Kharchev, Konstantin M., Chair, Council of Religious Affairs, Council of Ministers, Union of Soviet Socialist Republics, from 1984 until 1990

Kimball, John W., Counselor, Agency for International Development

Kimmitt, Robert Michael, member, National Security Council Staff from 1978 until 1983; Executive Secretary, National Security Council from 1983 until 1985

Kirk, Roger, Senior Deputy Assistant Secretary of State for International Organization Affairs from 1983 until 1985

Kirkpatrick, Jeane J., Permanent Representative to the United Nations from February 4, 1981, until April 1, 1985

Kohl, Helmut, Chancellor, Federal Republic of Germany from 1982

Korn, David Adolph, Chargé d'Affairs, U.S. Embassy in Addis Ababa from 1982 until 1985

Kriebel, P. Wesley, Director, Office of Technical Services, Bureau of International Organization Affairs, Department of State

Kramer, Franklin D., Deputy Under Secretary of Defense for Policy

Kronmiller, Theodore George, Deputy Assistant Secretary of State for Oceans and Fisheries Affairs, Bureau of Oceans and International Environmental and Scientific Affairs

Krosby, Quincy, Office of the Counselor, Department of State

Koch, Noel C., Principal Deputy Assistant Secretary of Defense for International Security Affairs

Koh, Tommy Thong-Bee, President, Third United Nations Conference on the Law of the Sea from 1981 until 1982

Koop, C. Everett, Surgeon General of the United States from 1982 until 1989

Kozak, Michael G., Principal Deputy Legal Adviser, Department of State, from 1982 until 1988; Deputy Assistant Secretary of State for Inter-American Affairs from 1988 until 1991

Krumm, Donald M., Office of Emergency Operations, Bureau of Refugee Programs, Department of State

Lang, Kathleen, Office of Soviet Union Affairs, Bureau of European and Canadian Affairs, Department of State

Larson, Alan Philip, Executive Assistant to the Deputy Under Secretary of State for Economic Affairs

Lecooq, Randall H., Office of East African Affairs, Bureau of African Affairs, Department of State

- LeFever, Ernest W.**, Assistant Secretary of State for Human Rights and Humanitarian Affairs-Designate from 1981
- Lellenberg, Jon**, strategist, Department of Defense
- Lett, Raymond D.**, Executive Assistant to the Secretary of Agriculture; Assistant Secretary of Agriculture
- Levine, Richard B.**, member, National Security Council Staff from 1981 until 1986
- Levitsky, Melvyn**, Deputy Assistant Secretary of State for Human Rights and Humanitarian Affairs from 1982 until 1983; Deputy Director, Voice of America from 1983 until 1984; U.S. Ambassador to Bulgaria from 1984 until 1987; Executive Secretary to the Secretary of State from 1987 until 1989
- Lewis, Andrew L.**, "Drew," Jr., Secretary of Transportation from 1981 until 1983
- Limprecht, Joseph A.**, Office of Security and Political Affairs, Bureau of European and Canadian Affairs, Department of State
- Lindstrom, Ralph E.**, Director, Office of Economic Analysis, Bureau of Intelligence and Research, Department of State
- Lister, George T.**, Bureau of Human Rights and Humanitarian Affairs, Department of State
- Lowe, Mary Frances**, Executive Secretary, Department of Health and Human Services
- Long, Bill L.**, Director, Office of Food and Natural Resources, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
- Longmyer, Kenneth**, Office of Northern European Affairs, Bureau of European and Canadian Affairs, Department of State
- Lopez, Sheila B.**, Office of the Executive Secretary, Department of State
- Losey, James A.**, Office of International Affairs, Environmental Protection Agency
- Lueders, Dirk H.**, Colonel, USA; Department of Defense
- Lyman, Princeton N.**, Deputy Assistant Secretary of State for African Affairs from 1981 until 1985
- Lynch, James P.**, Director of Global Issues, Central Intelligence Agency
- Lyng, Richard E.**, Secretary of Agriculture from 1986
- MacDonald, Donald S.**, Deputy Director, Office of Intelligence Liaison, Bureau of Intelligence and Research, Department of State
- Magana, Alvaro**, President of El Salvador from 1982 until 1984
- Maher, Kevin K.**, Office of Japanese Affairs, Bureau of East Asian and Pacific Affairs, Department of State
- Malone, James L.**, Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs from 1981 until 1985
- Mansfield, Charles G., Jr.**, Office of Management and Administration, Bureau of Consular Affairs, Department of State
- Maresca, John J.**, Deputy Assistant Secretary of Defense for Europe and NATO from 1986 until 1989
- Marshall, Harry R., Jr.**, Principal Deputy Assistant Secretary of State, Bureau of Oceans and International Environmental and Scientific Affairs, from 1981 until 1985
- Martens, Wilfried**, Belgian Prime Minister from 1979 until 1981; and again from 1981 until 1992
- Mason, James O.**, Director, Centers for Disease Control
- Mathiesen, Matthías, A.**, Minister of Foreign Affairs, Republic of Iceland
- Matlock, Jack F.**, Chargé d'Affairs, U.S. Embassy in Moscow, from January 1981 until July 1981; U.S. Ambassador to Czechoslovakia from 1981 until 1983; member, National Security Council Staff from 1983 until 1987; U.S. Ambassador to the Union of Soviet Socialist Republics from 1987 until 1991
- Matz, William M., Jr.**, Major General, USA; Executive Secretary to the Secretary of Defense from 1987 until 1988

McFarlane, Robert C. “Bud,” Lieutenant Colonel, USMC; Counselor to the Department of State from February 28, 1981, until April 4, 1982; Deputy Assistant to the President for National Security Affairs from 1982 until 1983; Assistant to the President for National Security Affairs from October 17, 1983, until December 4, 1985

McGovern, D.W., National Oceanic and Atmospheric Administration, Department of Commerce

McGuire, Elizabeth S., Office of Population, Agency for International Development

McKee, Alan R., Office of Northern European Affairs, Bureau of European and Canadian Affairs, Department of State

McKinley, Brunson, Deputy Executive Secretary, Department of State

McMahon, John N., Deputy Director for Operations, Central Intelligence Agency from 1978 until 1981; Deputy Director, National Foreign Assessment Center; Deputy Director of Central Intelligence from 1982 until 1986

McMinn, Douglas W., member, National Security Council Staff from 1982 until 1985

McNeil, Francis J., Deputy Assistant Secretary of State, Bureau of Intelligence and Research from 1984 until 1987

McPherson, M. Peter, Administrator, Agency for International Development from 1981 until 1987; Chairman of the Board, Overseas Private Investment Corporation, from 1981 until 1987; Deputy Secretary of the Treasury from 1987 until 1989

Meese, Edwin “Ed,” III, Counselor to the President from January 1981 until January 1985; Attorney General of the United States from February 1985 until August 1988

Melaragno, Anthony, Director of Research and Development, Medical Corps, Department of the Navy

Mengistu Haile Mariam, Chairman of the Derg and Head of State of Ethiopia from 1977 until 1987; General Secretary of the Workers’ Party of Ethiopia from 1984 until 1991; President of Ethiopia from 1987 until 1991

Merrill, Philip, Counselor, Department of Defense

Meyer, Ray A., Office of the Law of the Sea Negotiations, Office of the Deputy Secretary of State

Michalak, Michael W., Office of Economic Policy, Bureau of East Asian and Pacific Affairs, Department of State

Miller, James C., III, Administrator, Office of Information and Regulatory Affairs from 1981; Executive Director, Presidential Task Force on Regulatory Relief; Chair, Federal Trade Commission from 1981 until 1985; Director, Office of Management and Budget from 1985 until 1988

Mitterand, François, President of France

Mochary, Mary V., Principal Deputy Legal Adviser, Department of State

Mousky, Stafford, United Nations Population Fund, United Nations

Mueller, Richard, Office of the Executive Secretary, Department of State

Murazumi, Yasushi, Japanese Chargé d’Affairs in Washington, D.C.

Murphy, Kathleen A., Staff Assistant to the Assistant Secretary of State for International Organization Affairs

Murphy, Richard W., Assistant Secretary of State for Near Eastern and South Asian Affairs from 1983 until 1989

Nakasone, Yasuhiro, Japanese Prime Minister from 1982 until 1987

Nalen, Craig A., President and Chief Executive Officer, Overseas Private Investment Corporation

Nance, James, W., “Bud,” Deputy Assistant to the President for National Security Affairs from January 1981 until January 1982

Negroponte, John D., U.S. Ambassador to Honduras from 1981 until 1985; Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs from 1985

Newlin, Michael H., Principal Deputy Assistant Secretary of State for Consular Affairs from 1985 until 1988

Nimeiri, Jaafar M., President of Sudan from 1969 until 1985

Nimetz, Matthew, Under Secretary of State for International Security Affairs from 1980

Niskanen, William A., Council of Economic Advisers from 1981 until 1985

Packwood, Robert W., Senator (R-Oregon)

Palmer, Robie Marcus Hooker, Bureau of European and Canadian Affairs, Department of State; U.S. Ambassador to Hungary from 1986

Palmer, Stephen E., Jr., Senior Deputy Assistant Secretary of State for Human Rights and Humanitarian Affairs from 1979 until 1981

Palsson, Thorsteinn, Icelandic Prime Minister from 1987 until 1988

Parris, Mark R., Director, Office of Soviet Affairs, Bureau of European and Canadian Affairs, Department of State, from 1985 until 1988

Pascoe, B. Lynn, Deputy Director, Office of Soviet Union Affairs, Bureau of European and Canadian Affairs, Department of State

Passage, David, Director, Office of Regional Affairs, Bureau of African Affairs, Department of State, from 1986

Patolichev, Nikolai S., Minister of Foreign Trade, Union of Soviet Socialist Republics, from 1958 until 1985

Paulson, Michael S., Office of Technical Specialized Service, Bureau of International Organization Affairs, Department of State

Pearlman, Donald, Under Secretary of the Interior

Pelly, Thomas M., House of Representatives (R-Washington) from 1953 until 1973

Pérez de Cuéllar, Javier, Secretary General of the United Nations from 1981 until 1991

Perez, William G., Operations Center, Office of the Executive Secretariat, Department of State

Perito, Robert, Special Assistant to the Under Secretary of State for Political Affairs

Perlow, Howard T., Office of Northern European Affairs, Bureau of European and Canadian Affairs, Department of State

Peterson, Michael, Senior Policy Analyst, Preventative Medicine and Health Promotion, Office of the Assistant Secretary of Defense for Health Affairs

Pickford, David, Executive Secretary, Department of the Treasury

Pierce, Samuel R., Jr., Secretary of Housing and Urban Development from 1981

Platt, Nicholas, Deputy Assistant Secretary of State for International Organization Affairs from 1981 until 1982; Executive Secretary, Department of State, from 1985 until 1987

Poindexter, John M., Rear Admiral, USN; Military Assistant to the Assistant to the President for National Security Affairs from 1981 until 1983; Deputy Assistant to the President for National Security Affairs from October 17, 1983, until December 3, 1985; Assistant to the President for National Security Affairs from December 4, 1985, until November 25, 1986

Ponticelli, Charlotte, Director, Congressional Correspondence, Office of Legislative Affairs, White House Staff, from 1981 until 1983

Powell, Colin L., Assistant to the President for National Security Affairs from 1987 until 1989

Pugliese, Lucian, member, National Security Council Staff from 1986 until 1988

Pym, Francis L., Secretary of State for Foreign and Commonwealth Affairs, United Kingdom, from 1982 until 1983

Quinn, Kenneth, Deputy Executive Secretary, Department of State

Ramey, Leon, Executive Director, Bureau of Public Affairs, Department of State

- Randolph, Florence**, Staff Assistant to the Counselor to the President from 1981 until 1983
- Rapoport, Sheldon**, Office of Intelligence Coordination, Bureau of Intelligence and Research, Department of State
- Rashish, Myer**, Under Secretary of State for Economic Affairs from June 1981 until January 1982
- Ratiner, Leigh S.**, Deputy Chairman, U.S. Delegation to the United Nations Law of the Sea Conference, from 1981 until 1982
- Raymond, Walter**, member, National Security Council Staff from 1982 until 1987
- Reagan, Ronald W.**, President of the United States
- Redman, Charles E.**, Assistant Secretary of State for Public Affairs from 1987 until 1989
- Regan, Donald T.**, Secretary of the Treasury from 1981 until 1985; White House Chief of Staff from 1985 until 1987
- Reinhard, Nancy**, Confidential Assistant to the Acting Secretary of Commerce
- Reis, Robert**, Office of Japanese Affairs, Bureau of East Asian and Pacific Affairs, Department of State
- Richardson, Elliot L.**, U.S. Ambassador at Large and Special Representative of President Jimmy Carter for the United Nations Convention on the Law of the Sea from 1977 until 1980; attorney-at-law, Milbank, Tweed, Hadley and McCloy
- Richman, Alvin**, Office of Plans and Opinion Analysis, Bureau of Public Affairs, Department of State
- Ridgway, Rozanne L.**, Counselor of the Department of State from 1980 until 1981; U.S. Ambassador to the German Democratic Republic from 1983 until 1985, Assistant Secretary of State for European and Canadian Affairs from 1985 until 1989
- Ringdahl, Philip H.**, member, National Security Council Staff from 1985 until 1987
- Risque, Nancy J.**, Office of Legislative Affairs, Executive Office of the President from 1981 until 1986; Assistant to the President and Cabinet Secretary from 1987 until 1989
- Robbins, Helen W.**, Executive Assistant, Department of Commerce
- Robinson, Davis R.**, Legal Adviser, Department of State, from 1981 until 1985
- Robinson, Roger W., Jr.**, member, National Security Council Staff from 1982 until 1985
- Rodman, Peter W.**, Director, Policy Planning Staff, Department of State from 1984 until 1986; Deputy Assistant to the President for National Security Affairs from 1986 until 1987; Special Assistant to the President for National Security Affairs and Counselor of the National Security Council from 1987 until 1990
- Rogers, R. Ross**, Office of Northern European Affairs, Bureau of European and Canadian Affairs, Department of State
- Romine, Woodward "Woody,"** Consultant, Freedom of Information Program, Department of State
- Rose, John**, Office of East African Affairs, Bureau for Africa, Agency for International Development
- Rosenberg, Alison P.**, member, National Security Council Staff from 1987 until 1988
- Rostow, Nicholas**, member, National Security Council Staff from 1987 until 1988
- Rouse, John**, Office of Environment and Health, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
- Ruddy, Francis S.**, Assistant Administrator, Bureau for Africa, Agency for International Development
- Rumsfeld, Donald H.**, Special Presidential Envoy on the Law of the Sea Treaty
- Ruppe, Loret M.**, Director, Peace Corps, from 1981 until 1989
- Russell, Arthur**, Department of the Interior
- Sakharov, Andrei D.**, physicist and Soviet dissident; recipient, 1975 Nobel Peace Prize
- Salas, Rafael M.**, Executive Director, United Nations Population Fund from 1969 until 1987

- Salmon, John W., Jr.**, Deputy Director, Office of Non-Proliferation and Export Policy, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
- Sarros, P. Peter**, Deputy Assistant Secretary of State for Human Rights and Humanitarian Affairs
- Schaffer, Howard, B.**, Director, Office of Bhutan, India, Maldives, Nepal, Sri Lanka (Ceylon) Affairs, Bureau of Near Eastern and South Asian Affairs, Department of State
- Scharfen, Jonathan, R. "Jock,"** member, National Security Council Staff from 1985 until 1988
- Schifter, Richard**, U.S. Representative to the United Nations Educational, Scientific, and Cultural Organization Committee on Conventions and Representations from 1981 until 1982; U.S. Representative to the United Nations Commission on Human Rights from 1983 until 1985; U.S. Ambassador and Deputy Representative to the United Nations Security Council 1984 until 1985; Assistant Secretary of State for Human Rights and Humanitarian Affairs from 1985 until 1989
- Schmidt, John R.**, Office of Soviet Union Affairs, Bureau of European and Canadian Affairs, Department of State
- Schneider, William, Jr.**, Associate Director, Office of Management and Budget from 1981 until 1982; Under Secretary of State for Security Assistance, Science, and Technology from 1982 until 1986
- Schumaker, James F.**, Office of Soviet Union Affairs, Bureau of European and Canadian Affairs, Department of State
- Schweiker, Richard S.**, Secretary of Health and Human Services from 1981 until 1983
- Scully, Richard T.**, Director, Office of Oceans and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
- Searby, Robert W.**, Deputy Under Secretary of Labor for International Affairs from 1981 until 1984
- Seligmann, Albert L.**, Director, Office of Japanese Affairs, Bureau of East Asian and Pacific Affairs, Department of State
- Sell, Kenneth**, Scientific Director, National Institute of Allergy and Infectious Diseases, National Institutes of Health
- Sell, Louis**, Office of Soviet Affairs, Bureau of European and Canadian Affairs, Department of State
- Shcharanskiy, Anatoly**, Soviet Refusenik who was denied a visa to emigrate to Israel
- Sherman, Linda**, Office of Oceans and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
- Shevardnadze, Eduard**, Minister of Foreign Affairs, Union of Soviet Socialist Republics, from 1985 until 1991
- Shultz, Helena**, wife of Secretary of State George Shultz
- Shultz, George P.**, Secretary of State from 1982 until 1989
- Simon, Hugh V., Jr.**, Regional Officer, Bureau of Human Rights and Humanitarian Affairs, Department of State
- Simons, Thomas W.**, Director for Soviet Affairs, Bureau of European and Canadian Affairs, Department of State, from 1981 until 1985; Deputy Assistant Secretary of State for European and Canadian Affairs from 1986 until 1989
- Sinding, Steven W.**, Director, Office of Population, Agency for International Development
- Slaughter, John B.**, Director, National Science Foundation, from 1980 until 1982
- Sloan, David M.**, Special Assistant to the Economic Advisor to the Under Secretary of State for Economic Affairs
- Smart, S. Bruce**, Undersecretary of Commerce for International Trade from 1985 until 1988
- Smith, Richard J.**, Principal Deputy Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs from 1985 until 1994

- Snead, Larry L.**, Director, Office of Fisheries Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
- Sofaer, Abraham D.**, Legal Adviser of the Department of State from 1985 until 1990
- Solomon, Richard H.**, Director, Office of Policy Planning, Department of State from 1986 until 1989
- Sommer, Peter R.**, member, National Security Council Staff from 1983 until 1987
- Soos, Helen E.**, member, National Security Council Staff from 1985 until 1987
- Sorzano, Jose S.**, U.S. Ambassador and U.S. Deputy Representative to the United Nations from 1983 until 1985; member, National Security Council Staff from 1987 until 1988
- Spiers, Ronald I.**, Director, Bureau of Intelligence and Research, Department of State from 1980 until 1981; U.S. Ambassador to Pakistan from 1981 until 1983; Under Secretary of State for Management from 1983 until 1989
- Spradley, Julian Roy "J.R."**, Office of the U.S. Trade Representative
- Stacy, Roy A.**, Deputy Assistant Secretary of State, Bureau of African Affairs from 1986 until 1989
- Stanford, John**, Department of Defense
- Stang, David**, attorney-at-law
- Stanley, Dennis**, Joint Chiefs of Staff
- Stein, John H.**, Deputy Director for Operations, Central Intelligence Agency
- Stockman, David A.**, Director, Office of Management and Budget from 1981 until 1985
- Stoessel, Walter J., Jr.**, Under Secretary of State for Political Affairs from February 1981 until January 1982; Deputy Secretary of State from February 11, 1982, until September 22, 1982; head of U.S. human rights missions to Europe from 1983 until 1984
- Streeb, Gordon L.**, Deputy Assistant Secretary of State for International Economic and Social Affairs, Bureau of International Organization Affairs
- Stucky, Edward J.**, Deputy Executive Secretary, Department of the Treasury; Associate Director, White House Office of Cabinet Affairs
- Sukhodrev, Viktor M.**, Interpreter, Union of Soviet Socialist Republics
- Surena, Andre M.**, Acting Assistant Legal Adviser for Human Rights, Department of State; Assistant Legal Adviser for Human Rights and Refugees, Department of State
- Suzuki, Zenkō**, Japanese Prime Minister from 1980 until 1982
- Svahn, John A.**, Commissioner of Social Security from 1981 until 1983; Assistant to the President for Policy Development from 1983 until 1986
- Sweet, Robert W.**, Office of Policy Development, Executive Office of the President, from 1983 until 1985; Deputy Executive Secretary, Domestic Policy Council, from 1983 until 1989
- Taft, George**, Deputy Director, Office of the Law of the Sea Negotiations, Office of the Deputy Secretary of State
- Taft, William H., IV**, General Counsel of the Department of Defense from 1981 until 1984; Deputy Secretary of Defense from 1981 until 1989
- Taylor, Curtis H.**, Information Management Section, Executive Secretariat, Department of State
- Taylor, James E.**, Operations Center, Executive Secretariat, Department of State
- Thatcher, Margaret**, British Prime Minister
- Thayer, Scott N.**, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
- Thomas, Charles H.**, Deputy Assistant Secretary of State for European and Canadian Affairs from 1985 until 1986; Principal Deputy Assistant Secretary of State for European and Canadian Affairs 1986 until 1989
- Thomas, Lee M.**, Administrator, Environmental Protection Agency from 1985 until 1989
- Thompson, Harold**, Deputy Director, Office of International Health, Department of Health and Human Services

- Thompson, Paul B.**, member, National Security Council Staff from 1983 until 1987
- Todman, Terence Alphonso**, U.S. Ambassador to Chad from 1969 to 1972; U.S. Ambassador to Guinea from 1972 to 1975; U.S. Ambassador to Costa Rica from 1975 to 1977; Assistant Secretary of State for Inter-American Affairs from 1977 to 1978; U.S. Ambassador to Spain from 1978 to 1983; U.S. Ambassador to Denmark from 1983 to 1989.
- Tull, Theresa A.**, Deputy Assistant Secretary of State for Human Rights and Humanitarian Affairs from 1980 until 1983
- Ueberroth, Peter V.**, Executive Director of the Los Angeles 1984 Olympics Organizing Committee
- Udgaard, Nils M.**, State Secretary for Foreign Affairs, Kingdom of Norway from 1984 until 1986
- Uhlmann, Michael M.**, Associate Director, Office of Policy Development, Executive Office of the President, from 1981 until 1984
- Van Dusen, Ann**, Chief, Human Resources Division, Office of Policy Development and Program Review, Bureau for Program and Policy Coordination, Agency for International Development
- Van Eron, George**, member, National Security Council Staff
- Van Oudenaren, John**, Policy Planning Staff, Department of State
- Veliotis, Nicholas A.**, Assistant Secretary of State for Near Eastern and South Asian Affairs from 1981 until 1984
- Verity, C. William "Bill,"** Secretary of Commerce from 1987 until 1989
- Verville, Elizabeth G.**, Deputy Legal Adviser, Department of State from 1980 until 1990
- Vitale, William**, Department of Energy
- Vogelgesang, Sandra L.**, Bureau of International Organization Affairs, Department of State
- Vorontsov, Yuli M.**, First Deputy Minister of Foreign Affairs, Union of Soviet Socialist Republics from 1986 until 1990; Soviet Ambassador to Afghanistan from 1988 until 1989
- Vranitzky, Franz**, Austrian Chancellor from 1986 until 1997
- Wachob, James R.**, Deputy Director, Office of Northern European Affairs, Bureau of European and Canadian Affairs, Department of State
- Wallace, Gordon**, National Institutes of Health
- Wallis, W. Allen**, Under Secretary of State for Economic Affairs from 1982 until 1985; Under Secretary of State for Economic, Business, and Agricultural Affairs from 1985 until 1989
- Walsh, William J.**, Office of Environment and Health, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
- Walters, Vernon A.**, U.S. Ambassador at Large from 1981 until 1989; U.S. Ambassador and Representative to the United Nations from 1985 until 1989
- Warren, Betsy**, Deputy Assistant Secretary of State for Legislation, Bureau of Congressional Relations, Department of State
- Warren, William**, Office of Soviet Union Affairs, Bureau of European Affairs, Department of State
- Washington, LaRae**, Assistant Medical Director Examination Clinic and Clinical Director, Office of Medical Services, Department of State
- Watt, James G.**, Secretary of the Interior from 1981 until 1983
- Weeks, Harold J.**, Office of Food and Natural Resources, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
- Weidenbaum, Murray L.**, Chair, Council of Economic Advisors
- Weil, S.**, Environmental Protection Agency

- Weinberger, Caspar W.** "Cap," Secretary of Defense from January 21, 1981, until November 23, 1987
- Wenick, Martin A.**, Director, Office of Northern European Affairs, Bureau of European and Canadian Affairs, Department of State
- Wettering, Frederick L.**, member, National Security Council Staff from 1981 until 1985
- Wheeler, Michael O.**, member, National Security Council Staff from 1982 until 1983
- Whitehead, John C.**, Deputy Secretary of State from 1985 until 1989
- Whitlock, James C.**, Office of Northern European Affairs, Bureau of European and Canadian Affairs, Department of State
- Wiant, Jon A.**, Deputy Director of the Office of Intelligence Liaison, Bureau of Intelligence and Research, Department of State; Acting Deputy Assistant Secretary of State for Coordination, Bureau of Intelligence and Research, Department of State; Deputy Assistant Secretary of State for Intelligence, Bureau of Intelligence and Research from 1988 until 1991
- Wick, Charles Z.**, Director, U.S. Information Agency from 1981 until 1989
- Wilkinson, M. James**, Deputy Assistant Secretary of State for European and Canadian Affairs
- Williams, Caroleen C.**, Bureau of Congressional Relations, Department of State
- Williams, Gloria**, Office of U.S. Budgetary Presentation and Payments, Bureau of International Organization Affairs, Department of State
- Wilson, Dolores M.**, Secretary in the Asian Affairs Directorate, National Security Council
- Wilson, Thomas F.**, Office of Environment and Health, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
- Wolde, Goshu**, Minister of Foreign Affairs, Provisional Military Government of Socialist Ethiopia, from 1983 until 1986
- Wolfe, Edward E.**, Deputy Assistant Secretary of State for Oceans and Fisheries Affairs, Bureau of Oceans and International Environmental and Scientific Affairs from 1983 until 1991
- Wolfowitz, Paul**, Director of Policy Planning from January 1981 until December 1982; Assistant Secretary of State for East Asian Affairs from December 1982
- Wood, Beverly S.**, Office of Intelligence Coordination, Bureau of Intelligence and Research, Department of State
- Woods, Alan**, Administrator, Agency for International Development from 1987 until 1989
- Wright, Joseph R., Jr.**, Deputy Secretary of Commerce from 1981 until 1983; Deputy Director, Office of Management and Budget 1982 until 1988; Director, Office of Management and Budget from 1988 until 1989
- Wu Xueqian**, Foreign Minister of the People's Republic of China from 1982 until 1988
- Wulf, Norman A.**, Director, Marine Science and Technology Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State
- Wyngaarden, James B.**, Director, National Institutes of Health from 1982 until 1989
- Yeltsin, Boris N.**, member, Central Committee of the Communist Party, Union of Soviet Socialist Republics, from 1981; First Secretary of the Moscow Communist Party, Union of Soviet Socialist Republics, from 1985 until 1987; Candidate Member of the Politburo, Union of Soviet Socialist Republics, from 1986 until 1988; First Deputy Commissioner for the State Committee for Construction, Union of Soviet Socialist Republics, from 1988
- Yeutter, Clayton K.**, U.S. Trade Representative from 1985 until 1989
- Zarechnak, Dimitry**, Interpreter, Department of State
- Zebatto, John**, Office of Soviet Union Affairs, Bureau of European Affairs, Department of State
- Zerwick, Kay**, Assistant to the President's Assistant for National Security Affairs
- Zimmermann, Warren**, head of the U.S. Delegation to the Commission on Security and Cooperation in Europe

Global Issues II

AIDS Policy

1. Editorial Note

The Centers for Disease Control and Prevention (CDC) issued its first report about the disease eventually known as acquired immune deficiency syndrome (AIDS) on June 5, 1981. ("Morbidity and Mortality Weekly Reports," June 5, 1981, 30(21), pages 1–3)

Throughout 1981 and 1982, high-level Reagan policymakers did not comment on the disease. On October 15, 1982, Reagan Press Secretary Larry Speakes was asked if President Reagan had any reaction to the fact that "that AIDS is now an epidemic." Speakes responded by asking, "What's AIDS?" The reporter clarified: "It's known as 'gay plague,'" adding, "I mean it's a pretty serious thing that one in every three people that get this have died." Speakes remarked, "I don't have it. Do you?" When asked if the White House was familiar with the disease, Speakes said, "I don't think so." He further commented, "There has been no personal experience here." (White House Press Briefing, October 15, 1982)

On September 2, 1983, the CDC issued a set of precautions about AIDS to health care professionals, including dentists, pathologists, and morticians. ("Morbidity and Mortality Weekly Reports," September 2, 1983, 32(34), pages 450–511) Shortly after the release of CDC's guidelines, AIDS was discussed at the Regional Science Officers Conference in Rome, Italy, September 7–9. At the conference, a speaker from the National Institutes of Health, Dr. William Raub, described the international implications of the AIDS problem as well as the outlook for funding U.S. medical research, as conveyed in telegram 282977 to all European diplomatic posts, October 4. (Department of State, Central Foreign Policy File, D830574–0629)

2. Telegram From the Department of State to the Embassy in Haiti¹

Washington, September 21, 1982, 1345Z

265172. Subject: AIDS Among Haitian Populations. Ref: Port Au Prince 5108.²

1. M/MED has contacted Dr. Drotman from CDC (Center for Disease Control). He has just returned from Haiti on an investigation on AIDS (acquired immune deficiency syndrome) among Haitians.

2. Medical surveillance on this rare disease is inadequate in Haiti, therefore, at this point no one can quantify the exact risk factor of this disease. In the U.S. there has been only 600 cases over the last two years. Dr. Drotman is not aware of a case of AIDS in a non Haitian living in Haiti.

3. There is no evidence that AIDS can be transmitted via food or water. It is not related to nutritional defects or related to poverty. In review of the cases of AIDS among Haitians it appears it is not particularly related to how recently they immigrated to the U.S. The hypothesis is that AIDS is transmitted through blood or blood products.

4. It appears that the U.S. population living in Haiti is at no particular risk. It would be prudent to avoid promiscuous sexual behavior, illegal IV drug use and to use blood or blood products only in a life saving situation.

Shultz

¹ Source: Department of State, Central Foreign Policy File, D820498–0189. Unclassified. Sent through MED Channel. Sent for information to Santo Domingo. Drafted by Washington and approved by Beahler.

² In telegram 5108 from Port Au Prince, September 15, the Embassy wrote, “Recent publicity given to occurrence Acquired Immune Deficiency Syndrome (AIDS) among Haitian population in US and at least two unexplained deaths of Haitians who have gone to US for medical treatment have caused some concern among US Mission personnel here. Would appreciate any facts and guidance M/MED could provide our personnel concerning AIDS and what, if any, precautions we should take.” (Department of State, Central Foreign Policy File, D820478–0613)

3. Telegram From the Department of State to All Diplomatic and Consular Posts¹

Washington, September 22, 1983, 1904Z

271048. Subject: Information on Acquired Immune Deficiency Syndrome (AIDS).

1. During the September 5–10 meeting in Rome involving State OES Assistant Secretary Malone and science officers from European embassies, considerable interest was shown in the new disease called acquired immune deficiency syndrome (AIDS).² Since AIDS was first reported in the United States in mid 1981, the United States Public Health Service (USPHS) has reviewed reports of more than 2200 cases with a case-mortality rate of almost 40 percent. (I.e. of the 2200 cases diagnosed since mid-1981, nearly 40 percent have died.) But 80 percent of those who were diagnosed more than 2 years ago have died. AIDS is the number one priority of the USPHS today.

2. The following information in question and answer form was supplied by the USPHS. It represents the most accurate up-to-date information available about the nature and extent of AIDS. The populations at risk of contracting AIDS, the actions that individuals can take to reduce the spread of AIDS, and the many research and related activities now underway in the Public Health Service. You may want to pass this information on to the public health authorities in your host country. Any non-clinical questions on this subject should be addressed to the USPHS through OES/ENR (Walsh).

3. AIDS is a serious condition characterized by a specific defect in natural immunity against disease. People who suffer from AIDS become susceptible to a variety of rare illnesses. These illnesses are not usually found in people whose immune system is normal. The two diseases most commonly found in AIDS patients are pneumocystis carinii pneumonia, a lung infection caused by a parasite, and Kaposi's sarcoma, a rare form of cancer or tumor of the blood vessel walls.

What are its symptoms?

Many AIDS patients do recall having some symptoms before being diagnosed. Some of these early signs are similar to those of many other illnesses such as cold or flu. These symptoms may include fever, night sweats, swollen glands (enlarged lymph nodes) in neck, armpits, or

¹ Source: Department of State, Central Foreign Policy File, D830551–0463. Unclassified. Drafted by Walsh; cleared in OES/E, OES/ENR, M/MED, AID/S&T/H, HHS/PA, AF, ARA, EA, EUR, and NEA; approved by Malone.

² See Document 1.

groin, unexplained weight loss, yeast infections, diarrhea, persistent coughs, fatigue and loss of appetite. Anyone with prolonged, persistent symptoms should consult a physician.

Why is AIDS called an epidemic?

AIDS is not like polio or measles. An epidemic occurs when a disease strikes 1 percent or more of the population, or when it occurs above its normal, background level. Although AIDS fits this definition, it is not as widespread or as easy to catch as other diseases have been in the past.

Who gets AIDS?

Nearly 95 percent of the AIDS cases have occurred in people belonging to one of four distinct groups:

- Sexually active homosexual and bisexual men with multiple sex partners. This group accounts for about three-fourths of all of the reported cases;
- Present or past abusers of intravenous drugs, 17 percent;
- Haitian entrants into the United States, 5 percent;
- Persons with hemophilia, 8 percent.

The PHS has examined all available information on recent Haitian entrants and considers them at high risk of acquiring AIDS. These risk groups have been established for medical and surveillance purposes, to help in diagnosis and to track the occurrence of AIDS.

The failure to identify cases among the thousands of friends, relatives and co-workers of AIDS patients provides further assurance that routine contact offers no risk.

What causes AIDS?

Scientists have not discovered the cause of AIDS, but they suspect that it is caused by a virus, possibly one present in the blood and/or body fluids, such as semen. AIDS appears to be primarily transmitted through sexual contact. The majority of cases (over 70 percent) have been in homosexual or bisexual men with multiple sex partners.

AIDS also has been found in intravenous drug abusers, leading investigators to suspect that AIDS can be transmitted by blood on contaminated needles that have been shared.

The best evidence for transmission of AIDS is a small number of hemophilia patients receiving large amounts of factor VIII, a clotting substance in blood.

Some patients cannot be placed into high-risk groups, but researchers believe that most of these are linked by close physical contact to AIDS victims. Some of the women who have developed AIDS have been steady sex partners of men with AIDS or men who are at high-risk for AIDS, or they have a history of drug abuse. Children who have

developed a syndrome similar to AIDS may have been exposed to AIDS before or during birth.

What are some theories about viruses linked to AIDS?

No cases have been found to date where AIDS has been transmitted by casual or even close daily contact with AIDS patients or persons in the high-risk groups. For instance, family members other than sex partners of AIDS victims have not developed AIDS. Ambulance drivers, police, and firemen who have offered emergency assistance to AIDS patients have not fallen ill. Nurses, doctors, and health care personnel have not developed AIDS from exposure to AIDS patients.

Although other diseases may be transmitted through saliva, there is no evidence that AIDS is transmitted by sweat or saliva.

However, health care providers and laboratory workers should follow careful procedures when handling any blood and tissue samples from patients with potentially transmissible diseases, including AIDS.

How do persons with hemophilia get AIDS?

Many persons with hemophilia require extensive use of factor VIII, a blood product that helps blood to clot. Without effective clotting, even minor cuts can cause prolonged and dangerous bleeding. For persons with hemophilia, the development of factor VIII has been an important medical advance.

Factor VIII is extracted and concentrated from pooled blood plasma donated by thousands of people, and it appears that in some rare instances the plasma has carried AIDS.

Recently, the FDA approved a new heat treatment similar to pasteurization for treating blood products such as factor VIII. This procedure will reduce the likelihood that blood products will be contaminated with infectious agents like hepatitis B and, possibly, AIDS.

Can the hepatitis vaccine spread AIDS?

Concern has been expressed about the safety of hepatitis B vaccine (heptavax-B) because the vaccine is made from the plasma of carriers of hepatitis B, many of whom may be in the same populations at high risk for AIDS. However, the procedures used in the manufacture of hepatitis B vaccine are effective in inactivating viruses from every known group. Therefore, the risk of vaccine-induced infection by any transmissible agent that might cause AIDS is extremely remote, and is far outweighed by the potential benefit from hepatitis B vaccine to individuals at high risk for hepatitis B virus infection.

Is there a danger of contracting AIDS from donating blood?

Absolutely not. Reputable blood banks and other blood collection centers use sterile equipment and disposable needles. Thus, there is no chance that a needle used for one blood donor would be used for another. The need for blood is always acute, and people who are not

in the high-risk groups are urged to continue to donate blood as they have in the past. The chance of contracting AIDS through a blood transfusion has been estimated to be one in a million.

Is there a test for AIDS in blood?

There is as yet no test to detect AIDS in blood. Public Health Service agencies are examining blood products in order to make rapid progress in developing a screening test for AIDS. However, a totally satisfactory test may not be possible until the causative agent of AIDS is identified.

How is AIDS treated?

Some AIDS patients with Kaposi's sarcoma are being treated experimentally with forms of interferon—a virus-fighting protein produced by the body. While it has had some success against Kaposi's sarcoma, interferon treatment does not appear to restore immune function. There are other treatments, such as radiation, drugs, and surgery for many of the illnesses suffered by AIDS patients. Many biomedical investigators continue to work on methods for treating the specific immune defects found in AIDS patients.

Limited trials of a substance called interleukin-2, which scientists believe may help fight the severe deficiencies seen in the immune systems of AIDS patients, will begin soon. Preliminary laboratory results are promising, but much more work remains to be done.

Can AIDS be prevented?

The Public Health Service has recommended that the following steps be taken to prevent spread of this disease:

- Sexual contact should be avoided with persons known or suspected of having AIDS.
- Sexual promiscuity is a risk factor. Avoid having multiple sexual partners and avoid sexual contact with others who do.
- Members of high-risk groups should refrain from donating blood.
- Physicians should order blood transfusions for patients only when medically necessary. Health workers should use extreme care when handling hypodermic needles.

In addition, the FDA has advised blood and plasma collection centers to provide information on AIDS to potential donors, asking those in high-risk groups to refrain from donation. Personnel have been advised to learn the early warning signs of AIDS.

What is the Public Health Service doing about AIDS?

The Public Health Service has declared AIDS a top priority. The Center for Disease Control in Atlanta has mobilized personnel and laboratories to establish a surveillance system to conduct epidemiologic investigations in an attempt to identify risk factors for AIDS. It also is carrying out extensive testing on blood and tissue from AIDS victims to find the specific cause of the disease.

At the National Institutes of Health in Bethesda, Maryland, 6 of the 11 research components are involved in multidisciplinary studies on AIDS in NIH laboratories and clinics. These studies are aimed at determining the causative agents of AIDS, evaluating the natural history of the disease, characterizing the immune deficiency of the patients, improving treatment for AIDS patients, and establishing the disease in animal models.

Research grants have been awarded by NIH to investigators at medical and research institutions around the country. These studies are aimed at evaluating various treatment regimens, investigating the underlying cause of the disorder, studying the AIDS-associated diseases such as Kaposi's sarcoma and opportunistic infections, developing an animal model for the disease, and developing a "surrogate" test for AIDS that may lead to a method for screening blood prior to transfusion.

In addition to new research activities on AIDS, many on-going basic research studies can yield information about the underlying immunologic defect involved in AIDS and about the diseases that attack AIDS victims.

The Food and Drug Administration is involved in several areas of research with NIH. Other FDA work is aimed at increasing the safety of blood and blood products.

What is the hope for the future?

Scientific research often does not provide quick solutions to diseases as complex as AIDS. But given the scope and sophistication of current investigative efforts, there is every reason to hope—and expect—that they will lead to rapid progress against this devastating illness.

Meanwhile, the preventive measures mentioned earlier can help reduce the risk of contracting or transmitting AIDS.

Shultz

4. Telegram From the Embassy in Zaire to the Department of State¹

Kinshasa, November 9, 1983, 1213Z

14070. Subject: (U) AIDS in Zaire. Ref: (A) State 141919;² (B) State 271048.³

1. (C) Summary: A U.S.-Belgian medical team has completed a preliminary study of the auto immuno deficiency syndrome (AIDS) in Zaire. Their findings show a large number of active cases and what the team thinks is probably the world's highest incidence of this fatal disease. End summary.

2. (U) A combined Belgian-American team has just completed three weeks of research on the auto immuno deficiency syndrome (AIDS) in cooperation with the Zairian Ministry of Public Health. American doctors Joseph McCormick of the Centers for Disease Control (CDC), Atlanta, Fred Feinson of National Institutes of Health (NIH) currently serving in Cairo, and Tom Quinn also of NIH working at Johns Hopkins, collaborated with Drs. Piot and Thallman of the Institut de Medecine Tropicale in Antwerp in this exploratory effort to determine the magnitude of the AIDS problem in Zaire. The study was initiated after 44 AIDS cases were confirmed among Zairians seeking treatment in Belgium.

3. (U) Immediately after arrival, the team consulted the Ministry of Public Health. Dr. McCormick, who has previous experience working in Zaire, worked with Dr. Ruppoll of the Belgian Embassy to explain the project to the Minister of Public Health and received the Minister's permission to proceed with the study.

4. (C) Findings: For the next three weeks, the team members worked closely with Zairian and expatriate doctors at Kinshasa's three major hospitals. Over 30 active cases were confirmed in this period of which 6 resulted in the patient's death during the three-week period.

—Based on these findings, the team estimates that AIDS may be striking as many as 150 out of every million Zairians annually. This figure is over twice the incidence recorded in New York City which has the highest incidence in the U.S.

¹ Source: Department of State, Central Foreign Policy File, D830661–0527. Confidential. Sent for information to the CDC, Brazzaville, Brussels, Bujumbura, Kigali, and Lubumbashi.

² In telegram 141919 to all diplomatic and consular posts, May 21, the Department transmitted information regarding the Prague World Peace Assembly. (Department of State, Central Foreign Policy File, D830291–0653)

³ See Document 3.

—Unlike the U.S. where the majority of AIDS victims are men, Zairian victims are almost evenly divided by sex. Preliminary epidemiological research shows that the majority of the Zairian victims had frequent sexual contact with many partners, indicating heterosexual transmission as the principal means of infection.

—Cases were identified from several areas of the country, demonstrating that the disease is not limited to Kinshasa.

—A significant number of the cases identified by the team occurred among wealthy and prominent Zairians. It is also to be presumed that the 44 cases diagnosed in Belgium represent Zairians of substantial means as they were able to travel to Europe for treatment.

5. (U) Training: In the course of their research, the team established temporary facilities in two of Kinshasa's hospital laboratories. Local physicians were instructed in AIDS diagnosis techniques and team members gave lectures at each of Kinshasa's hospitals.

6. (U) GOZ reaction: Towards the end of the project, the team members again met with the Minister of Public Health. When informed of apparent magnitude of AIDS in Zaire, the Minister arranged a city-wide conference. His alarm at the team's findings was in marked contrast to his initial feelings about AIDS in Zaire, namely that Zaire had many other more pressing diseases requiring its medical resources. The city-wide conference was well attended by the medical community as well as by the media. Coverage was given to the event in the next evening's news and in Kinshasa newspapers.

7. (U) Next steps: The three-week project clearly demonstrated that a serious AIDS problem exists in Zaire. As a result of the team's training efforts and with the supplies left in Zaire, local hospitals can now begin to diagnose and record AIDS cases. As early as next February, Dr. McCormick hopes to place a CDC epidemiologist in Zaire for more extensive studies.⁴ In the U.S., the number of reports of new AIDS cases has been doubling every 6 months. Due to the extended incubation period of the disease, which averages two years, a similar growth trend is likely in Zaire.

8. (C) Preliminary evidence shows that AIDS is more widespread here than in either the United States or Haiti. For the following reasons, Zaire had been suspected of being the birthplace of this new disease. Kaposi's sarcoma, a rare form of cancer and a fatal variety of which often appears in AIDS victims, is found in its greatest frequency in a non-fatal variety in eastern Zaire. Furthermore, there is a connection with Haiti. After Zairian independence, a considerable number of skilled Haitians were recruited to serve as doctors, teachers, etc. in

⁴ See footnote 2, Document 5.

Zaire. A Haitian community still resides in Zaire. However, the research team found no evidence to support the theory that AIDS began in Zaire. No immediate connection between the two varieties of Kaposi's sarcoma was found and more importantly no concrete evidence was found of AIDS in Zaire prior to the time it appeared in Haiti (believed to be approximately 1980). While there still may be the possibility that AIDS originated in Zaire, this theory remains unproven.

9. (C) Comment: We believe it likely that the Zairian AIDS situation will be raised in the U.S. press. Dr. McCormick informs us that in October the *Baltimore Sun* considered publishing an article stating that AIDS originated in Zaire. He further told us that a paper on Zairian AIDS victims treated in Belgium has been accepted by the prestigious *New England Medical Journal*. We suggest that inquiries relating to AIDS in Zaire be referred to CDC. If necessary, Department should point out that Zairian health officials and the Zairian medical community have cooperated and will continue to collaborate with American experts to understand and defeat this mysterious new disease which affects both countries.

Constable

5. Telegram From the Embassy in Zaire to the Department of State¹

Kinshasa, April 9, 1984, 1214Z

5551. Subject: AIDS in Zaire: CDC–NIH/MOH Collaborate Study. Ref: A) Kinshasa 4242; B) Kinshasa 3994;² C) 83 Kinshasa 14070.³

1. Summary: A USG medical research team has visited Kinshasa and reached preliminary agreement with GOZ medical authorities on a long-term collaborative study of acquired immuno deficiency syndrome (AIDS) in Zaire. In following up, USG agencies will need to pay close attention to Zairian sensitivities about control of and partici-

¹ Source: Department of State, Subject Files, Health Issues, 1977–1985, Lot 86D184, Africa. Unclassified. Sent for information to NIH, CDC, and Lubumbashi.

² In telegram 3994 from Kinshasa, March 9, the Embassy reported that CDC officials had arrived in Zaire. (Department of State, Central Foreign Policy File, D840159–0217) In telegram 4242 from Kinshasa, March 15, the Embassy reported on the status of the AIDS cooperative project. (Department of State, Central Foreign Policy File, D840174–0908)

³ See Document 4.

pation in all research ventures. Action requested: Department is requested to follow up with HHS agencies; CDC and NIH, to ensure that USG efforts are properly coordinated and take full account of GOZ concerns.

2. Following up on last October's investigative visit by US researchers which first uncovered the existence of significant incidence of AIDS in Zaire (Ref C), a combined Centers for Disease Control (CDC)–National Institutes of Health (NIH) team visited Kinshasa from March 9 to 19 to establish a long-term research project on the acquired immuno deficiency syndrome (AIDS) in collaboration with Zairian medical authorities. The three team members were: Dr. Joseph McCormick, CDC, Director, Special Pathogens Branch, Dr. Jonathan Mann, CDC's nominee for the Zaire AIDS project, and Dr. Andrew Vernon, NIH.

3. The team, accompanied by Embassy Science Officer, met with Dr. Kalisa Ruti, Special Assistant to Minister of Public Health Dr. Tshibasub Mubiy. Kalisa expressed the GOZ's eagerness to establish U.S. public health authorities. He asked the team to make appropriate contacts within the Kinshasa medical community and to draft a proposal.

On March 19 Dr. Mann and Embassy Science Officer presented proposal to Dr. Kalisa. Mann plans to return to Kinshasa in May to begin an estimated two year tour. A CDC technician will travel to Kinshasa for temporary duty later in the summer to help establish the diagnostic facilities.

4. To set the basis for the proposal, the team spent one week re-establishing contacts at Kinshasa's five hospitals and found that the two major facilities—University Clinic and Mama Yemo Hospital have continued to document AIDS cases since initial CDC–NIH visit in October 1983. The steady rate of cases identified at both facilities confirms that the incidence of AIDS in Zaire is significant. There are indications that the characteristics of the disease in Zaire are somewhat different from the U.S. and there is some suspicion that the evolution of AIDS in the U.S. may follow Zairian patterns.

5. Diagnostic testing for AIDS (T-cell examination) on a limited number of suspected cases is being done at a University of Kinshasa laboratory by doctors from the Institute of Tropical Medicine (ITM) of Antwerp, Belgium. Reagents and material for the tests have been supplied by CDC through the Embassy.

6. The team decided that the collaborative project should center on an epidemiologic investigation with suitable laboratory facilities to support the investigation. The Zairians are willing and able to supply the clinical support necessary for the project. The team proposed that two laboratories be designated to conduct diagnostic testing in Kinshasa. While the first lab will continue to function at the university,

Zairian doctors on the university medical faculty are eager to take over responsibility for AIDS research from the Belgian ITM doctors performing part-time diagnostic work as their time permits at the university (their principal task is the study of trypanosomiosis—sleeping sickness). The second laboratory will be established at Mama Yemo Hospital which will also provide office space for the project.

7. This dual effort circumvents the problem of potential rivalry between the University Clinic/Medical School, administered by the Department of Higher Education, and Mama Yemo Hospital, administered by the Department of Public Health.

8. Another potential problem which U.S. researchers must bear in mind concerns the attitude and atmosphere of the project. The Zairians are particularly concerned that the project be a truly collaborative venture using Zairian personnel to their full capabilities with Americans providing specialized knowledge, skills and equipment. Close collaboration with Zairian counterparts by U.S. specialists is critical to the long-term success of the project.

9. Last October's AIDS mission included several Belgian specialists from the Institute of Tropical Medicine in Antwerp. Embassy understands that NIH is considering funding the ITM to conduct a long-term clinical research project. The Zairians believe that they can conduct the clinical aspects of AIDS research themselves and would prefer to receive direct U.S. support.

10. The GOZ is extremely concerned about AIDS and is eager to work closely with U.S. researchers. However, the Zairian medical community is particularly sensitive about national sovereignty. The GOZ has repeatedly emphasized that all research must be done on a collaborative basis, i.e. with consent and participation by Zairians. Zairian scientists believe that too much previous scientific research has exploited Zaire as little more than a convenient laboratory. For a joint research effort to be successful, it is imperative that USG researchers respect the sensitivities of their Zairian counterparts.

11. Embassy welcomes the beginning of the project. We have arranged to provide full administrative support to USG personnel working on the AIDS research effort and we are following up with MOH.

12. Action requested: Department is requested to follow up with HHS agencies; CDC and NIH, to ensure that USG efforts are properly coordinated and take full account of GOZ concerns.

Constable

6. Letter From the Director of the National Institute of Allergy and Infectious Diseases (Krause) to the Ambassador to Zaire (Constable)¹

Washington, June 14, 1984

Dear Mr. Ambassador:

I am writing to update you on the status of our collaborative research effort to study Acquired Immunodeficiency Syndrome (AIDS) in Zaire, which is of highest priority for the welfare of U.S. and Zaire citizens and the global community. The U.S. collaboration involves two components: 1) direct collaboration by two U.S. Public Health Service (PHS) agencies, the National Institute of Allergy and Infectious Diseases (NIAID) of the National Institutes of Health (NIH) and the Centers for Disease Control (CDC) in direct cooperation with Zairian health officials and physicians; and 2) an NIAID sole-source research contract under negotiation with the *Institut de Medicine Tropical* (IMT), Antwerp, to provide bilingual epidemiologic and clinical research and training capability not available in the USA or Zaire. This collaborative effort is well under way and has already resulted in two landmark articles with joint Zairian-Belgian-NIAID-CDC authorship accepted for publication in *Science* and *The Lancet*.²

In response to questions raised by the NIH Initial Review Group which met in early May and the U.S. Embassy in Zaire, the proposed workscope of the NIAID-IMT contract has been substantially revised.³ Dr. Jon Mann, CDC Medical Epidemiologist assigned to Kinshasa hand-carried a copy of the revised workscope for internal Embassy use.⁴ Discussions with CDC's Drs. Joe McCormick (arrival June 8) and Jon Mann (arrival June 11) should have clarified NIAID and USPHS positions and laid to rest concerns about NIAID-CDC cooperation and Zairian sensitivity to Belgian participation.

¹ Source: Department of State, Subject Files, Health Issues, 1977-1985, Lot 86D184, Agent Orange. No classification marking. Copies were sent to Wyngaarden, Gordon, Wallace, Sell, Mason, Dowdle, Curran, Walsh, and Thompson.

² Reference is to Brun-Vézinet, F., Rouzioux, C., Montagnier, L., Chamaret, S., Gruest, J., Barré-Sinoussi, F., Geroldi, D., Chermann, J.C., McCormick, J., Mitchell, S. et al., "Prevalence of Antibodies to Lymphadenopathy-Associated Retrovirus in African Patients with AIDS," *Science*, 1984 October 26; 226(4673): pp. 453-456.

³ In telegram 7471 from Kinshasa, May 14, the Embassy reported that it was "seriously concerned that the ITM proposal for NIH funding of Belgian scientists to do AIDS research in Zaire could mar U.S.-Zairian cooperation. The proposal would insinuate the U.S. into a delicate Belgian/Zairian relationship, including the friction that exists between Zairian and Belgian medical specialists." (Department of State, Subject Files, Health Issues, 1977-1985, Lot 86D184, Africa)

⁴ Not found.

Because NIAID/NIH has had minimal scientific exchange and collaborative research activities in Zaire in the past, I would like to take this opportunity to summarize the NIAID domestic biomedical research mission in AIDS and Sexually Transmitted Diseases, the NIH authority to engage in international research, and scientific justification for Zairian-USA-Belgian collaboration. This information should expedite Embassy clearance of the proposed NIAID–IMT research contract.

NIH is the USPHS agency responsible for biomedical research and research training. NIAID responsibilities include Tropical Medicine and Sexually Transmitted Disease research. AIDS is currently the nation's most urgent public health problem and the USPHS reports regularly to the Executive Branch and Congress on research activities and advances. Under the authority of the International Health Research Act (1960), NIH can carry out or sponsor health research overseas provided there is immediate or potential health benefit to U.S. populations. The recent identification of HTLV–III Virus (NIH) and LAV Virus (France) as highly-suspect causative agent(s) precipitating AIDS in U.S. populations should very rapidly result in the development of diagnostic laboratory tests and make it practical to do definitive clinical studies on the epidemiology and pathogenesis of AIDS. The *Science* article in press indicates that Zairian patients with AIDS have LAV-positive serum. In addition, approximately five percent of Zairian women have LAV-positive serum. The *Lancet* article presents strong preliminary evidence that, in Zaire, heterosexual transmission of AIDS (male to female; female to male) occurs.

Patterns of transmission, risk factors, sex ratios of AIDS cases, complications of AIDS, and survival rates appear to differ dramatically in USA patients and Zairians (whether in Belgium or Zaire). Haitians may form an intermediate group. To date, Canadians, Europeans, and Latin Americans appear to have the same type of risk factors as USA citizens. Zaire and Haiti, therefore, appear to offer unique international research opportunities. Haiti and Zaire will be prime candidates for collaboration in the evaluation of anti-viral agents, immune stimulating agents and vaccine candidates which will be developed at NIH or with NIH research funding. This will be particularly true if HTLV–III Virus and/or AIDS patients in these countries are “different” than in USA populations. There is a particularly urgent need to evaluate the true risk (if any) of heterosexual transmission of AIDS, which has profound implications for sexually-active Americans, especially those resident in or traveling to Central Africa.

NIH does *not* have the authority to “train for the sake of training,” transfer technology, or strengthen institutions. Zairian proposals to date have fallen into this category and in the normal course would be disapproved or referred to USAID for consideration. During the

December 1983 visit of Professor Lurhuma (former Dean of Medical School, University of Kinshasa) to NIH, NIAID's Assistant Director for International Research did offer to help Zaire develop a Tropical Medicine Field Research Program for consideration by USAID and/or other funding sources (WHO/EEC). NIH is supportive of Zairian counterparts and their quest for increased self-sufficiency in biomedical research and clinical practice. The USPHS-Zaire collaborative project and the revised IMT-NIAID workscope specifically provide for training of Zairian physicians in the areas of specialized diagnostic procedures, microbiologic techniques, and treatment protocols.

NIAID-CDC-Zaire cooperation in AIDS will undoubtedly lead to the study of the role of diseases like malaria, tuberculosis, and filariasis, and nutritional status in AIDS. Long-term cooperation with NIAID in Tropical Medicine in Haiti has been expanded since 1983, largely due to the scientist-to-scientist relationships established during exchange of information and collaboration on AIDS.

Let me now summarize why IMT and Belgian participation is necessary to the cooperative research effort in Zaire. I shall also indicate how NIAID will manage the proposed research contract. Federal Contract Law does not permit NIH to award foreign research contracts without the determination that there are no qualified U.S. sources and that the foreign source is uniquely qualified to comply with the workscope. IMT met these well-established and rigid NIH scientific criteria. Under the provisions of the sole-source contract currently under negotiation between NIAID and IMT, IMT staff and activities will be directly supervised and continuously monitored by NIH project personnel. The IMT principal investigator will be required to submit quarterly reports to NIAID. This is a standard NIH cost-reimbursable contract, under which the contractee is paid for work already done provided NIH finds it satisfactory. NIAID/NIH can suspend or terminate the contract unilaterally at any time.

U.S. clinicians and investigators experienced and qualified to conduct AIDS research are heavily committed to the domestic research effort. The chances of finding Francophone Americans with these qualifications to relocate in Zaire are remote. At present, no U.S. biomedical research group has an established collaborative working relationship in Zaire. The pertinent unique qualifications of IMT necessary for the Zairian AIDS study include:

- 1) Long-term knowledge and experience in working with Congo/Zaire, and medical archives and serum banks (dating back at least twenty years) collected in the course of their long association;

- 2) IMT and Belgian scientists were active in investigations on Kaposi Sarcoma and possible AIDS in Zairian citizens before NIH or CDC became involved. Ninety-eight percent of the AIDS cases in Bel-

gium are Zairians, either resident or those who have sought sophisticated analysis and treatment heretofore unavailable in Zaire.

3) In Kinshasa, IMT has, by agreement with the government of Zaire, an established laboratory which has been carrying on AIDS investigations independently of CDC and NIH.

In contrast to limited U.S. biomedical research experience in Zaire, U.S. and Belgium have a long history of scientific exchange and cooperation. For example, NIH and Belgium have an agreement in principle, negotiated in 1981, to cooperate in tropical medicine. This was before AIDS was recognized as a serious problem in either country. Belgian and U.S. investigators were actively engaged in bilateral AIDS research before the importance of the disease in Zaire was recognized. NIAID views the involvement of Belgian, other European, and Haitian scientists in AIDS research in Zaire as the logical extension of our domestic and bilateral research efforts in the USA, Europe, and the Caribbean.

NIH research administrators and external scientific consultants have determined that while there are a few Zairian scientists having sufficient biomedical research training to participate actively in NIAID contract research, Zairian institutions do not have the research facilities, the capital for cost-reimbursable contracts, or the administrative structure to provide NIH with the strict fiscal accountability we require, by law. This procedure will expedite the research. At the same time, we are committed to a generously collaborative research effort on AIDS that will involve the Zaire physicians in an active way.

The PHS scientists who have visited Zaire or interacted with Zairian scientists in the USA or at international scientific meetings have consistently been impressed by the active and productive cooperation among IMT, Ministry of Health and Kinshasa University Medical Center investigators. Some concrete indications of current Belgo-Zairian cooperation in AIDS can be cited:

1) The aforementioned article submitted by IMT to *Lancet* is co-authored by five Zairians (Drs. Kapita Bela, of Mama Yemo Hospital, and Odio Wobin, N. Mbendi, P. Mazebo, and N.N. Kayembe, of the University Medical Center) and acknowledges the assistance of Minister of Health Dr. Tshibas, Dr. Kalisa Ruti, and other Zairian officials and institutions, as well as members of the American Embassy staff. The article submitted to *Science* by Dr. Luc Montagnier (Pasteur Institute, France) lists the same five Zairian co-authors and two Belgian co-authors, in addition to CDC and NIAID scientists, and similarly acknowledges assistance rendered by appropriate Zairian officials and institutes.

2) In October, 1983, Zairian physicians of the University Medical Center (Drs. Ditu, Odio and Mbende) cosigned a research agreement with Dr. Joe McCormick (CDC/USPHS) and Drs. Peter Piot and Henry

Taelman (IMT), endorsing IMT's participation and ensuring full participation of Zairian University physicians in studies of AIDS in Zaire.

3) IMT has sponsored the participation of Zairian investigators in a number of international meetings on AIDS, including the WHO meeting (Geneva, November, 1983); the International Symposium on Sexually Transmitted Diseases (Montreal, June 17–20, 1984); and the International Congress of Tropical Medicine and Malaria Meeting to be held in Calgary in September 1984.

4) Finally, IMT and Zairian investigators have continued cooperative AIDS investigations initiated during the joint CDC/NIH/IMT visit to Zaire in October, 1983.

In my nine years as Director of this Institute, it has been our firm tenet, in working with countries the world over, to collaborate closely with national scientists. The NIAID has an enviable record, of which I am proud, of supporting rather than taking advantage of foreign national collaborators. I appreciate and sympathize with your concerns about our treating Zaire as an "AIDS Laboratory", and hasten to assure you that such would be totally inconsistent with our international research policy.

In view of the national and global concerns outlined herein, I personally urge and request the Embassy's clearance for NIAID to proceed with the IMT contract and implement the integrated "Study of AIDS in Zaire." Thank you for your kind attention and consideration.⁵

Sincerely,

Richard M. Krause, M.D.

⁵ In telegram 10306 from Kinshasa, July 6, the Embassy reported it had received Krause's letter, stating: "On June 25, we received a letter from Doctor Richard Krause, Director of the National Institute of Allergy and Infectious Diseases, National Institutes of Health, making a strong argument for ITM participation in AIDS research. However, as we examined his argument in depth, we found it to be somewhat misleading. We continue to oppose approval of the ITM proposal which we believe could undermine the collaborative research project, damaging our broader relations with the GOZ." (Department of State, Central Foreign Policy File, D840432-0013) In telegram 16693 from Kinshasa, November 5, the Embassy reported: "The project agreement between the GOZ Ministry of Health and ITM suggests that Belgian activity will be restricted to specialized techniques and training in the clinical domain, and can be effectively integrated into the project." (Department of State, Central Foreign Policy File, D840707-0227)

7. Telegram From the Department of State to the Medical Collective¹

Washington, June 7, 1985, 0045Z

173962. Subject: Acquired Immune Deficiency. For Regional Medical Officers and Foreign Service nurses.

1. The ICD–9–CM does not have a number specifically set aside for this disorder. After consulting with the National Center for Health Statistics, M/MED designates the following numbers as the codes for human T lymphotropic virus/lymphadenopathy associated virus, (HTLV III/LAV) infections:

—279.191 HTLV III/LAV infection

—279.192 HTLV III/LAV infection with immunodeficiency

Other manifestations such as lymphadenopathy, infectious complications or tumors will be coded according to the established ICD–9–CM numbers. For example, a patient with HTLV III/LAV infection, lymphadenopathy, and Kaposi's sarcoma would be 291.191, 785.6, and M9140/3.

2. The documents that follow represent the Office of Medical Service's approach to this problem and current policy:

A. AIDS: The facts—RMO's and State Department nurses are to distribute this information to all Department of State health program beneficiaries in their regions. Administrative notices and post newsletters should be used to disseminate this information as quickly as possible.

1. In areas of the world where the virus is highly prevalent, RMO's and nurses are instructed to discuss the prevention of HTLV III/LAV infection with all new arrivals. This may be accomplished in small group sessions and/or individually. Marine Security Guards represent a special group for which emphasis and repetition of the message in the strongest terms possible, is necessary.

A. Areas of the world in which the HTLV III/LAV infection appears more prevalent

(1) All of Sub Saharan Africa except South Africa

(2) Haiti

(3) Any country that, in the opinion of State Department medical personnel, has a significant incidence of HTLV III/LAV, or provides unique opportunities for exposure.

¹ Source: Department of State, Subject Files, Other Agency and Channel Messages and Substantive Material—World Health Organization (WHO), 1985, Lot 89D136, 83 HLTH WHO Programs AIDS. Unclassified. Sent through MED Channel. Drafted by Goff and approved by Dustin.

2. Health units should incorporate information about prevention of AIDS infection, in the health and medical information handbook. In addition, in countries where the incidence of infection is high, information about HTLV III/LAV infections should be provided in the Post Report as well.
- B. The policy for HTLV III/LAV positive individuals indicates the Department's intention to provide these patients the same standards of care and benefits as is provided other illnesses. It should be noted that this disease, like any other potentially serious illness, may affect the medical clearance. For example, patients with evidence of immunodeficiency will be restricted to positions within the United States.
- C. The policy for screening emergency blood donors includes a list of problems that could adversely affect either the donor or recipient. Donors will be asked to review this list and decide for themselves whether or not to donate.

This policy should be used in all posts whenever emergency donation of blood for members of the embassy community is required. This policy is not necessary in areas where the blood banking facilities are deemed adequate.

3. Document 1—AIDS: The Facts

A newly recognized disease, termed acquired immune deficiency syndrome (AIDS), has been increasing in incidence in several parts of the world. The name AIDS is derived from the suppressive affect on the body's immune system by the recently discovered virus, human T lymphotropic virus or lymphadenopathy-associated virus (HTLV III or LAV). This organism attacks the cells in the body that protect against many parasitic, fungal and bacterial infections.

It is believed that the virus has been present, and causing disease, in central Africa for a number of years. About 5 years ago AIDS began to appear in the homosexual population in the United States. It may have been introduced directly from a source in Zaire but is more likely to have passed through patients in Haiti. Since that time over 10,000 cases and over 5,000 deaths have occurred. The number of cases is expected to double by the end of 1985 and again in 1986 bringing the total number of expected AIDS cases in the United States to 40,000 by the end of 1986. The incidence of the disease amongst single men in the United States is, at present, 8.5 cases/100,000 people. To give some perspective, the incidence of pulmonary tuberculosis is about 13 cases/100,000 population in the United States.

The complex course of this disease is gradually becoming clear. The virus is present in saliva, semen and in the blood of an infected person. Sexual contact, receipt of blood products containing the virus, spread to a fetus through the placenta, and exposure through intravenous drug abuse have been the major means of infection in the United States. Sexual spread of disease has been primarily through homosexual

contact, but it is now apparent that this disease is also spread through heterosexual exposure.

The disease manifests itself as:

1. An asymptomatic carrier state. The patient has antibodies to the HTLV III/LAV virus but has no manifestations of disease.
2. An asymptomatic to mildly symptomatic state with a measurable decrease in the body's defenses against infection.
3. A symptomatic illness with the patient developing enlarged lymph nodes, decreased immunity and other symptoms.
4. The fully manifested disease with immune deficiency, development of unusual types of cancers, increased susceptibility to infections with uncommon organisms and an inexorably fatal course (AIDS).

The proportion of people who are infected with the virus and progress to the rapidly fatal AIDS is estimated to be 6 to 19. Those infected with this virus, even in its mildest form, carry the organism and are apparently capable of spreading the disease for long periods.

Prevention by avoidance of the common sources of infection is the most effective approach to the control of this problem. Studies of disease patterns indicate that the commonest means of spread is sexual and that the more promiscuous a person, the greater the possibility of encountering and being infected with the virus that causes AIDS.

Another source of infection in the United States has been through contaminated blood products. The majority of cases of transfusion-caused HTLV III/LAV virus infection occurred in the period between 1979 and 1983. It was not yet appreciated that there was a viral cause that could be spread through transfusion. In 1983 a voluntary program to encourage blood donors to evaluate their risks was initiated. Donors were asked not to donate if they fell into one of the high risk groups. The self-deferral program has worked and the incidence of transfusion transmitted infection has markedly declined.

It should be pointed out that very close interpersonal contact of any sort with a person infected with HTLV III/LAV virus may carry a risk. While the definition of close contact is inexact, for the purpose of defining the risk of infection with the HTLV III/LAV virus, it is considered to be contact with the body fluids of another person. Such contact may occur during sexual intimacy and "intimate" kissing. Sharing personal implements such as a razor or toothbrush may provide a risk as well.

High risk groups for the transmission of the HTLV III/LAV virus:

1. Sexually active homosexual and bisexual men with multiple sex partners.
2. Present or past abusers of intravenous drugs.

3. Patients who have been transfused with blood or blood products (such as hemophiliacs).

4. Sexual partners of persons with AIDS or persons in groups at high risk for AIDS (including prostitutes).

In March of 1985 the Public Health Service licensed a new test to identify the presence of antibodies to the AIDS virus in blood. The presence of antibodies means that the person tested has been exposed to the virus. It is not yet clear whether the person will develop AIDS or even the extent to which he or she is infectious. The test, while quite accurate, is not infallible. Three to six percent of those with the viral infection will not be diagnosed by the test (false negative). On the other hand, over half of the estimated one person in a hundred found to have antibodies to the virus, will be shown not to have the infection (false positive).

The importance of the test is that scientists can now begin to study questions that remain unanswered about the virus that causes AIDS. Until this time diagnosis only occurred after the person's immune system was destroyed. It is hoped that with earlier diagnosis, it will be possible to develop treatment that can prevent the destruction of the immune system and even prevent infection.

Implications for the Foreign Service:

AIDS is a worldwide phenomenon. The disease has been diagnosed throughout Europe, in parts of Africa, Asia, and Latin America. There is some risk of infection throughout the world, particularly for those in the high risk groups outlined above.

The Office of Medical Services is monitoring the AIDS situation carefully. The risk factors for infection are no different for Foreign Service personnel than for other people. The major manner of spread is sexual intimacy. The chance of contracting the virus increases with multiple sexual partners, particularly those identified to be in high risk groups. There is increasing evidence that heterosexual transmission is an important means of spread with obvious implications concerning prostitutes. The other major risk to Foreign Service personnel and their families is acquiring infection from contaminated blood products, needles, etc. In this regard it should be noted that the processing of pooled blood plasma for gamma globulin sterilizes that product which is, therefore, safe to use. At posts at which there is a higher occurrence of the infection in the local population, use of local medical and dental facilities should be monitored and controlled carefully by the medical staff. To provide further protection, guidelines for the use of blood products for all Foreign Service personnel stationed abroad have been developed and are being disseminated to the Department's medical staff. In places where blood banking follows international standards

and where there is a risk of the HTLV III/LAV infection, blood donated for transfusion is now, or soon will be, tested for the virus. In other areas it is recommended that blood for emergency transfusions be obtained from members of the embassy community at that location and that the donors review the reasons for deferral before donating.

To assist employees and their dependents who, for any reason, are concerned, the Office of Medical Services, as part of its periodic examination program will test, on request, any beneficiary of the Department's health program. Such requests must be supported by the recommendation of the Regional Medical Officer or the examining physician. To eliminate the possibility of false positive results, further testing will be arranged for any patient whose initial test is positive. All results, and, indeed the testing process itself, will be considered confidential medical information whose only purpose is to assure that patients receive optimal care.

Since knowledge about AIDS and the implications of HTLV III/LAV infection is growing daily, our concept of this problem will likely be modified in the months to come.

For further information contact the Office of Medical Services, Deputy Medical Director, (202) 632-3485 or your Regional Medical Officer.

4. Document 2—Policy for HTLV III/LAV Positives

Individuals who demonstrate evidence of exposure to the human T lymphotropic virus or lymphadenopathy associated virus (HTLV III/LAV) as evidenced by a positive enzyme linked immunosorbent assay (ELISA) are at risk of progression to symptomatic states. These states may include the fully manifested disease AIDS (acquired immune deficiency syndrome) with all of its devastating complications, or the partially manifested problem, AIDS related complex (ARC). Such patients present grave management problems for the Foreign Service medical program. For example, it is not in the best interest of individuals or of the Foreign Service to maintain proven immunocompromised people in an overseas setting where adequate follow-up observation and care are unavailable. In an overseas setting these patients would have greater exposure to opportunistic infections that often prove fatal. The purpose of this policy is to establish basic guidelines for the management of such patients.

Mandatory testing for HTLV III/LAV virus is neither desirable or possible. For patients with signs and symptoms consistent with HTLV III/LAV infection, such testing is clearly indicated and encouraged. For people who are concerned for any number of reasons that they have a risk of infection, ELISA testing is also justified. The Department

will offer the test to any beneficiary of its health program who desires to have it, based on the recommendation of the Regional Medical Officer and/or examining physician. Because of the difficulties in actual performance of the test and the expense of the required equipment, the ELISA (enzyme-linked immunosorbent assay) cannot be performed at any but a few of our overseas posts. Therefore, M/MED and private laboratories in CONUS will provide most of the testing resources. This testing can most conveniently be performed as part of the biennial clearance examination done in Washington D.C.

What course of action should be taken if someone is found to be positive or has equivocal results on ELISA testing?

I. Diagnosis

A. Perform the western blot assay, immunofluorescence, radioimmunoprecipitation, or other confirmatory test. The choice of confirmatory test will depend on availability. At present the western blot assay is the preferred approach.

B. All individuals with a confirmed positive ELISA will be returned to CONUS for further testing and evaluation.

C. When confirmatory testing is positive and after consultation with the patient, intimate personal contacts should be urged to undergo similar testing.

II. Evaluation

A. When an individual is found to be positive by the above criteria, a complete history and physical examination shall be done. Special attention will be given to symptoms which might relate to progression of this illness: fever, chills, night sweats, weight loss, anorexia, unusual lymphadenopathy, or any other symptoms or signs known to be related to this disorder.

B. Further laboratory testing is recommended to establish baseline immunologic status.

1. Complete blood count with differential count of WBC's
2. Measurement of the absolute numbers of T-4 lymphocytes
3. Measurement of the T-4/T8 ratio
4. Titers for CMV, hepatitis B, E-B virus and toxoplasmosis
5. Skin testing to establish whether the patient is reactive to common antigens

III. Triage

A. If a significant degree of immunoincompetence can be objectively demonstrated, i.e., T-4/T-8 ratio less than 0.5 or an absolute T-4 count of less than 400 cells/MM3, these individuals are at risk of opportunistic infections. They should, therefore, remain in CONUS until more is known about the course of HTLV III/LAV infection or until they are no longer at risk.

B. If an individual has antibodies to HTLV III/LAV positive, but has no evidence of immunosuppression and is asymptomatic, it is recommended that the individual receive counseling and then be allowed to return to post.

IV. Counseling

A. The individual shall be counseled and instructed about the virus and referred for treatment as required.

B. He/she will be advised:

1. Not to donate blood or plasma, sperm, body organs, or other tissues.

2. To inform physicians and dentists of the positive HTLV III/LAV test.

3. To limit sexual contacts and be frank with sexual partners about steps to be taken to prevent spread of the virus. Use of condoms is recommended.

4. That the virus has been found in saliva and it is possible that it will be spread by open mouth “french” kissing.

5. That there is no evidence that the virus can be spread through casual kissing or other casual social contacts such as hugging or that contact with clothing and other items cause spread of the infection.

6. That toothbrushes, razors or other personal implements should not be shared.

7. If the person is a woman with a positive antibody test or the sexual partner of a man with a positive antibody test, it is advisable to avoid pregnancy or to postpone pregnancy until more is learned. Some infants have developed AIDS from their infected mothers.

8. Not to receive live virus vaccines such as measles, mumps, rubella, yellow fever and polio vaccines.

V. Confidentiality

A. Because of the political, social, and emotionally charged nature of this illness, medical confidentiality is of paramount importance. The medical record should be available only to those health care providers who have direct responsibility for care. A coding system by number or letter to record these actual diagnoses in the record should be used rather than direct language. For example, reactivity should be referred to simply as HTLV III/LAV positive or HTLV III/LAV negative. AIDS related complex would be ARC with a list of the related symptoms. AIDS itself might be identified as HTLV III/LAV positive with a list of the identifying features such as a pneumocystis or M. TB. (avian) etc.

5. Document 3—Recommendations for Screening Volunteer Emergency Blood Donors When Blood is Required for Life Threatening Conditions

Background

Use of blood obtained from emergency blood donors should be considered only in the rare instance when the need for blood is considered life saving, e.g. severe blood loss resulting from traumatic injury, ruptured ectopic pregnancy, etc., and the practices of the local blood facilities are not considered adequate to ensure safety. In many instances the use of blood volume expanders, i.e., crystalloides (1/6 molar lactate or normal saline) and colloids (albumin) to maintain an adequate circulating blood volume will preclude the need for whole blood.

Blood borne diseases can be transmitted from a blood donor to a recipient. Well documented evidence exists for transmission of a variety of blood borne diseases including hepatitis B, malaria, and more recently the acquired immune deficiency syndrome (AIDS) caused by a retrovirus named the human T-lymphotropic virus type III (HTLV III).

Screening procedures to identify individuals at risk for transmitting blood-borne disease include a careful interview for disease related risk factors in the potential donor and in some instances laboratory tests to detect antibodies to the disease causing agent in the donated blood. Examples of the latter are the serological test for antibodies to hepatitis B, syphilis and the newly developed enzyme-linked immunosorbent assay (ELISA) test for antibodies to HTLV III. These tests must be performed each time a unit of blood is donated, i.e., individuals who were seronegative on a previous test can subsequently convert to a seropositive state.

Recommendations

When blood is required for life threatening conditions at overseas post locations where the opportunity or capability does not exist for serological screening of blood, the Office of Medical Services recommends that the potential donor be carefully interviewed/examined using the following guidelines:

A. Interview

Potential donors should be only those persons for whom the health unit has medical records including blood group and type. These donors should be provided with the following list of reasons for not giving blood.

If potential donors decide from this list that they are not an acceptable donor, they need not proceed further with the interview. The following groups of people are deferred:

1. Persons under 17 years of age.
2. Persons with a known history of hepatitis are permanently deferred.

3. Persons with history of recent onset of night sweats, unexplained fever or weight loss, lumps in the neck, armpits or groin or discolored areas of skin or mouth.

4. Persons taking antibiotics for infections.

5. Persons taking penicillin or sulfa drugs prophylactically.

6. Persons who have received transfusions of whole blood or blood fractions, e.g., fibrinogen, cryoprecipitate, fresh frozen plasma during the last six years. (Gamma globulin and serum albumin are safe.)

7. Persons taking insulin or taking tuberculosis medication for active disease.

8. Women who are pregnant.

9. Persons with coronary artery disease manifested by myocardial infarct or angina pectoris.

10. Persons with a confirmed diagnosis of cancer, leukemia or established bleeding disorder such as hemophilia are permanently deferred. (Persons with history of completely excised and cured skin cancer are acceptable as donors.)

11. According to the U.S. Centers for Disease Control, individuals who may be considered to be at increased risk of acquired immune deficiency syndrome (AIDS) include:

(A) Sexually active homosexual and bisexual men

(B) Present or past intravenous drug abusers

(C) Hemophiliacs

(D) Sexual partners of the above individuals, including prostitutes, are at increased risk for AIDS

Persons who have had sexual contact with any of the above groups are deferred.

Persons of the appropriate blood group and type who are acceptable as donors should sign the statement:

“I am not a member of any of the groups listed as not acceptable as donors and voluntarily donate my blood for use as deemed advisable.”

B. Examination

1. Record donor's name, age and date of birth.

2. Record donor's weight, temperature, pulse and blood pressure. Donors with a systolic pressure over 180 mm mercury or a diastolic blood pressure over 100 mm of mercury are deferred.

3. Record donor's hematocrit. If hematocrit is below 34, defer donation.

4. Arm inspection: Donors with skin diseases at the phlebotomy site and/or such disease generalized to such an extent as to create a risk of contamination of blood, such as multiple boils, are deferred.

A copy of the signed statement/examination should be placed in the medical record of the donor and the recipient.

The blood obtained from acceptable donors should be carefully cross matched with the recipients blood to ensure blood group and type compatibility.

Dam

8. Paper Prepared in the Department of State¹

Washington, undated

DEPARTMENT OF STATE ACTION PLAN FOR ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS)

The Department of State, in May 1985, implemented a series of policies to deal with the AIDS problem.² The major elements of the program are health education, a policy for management of infected individuals, a policy to assure safe blood transfusion services overseas, and a program to assess risk.

The Department is continually reviewing this program in light of the rapid progress being made. More systematic approaches to screening our population for the infection are currently being considered.

1. AIDS—Implications for the Foreign Service

A. Risks

Any large organization has members of its population at risk of infection from the Acquired Immune Deficiency Syndrome (AIDS) virus. According to the U.S. Centers for Disease Control, individuals who may be considered to be at increased risk of AIDS include sexually active homosexual and bisexual men, recipients of blood transfusions, present or past intravenous drug abusers and sexual partners of individuals at increased risk for AIDS, including prostitutes. A further risk factor of unknown significance is residence in areas where the disease

¹ Source: Reagan Library, Bledsoe, Ralph: Files, 320—AIDS Policy (4). No classification marking. Drafted by Goff, who forwarded the paper to Roper under an October 22 covering memorandum in which he wrote: "As requested, I am enclosing a copy of the Department of State Action Plan for Acquired Immune Deficiency Syndrome for the October 24 meeting of the Domestic Policy Council Working Group on Health Policy. Dr. Eben H. Dustin, Medical Director, will attend the meeting."

² See Document 7.

is highly endemic. In Kinshasa, Zaire, for example, recent studies have shown 4–6% of the local population to be infected with this virus. This is the highest documented concentration of the infection in the world. A similar high prevalence of infection has been noted in other Central African countries as well as in Haiti. The implication for employees and their families residing in these areas has not yet been evaluated.

II. Management of the Problem—Policy and Programs Implemented by the Office of Medical Services in May 1985

A. Health Education

1. The most important and effective approach to the AIDS problem is health education. All employees of the Department and the 32 agencies who receive care from the Department's medical program have been provided with authoritative information describing the cause and prevention of AIDS. (Attachment A)³ All health care providers working for the Department have been instructed to brief all new arrivals to posts abroad on AIDS, to incorporate information on AIDS into each post's health handbook and to provide individual and group counseling to members of high risk groups. Special emphasis has been given to those serving in areas of the world where infection with the AIDS causing virus, Human T-Cell Lymphotropic Virus (HTLV III) is more common.

B. Medical Clearance and Treatment policies for those infected with the virus were established in May 1985 and revised in September 1985 (Attachment B)

a. All individuals with confirmed infection with the HTLV III virus will receive a limited medical clearance.

1) Those with evidence of immune deficiency will not be cleared for overseas assignments.

2) Those with no evidence of immune deficiency will be allowed overseas assignments, but only to posts with medical facilities and experience dealing with the complications of HTLV III infection.

C. Blood Transfusion Policy (Attachment C)

1. A medically sound policy for the use of blood products in emergency situations abroad was developed and distributed to all posts abroad.

D. Evaluation of the Risks of Foreign Service in Relation to HTLV III Infection

1. Cases of AIDS as they occur among employees and their dependents are being monitored for unusual patterns of spread.

³ Attachments A–C are not attached.

2. The Department, currently, provides HTLV III testing to any employee, who for any reason, requests it. If the test is positive, individuals whose problem was not related to service are referred to their family physician for confirmatory testing and counseling. Employees who became concerned in the course of service abroad are provided all indicated testing to confirm or rule out the HTLV III infection. Payment for care follows accepted Foreign Service Medical Program policies.

2[3]. In cooperation with the National Institutes of Health (NIH) and the Centers for Disease Control (CDC), the Department has initiated a voluntary research study which will evaluate the incidence of HTLV III infection amongst employees and families residing in an area of high prevalence.

III. Future Programs

A. Confidence in diagnostic testing has progressed since the introduction of the ELISA test for HTLV III infection in March 1985. The Office of Medical Services considers more systematic screening for this disease inevitable and is studying several options.

9. Telegram From the Embassy in Nicaragua to the Department of State¹

Managua, November 1, 1985, 2118Z

6683. Subject: Soviet Disinformation: USG Caused AIDS Epidemic.

Pro-GON daily *El Nuevo Diario* November 1 carried a *Prensa Latina* story from Moscow saying that "Literaturnay Gaceta," based partly on an article from the Indian magazine "Patriot," had asserted that the AIDS epidemic is the result of USG-sponsored biological experiments. The article reportedly identified the "infectious disease research center of Fort Detrick, United States"² as an entity engaged in immunological

¹ Source: Department of State, Central Foreign Policy File, D850784-0156. Unclassified; Immediate. Sent for information to Moscow, the U.S. Interests Section in Havana, Port au Prince, New Delhi, USCINCSO, DIA, U.S. Liaison Office Caribbean, RUEOSBA/24 COMPW/DOI, and USCINCLANT.

² In a January 2, 1987, information memorandum to Shultz, Abramowitz wrote that the disinformation campaign began when a "pro-Soviet newspaper in India in 1983 carried a story (we suspect placed by the Soviets) alleging that the US created AIDS as a result of research at Ft. Detrick." (Department of State, AIDS, 1984-1987, Lot 89D137, AIDS—Sov Disinformation)

research—it is “known for its studies on the creation of biological weapons and experiments in . . . other countries under cover of other purposes” The article reportedly charged that the AIDS virus, according to “Patriot,” was “innoculated in blood given to sick people and ‘other tests were certainly performed in Haiti and also in certain groups of North American society.’”

Bergold

10. Telegram From the Embassy in Uganda to the Department of State¹

Kampala, November 4, 1985, 0732Z

3301. Subject: AIDS Epidemic in Uganda.

1. Action request paragraph 5.

2. Following is a summary of recent conversations with Dr. Rick Goodgame (US citizen missionary internist) and Dr. H. Wilson Carswell (UK citizen contract surgeon). They and five Uganda medical doctors at Mulago Hospital (Uganda’s largest hospital, located in Kampala) have formed a committee to investigate the spread of acquired immunodeficiency syndrome (AIDS) in Uganda.

3. AIDS is becoming a major health problem in Uganda. 10–20 percent of general medical admissions at Mulago have the disease. It presents in two forms. One is enteropathic with severe wasting, diarrhea, and unusual organisms infecting the GI tract, i.e., cryptosporidiosis, *isospora belli*, *candida albican*. The second is atypical aggressive Kaposi’s sarcoma. Active research is underway by members of the staff at Makerere University Medical School and Mulago Hospital. Preliminary results have been published (*Lancet*, February 16, 1985; October 19, 1985).² The unusual and distressing features of this epidemic are the equal distribution in both sexes, the high prevalence of HTLV III viruses in the population (about ten percent of the general population), and the apparent transmission by heterosexual contacts.

¹ Source: Department of State, Central Foreign Policy File, D850787–0689. Unclassified; Priority. Sent for information to Nairobi, Kigali, Dar es Salaam, Kinshasa, Bujumbura, Khartoum, and New Delhi.

² A.C. Bayley, R. Chiengsong-Popov, A.G. Dalglish, R.G. Downing, R.S. Tedder, R.A. Weiss, “HTLV–III Serology Distinguishes Atypical and Endemic Kaposi’s Sarcoma in Africa,” *The Lancet*, vol. 325, no. 8425, February 16, 1985, pp. 359–414.

The at-risk population is enormously high, including both Ugandans (from all strata of society) and expatriates (no cases identified thus far).

4. Serious investigations are already underway in the following areas:

- Cause of diarrhea
- Sexual behaviours of patients versus general population
- Sero-epidemiology
- Post-mortem studies
- Immunologic studies

All of these have been initiated locally with little or no financial support from abroad.

5. Action request: Doctors here have identified two kinds of needs:

—Immediate short-term: Funds to send from one to six Ugandan doctors to November 21–22 AIDS in Africa Conference in Brussels so they may present posters on AIDS in Uganda and develop international contacts.³ Estimated cost would be USdols 2,000–10,000 depending on the number of participants. (Funding from other governments and organizations thus far has not been forthcoming.)

—Seven-doctor committee on AIDS at Mulago Hospital want to establish an ongoing comprehensive research program with NIH, CDC, or some American medical school to be able to carry out and extend the above-mentioned projects. Small amounts of funding (USdol 1,000–10,000) would go far locally for procurement of equipment, reagents, materials, and office supplies. Doctors wish to establish a linkage with a US institution which would help supervise and direct research. (N.B. while visits from US medical authorities would be welcomed, given present political-security situation obtaining, travel to Uganda would not be necessary for programs to go forward.)

Preliminary inquiries have been made to Drs. Robert Bigger and Karl Western at NIH; serious proposals have not been discussed, however.

6. Comment: Embassy understands that research on AIDS in Africa is expanding rapidly. While the medical infrastructure in Uganda has been badly damaged over the past fifteen years, there remains a cadre of accomplished medical practitioners who could carry out high quality research for a modicum of financial input.

³ In telegram 352051 to Kampala, November 16, the Department informed the Embassy: "Very sorry to report am unable to obtain funding from AID for Ugandan doctors to attend AIDS conference in Brussels. AID/S and T/HEALTH and AID/AFR declined to support travel, and use of post funds was judged not to be legal." (Department of State, Central Foreign Policy File, D850822–0470)

7. RMO Rollins/New Delhi knows Dr. Goodgame well and may wish to comment on impressions gained while visiting medical establishment in Kampala during 1980–84 tour as RMO in Nairobi.

Bennett

11. Minutes of AIDS Working Group Meeting¹

Washington, November 27, 1985

PRESENT:

Richard E. Benedick, OES/E
Scott N. Thayer, OES
Richard Kauzlerich, IO
Neil Boyer, IO/T
Dr. Kenneth Bart, AID/ST
Dr. Paul Goff, M/MED
William Robertson, AF
Bryce M. Gerlach, NEA/EX

Mr. Benedick opened the meeting by explaining the interest of the Executive Secretary and other 7th Floor principals in developing a comprehensive Department response to the international implications of Acquired Immune Deficiency Syndrome (AIDS), and the tasking of OES to coordinate that response. The disease is now appearing throughout the world, and the Department should be prepared to deal with its attendant problems in the political, diplomatic, and public health arenas. Naturally, with such a large population diagnosed as having AIDS, the United States has to consider not only the requests for assistance which are coming in from various governments but the real danger that AIDS could be a divisive factor in our bilateral relationships as countries attempt to assess blame for the epidemic.

Dr. Goff reported that M/MED has been engaged since April 1984 in addressing the health implications of AIDS for Foreign Service personnel, and we are now faced with the first case of a USG employee apparently contracting AIDS while overseas. The spread of the disease seems inexorable for the moment, although the moderation of personal behavior is essential to its control and eventual elimination. In the

¹ Source: Department of State, AIDS, 1984–1987, Lot 89D137, AIDS: Cables, Meetings + Misc. Confidential.

United States, the Centers for Disease Control have been spearheading the effort and are the link with the international efforts being coordinated by the World Health Organization. The extent of those efforts is unclear, though, and it was agreed that an attempt would be made to better clarify them for the next meeting.

Mr. Boyer described some information he had just received regarding the WHO program, including the convening of a meeting in Geneva in mid-December. Dr. Bart confirmed that he would attend that meeting. In general, however, the extent of the WHO's efforts was unclear, and it was agreed that an attempt would be made to obtain better information prior to the² next meeting.³

It became apparent as the discussion continued that the working group should be expanded to include all the regional bureaus since the disease was present on all continents and would require a global response. In addition, it was decided that OES would serve as a clearinghouse for the working group as information became available from various sources, and would serve as liaison with the Department of Health and Human Services, which has had the major role on AIDS domestically⁴ and possess the principal technical expertise.

Finally, the creation of the communications caption EXDIS COMMANDER was briefly reviewed.⁵ There was a consensus among the group that its use should be expanded worldwide, and that incoming cables in that channel would be distributed as their sensitivity permitted.

² An unknown hand underlined the phrases "Dr. Bart," "WHO's efforts," and "better information prior to the."

³ In telegram 11347 from Geneva, December 19, the Embassy provided a summary of the WHO meeting on AIDS. (Department of State, Central Foreign Policy File, D850912-0947)

⁴ An unknown hand underlined the phrase "OES would serve as a clearinghouse for the working group as information became available from various sources, and would serve as liaison with the Department of Health and Human Services, which has had the major role on AIDS domestically."

⁵ In telegram 362914 to all African diplomatic posts, November 27, the Department stated, "A new EXDIS subcategory, EXDIS Commander, has been created for the use of the Department and AF diplomatic posts in communicating information on matters pertaining to the AIDS outbreak in Africa. Department distribution of the EXDIS Commander traffic will be limited to OES (action), S, D, P, S/S, Regional Bureau, INR, S/P, PA, and M/MED. Given this fixed and limited distribution, traffic regarding this subject will no longer be handled in the NODIS channel." (Department of State, Central Foreign Policy File, D850850-0460)

12. Minutes of AIDS Working Group Meeting¹

Washington, December 9, 1985, 10–11:15 a.m.

ATTENDEES

Ambassador Negroponte OES, Chair
Dr. Ken Bart AID/ST/H
Neil Boyer IO/T
Marvin Brown CA
Robert Brexler EAP/RA
Bryce Grelach NEA/EX
Paul Goff M/MED
June Heil CA/VA
Rich Kauzlarich IO
Peter Knecht PA/OAP
Bill Long OES/ENR
Dave Lyon AF/RA
Burnie Pixley M/MED
William Robertson
Georgia Rogers CA/OCS
Ann Rose HHS
Scott Thayer OES
William Walker ARA
Hal Weeks OES/ENR
Frank Wisner

State has three principle objectives in developing a USG foreign policy response to AIDS:

- 1) to protect the health of the US overseas community
- 2) to promote a coordinated international response to the situation
- 3) to support US health community efforts to solve the problem here and abroad.

Over the next month or so, OES will coordinate the effort to develop a strategy/policy paper.² From this paper, DOS should be able to:

1. identify relevant foreign policy interests impacted or generated by the AIDS epidemic
2. develop responses to situations
3. generate periodic guidance cables to foreign posts.

Bill Long will chair a small drafting group composed of representatives of AID, IO, M/MED and HHS.³ Representatives present should notify Bill Long of who they will have participating in this group within

¹ Source: Department of State, AIDS, 1984–1987, Lot 89D137, AIDS: Cables, Meetings + Misc. No classification marking. Drafted by Weeks on December 14.

² See Document 18.

³ See Document 13.

the next two days. The target for the first draft of this policy paper will be the first week in January. The full working group will then meet to discuss the draft during the second week in January. This schedule eliminates the need for the meeting on 17 December as originally planned by Mr. Benedick.

The group then went through the strategy elements for the proposed policy paper (attached)⁴ to get the views of the participants.

1. Guidance to Embassies

- a. Medical Aspects

- should include the most recent available epidemiology.

- should note the prevalence of the virus in prostitutes and the growing indications of heterosexual transmission. Dave Lyon (CAF) noted that the African Bureau has sent a cable addressing this.⁵ The problem is to show AIDS as a world wide problem so as not to exacerbate African nation sensitivities.

- there followed a question and brief discussion of testing protocol and reliability.

- b. Consular/visa issues

- the question was raised whether it is advisable to issue a travel advisory on AIDS, and if so, how to treat it.

- travel advisories are usually country specific none have been issued so far pertaining to AIDS. If one is issued, it would have to be worded very carefully, taking into account both African nation sensitivities and US citizen response.

- if we advise State employees, shouldn't we advise everyone? Ambassador Negroponte (OES) asked if DOS obligation as an employer (to inform its employees) doesn't extend to the citizenry as a whole? Dave Lyon (AF) pointed out we need to be aware of the public relations aspect of any form of advisory and that U.S. citizens, while aware of the disease, generally don't think of it as being passed by prostitutes/heterosexual contact. Paul Goff (M/MED) suggested the regional aspect could be sidestepped by making advice to travelers world-wide. Addi-

⁴ Not attached. See footnote 2, above.

⁵ In telegram 364624 to all African diplomatic posts, November 28, the Department reported: "I want to bring your attention to the fact that we now have our first confirmed case of Acquired Immune Deficiency Syndrome (AIDS) in a USG employee recently returned from Africa." The cable further stated, "If your employees have not yet been apprised of the epidemic proportions of this disease and the avenues currently available for testing and treatment, I ask that you bring this to their attention on an urgent basis." (Department of State, Central Foreign Policy File, D850854-0741)

tional information on risk factors could be incorporated into publications going to travel agents (e.g. Morbidity and Mortality Weekly Report, or Bureau of Quarantine).

c. Political dimensions

This point was skipped over for discussion in detail. Certain propaganda points will be made and uncomplimentary things will likely be in the press. USIA should have good notions of how to handle it. We do not have fact sheets on AIDS incidence, again due to the reluctance of some nations to publicly address the issue. Ken Bart suggested we rely on the WHO for our information—they are apolitical and have access to information unavailable to DOS.

d. Reporting Requirements

Are there capabilities to intensify surveillance and reporting on AIDS? Ann Rose (HHS) noted that WHO has an aggressive program of lining up collaborating centers which provides a mechanism to enhance surveillance.

2 & 3 International Programs and Initiatives/Use of International and Institutional Mechanisms

Are we satisfied with the epidemiology being done? What can be done to stimulate the international community?

Neil Boyer (IO/T) pointed out that WHO is active with an expanding list of collaborating centers. It appears to him that WHO is far ahead on this issue. The problem is that they have to walk a politically fine line: they can't say there are X cases in Zaire, if the GOZ won't officially report that.

Ann Rose (HHS) noted that WHO lacks the infrastructure to get some of this information.

Ken Bart pointed out that we can't assist people who don't want assistance. He notes that thus far there has only been one request to AID for assistance to another country, which was turned down.

R. Kauzlerich (IO) asked Neil Boyer about WHO programs on AIDS. Boyer said there is nothing formal described, as this is in the middle of their budget cycle. He expects the program structure to reflect AIDS efforts at the start of their new budget period in January.

Ken Bart noted that we need our own reporting as long as politics interferes with other reporting mechanisms. Education, and not pointing blame, should help reporting.

Ambassador Negroponte asked R. Kauzlerich how we can best get a handle on WHO activities—and an idea of how/where these should be intensified? Boyer noted that the lead contact with WHO in U.S. is HHS, especially through the CDC.

The meeting concluded with Ambassador Negroponte reminding reps from IO, AID, HHS and M/MED to inform Bill Long of the names of their representatives to the drafting group.

13. Minutes of AIDS Drafting Group Meeting¹

Washington, December 12, 1985, 9:30–11:15 a.m.

ATTENDEES

Bill Long OES/ENR, chair
Dr. Ken Bart AID/ST
Vick Barbero AID/ST
Neil Boyer IO/T
Dave Lyon AF/RA
Dr. Burnie Pixley M/MED
Dr. Ann Rose HHS
Hal Thompson PHS/OIH
Hal Weeks OES/ENR

Task of drafting group is to develop a policy paper² which will describe the current situation and set forth recommendations on how to proceed, to present to the Secretary sometime in January. The attached outline of policy objectives served as the basis for initial discussion of the organization of the paper.

1. Policy Objectives

Ken Bart suggested an additional policy objective be to *allay anxiety*.

a. *Protect Americans Abroad*

Medical—Burnie Pixley will provide copies for the drafting group of State Department advice for official travelers. He suggested guidance to provide travelers be done through the Bureau of Quarantine; Dr. Rose suggested this be done via MMWR (Mortality and Morbidity Weekly Report—put out by the CDC).

¹ Source: Department of State, Subject Files, Other Agency and Channel Messages and Substantive Material—World Health Organization (WHO), 1985, Lot 89D136, 85 HLTH WHO Programs AIDS. No classification marking. Drafted by Weeks on December 16.

² See Document 18.

Ken Bart suggested we include the executive summary of the Surgeon General's report on AIDS³ (to be issued in January) as a summary background document describing U.S. efforts to understand and deal with the spread of this disease.

b. *Defuse Political Problems*

Ann Rose noted that a possible reaction to the incidence of AIDS in the U.S. may be an increasing movement to screen U.S. travelers. Dave Lyon suggested that Public Affairs might work with the drafting group—and pointed out an upcoming *U.S. News and World Report* article. (This article, written by a reporter named Carey⁴ is apparently based on a World Bank/IMF discussion centered around the Lawrence Altman articles in the *N.Y. Times*.⁵ The World Bank has apparently pointed out to Mr. Carey that the numbers used in this discussion are not based on a scientific survey. There is apparently *no* World Bank report as mentioned briefly at the meeting) Peter Knecht of PA/OAP is our contact there.

c. *International Response*

Bill Long felt we should identify the extant international mechanisms dealing with AIDS, and evaluate their scope and magnitude vis-a-vis what the medical community feels should be done. Recommendations could then be developed to fill these 'gaps'.

Ken Bart pointed out that a major problem on the international level would be the inefficiency of duplication of effort resulting from poor communication among the organizations involved. He suggests that when we develop a perspective on what is being done that State consider among its options the role of coordinator or a 'no-go' option if that is appropriate. A number of questions arose on how CDC relates to WHO in work on AIDS (CDC is a collaborating center which also works bilaterally with other governments, e.g. Zaire), and whether NATO/CCMS involvement is 'appropriate' or should it be directed into the WHO mosaic? Dave Lyon pointed out that a firm recommendation on whether to have things occur or not with U.S. foreign affairs groups (e.g. NATO) should be developed as a part of our paper. Ken Bart countered that the important thing vis-a-vis countries getting together—on whatever basis—is the sharing of information and

³ Reference is to the "Surgeon General's Report on Acquired Immune Deficiency Syndrome," United States, Public Health Service, Office of the Surgeon General, January 1986.

⁴ J. Carey, "How Medical Sleuths Track Killer Diseases," *U.S. News and World Report*, October 14, 1985, pp. 69–70.

⁵ Lawrence K. Altman, "The Doctor's World; In Africa, Problems Change but the Frustrations Go On," *New York Times*, December 10, 1985 (late edition), C1.

enhancement of surveillance on the AIDS situation—and that in this sense they are all useful.

Foreign Post responses to AIDS cable

Hal Weeks will be the central repository for incoming cables and will work with the regional bureaus on analysis. These cables will not be viewed as a source of medical, scientific information, but will provide a flavor for the situation at the originating center. Because of the unscientific nature of the data, it should be held very carefully.

Specific Drafting Assignments

1. International Response: tasked to Neil Boyer
 - a. identify the principal multilateral vehicles and mechanisms involved
 - summarize their activities
 - recommend others which might be approached or engaged
 - b. Ken Bart offered to make contacts on the health level and share this info.
 - c. identify international program gaps
- Walt Dowell is the key CDC person with an overview on WHO (236–3401)

NIH contacts would be Tony Fouche or Meg Donahue

2. U.S. Bilateral Activities: tasked to AID Bart and/or HHS Rose
 - describe U.S. bilateral activities focusing on the magnitude of demand for U.S. assistance and U.S. response
3. International Aspects of Surveillance and Epidemiology: PHS/OIH (Thompson)
 - What is our state of knowledge and what more needs to be done?
4. Current AIDS situation

Medical: tasked to HHS (Rose). This will focus on U.S. efforts which may not reflect the world-wide situation. International information will come primarily from WHO. However, most of the public information is anecdotal and verification of the disease (internationally) will be difficult.

Political: task to OES to work with regional bureaus.

5. Protecting Americans Abroad: task to M/MED (B. Pixley) in consultation with AID. D. Lyon will contribute a portion on protection of unofficial American travelers. Ken Bart offered to formulate recommendations based on AID's point of view.

14. Minutes of a Visa/Immigration Meeting¹

Washington, February 3, 1986

Re: HHS Proposal to Require HTLV–III Testing for Visas and to Make AIDS an “. . . excludable, dangerous disease” under the Immigration and Naturalization Act.

ATTENDEES

Phyllis Bucsko CA/PC
John Adams CA/OCS
Marguerite Coffey CA/PC
Karen Martin CA/RP
Rudy Henderson L/CA
Jack Phelan HHS
Steve Grossman HHS/DASH

Paul Goff M/MED
Burnie Pixley M/MED
Hal Weeks OES/ENR
Allan Otto CA/VO
Jim Curran CDC
James DeLaney HHS/Ex.Sec.
Lee Mosedale HHS/

State Department officers met with HHS officials to discuss the HHS request for comment on the proposed rule change to make AIDS a “. . . dangerous, contagious disease”² excludable from the U.S. by making the disease grounds for visa denial.

Discussion centered on the difficulty of diagnosing AIDS, the difficulty of testing for HTLV–III/LAV antibodies in many areas of the world and to whom this requirement would apply.

HHS is intent on proceeding with a Notice of Proposed Rule Making to be published in the *Federal Register*. They are unswayed by the difficulties and expense imposed by making ELISA tests (and confirmatory Western Blot tests, if necessary) a part of the medical exam for visas. They are also insensitive to the near certain retaliatory (reciprocal, if you wish) actions other governments will take, and the expense and difficulties that will impose on U.S. citizens.

If the rule is adopted, all visa medical exams will have to include the ELISA test, and the Western Blot test for confirmation if the ELISA is positive. A confirmed positive test would be grounds for visa denial.

Medical exams are required of all individuals applying for an *immigrant visa*. They are required of applicants for non-immigrant visas *at the discretion of the consular officer* processing the application. Phyllis Bucsko pointed out that CA would anticipate requiring no more medical exams for non-immigrant visas than they do now—which is some fraction of 1% of the applicants. HHS officials concurred with this,

¹ Source: Department of State, AIDS, 1984–1987, Lot 89D137, AIDS Department Policy Guidelines/Press. No classification marking. Drafted by Weeks on February 5.

² See 51 *Federal Register* 15354, April 23, 1986.

which appears to be a retreat from their earlier desire to apply this requirement more broadly, especially to students.

15. Memorandum to the File¹

Washington, February 14, 1986

SUBJECT

Visit of Bill Long and Hal Weeks to CIA, re. AIDS

Bill Long and Hal Weeks (OES/ENR) visited CIA headquarters on Thursday, 13 Feb., to discuss the Dept. of State's AIDS program and policy paper.² The exchange was originally proposed by [*name not declassified*], Office of Global Issues, CIA, who chaired the meeting. He was joined by other CIA officials (attendance list below)³. The meeting lasted slightly over an hour; discussion centered on three topics:

1. A description of State Dept. efforts to date by Bill Long. Three copies of the current draft of the policy paper were given to CIA officials. The proposed NAS/IOM short term AIDS project⁴ was also mentioned; three copies of the letter from Bill Long to Dr. Jeffrey Stryker with issues of interest to State were left with CIA.⁵

2. CIA interest in the AIDS epidemic is presently informal and unfocused. The Office of Global Issues and the Office of Science and Weapons Research seemed to be the principal foci of interest.

3. CIA does not know what it might contribute to a USG AIDS effort, or what level of resources they might have available to devote to an initiative on this topic. They are clearly concerned about the lack of a good data base. Various ideas under consideration for possible CIA action include:

¹ Source: Department of State, AIDS, 1984–1987, Lot 89D137, AIDS: Cables, Meetings + Misc. Limited Official Use. Drafted by Weeks.

² See Document 18.

³ Not printed.

⁴ In telegram 339428 to all diplomatic and consular posts, October 30, the Department outlined the results of an NAS/IOM report on AIDS. (Department of State, Central Foreign Policy File, D860826–0082)

⁵ Not found.

—collection of AIDS-related data [*less than 1 line not declassified*]. This would supplement⁶ State Dept. post reports on AIDS.

—preparation of a report on AIDS worldwide, which may include an annotated map of incidence and/or a model of the estimated impact of the disease⁷—given information on the spread of the disease and loss of productivity of those afflicted.

—informational ‘features’ by the Foreign Broadcast Information Service (FBIS).

⁶ An unknown hand underlined the phrase “collection of AIDS-related data” and the word “supplement.”

⁷ An unknown hand underlined the phrases “an annotated map of incidence” and “a model of the estimated impact of the disease” and wrote “interesting idea” in the left-hand margin.

16. Telegram From the Department of State to All Diplomatic and Consular Posts¹

Washington, March 5, 1986, 1807Z

67663. Subject: Proposed AIDS Screening for U.S. Visa Applicants: Update and Press Guidance. Ref: State 51793.²

1. Background: Reftel describes Department of Health and Human Services (HHS) proposal to designate AIDS as a dangerous, contagious disease, making it grounds for exclusion from the United States. Because AIDS cannot be diagnosed easily, implementation of the proposed rule would mandate blood screening for antibodies to the AIDS causing virus as a part of the medical examination required of all immigrant visa applicants, including refugees. A negative result from the antibody screening test would be a precondition for issuance of an

¹ Source: Department of State, Subject Files, Other Agency and Channel Messages and Substantive Material—World Health Organization (WHO), 1986, Lot 90D36, 86 HLTH WHO Programs AIDS Jan–June. Limited Official Use; Priority. Drafted by Weeks; cleared in CA/PC, M/MED, RP/RAP/AP, and S/S; approved by Benedick.

² In telegram 51793 to all diplomatic and consular posts, February 20, the Department requested that Embassies provide their views on the effects of the proposed HHS rule. (Department of State, AIDS, 1984–1987, Lot 89D137, AIDS Department Policy Guidelines/Press)

immigrant visa. Posts should note that applicants for non-immigrant visas would not be subject to this requirement.

2. Post responses to reftel have been valuable to the preparation of Department's comments on the proposed rule. Many posts have noted one or more of the following problems should the proposed rule be adopted:³ 1) lack of testing facilities, 2) delays in processing and increased costs to applicants, 3) Consulate workloads, 4) the proposed rule will reach only a small fraction of visitors and immigrants to the U.S., and 5) the anticipated adverse reaction in many countries and challenges to our credibility since the U.S. is widely perceived as the largest exporter of the AIDS causing virus. Department comments will be submitted to the Office of Management and Budget,⁴ which will determine whether to permit publication of the "Notice of Proposed Rulemaking." If published as a proposed rule, HHS must allow a 60 day period for public comment before deciding whether to develop a final rule. This, once again, must be circulated for agency comment before final approval by OMB. Estimated time, from publication of a proposed rule to the effective date of a final rule, if any, is nine to twelve months.

3. Department understands several posts have been queried by the local press and offers the following guidance.

Q: Is the U.S. Government planning to institute screening of visa applicants for AIDS?

A: AIDS is not at this time considered a condition warranting exclusion from the United States on medical grounds. The U.S. Department of Health and Human Services (HHS) has proposed a rule change which would designate AIDS as a dangerous, contagious disease, and, as such, make it grounds for exclusion from the United States. The proposed rule is under review by agencies within the U.S. Government. If the Government decides to publish the proposed rule, there would be a sixty day period for public comment. Following the comment period, if HHS decides to issue a final rule, it would again undergo agency review before becoming effective. The entire process, if carried to completion, would probably take nine to twelve months.

If the proposed rule is ultimately adopted, it would have the effect of adding a test for antibodies to the AIDS-causing virus to the medical

³ In telegram 745 from Manama, February 25, the Embassy provided a list of objections to the proposed HHS rule. (Department of State, Central Foreign Policy File, D860143-0591)

⁴ An unknown hand underlined this sentence through "Budget," and wrote in the margin: "What position did State take?" Just above this was the handwritten comment: "Was this necessary?" in the same hand.

exam already required of immigrant visa applicants. Non-immigrant visa applicants would not be affected by this proposed rule.

Q: What tests will be required, and what if the results are positive?

A: Presently, the simplest and most economical test is the ELISA test. If this test gave a positive result, and the applicant wished to pursue the application, the Western Blot test would be used. A negative result on the Western Blot test, following a positive ELISA test result, would be sufficient for meeting the proposed HHS requirement.

Q: What if there are no facilities capable of performing antibody testing in an immigrant visa applicant's home country?

A: The absence of appropriate testing facilities in many areas, and the additional inconvenience and expense to the applicant, are two of several issues which have been brought to the attention of the Department of Health and Human Services. Because there has been no final decision to adopt this rule, we prefer not to speculate on such hypothetical situations.

Shultz

17. Letter From Acting Secretary of State Whitehead to the Director of the Office of Management and Budget (Miller)¹

Washington, March 21, 1986

Dear Mr. Miller:

I am writing with respect to the Department of Health and Human Services' proposal to designate AIDS as a "dangerous, contagious disease", excludable under Section 212(a)(6) of the Immigration and Naturalization Act (INA). For reasons stated below, the Department of State urges that the Notice of Proposed Rulemaking not be published at this time.

While the Department of State shares HHS' desire to protect the health of the American public, and to minimize the economic costs of the AIDS epidemic to the United States, consular posts have reported that significant operational problems would arise in implementing the

¹ Source: Department of State, Subject Files, Other Agency and Channel Messages and Substantive Material—World Health Organization (WHO), 1986, Lot 90D36, 86 HLTH WHO Programs AIDS Jan–June. No classification marking. Drafted by Weeks on March 10; revised on March 12 and 17.

proposed rule.² These relate in large part to the unavailability of the ELISA and Western Blot tests for AIDS in much of the world. Since the ELISA test apparently gives a high proportion of false positive results, especially when applied to Africans, the more expensive and still less available Western Blot test would often have to be used. Moreover, relatively few immigrant visas are issued by posts in areas where the incidence of AIDS, or of infection with the HTLV-III virus, appear prevalent. Thus, we question whether the relatively few seropositive individuals who could be excluded under this rule justify the expense involved in its implementation.

The Department also administers third-country processing of refugees from such nations as the Soviet Union, Vietnam and Cambodia. Provisions would have to be made, prior to adoption of the proposed rule, for the disposition of any individuals who might test positively for AIDS virus antibodies. It would be neither realistic nor humane to return these individuals to their country of origin.

Adoption of the proposed rule would also carry political risks. AIDS is seen in many nations as a cultural threat of Western origin, and the U.S. is widely perceived as the principal exporter of the AIDS virus. Not only would the proposed rule complicate bilateral relations, but it would put the U.S. in the position of contradicting the World Health Organization (WHO), which has stated that there is no justification for travel restrictions at this time. This could undermine the WHO AIDS program, which we are trying to encourage, and also invite reciprocal measures by other nations against the far greater number of American travelers.

HHS and State Department officials have met twice in unsuccessful attempts to resolve this issue.³ This Department continues to believe that the proposed rule is in direct conflict with the provisions of Section 2 of Executive Order 12291:⁴ it is not based on adequate information and it has not been demonstrated that the proposed benefits outweigh the potential costs. A realistic cost-benefit analysis is necessary before State could concur in the proposed rule. Such an analysis should include: (1) the cost (and to whom) of making testing facilities available at visa-issuing posts, bearing in mind the poor medical infrastructure and the lack of reliable electrical power and refrigeration in many areas;

² See Document 16.

³ See Document 14.

⁴ Executive Order 12291, issued February 17, 1981, was created to "reduce the burdens of existing and future regulations, increase agency accountability for regulatory actions, provide for Presidential oversight of the regulatory process, minimize duplication and conflict of regulations, and insure well-reasoned regulations." (46 *Federal Register* 13193)

(2) the implications for refugee programs; (3) the administration of, and possible waivers for, adjustments of the status of individuals already resident in the U.S.; (4) measures to prevent the use of fraudulent test results to obtain visas; and (5) consideration of the costs imposed by possible reciprocal actions directed against U.S. citizens. The number of individuals who would be excluded, based on data covering visa issuance and estimates of prevalence of infection by the HTLV–III virus at differing visa-issuing locations, could provide a reasonable estimate of the degree of protection the proposed rule would afford the U.S. public.

I would also point out that clinical AIDS is already excludable from the United States under Sections 212(a)(7) and 212(a)(15) of the INA on the grounds that an afflicted individual will be unable to work, unable to pay for medical care, and therefore likely to become a public charge. Confining the proposed rule to the exclusion of clinical AIDS, as defined by the Centers for Disease Control, would be medically sound and politically less sensitive. Training panel physicians at visa-issuing posts to recognize the sentinel diseases of AIDS may be much more cost-effective than use of currently available antibody blood tests.

This Department therefore urges that the Notice of Proposed Rulemaking not be published until the concerns raised above are thoroughly addressed. We are ready to pursue this matter further with you as necessary.⁵

Sincerely,

John C. Whitehead

⁵ In an undated information memorandum from Smith to Whitehead, Smith reported: "At a meeting last Friday of the Health Policy Working Group of the Domestic Policy Council a compromise was worked out, *ad referendum*, that fully meets our objectives. The agreement—subject to confirmation by HHS and State—is for AIDS to be designated a 'dangerous, contagious disease,' but without any requirement that *all* immigrants and refugees be tested for antibodies to the AIDS causing virus." (Department of State, AIDS, 1984–1987, Lot 89D137, VISA/Immigration/Consular Affairs, etc.) In an April 18 action memorandum to Whitehead, Negroponte approved the compromise. Whitehead initialed his agreement on April 19. (Department of State, Central Foreign Policy File, P870002–0826)

18. Paper Prepared in the Department of State¹

Washington, April 1986

[Omitted here is a title page.]

[Omitted here is a table of contents.]

Executive Summary

The Problem

Acquired Immune Deficiency Syndrome (AIDS) has rapidly emerged as a worldwide public health threat since its identification in 1981. Its recognition as a new disease was delayed by the absence of unique symptoms, and also by the long period between infection (by the HTLV-III/LAV virus) and the appearance of symptoms. As of April 7, 1986, over 19,100 cases and 9500 deaths have occurred in the United States alone, and limited evidence suggests that upwards of ten million individuals are now infected, worldwide. Infected individuals are thought to carry the virus, and therefore be potentially infectious to others, for life. There is no known cure or vaccine for AIDS at present: it is invariably fatal.

U.S. Foreign Policy Interests

The AIDS epidemic raises significant international public health, scientific, social and political issues that collectively require close attention and responses by the State Department and other U.S. foreign affairs agencies.

Thousands of Americans live and travel abroad—including official personnel and their families—where they could be exposed to the AIDS virus under conditions where medical capabilities for advising on, diagnosing or treating the disease are inadequate or nonexistent. The United States is also the world leader in its ability to help shape and support a successful attack on the problem, based on its medical expertise, institutional capacity and research investment. Consequently, U.S. assistance is in demand, and there is need to target and apply it efficiently and effectively.

This country also has the highest number of diagnosed cases of AIDS in the world. Given the worldwide distribution of blood products of U.S. origin, and the great frequency of travel abroad by private citizens and military personnel, the United States is sometimes per-

¹ Source: Department of State, AIDS, 1984–1987, Lot 89D137, AIDS Policy. Confidential. Drafted by the AIDS Working Group.

ceived and portrayed by others as the principal source of the AIDS-causing virus.

Numerous offices of the State Department have been involved in AIDS-related issues over the past two years, including Medical Services, Consular Affairs, geographic bureaus (especially AF), and OES. In November 1985, a Departmental Working Group on AIDS was established—under the chairmanship of OES, and with participation by USAID and HHS. Its principal objectives were to: identify and evaluate the key foreign policy issues associated with AIDS; recommend and pursue appropriate responses by the State Department and other U.S. foreign affairs agencies; and ensure proper coordination of the Department's policy and program responses, both in-house and at the inter-agency level.

The Departmental Working Group identified at the outset three classes of foreign policy objectives which required early attention:

- 1) protection of U.S. citizens abroad,
- 2) prevention and mitigation of political problems,
- 3) assisting governments and the international health community in efforts to address the medical, public health and social problems created by the AIDS epidemic.

The Working Group then evaluated the extent and quality of the Department's responses to date in each of these areas, and identified additional measures that should be carried out to strengthen these responses and to fill gaps.

The analysis and recommendations discussed in detail below can be summarized in the following categories:

- promotion of international medical research on cause, prevention and cure of the disease,
- expansion of epidemiological studies to learn more about cause and prevalence,
- stronger public information and education campaigns to prevent panic, exaggerated responses, and spread of the disease,
- promotion of measures to ensure that the world's blood supply is protected from contamination by the HTLV-III/LAV virus,
- ensuring the adequacy of the medical capabilities of U.S. diplomatic posts as well as those of host governments,
- engagement of host governments in open dialogues to prevent AIDS from becoming a divisive foreign relations problem and to facilitate the work of the health community.

Protection of U.S. Citizens Abroad

State/MED cares for the health of Americans employed overseas by the State Department, USAID, and some 30 other U.S. Government

agencies. To date, State/MED has initiated a comprehensive program on AIDS which encompasses health education, safety of blood and blood products, screening of employees, counseling and management of individuals who may become infected by the AIDS-causing virus, and the review of host country medical and dental facilities. Guidance has also been prepared for official contractors and other temporary duty personnel. This has been distributed to Embassy medical units as well as to other USG agencies which assign individuals to overseas duty.

Private citizens travel abroad with great frequency. The evidence indicating AIDS is spread by heterosexual contact, and the fact that most foreign blood supplies are not screened for AIDS-virus antibodies, suggest that some form of guidance for the traveling public should be prepared.

Working Group recommendations focus on the need for:

- expanded efforts to provide educational materials for all U.S. travelers,
- continuing guidance on the matter of blood transfusions, and measures to safeguard blood supplies,
- an early (positive) decision on MED's proposal for mandatory employee screening, and
- closer coordination with the Department of Defense and the Peace Corps on common problems of health care, screening and public affairs.

Prevention and Mitigation of Political Problems

AIDS is an extremely sensitive topic in many nations (particularly in the Middle East) due to its association with homosexuality and drug use. Some Central African countries believe they are being unjustly blamed for 'originating' the disease, and other nations fear a decline in tourism if AIDS is diagnosed in their populations.

In addition, those who are already predisposed against the United States find AIDS to be an attractive new focus for anti-U.S. feelings, particularly where it can be tied to the presence of U.S. military personnel.

To prevent or counter the politicization of the AIDS problem, the *Working Group recommends*:

- provision, by the Department to U.S. overseas posts, of accurate, objective information on the state of the AIDS problem and U.S. policy thereto, on a continuing basis,
- efforts to maintain open communications with other governments to minimize misunderstandings and emotional reactions, while instilling a sense of realism as to what can be done,

- support for public education through the World Health Organization program,
- close coordination with the Department of Defense, and
- preparation and distribution of contingency guidelines and talking points to U.S. posts abroad.

U.S. Assistance

In the worldwide fight against AIDS, U.S. assistance—both technical and financial—will be important in two areas: (1) support to other nations, particularly developing countries, to either stimulate or assist them in addressing the problem; and (2) assistance to the international health community to acquire data as well as to design and mount effective responses. Provision of such assistance will require judicious use of both multilateral and bilateral channels.

Working Group recommendations center on:

—*multilateral* assistance through the World Health Organization. Emphasis needs to be placed on: ensuring that the emerging WHO program is consistent with U.S. views of needs and priorities; determining the type and level of U.S. technical and financial support that can be provided; evaluating the capabilities of WHO's regional offices; and developing international support for the WHO program,

—*bilateral* assistance, with emphasis on close USG interagency coordination. A centerpiece should be USAID's proposed multi-faceted AIDS policy and program intended to support: expanded surveillance activities in Africa, technical assistance in health education, travel for developing country health experts to international meetings and support for WHO's Global Program. In addition, channels for the distribution of health education/risk reduction information to the general public of a given country should be developed.

[Omitted here are sections of the paper that are not part of the Executive Summary.]

19. Telegram From the Department of State to All African Diplomatic Posts¹

Washington, August 5, 1986, 0233Z

244258. Subject: Disinformation: AIDS Made in USA. Ref: A) Dakar 8253; B) Dakar 8510; C) Nairobi 27931; D) Moscow 12333.²

1. (LOU) Department notes a major active measures campaign in Africa charging: A) that the AIDS virus was created by the US military for use in biological weapons, B) that the blood supplies of the US and Western Europe are unsafe and contaminated, and C) that the citation of Africa as the disease's point of origin is some sort of Western conspiracy.

2. (U) These charges were recently aired in a letter to the editor dated May 30 and sent from Lagos under the signature of Gbenga Adefuyeye, patriotic youth movement of Nigeria that has since appeared in publications in Dakar and Nairobi (refs A, B, and C).

3. (LOU) This campaign coincides with charges appearing in Soviet media in April, May and June that the AIDS virus was engineered by the CIA and the Pentagon. Ambassador Hartman sent letters to the editors of these publications on June 25 protesting these articles and, when these letters were not published, released them to the press on July 15. (Ref D)

4. (U) The following guidance should be of use to you should this "Letter to the Editor" or other AIDS-related disinformation appear in your country:

—Charges that the AIDS virus was developed by the US military are preposterous. Research has never revealed any evidence to support the claim that US Government agencies are responsible for creation and dissemination of the disease. These charges are the result of a deliberate and malicious disinformation campaign designed to denigrate the image of the US.

—All blood donated in the US is screened for AIDS antibodies. The US Center for Disease Control has reported that since the spring

¹ Source: Department of State, Central Foreign Policy File, D860596-0043. Confidential. Sent for information to Moscow. Drafted by Rapoport; cleared in AF/P, OES/ENR, EUR/SOV, PA, and USIA; approved by Bailey.

² Telegram 8253 from Dakar, July 18. (Department of State, Central Foreign Policy File, D860553-0606) Telegram 8510 from Dakar, July 25. (Department of State, Central Foreign Policy File, D860571-0934) Telegram 27931 from Nairobi was not found. Telegram 12333 from Moscow, July 18. (Department of State, AIDS, 1984-1987, Lot 89D137, AIDS Disinformation '86)

of 1985, when blood tests for AIDS virus antibodies became routine, only one case of infection by contaminated blood is even suspected.

—Neither the US Government nor the international scientific community believe there is sufficient evidence to establish where AIDS originated. AIDS is caused by a new virus which has been studied for only a brief time. What is known is that AIDS is a worldwide problem which is affecting people on every continent and which must be reacted to immediately and vigorously by national and international health organizations. The question of the origin of this disease is important only repeat only for epidemiological reasons as scientists study all aspects of the virus in searching for possible cures or vaccines. (FYI: Department and WHO steer clear of statements identifying Africa as the origination point of AIDS due to the sensitivities expressed by many African nations.)

5. (C) For Lagos: Is the Patriotic Youth Movement of Nigeria a genuine organization? Is Adefuyeye an official of that organization?³ Did the organization send out the letter in question?

6. (U) For Dakar and Nairobi: Department commends your efforts to combat this disinformation (refs B and C). The Active Measures Working Group (INR/ID—Dr. Bailey) would appreciate receipt of a copy of dossier Embassy Dakar is compiling on the subject.

Shultz

³ In telegram 8663 from Lagos, August 12, the Embassy reported: "We can find no evidence of an organization called the Patriotic Youth Movement in Nigeria," further stating, "Gbenga Adefuyeye is also unknown to Mission officers and contacts." (Department of State, Central Foreign Policy File, D860616–0096)

20. Action Memorandum From the Director of the Office of Medical Services (Dustin) to Secretary of State Shultz¹

Washington, September 28, 1986

SUBJECT

AIDS Testing for Foreign Service Applicants, Employees, and Dependents

M/MED and the Legal Adviser's office have worked closely together in the preparation of the information contained in this memorandum.

ISSUES FOR DECISION

Whether to authorize testing for HTLV III/LAV as a standard part of the Department's medical examination process for Foreign Service applicants, employees and dependents.

Whether to reject applicants with a confirmed positive test for HTLV III/LAV for employment in the Foreign Service.

Whether to approve limitation of medical clearance for Foreign Service employees or dependents found to have positive tests for HTLV III/LAV in the course of the routine in-service examination.

ESSENTIAL FACTORS

Due to concerns for the health and safety of members of the Foreign Service and their dependents in view of conditions prevailing at posts abroad, as well as concerns about potential harm to the foreign relations of the United States, M/MED seeks your approval to institute testing of Foreign Service applicants, employees, and dependents for exposure to the HTLV III/LAV (AIDS) virus. At the same time, your approval is sought for modification of Foreign Service medical standards to exclude from Foreign Service employment applicants who have confirmed evidence of HTLV III infection, and to limit as appropriate the assignment overseas of members of the Service who have confirmed evidence of HTLV III infection while employed in the Service. A detailed presentation of the policy reasons for requesting these actions, and an assessment of the legal and political risks involved, is contained in the attached policy paper (Attachment A).²

¹ Source: Reagan Library, Papers of George P. Shultz, AIDS testing. No classification marking. Sent through Spiers. Drafted by Goff and Gallagher on July 16; cleared in M/DGP, DGP/PER/HC, L, H, PA, OES, and D.

² Attached but not printed.

RECOMMENDATIONS

1. That you approve testing for HTLV III/LAV virus as a standard part of the Department's medical examination process for Foreign Service applicants, employees and dependents.³

2. That you approve M/MED's proposal that a positive HTLV III/LAV test be made a basis for denying medical clearance to applicants for Foreign Service employment.

3. That you approve M/MED's proposal that a positive HTLV III/LAV test by a Foreign Service employee or dependent on an in-service examination be made a basis for appropriately limiting medical clearance for overseas assignments.

³ On September 28, Shultz approved the three options and wrote "Secto 18039" below the lines.

21. Telegram From the Department of State to All Diplomatic and Consular Posts¹

Washington, December 5, 1986, 0225Z

377222. Subject: Countering Soviet Active Measures: Proposed USG Guidance and Report on AIDS. Pass to PAOS. Ref: (A) State 346837.²

1. Summary. The Department is concerned that the effects of the current AIDS disinformation campaign could intensify as the number of AIDS-related cases increases. An interagency mechanism has been set up to monitor ongoing events and is preparing guidance and a comprehensive report, in conjunction with the Department of Health and Human Services (HHS) and other relevant agencies, to counter charges that the US is responsible for the creation and dissemination of the virus. Posts' views on the proposed guidance as well as on a public affairs strategy for countering AIDS-related disinformation are welcome. End summary.

¹ Source: Department of State, Central Foreign Policy File, D860926–0414. Confidential. Drafted by Hertzberg; cleared in OES, EAP/PHL, PA, DOD, USIA, PM, EUR/SOV, Fort Detrick, and HHS; approved by McNeil.

² Telegram 346837 to all diplomatic and consular posts, November 5, transmitted a chronology of the Soviet disinformation campaign. (Department of State, Central Foreign Policy File, D860845–0124)

2. Background. Since October 1985, allegations that the US manufactured the acquired immune deficiency syndrome (AIDS) virus as a result of biological warfare research at Ft. Detrick, Maryland have appeared in more than 50 countries in media of all political viewpoints, several international wire services, and Soviet bloc radiobroadcasts in more than twenty languages. The Soviet-inspired campaign has further engendered negative perceptions of the US by alleging that the West is trying to shift responsibility for AIDS to African countries and, by sowing fears that the disease may be spread by US military personnel overseas, exaggerating legitimate risk factors associated with the virus.

3. Growing attention to the spread of the virus will present Moscow with additional exploitable opportunities for the foreseeable future. For example, increasing local receptivity to charges that US military personnel are AIDS carriers could lead Moscow to broaden its claims to include other Americans overseas such as diplomats, students, tourists, businesspersons and Peace Corps volunteers. Demands that US military bases in the Philippines be closed to prevent the spread of AIDS already have appeared in the local press there and have been repeated by TASS;³ ultimately such charges could have an effect on US basing negotiations around the world and multilateral health/scientific negotiations and agreements, for example.

4. Department is now pulling together guidance for posts' background and discretionary use (A) outlining the mission of Ft. Detrick and the nature of the research being conducted there; (B) describing US prophylactic efforts to protect US Armed Forces personnel who are deployed overseas; (C) identifying medical and scientific vulnerabilities and inaccuracies, where they exist, in Soviet and Soviet-sponsored information; and (D) discussing scientific and other qualifications to the extent possible of the purveyors of Soviet-sponsored information. Department will be cabling this information to posts as it is developed.⁴

5. A technical report, to be issued by HHS,⁵ as currently conceived will provide positive information on US attempts in conjunction with international bodies to identify the cause of the disease, modes of transmission, experimental methods of treatment, and epidemiological research (i.e., establishing the incidence and prevalence of the virus). Department expects the publication to be issued around the first of the year.

³ In telegram 34623 from Manila, October 27, the Embassy reported on press items that demanded the closure of bases. (Department of State, Central Foreign Policy File, D860825-0352)

⁴ Transmitted in telegram 382137 to all diplomatic and consular posts, December 10. (Department of State, Central Foreign Policy File, [no film number])

⁵ Not found.

6. Posts should continue reporting local perceptions of alleged USG involvement with the creation/dissemination of the virus, as well as of press reports expounding upon the same theme; such reporting has proven vital in assisting the Department in its assessments and is greatly appreciated. Department also welcomes comments and suggestions from posts on adequacy of guidance outlined above, as well as ideas on developing a public affairs strategy to counter AIDS-related disinformation. Please slug responses “INR/ID—DAS Bailey”.

Shultz

22. Information Memorandum From the Assistant Secretary of State for International Organization Affairs (Keyes) to Secretary of State Shultz¹

Washington, December 16, 1986

SUBJECT

WHO Action on AIDS Attracts Great Interest

The World Health Organization’s coordinator for action on the disease AIDS received serious attention during four days of briefings in Washington last week. Dr. Jonathan Mann, a very impressive young officer of the DHHS Centers for Disease Control in Atlanta, has been loaned to WHO for two years to coordinate AIDS program activity.

Of particular concern in international terms is the possibility that AIDS could cancel out developmental progress in many of the poorer nations, especially in Africa. AIDS is having its primary impact on people aged 20–40, precisely the generation that is best trained and active in trying to get countries moving economically and politically. It is reported that 5 to 10 per cent of newborn children in some areas may carry the virus. As those now identified as carriers of the AIDS virus develop actual cases of the debilitating and fatal disease, the costs of medical care in those countries will increase dramatically. Dr. Mann told us it is essential that the countries of Asia and South America, where the disease has had only minimal impact, move now on prevention programs.

¹ Source: Department of State, Central Foreign Policy File, P870060–2521. No classification marking. Drafted by Boyer on December 10; cleared by Vogelgesang and Kriebel.

Dr. Mann's visit has helped to galvanize State, AID and DHHS officers to give more immediate attention to the disease. WHO and the countries involved will need substantially greater resources if they are to make progress in testing, prevention, public education and other control programs, and to give accelerated attention to development of a vaccine and curative therapy. By 1990, WHO estimates that \$1.5 billion will be needed annually for WHO's coordinative programs, in addition to the direct bilateral assistance needed by developing countries. We have been assisting Dr. Mann in making contacts with foundations and other potential donors.

We believe Dr. Mann's visit helped us to make better known the effective work of the UN specialized agencies, on the Hill and elsewhere. We will do more of this as opportunities arise.

23. Telegram From the Department of State to the Embassy in the Soviet Union¹

Washington, January 10, 1987, 0140Z

8385. Subject: Countering Soviet Active Measures: AIDS.

1. Confidential entire text.

2. At his request, Soviet Embassy First Secretary Sergei Gurov requested to meet with State personnel January 7 to discuss U.S. bilateral and multilateral cooperative efforts in AIDS research. The discussion with Gurov suggested that the USSR may be interested in approaching other governments on the question of bilateral or multilateral AIDS research. In view of this and the upcoming US-USSR joint committee meeting on health cooperation scheduled for April,² and considering recent Soviet expressions of interest in cooperation with the U.S. in AIDS research,³ Embassy should convey the following message to the MFA and Health Ministry at the appropriate levels.

¹ Source: Department of State, AIDS, 1984-1987, Lot 89D137, Untitled. Confidential; Priority. Sent for information to Leningrad. Drafted by Sell and Hertzberg; cleared in INR/ID, AID/AF, NIH, OES/ENH, and HHS/PHS; approved by Parris.

² In telegram 145458 to all diplomatic and consular posts, May 13, the Department reported on the meeting held in Washington, April 14-16. (Department of State, Central Foreign Policy File, D870368-0436)

³ In telegram 399814 to Moscow, December 30, 1986, the Department transmitted the text of letters between Zhdanov and Dr. Fauci regarding assistance with the study of AIDS patients. (Department of State, Central Foreign Policy File, D870001-0446)

3. The United States Government has long been concerned about the distortions and blatant fabrications concerning the origins of the AIDS virus that have appeared in various forms in Soviet media. Ambassador Hartman expressed U.S. concern in two letters to the editors of *Literaturnaya Gazeta* and *Sovietskaya Kultura* last year.⁴ As Ambassador Hartman noted, the editors of the articles in question seemed ignorant even of Soviet scientists' views on AIDS. Leading Soviet immunologists have stated that evidence indicates the disease originated in central Africa, that it may be related to a similar virus found in monkeys, and that it may have existed for several hundred or even several thousand years, or may have evolved from another virus. This position is consistent with that of the international medical and scientific community that the AIDS virus appeared first in nature and was not man-made. Moreover, there is overwhelming scientific evidence that humans have been infected with the AIDS virus at least since the early 1970s in more than one region of the world.

4. During the last six months, the United States has welcomed recognized Soviet researchers to our country to discuss AIDS research with various U.S. Government health officials. We have also welcomed Soviet expressions of interest in cooperating on AIDS research expressed to U.S. Government officials visiting Moscow, especially during the visits of Surgeon General Koop and NIH Director Wyngaarden last October and November.⁵ Soviet distortions and fabrications concerning the origins of the AIDS virus have nevertheless continued.

5. The United States Government welcomes continued Soviet expressions of interest in combatting the worldwide spread of this dreaded disease. Continuation of the Soviet disinformation campaign, however, is clearly inconsistent with any joint efforts on AIDS research. Therefore, in the interest of making our joint contributions to halt the spread of the AIDS virus a valuable one to global health, we urge the Soviet Union to cease its blatantly false allegations concerning the origin of the AIDS virus. In view of the unfortunate allegations that have appeared in the Soviet press, we believe it would be appropriate for the Soviet Government to acknowledge in public the facts concerning the origin of the AIDS virus. These facts are recognized by all

⁴ See Document 19 and footnote 2 thereto.

⁵ In telegram 17690 from Moscow, October 14, 1986, the Embassy reported on U.S.–U.S.S.R. health discussions during Koop's visit, including a proposal to send Soviet researchers to the United States for collaborative AIDS research. (Department of State, Central Foreign Policy File, D860780–0750) In telegram 2525 from Leningrad, November 21, 1986, the Consulate reported on Wyngaarden's visit. (Department of State, Central Foreign Policy File, D860893–0861)

serious AIDS researchers around the world, including senior Soviet immunologists.

6. Minimize considered.

Armocost

24. Telegram From the Department of State to Agency for International Development Mission Directors and Representatives¹

Washington, April 4, 1987, 0920Z

100959. Subject: A.I.D. Policy Guidance on AIDS. From Administrator M. Peter McPherson.

I have recently approved the following policy guidance on AIDS.

The guidance is designed to provide missions with guidelines on which to base decisions on how to respond to requests for A.I.D. support of AIDS-related activities, and to describe what kinds of activities will be undertaken by A.I.D. regionally, centrally, and in support of the WHO Global Programme on AIDS. This policy will be reviewed and revised as our understanding of the disease increases.

The policy guidance is reproduced in its entirety. Quote:

I. Context for Agency Policy Guidance on AIDS

Acquired immune deficiency syndrome (AIDS) is a relatively newly recognized and devastating disease. Our knowledge about the causative agent of the disease, the possibilities for its prevention and control, and the course of the epidemic are changing rapidly. For these reasons and because of sensitivities surrounding the disease, this policy guidance is designed to be flexible. It is based on the situation now and will be revised as changes in technology, knowledge, incidence and sensitivities occur.

Despite these uncertainties, an agency policy on AIDS is important. The incidence of AIDS cases this year is the result of infection which was transmitted as long as five years ago. It is imperative to tackle the problem now because infections transmitted this year will result in actual AIDS cases five or more years from now.

¹ Source: Department of State, AIDS, 1984–1987, Lot 89D137, AIDS Apr 13. Unclassified. Drafted by Blakeslee; cleared in AID/AA/PPC, AID/DAA/ST, AID/AFR/TR, AID/ANE/TR, AID/LAC/DR, AID/ES, and OES/ENH; approved by McPherson.

If the course of the disease results in outbreaks of major proportion in some countries as is predicted by many experts, there will be many serious implications for ongoing A.I.D. programs and for development prospects in those countries. Activities begun now, as outlined in the following policy guidance, should be the groundwork for major efforts later as they become necessary.

A.I.D. support for AIDS activities will depend upon the particular activity and whether it could best be supported by A.I.D. or another domestic or international agency; availability of funding and staff; absorptive capacity in LDCS as well as in donor agencies; political considerations and sensitivities; and available technology and knowledge upon which to base program responses.

At this point development of major bilateral efforts is constrained by political sensitivities in LDCS about the disease; lack of knowledge, expertise and experience in this area; inadequate financial and human resources; and, finally limited absorptive capacity of LDCS. This policy guidance will be reviewed and revised as knowledge and understanding of the disease and its spread are accumulated.

II. Background

Acquired immune deficiency syndrome (AIDS) is an epidemic of global concern. There are currently some five to ten million individuals infected worldwide. It is estimated that at least 10–30 percent of infected individuals will develop AIDS within five years, and an unknown percent will develop the disease eventually. Once frank AIDS develops it is fatal. Worldwide an estimated 50 to 100 million additional people will become infected over the next five years.

Human immunodeficiency virus (HIV), the cause of AIDS, is transmitted by sexual intercourse, through blood or blood products, and from mother to fetus. In the United States to date the epidemic has been confined largely to high risk groups including male homosexuals, intravenous drug users, and hemophiliacs. In Africa and certain Caribbean and South American countries AIDS and HIV infection occur among heterosexually active men and women and in their offspring. In Asia and the Near East, AIDS and HIV infection are still rare, but both the virus and the disease have recently been identified among high risk groups, indicating that the disease may also become epidemic in these areas.

A number of characteristics of the AIDS phenomenon make it a difficult problem with which to deal:

- 1) Its causative agent and its transmission are not completely understood;
- 2) It is a devastating disease for which there is now no cure or vaccine;

3) Its transmission is most frequently related to highly emotional and private behavior, e.g. sexual relations;

4) It has been associated in particular with the U.S. and with certain developing countries, and its origins and spread have been characterized variously for political reasons;

5) It could become a major epidemic of the type we have not seen in this century.

III. Political and Developmental Implications of AIDS

A. Sensitivities

Transmission of AIDS is predominantly sexual, and to date its incidence is often associated with either homosexual practices or heterosexual prostitution. Prevention of the transmission of HIV infection will depend in large part upon changes in sexual behavior, an aspect of life which is one of the most intimate, sensitive and difficult to change. Educational messages will need to be very culture specific and have political backing within the country. Even so, this behavior will be difficult to change sufficiently to have an effect on transmission of the disease.

Promotion of condom use for AIDS control which is appropriate and effective in the U.S. and other Western countries could be construed by some as an indirect means of imposing population control in countries where family planning can still be somewhat sensitive.

B. Implications for other A.I.D. programs

Regardless of how the agency becomes involved in AIDS programs, the disease has implications for other ongoing A.I.D.-funded programs. For example, AIDS may affect immunization, breastfeeding, and family planning programs. In immunization programs there is the possibility of transmission through unsterile needles, as well as the theoretical potential for activation of AIDS symptoms in already infected individuals by vaccines and the possibility of disseminated infections following the receipt of live vaccines. The possibility of transmission through breastmilk could affect A.I.D.-supported milk bank programs. Increasing numbers of AIDS cases may result in restrictions on international travel and training opportunities.

The implications of AIDS for the Agency's family planning program are several. AIDS prevention activities may have a positive effect on family planning efforts; on the other hand, promotion of condoms for AIDS prevention could create an association between condoms and high risk sexual behavior (including homosexual practices and prostitution). In addition, in areas where AIDS is widespread, it may become necessary to revise recommendations on use of other forms of contraceptives which do not simultaneously protect against AIDS.

C. Long-term Impact on Development

The long-term impact of AIDS on development is likely to be significant. The cost of dealing with AIDS in many countries will take funds and personnel that are needed for other government programs in health, family planning, education, and other priority areas, and could severely jeopardize the gains made in these sectors. The deaths of significant numbers of the population of productive age (e.g., from 20 to 40 years old) could constrain economic productivity. The disease is already present among the educated elite in a number of countries, and loss of this human resource could severely damage prospects for economic stability and progress. The economic and social impact of AIDS will in all likelihood be significant for individuals, families and countries.

IV. Global AIDS Efforts—the World Health Organization (WHO) Global AIDS Programme

WHO has taken the lead in developing and coordinating international AIDS programs. A special global programme for AIDS has been established, reporting directly to the Director General. The proposed budget for this programme for 1987 is about dollars 44 million. A.I.D. played an important catalytic role in encouraging the formation of this programme, and in stimulating funding from other member countries. Financial contributions made by A.I.D. to WHO in FY 1986 were significant because they were the first contributions made to the worldwide programme (dollars 1 million) and to the WHO Africa Regional Programme (dollars 1 million). A.I.D. will continue to support and collaborate actively with the WHO Programme.

V. Policy Guidelines

A. A.I.D. Support Mechanisms for AIDS Activities

1. Bilateral Activities

A.I.D. resources for AIDS are limited because of other A.I.D. priorities, such as child survival. Staff resources to deal with AIDS are also limited. A.I.D. health/population/nutrition and education staff are already stretched in dealing with existing health, population, nutrition, child survival and human resource programs. AIDS is still a sensitive subject in many countries with political ramifications for bilateral programs aimed specifically at AIDS at this time, although some bilateral activities are appropriate. The types of bilaterally-funded activities which are appropriate are spelled out in the following section outlining specific activities addressing AIDS. Bilateral activities should complement WHO programs and centrally-funded activities. Many activities of interest to missions can be supported through existing or emerging centrally-funded mechanisms.

2. Central Activities

Central projects should complement WHO programs and bilateral health and family planning programs which may include some AIDS activities. Types of central support also will be discussed under the next section of the guidance.

Large centrally funded cooperating agencies (especially through the Office of Population) may be able to carry out some activities addressing AIDS through their existing contracts without incurring significant additional expenses. However, there will undoubtedly be requests for help from these groups from LDCs which will require additional funding. Cooperating agencies should respond to such requests (consistent with the following guidance) if this can be done without jeopardizing other priority activities or without risking a backlash due to LDC sensitivities.

3. Regional Activities

Regional activities should generally follow the guidelines for centrally funded activities.

B. Specific Activities Addressing AIDS

1. Research

Because AIDS is endemic within the U.S., basic biomedical and social science research activities are carried out by DHHS. The epidemic nature of the disease means that the health of U.S. citizens can benefit from international research, including collaborative epidemiologic, serologic, and virologic studies in different settings. As a result, CDC, NIH, and DOD, have undertaken studies in Africa and elsewhere. WHO's programme includes epidemiological research. While U.S. efforts overseas should be undertaken in a coordinated fashion, A.I.D. is not the appropriate agency to coordinate these efforts since they are beyond the scope of U.S. foreign assistance or are being undertaken by WHO.

Biomedical Research

Biomedical research, such as development of vaccines and drugs, is of interest to and can be undertaken by private sector firms and is being undertaken by other parts of the U.S. Government and therefore should not be undertaken by A.I.D.

Epidemiological and Behavioral Research

Both epidemiological research to determine the pattern of infection and disease, and behavioral or anthropological research to determine the implications of changing the behavior which is associated with the transmission of the disease are important.

Epidemiological research is being undertaken by WHO, USG agencies and national researchers. A.I.D. will not undertake research which can be funded by other USG agencies, other donors or WHO.

Where A.I.D. has expertise and experience the agency could support behavioral or anthropological research into the particular practices and their contexts, in order to provide information on how these practices may be changed. This research may be supported bilaterally or centrally.

Operations Research

Operations research can help determine, for example, under what circumstances an AIDS health communication effort using mass media is feasible; whether family planning workers are effective sources of information about AIDS control; and, whether it is possible to change sexual practices through the media, health worker training and availability of spermicides or other viricidal agents. Operations research can improve our understanding of the circumstances in which existing family planning programs might be constructively linked with prevention of AIDS, or on the other hand might be adversely affected by being linked to an AIDS campaign. A.I.D. has considerable experience in operations research, particularly as part of our population and health programs, and should support these efforts where appropriate bilaterally or centrally. Operations research can also explore the role of public health communications in reducing risk due to other means of transmission.

Economic Research

Because of the serious implications of AIDS for development and especially for A.I.D. programs, A.I.D. will support research on the longer-term development and economic effects of the AIDS epidemic through central or bilateral mechanisms. This includes the potential impact on health budgets, economic productivity, child survival, and other issues.

2. Information Exchange

Many unknowns, uncertainties and sensitivities about AIDS and the speed with which it has spread make sharing and exchange of information between scientists, politicians, and development workers critical. There is a danger of inadvertent as well as deliberate misinformation about AIDS, and steps are being taken through WHO and other channels to correct such information. WHO has the primary role in coordinating and disseminating information and A.I.D. will support WHO in this area.

A.I.D./Washington will provide information to missions on a regular basis so that A.I.D. field staff is fully informed with the latest information on the disease and worldwide activities addressing it.

A.I.D. may join other donors or agencies in supporting international meetings and we may support participation of LDC representatives, but we will not directly and solely sponsor international meetings or

clearing houses on AIDS. A.I.D. may support efforts to compile and disseminate reliable technical information on AIDS.

3. Training

Information, education and training about how to deal with prevention and control of AIDS are very important. Training can include in-country training in the context of ongoing health and population programs; participant training, including study tours; and funding for attendance at international meetings on AIDS. Mission or central funds may be used to support study tours or participation in meetings on AIDS. In-country service worker training or retraining should probably be mission funded.

In some cases with very little additional resource input, A.I.D. could become more actively involved in health and family planning worker training on AIDS. A.I.D. centrally funded contractors have already begun and will continue to include AIDS information in training curricula for health and family planning workers.

Information and education about the transmission by skin piercing instruments should be built into training components of A.I.D.-funded immunization programs.

4. Public Health Education

Public health education methods, including social marketing techniques, aimed at preventing transmission of AIDS is critical since there is no cure for the disease at this time. Given the poorly understood nature of AIDS and its potential for misunderstanding, we need to be sure we have the right message(s), and that the media are used sensitively with proper attention to cultural and other factors, particularly in regard to communications dealing with sexual transmission. The WHO Global AIDS Programme includes a component on education for prevention of transmission. A.I.D. will support and collaborate with this WHO activity. Several developing countries have already begun public education campaigns about the risk behaviors which are associated with transmission of the infection. A.I.D. support for education about prevention of sexual transmission will emphasize the importance of sexual abstinence or long term stable relationships. Assistance for education efforts and distribution of prophylactics against transmission will be based on the cultural and religious norms of the countries being assisted.

The U.S. has considerable experience in social marketing of contraceptives and with other health promotion modalities which could be useful in developing campaigns to prevent AIDS. Use of condoms will play a role, but will not be the only behavioral change indicated. However, behavioral changes to prevent particularly sexual transmission of AIDS differ from those required for other health or family

planning behaviors, and we do not yet know which messages about AIDS will be effective in particular situations and with different target groups. Moreover, information and education used in the U.S. about AIDS does not translate easily to developing countries.

Before we become directly involved in free-standing AIDS information, education and communication (IE&C) efforts we need to answer some critical questions through social science and operations research and to ensure that host countries really want our help. Initially, A.I.D. support for IE&C efforts should be approached through operations research projects and through the WHO program. Direct bilateral support for free-standing communications programs for AIDS prevention may be appropriate in the future.

5. Prevention of Sexual Transmission

In addition to support for operations research on public health education aimed at preventing sexual transmission of AIDS, A.I.D. will procure and provide condoms for AIDS prevention programs on request. Condoms will be procured through the existing central procurement mechanism, which is a buy-in project. If there is substantial demand for additional condoms, funding will probably need to come from both bilateral and central sources. A.I.D. may also assist in procurement of condoms for WHO on a reimbursable basis.

6. Prevention of Blood Transmission

Blood screening programs are an important means of preventing transmission of the virus through blood transfusions. The WHO programme includes support for development of these programs, and WHO has already provided equipment and supplies for such programs to some countries. A.I.D. will support WHO efforts to prevent blood transmission of AIDS. A.I.D. will also fund the purchase of equipment and supplies for blood screening programs on request and where funds are available (and where WHO funding is not available), keeping in mind the recurrent cost implications of blood screening programs, including costs for reagents, and the need for host countries to plan for this continued expense.

The cost of reagents for blood screening may decrease as new, technologically appropriate diagnostic tests become available. If private firms are not interested in developing diagnostic tests for LDC markets, A.I.D. may need to support adaptation of diagnostic tests to make them technologically appropriate for LDCS and may need to facilitate their distribution.

7. Prevention of Perinatal Transmission

WHO will support efforts to reduce perinatal transmission of HIV. This may involve counseling of infected women not to have children and the option of abortion for infected pregnant women. A.I.D.'s prior-

ity on child survival makes perinatal transmission a real concern. The need to counsel women and men who wish to become parents about the risks of passing on the infection to their offspring may arise within the context of A.I.D. MCH and family planning programs. However, A.I.D. will not support any involvement in any activities that include abortion.

8. Vaccination Efforts

As previously stated, A.I.D. will not fund vaccine research and development efforts. Due to the sensitivities of setting up vaccine testing sites in LDCs and disputes over data between researchers, A.I.D. should let WHO take the lead in this area.

Should a vaccine become available, A.I.D. will consider supporting procurement of vaccines and immunization materials and the implementation of vaccination programs.

9. Care for AIDS Cases

Under the Agency health policy, A.I.D. does not generally support curative health care. In the case of AIDS there are currently no known therapeutic agents for HIV infection.

A.I.D. will support WHO efforts to reduce the impact of HIV infection on individuals, groups and society.

C. Implications for Other A.I.D. Programs

In addition to support for some activities to address AIDS, A.I.D. must be concerned about and monitor the implications of the disease and its prevention and control for other A.I.D. programs. AIDS concerns affecting on-going A.I.D. programs include: immunization, breastfeeding, and family planning activities. A.I.D. Missions should monitor these areas closely. A.I.D./Washington will develop further guidance if necessary.

1. Immunization Programs

Although there are no known cases in which the AIDS virus has been transmitted through immunization programs, use of unsterile needles and syringes has been documented to result in transmission. Even if immunization programs do not transmit the virus, it is possible that use of unsterile implements could transmit HIV. Even if this means of transmission is not in fact a viable means of spread, associations may be made between use of unsterile implements in A.I.D.-funded vaccination programs and incidence of disease. For these reasons, caution must be taken to ensure use of sterile equipment. A.I.D. is following the WHO guidance which recommends against use of disposable needles because they cannot be sterilized and are often reused. Use of reusable needles and care about their sterilization is the recommended procedure. All A.I.D.-funded immunization programs should make certain that adequate supplies of reusable needles and syringes are

available, that adequate sterilizing equipment is in use, and that upgraded training is provided for health workers to ensure use of sterile implements.

A.I.D. will continue to follow WHO guidelines on immunization of all children and pregnant women in spite of the theoretical potential for activation of AIDS symptoms in already infected individuals by vaccines and the possibility of disseminated infections following the receipt of live vaccines. As long as the threat of immunizable diseases to the health of children in LDCs remains higher than the threat of AIDS, the WHO guidelines will be followed by A.I.D.

2. Breastfeeding Programs

There is no convincing evidence that AIDS has been spread through breastmilk, yet there is the possibility that the virus could be transmitted in this way. It is important that A.I.D. Missions be aware of this potential and of the possibility that association could be drawn between confirmed pediatric AIDS cases and this mode of transmission if found, new guidance on promotion of breastfeeding and milk banks will be issued.

3. Family Planning

The family planning community has a number of advantages that can be brought to bear on AIDS prevention. It has a strong PVO infrastructure which is now in place and in large measure eager to undertake AIDS prevention activity. It also has experience reaching the reproductive age group with somewhat similar services. There is also significant commonality between means used to interrupt the transmission of AIDS—including promotion of monogamy, abstinence, condom and spermicide/viricide use—and methods used to space births.

On the negative side, there is legitimate concern that the association of AIDS with condoms could result in a stigma for condoms which family planning organizations have spent years and substantial resources to counteract. Similarly, there is a potential stigma for family planning organizations more generally, particularly if activities are targeted toward high risk groups such as prostitutes or drug users.

Lastly, there is the clear potential dilemma both for individuals and programs regarding condom use versus other effective contraceptive methods. Without clear confidence that a couple is monogamous and that neither partner is infected, there may be a compelling argument for condom use. While condom use and the use of other methods are not mutually exclusive, this may pose a significant operational problem. It is anticipated that most or all of these issues regarding potential effects on family planning will be addressed through operations research.

End quote.

Shultz

25. Information Memorandum From Acting Assistant Secretary of State for African Affairs (Freeman) and the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs (Negroponte) to Secretary of State Shultz¹

Washington, April 10, 1987

SUBJECT

AIDS and the Death of Modern African Societies

SUMMARY:

The World Health Organization (WHO) estimates that between 5–10 million people in every region of the world are currently infected with AIDS. The enormity of the AIDS pandemic is just now beginning to be realized. While most American attention has naturally been focussed on our own situation and that in Western Europe, a far greater calamity is unfolding in a swath of a half-dozen countries across central Africa, including several important and influential friends and allies, such as Zaire, Zambia, and Tanzania. It is difficult to overstate the impact on these societies of the likely loss of much of their modern sectors, but that is precisely what a number of them are facing. The problem is made more intractable by African defensiveness and unwillingness to face up to it, and by Soviet-generated allegations that AIDS originated in U.S. germ warfare experiments. For the U.S., there are important policy questions that need urgently to be addressed. Can we stimulate African leaders to quickly take necessary steps to retard a further spread of the disease? What is our role in a humanitarian crisis brought on by a disease that is both incurable and invariably fatal? Does it make sense to continue to support economic development efforts and technical and military training programs in countries that may be doomed to social and economic collapse in the near term? If not, how should our assistance be refocussed? We will have further comments from our ongoing study of this rapidly developing situation. This “heads-up” is intended to signal the magnitude of the problem and some of its implications for US interests.

END SUMMARY.

It is hard to be sure of the extent of AIDS in Africa. WHO estimates, which are based on what they get from Africa’s rudimentary public

¹ Source: Department of State, Central Foreign Policy File, P870100–0142. Secret. Drafted by Freeman on April 7; cleared by Stacy, Passage, Benedict, Rouse, and Walsh. A stamped notation on the document indicates Shultz saw it.

health and statistical services, appear grossly to understate the problem. But data we are now receiving from private researchers in touch with some of our African posts suggest that *up to one-third of all adults in many urban areas of Central and East Africa may now be infected with AIDS.*

Throughout Africa, men and women are infected in equal proportions. Although in the West, infection rates tend to be highly-concentrated among specific groups (in the US, approximately 90% of all AIDS patients are either homosexuals, IV drug users, or both), the disease is much less so highly-defined in Africa. Fairly uniformly-characteristic of the disease in most African countries, however, is that its incidence seems to be highest among young sexually-active professionals—those with education, wealth and power and those in close contact with them—the post-independence elites and their associates—politicians, civil servants, businessmen and women, soldiers, intellectuals, transport workers, and prostitutes. The evidence so far suggests that among such African elites the rate of infection is *at least double* that of the general urban population.

In Dar es Salaam the infection rate (those showing antibodies for HIV virus) among the *general* urban population is reportedly 34%; in Lusaka 27%; in Rwanda's capital of Kigali, 31%; in Kampala, an almost astonishing 54%. The general rate of infection approaches 10–15% along major transport routes out of these cities. Peasant farmers, with less wherewithal for promiscuous sexual activity, seem to be less infected (but at rates which are still double or more those in the U.S.).

AIDS was discovered only this decade, and we are just now beginning to be able to predict mortality rates. The most recent clinical studies in the advanced countries of the West suggest that *as many as 50% of those who test seropositive for HIV (i.e., who evidence the tragically useless antibodies generated by the body's immune system once it has been invaded by the AIDS virus) will die within five years. 75% will die within seven. After ten years, the data agree, death rates begin to approach 100%.* Mortality rates during the earlier periods of infection are higher still in countries that do not have modern public health systems and medical facilities. As the gradual collapse of the body's immune system proceeds, those with AIDS become more and more vulnerable to other diseases that are endemic in Africa, such as malaria and tuberculosis.

What this means, unless our data are fundamentally wrong, is that *by the mid-1990s two-thirds or more of the modern, educated elite and perhaps half the overall urban population in highly infected countries such as Burundi, Rwanda, Tanzania, Uganda, Zaire and Zambia will probably have died.*

We have little historical experience with death rates of this magnitude. At the dawn of the Christian era, China's urban population was

cut by four-fifths as the result of an outbreak of bubonic plague. In the XIVth century, Europe lost two-thirds of its population to the "black death." The result in each case was a collapse of organized society and its economy accompanied by a paroxysm of religious fanaticism and xenophobia. Historians speculate that classical Mayan civilization may have been shattered by a similarly catastrophic outbreak of disease.

So far, AIDS has been discussed by the world—including by Africans—primarily as a problem of medical research and public health. Clearly, it has implications that transcend either. In Africa, *AIDS has the potential to devastate entire societies*, erasing the hundred year-old impact of modern European technology and thrusting whole nations back into the early iron age.

Despite a growing awareness of the threat in the most seriously affected African countries (Zambian President Kenneth Kaunda has lost one son to AIDS; another is dying from it), debate in Africa has tended to center on whether or not AIDS originated in Africa. Most African governments have sought to conceal the dimensions of the problem from both foreigners and their own populations. (There are some exceptions: Rwanda and Uganda have faced up to the problem with massive campaigns of public education and condom distribution; "love carefully.") Africans are resentful of speculation that AIDS may have originated on their continent, and of current scientific linkages to types of "green monkey virus". The Soviets have fed this resentment with deliberately and assiduously-spread disinformation campaigns insinuating that AIDS may have originated with alleged US military biological/bacteriological warfare experiments at Ft. Detrick, Maryland. But there is now no point in debating where AIDS came from; the relevant question is where it is likely to take us, and *what we can do about it*.

Aside from the matter of our response to the horrifying humanitarian crisis that AIDS now seems about to visit upon Africa, numerous other policy issues need urgently to be addressed. We need to deal with these carefully, but study them rapidly and without "wasting time" studying them:

- how do we help persuade African governments to abandon their present head-in-the-sand mentality, declining even to discuss the situation, denying known facts, refusing to provide information or statistics?

- and a corollary to this—how do we deal with African suspicions, fed to a degree by the Soviets, that AIDS is a "white man's creation" developed by the West in order to keep Africa permanently weak—and the corresponding (albeit still relatively low-level) fear in our own society that African students, visitors and professional people are all AIDS carriers about to spread their plague in this country?

—is there any way in which the U.S. can or should attempt to take the lead in providing organizational help to Africans as they try to muster their resources to combat the AIDS problem?

—can cheap and reliable AIDS detection methods be developed that are affordable and usable in the Third World?

—should we continue to support population planning efforts in countries that are about to suffer a catastrophic loss of population? If not, can family planning networks be activated to carry out effective public education and condom distribution campaigns?

—should the U.S. divert its own scarce development assistance resources to those countries which are *not* likely to be devastated by AIDS (in effect, spending our money in countries that stand a better chance of surviving the AIDS plague)? As an explicit issue, should the US begin testing IV grantees, AID-sponsored trainees, and other USG-funded students and professional visitors for AIDS (with the negative imagery that will provoke), and should HIV seropositivity be grounds for exclusion (either for health reasons or simply to avoid spending scarce resources on individuals who may not be around long enough to make their training pay off); and if the latter, do we simply accept that we will be foreclosed from the “training” business across a fairly wide swath of central Africa—which may, eventually, expand to other areas as well.

—as an overall policy objective, are there things the US can do to avert what now looks fairly certainly like the eventual inevitable collapse of the modern sectors of AIDS-affected societies?

CONCLUSION:

We are in the process of gathering as much information as we can about the expected impact of AIDS on African societies: AF has asked each of its posts to prepare an analysis of the degree to which AIDS is present, and its expected toll on the leadership structures (political, economic, commercial, academic, social) in each country. We are disseminating as much information as we can to the field. We plan to sponsor a series of symposia in the Department, convening recognized authorities on both the disease and its likely impact on African societies.

For the time being, we believe it is important to recognize both the magnitude and impact of the problem as well as the limitations on what we can do. It is, we believe, imperative that the U.S. not give the impression that we can—through a massive “task force” approach to the problem, deal with it by hurling resources into the void. Over the next couple of weeks, we will be considering various options for US action, including specifically demarches, directly or through intermediaries, intended to awaken African awareness to the imperative of

immediate action to prevent further spread of the disease. We will also be reviewing the implications of the AIDS problem for our own assistance programs.² We will keep you informed.

² In a May 12 memorandum to Crocker, Passage provided a breakdown of AIDS infection in African nations and wrote: "Reporting from our Embassies in Africa makes it painfully clear that the AIDS epidemic is spreading in Africa and that in a dozen mainly Central and East African countries the disease has reached epidemic proportions or has the potential to do so." (Department of State, AIDS, 1984-1987, Lot 89D137, AIDS—Exdis Commander)

26. Minutes of a Domestic Policy Council Meeting¹

Washington, May 27, 1987, 2 p.m.

PARTICIPANTS

Messrs. Hodel, Bowen, Herrington, Bennett, Miller, Thomas, Whitehead, Taft, Burns, Whitfield, Covitz, Cribb, Bauer, Ms. Risque, Messrs. Culvahouse, Dawson, Donatelli, Fitzwater, Griscom, Hobbs, Sprinkel, Green, Graham, Greenleaf, Sweet, Ms. Horner, Messrs. Koop, Gould, Mason, Windom, Galebach

[Omitted here is material unrelated to AIDS.]

The second issue was whether to do HIV testing for immigrants and aliens. Mr. Whitehead expressed State Department concerns that it is not so much the foreign policy aspects of testing as the practical aspects, such as cost and the thought that only a small number of people will be intercepted. He pointed out the complications in doing a blood test in a foreign country since facilities are not often suited to doing HIV tests. Mr. Bauer pointed out that it wouldn't take many immigrant AIDS cases in which the Federal government picks up the cost, to pay for a large number of HIV tests. Mr. Bauer said the Justice Department favors testing of immigrants and aliens for HIV and that he believed that the practical problems could be worked out.

¹ Source: Reagan Library, Bledsoe, Ralph: Files, DPC Meeting Minutes 1987-1988 (2). No classification marking. The meeting took place in the Roosevelt Room at the White House.

Secretary Herrington said that we already test for tuberculosis and venereal diseases, and adding HIV would be appropriate. Mr. Bauer reiterated support for adding HIV to the list of dangerous diseases because of the cost of health care for immigrants to this country who have HIV. Mr. Whitehead questioned whether the money for testing immigrants and aliens would be well spent. He had no problem with identifying clinical AIDS on the list of contagious diseases but continued to oppose the listing of HIV. Secretary Bennett said he believed it was inconsistent to test domestically and not abroad. He stated support for the listing of HIV.

[Omitted here is material unrelated to AIDS.]

27. Memorandum From the Domestic Policy Council to President Reagan¹

Washington, May 27, 1987

SUBJECT

AIDS Testing

ISSUE—What additional steps should be taken by the Federal Government to prevent the spread of the HIV virus in America.

BACKGROUND—Since 1981, when AIDS was first recognized as a fatal disease, there has been increasing discussion about the best way to stop the spread of the disease. The Federal Government has been in the forefront of the fight against this deadly virus. Through the efforts of the Public Health Service, the HIV virus that causes AIDS was discovered, the ELISA screening test to detect the AIDS antibody was developed, approval of treatment agents such as Retrovir (AZT) has proceeded, and work has progressed on AIDS vaccines. The blood supply has become safer because of blood bank testing procedures.

¹ Source: Reagan Library, Bledsoe, Ralph: Files, 320—AIDS Policy (Jan–Jun 1987). No classification marking. A stamped notation on the memorandum reads: “The President has seen” with 5/27 filled in on the line provided.

The Department of Defense has been testing recruits and active duty personnel for HIV virus.²

The State Department has begun testing Foreign Service employees and their dependents for HIV as part of their routine physical examinations.³ The Peace Corps is also testing volunteers who are assigned to overseas posts.

AIDS is now the 10th leading cause of lost years of life in the country and is rapidly becoming the leading cause of death for males ages 20 to 39. As of May 1987, approximately 35,000 cases of AIDS have been reported and more than 20,000 AIDS-related deaths have occurred.

Accurate HIV tests are widely available, but since AIDS itself is always fatal, there continues to be concern about confidentiality and discrimination against individuals who test positive for the HIV virus. However, public health practices have always dictated that in order to control an infectious disease spread by direct person-to-person contact, every effort must be made to limit the encounters between those who are infected and those who are susceptible.

DISCUSSION—In February 1987, the Centers for Disease Control (CDC) sponsored a conference in Atlanta on the role of testing in the prevention and control of AIDS. Although no final agreement was reached, there was a consensus that more testing should be done.

The public is also very concerned about AIDS, as news of the epidemic continues to be reported. In a *Washington Post*/ABC Poll, conducted in March 1987, 98% of all those polled believed a test for the AIDS antibody should be available for everyone. 83% believed physicians should check for AIDS on all routine examinations, and 85% believed testing should be required for all people about to be married. Many health professionals believe that counseling should be required whenever a person tests positive or negative for AIDS. The

² In October 1985, the Department of Defense adopted a policy to screen enlisted military applicants for exposure to HTLV-III: "The rationale for this policy is that the condition existed prior to service, the Department avoids potential medical costs and the possibility that the individual shall not complete his or her service commitment, clinical evidence indicates that pre-AIDS patients may suffer adverse and potentially life-threatening reactions to some live virus immunizations administered at basic training, an antibody positive individual is not able to participate in battlefield blood donor activities or other blood donation programs, and presently there is no way to differentiate between antibody positive individuals who will progress to clinical disease and antibody positive individuals who will remain healthy." (Department of State, AIDS, 1984-1987, Lot 89D137, AIDS: Dept. Policy Guidelines/Press) In April 1987, the Department of Defense refined its screening policy, stating that HIV positive individuals "are not eligible for appointment or enlistment for military service." (Washington National Records Center, OSD Files: FRC 330-91-0033, 907.05, AIDS Research)

³ See Document 20.

cost of this counseling is estimated to range from \$22 to more than \$100 per person.

The screening test for the HIV antibody costs less than \$1.00; however, a confirmatory test is always performed to eliminate false positives. After two positive ELISA tests, a further check is done using the Western blot test. With the incidence of the HIV virus so low, less than one in 50,000 people will falsely test positive on the Western blot test, *if quality control such as the Department of Defense (DOD) currently employs is used*. DOD indicates that this multi-stage test costs an average of \$5.00 per case. Charges may run higher for tests conducted in the private sector. Some claim that there is an extremely high percentage of false positive HIV tests. However, this claim lies only against the ELISA tests and not the complete multi-stage testing procedure.

A new test is being developed by a laboratory in Cambridge, Massachusetts, that would be similar to the home pregnancy test and would be nearly 100% accurate. The Army is currently using this test on an experimental basis. FDA is considering this test, and it may be approved within the next year or sooner.

There are various ways in which HIV tests can be administered. In *self-initiated tests*, an individual could voluntarily request an HIV test from his physician or any medical clinic. *Routine/voluntary tests* are done when a health care provider routinely recommends testing on the basis of information provided by a patient who may have an increased likelihood of HIV infection. In this case, the individual understands that the test is strictly voluntary. *Routine/required testing* could be done where individuals are in high risk groups, in prison, donating blood, organs or tissues, or using the services of a sexually transmitted disease clinic (STD) or drug abuse clinics. There has also been concern expressed by some about the possibility of “mandatory” testing where individuals in the general population would be identified, sought out, and required to be tested.

All HIV infected individuals are potentially infectious, and since most, if not all, infected persons can be detected by currently available diagnostic tools (HIV antibody screening), it is important to consider ways in which wider testing can be done, consistent with established public health procedures that protect confidentiality. These tests could be self-initiated, routine/voluntary, or routine/required.

[Omitted here is material unrelated to AIDS.]

Issue 2: Regulations requiring AIDS testing of aliens and immigrants (routine/required). The Immigration and Naturalization Act authorizes the Secretary of Health and Human Services (HHS) to issue through regulation a list of dangerous contagious diseases for which immigrants and aliens seeking permanent residence in the United States could be

denied entry. The regulation is ready to be issued in final form and be made effective immediately.

The Administration could simultaneously issue a *proposed* rule for public comment that would go even further. Such a rule would substitute HIV for AIDS on the list of dangerous contagious diseases.

All Council members support Option 1, with the exception of the State Department which has concerns about the costs of testing, implementation procedures, and quality control in overseas facilities.

*Option 1: Issue the final AIDS rule and the HIV notice of proposed rulemaking simultaneously, with an adequate comment period to take into account cost benefits, implementation, and quality control in overseas facilities.*⁴

*Option 2: Issue the AIDS rule only.*⁵

[Omitted here is material unrelated to AIDS.]

⁴ The President initialed the approve option.

⁵ There is no indication of approval or disapproval of Option 2.

28. Minutes of a Domestic Policy Council Meeting¹

Washington, May 28, 1987, 2 p.m.

PARTICIPANTS

The President, Vice President, Messrs. Hodel, Shultz, Weinberger, Herrington, Bennett, Baker, Burns, Whitfield, Newman, Covitz, Wright, Cribb, Ms. Risque, Messrs. Bauer, Dawson, Donatelli, Fitzwater, Hobbs, Duberstein, Sprinkel, Tuck, Dyer, Graham, Green, Greenleaf, Parvin, Sweet, Ms. Horner, Messrs. Koop, Mason, Windom, Galebach, Ms. Faoro

AIDS Testing

The President opened the meeting and turned to Secretary Hodel, who briefly reviewed the AIDS issues. Mr. Bauer provided background about AIDS testing, pointing out that we are faced with a major problem in testing for the HIV virus. He indicated that, with respect to other

¹ Source: Reagan Library, Bledsoe, Ralph: Files, DPC Meeting Minutes 1987–1988 (2). No classification marking. The meeting took place in the Cabinet Room at the White House.

contagious diseases, testing is a standard Public Health Service practice, and national surveys have shown a fair amount of public support for the testing of individuals for the HIV virus. The President observed that we already have laws at the local level which require testing individuals for contagious diseases, and wanted to know why the HIV virus couldn't be added to the list of communicable diseases. Mr. Bauer responded that this is one of the recommendations.

Mr. Hodel suggested an epidemiological probe to determine the incidence of HIV in America. The Council agreed to move forward with the study. On the issue of whether HIV testing should be done for aliens and immigrants, Secretary Shultz said the problem is not with the principle of testing, but rather with the implementation of testing and the fact that it would be done in other countries without the sterile medical practices we have in the U.S. He said that quality control is important. The President asked about the distinction between the HIV virus and AIDS. Mr. Windom explained that AIDS is the final stage of the HIV infection and that the HIV virus can lie dormant for years before the symptoms are apparent.

Secretary Weinberger described the Department of Defense program used to test for the HIV virus and said, based on their experience, there are ways to do the testing if we decide to go forward with this policy. Mr. Shultz said that before we issue a rule, we need to know what to do. Surgeon General Koop said that 37 nations now have reported the HIV infection. Mr. Burns offered that while there are practical problems, we could do the testing in the United States if necessary. Mr. Weinberger said he could see no insurmountable problems to testing. Mr. Cribb stated that there would be a comment period before the rule is made final anyway, which would allow time for an implementation plan to be developed. Mr. Wright stated that a final rule on AIDS testing is ready to be released and he believed it is possible to work out the differences in placing the HIV virus on the list of dangerous contagious diseases. Secretary Herrington agreed.

[Omitted here is material unrelated to AIDS.]

29. Memorandum From the Acting Deputy Assistant Secretary of State for Coordination, Bureau of Intelligence and Research (Wiant) to the Chairman of the Foreign Intelligence Priorities Committee, Central Intelligence Agency [name not declassified]¹

Washington, June 2, 1987

SUBJECT

AIDS Topic: Proposal to Add New Special Subject Definition

Proposal: That a broad definition for political and economic concerns surrounding the AIDS situation be formulated under "Special Subjects" section 4.9. We propose the following language:

4.9 AIDS: (Acquired Immune Deficiency Syndrome) Effect on governing and economic elites: (including identification of such individuals and/or family members affected); effects of an AIDS epidemic in the upper strata of society. Political and economic consideration: government responses to in-country AIDS and reactions to international defensive strategies; effects of AIDS on national health structures; effects of an AIDS pandemic on industry, agriculture, and economic development.

Discussion: The spread of Acquired Immune Deficiency Syndrome (AIDS) and its political and economic effects are emerging rapidly as issues of universal concern. There is evidence that governing elites themselves may be at particular risk in many countries, that national or international defensive strategies are being interpreted by other states as racist or politically motivated, that health resources may become hopelessly overburdened by AIDS-related treatment and maintenance, and that widespread infection rates in the population could depress national productivity and economic growth.²

¹ Source: Central Intelligence Agency, Community Management Staff, Job 00B01635R: Committees, Task Forces, Boards, Councils Files, Box 6, Folder 390, FIPC Change Notice #27 Topics For Intelligence on the AIDS Pandemic. Secret. Drafted by Clear; cleared by Clark and Passage. Camilluci transmitted a copy to the members of the Foreign Intelligence Priorities Committee under a June 3 memorandum, which stated: "The Department of State has requested Committee consideration of the attached proposal to establish a topic on AIDS in the Special Subjects category. The Committee will discuss this proposal at a regular meeting in the very near future. Upon its approval, the Committee would proceed to the proposal and consideration of country priorities." (Ibid.)

² A Foreign Intelligence Priorities Committee member sent [name not declassified] a May 5 memorandum, which stated: "AIDS is a growing problem in Sub-Saharan Africa. CIA/ALA proposes priorities as are indicated in the attached matrix. (The CIA member agrees that priorities are needed, but he is unwilling to pitch for any 4's [the highest priority-level designation] except for Zaire.)" (Ibid.)

30. Telegram From the Department of State to All African Diplomatic Posts¹

Washington, July 18, 1987, 0029Z

221087. Subject: Countering Soviet Disinformation on AIDS.

1. Confidential Entire Text.

2. As posts are aware, we have had a continuing problem with Soviet disinformation about AIDS—in particular, the insinuation through articles disseminated/reprinted in the media, alleging that AIDS originated with U.S. military biological experiments.

3. Although posts have been provided with factual data and information to enable you to counter this disinformation,² it might be helpful for you to know that the matter came up in the recent US-Soviet bilaterals, held in London in early July between Asst. Sec. Crocker and his Soviet counterpart, Deputy Foreign Minister Anatoly Adamishin.

4. In raising the matter, Crocker noted that at recent international conferences on AIDS, attended by Soviet scientists, a consensus had been reached that AIDS was a pressing international health challenge which we all must meet. But, Crocker added, we also see continuing Soviet disinformation efforts that seek to link AIDS with alleged U.S. research on biological weapons. Crocker asked directly how Adamishin, as the senior Soviet official directly charged with Africa policy, explained the continuing obvious Soviet disinformation propaganda campaign on AIDS.

5. Adamishin replied that the Soviets had only relatively recently begun to understand the magnitude of the AIDS problem, and supported international efforts to deal with it. He said that the U.S. and the USSR should work together on the problem, and that the Soviets might develop some ideas for bilateral cooperation. Adamishin said he had “no difficulty” in admitting that Soviet propaganda on AIDS had been “foolish”. He claimed that the Soviet press was now publishing fewer items of this kind. Adamishin asserted, however, that the U.S. media had also sometimes engaged in the same sort of “disinformation”, citing U.S. media reporting of the 1979 Sverdlovsk anthrax outbreak caused by an accident at a Soviet biological weapons research facility.

¹ Source: Department of State, Central Foreign Policy File, D870570–0045. Confidential. Drafted by Passage; cleared in AF/S, INR/AMR, AF, and OES/ENH; approved by Crocker.

² See footnote 4, Document 21.

6. While Dept does not believe USG officials should publicize Adamishin's comment by itself, U.S. officials should not hesitate—in the context of your everyday working discussions with host government officials, media representatives, and others—to use Adamishin's remarks about the “foolishness” of the Soviet campaign, and the clear implication that it was false disinformation, in rebutting any assertions about alleged U.S. responsibility for AIDS that may come to your attention.

Shultz

31. Letter From Secretary of State Shultz to Attorney General Meese¹

Washington, August 3, 1987

Dear Ed:

As you know, our Departments have been working closely with the Centers for Disease Control over the last two months to ensure the timely and effective implementation of the President's decision that all persons coming to the United States for permanent resettlement should be tested for AIDS HIV infection. I am today sending to Secretary Bowen the Department of State's comments on the proposed HHS rule designating HIV as a contagious disease that was published in the *Federal Register* on June 8, 1987.² A copy of our comments and my letter to Secretary Bowen are enclosed.³

In reviewing our comments, you will see that we have concluded that proper implementation of the proposed HHS rule will require close coordination between HHS, Justice, and State and—importantly—changes in certain immigration laws and regulations. I would particularly like to call your attention to and ask your support for four initiatives that we believe must be undertaken to ensure that the HIV testing program can be implemented in a manner consistent with our domestic

¹ Source: Reagan Library, Papers of George P. Shultz, AIDS testing. No classification marking. Drafted by Rouse, Krumm, and Brown on July 29; cleared by Funseth, Passage, Coffey, Goff, Mochary, Henderson, Colson, and Newlin. Copies were sent to Bowen, Nelson, and McCance.

² See Document 27.

³ The August 3 letter and an updated paper, “Comments Regarding Immigrant Visa Applications,” are attached but not printed.

and foreign policy interests, especially as they relate to immigrant visa applicants with close ties to the United States and to that very vulnerable population for which I know you share my concern—refugees.

Specifically, we believe that the Administration must seek legislative authority to waive the HIV exclusion for immigrants in appropriate circumstances, such as when a spouse or child of a U.S. citizen is involved. We also believe that special arrangements with respect to HIV testing of refugees must be made. Under our proposal, refugees will in virtually all instances be tested for HIV before they are brought to the United States. In two situations, however, it may be necessary to defer testing until the refugee has arrived in the United States: these would be emergency, life-threatening situations where the refugee must be moved to the United States before the test can be done, and situations in which testing facilities are unavailable and it is determined to be in the national interest that HIV testing be deferred until the port of entry. Finally, we consider it of utmost importance that your authority to waive a Section 212(a) (6) exclusion based on HIV infection for a refugee be retained and used in a responsible yet flexible way consistent with Section 207(c) (3)⁴ of the INA and the national interest.

We have made suggestions concerning each of these matters in our comments on the HHS proposed rule. Various suggestions concerning your authority and INS procedures are made throughout the body of our comments, and specific changes in the INS regulations are suggested at Attachments C and D of our comments. I hope that you will support these suggestions, and look forward to continued close cooperation between our Departments in further refining and implementing them.

Sincerely yours,

George P. Shultz

⁴ Section 207 of the INA sets rules for the annual admission of refugees.

32. Telegram From the Embassy in the Philippines to the Department of State¹

Manila, August 18, 1987, 1000Z

25839. Subject: AIDS: Base Commanders and Mission Officers Meet with Secretary of Health.

1. (U) At the request of Secretary of Health Bengzon, representatives from Clark, Subic, the Embassy and DFA met with a number of Department of Health officials on August 10 to discuss AIDS. Clark AB was represented by CABCOM Col. Go, 13th AF General Snyder, Col. Haydon, Col. Rosenberg, Major Boyd and Capt. Gustin. Subic representatives included SUBCOM General Tadiar and PolMilOff Capt. Atwell. Consul General Krieg and PolMilOff Martin attended from the Embassy. Olongapo and Angeles City health officials were also present as was Melba Lim from DFA's American Desk.

2. (U) The briefing began with an update of the GOP's HIV antibody test program (through July 30, 1987). Over 58,000 tests were administered, 90 percent to prostitutes and 1.5 percent to homosexuals. 66 percent of the tests administered to prostitutes (several individuals were tested more than once) were in the Olongapo/Angeles area. 46 out of 50 individuals who tested seropositive were prostitutes (40 in Olongapo and Angeles) while 3 were homosexuals. (Comment: We note that the incidence of infections therefore were .086 percent for prostitutes and .34 percent for gays.)

3. (U) The briefer then addressed what needed to be done, including rehabilitation/support for infected individuals, a better education campaign, distribution of condoms and the provision of statistics on screening and "contacts" of US servicemen on the bases. He concluded that major efforts needed to be made, some with government funding but most at the local level.

4. (U) In the discussion that followed, General Tadiar said the GOP's Department of Health should move quickly on its own to establish a program of care and alternate employment for infected prostitutes while the problem was still small and manageable rather than trying to get others to fund it. He was concerned that infected individuals were still working as hospitality girls and increasing the risk of further spread of AIDS.

5. (U) Representatives from the U.S. facilities reiterated DOD policy of AIDS testing of all personnel assigned abroad and our prompt

¹ Source: Department of State, Central Foreign Policy File, D870674-0267. Confidential. Also sent to USCINCPAC, COMUSNAVPHIL Subic Bay, and Clark Air Force Base.

removal of any individual testing positive. They added that specific figures on the number of individuals involved could not be released due to Privacy Act and DOD policy considerations. In response to a query, U.S. reps agreed to obtain information regarding testing of civilian workers at the bases.

6. (U) Secretary Bengzon said that the issue is not merely a public health problem but a social problem with political overtones due to the number of infected individuals near the bases. Bengzon believed the health problem was being handled adequately but that more work was needed on the social/political aspects. He wondered whether alternate employment could be found since the girls were in the business for the money and similar wages were unlikely elsewhere. He said a rehabilitation program would be a bottomless pit. He felt the solution to the public health aspect of the issue was resolution socially and politically within the local community where the problem is encountered. He added that unless the AIDS problem is addressed, there will be reverberations elsewhere. He said people from the bases are involved (in causing the problem) and so must be part of the solution, perhaps showing concern by contributing to its resolution. He concluded by saying the GOP is looking for a way to resettle those who tested positive, but the program lacks funding.

7. (C) Comment: It was apparent from the meeting and the focus of the AIDS testing program that the GOP is concentrating on the prostitute population outside the bases rather than the gay community which is large and active. The DOH officials did concede that all seven active AIDS cases in the country were "imported" by Filipinos returning from abroad or foreigners (not AmCits) living here. Consul General Krieg expressed concern to Secretary Bengzon after the meeting that if the GOP was seriously concerned about the health threat, it ought to shift more focus to the homosexual and addict communities where experience has shown the disease to be most prevalent.

8. (C) We expect pressure to continue for a U.S. financial role in the anti-AIDS program. We will continue to be responsive to Bengzon's constructive views. USAID has excellent working relations with him and is jointly implementing a number of programs with his Department. At the same time, we will seek togyhetn [garble]. [No additional pages of this telegram were found.]

33. Telegram From the Consulate in Germany to the Department of State¹

Frankfurt, August 28, 1987, 2206Z

14143. Subject: Sukhodrev Bilateral Talks, August 25–26: Soviet Disinformation.

1. Confidential—Entire text.

2. Begin summary: The last issue discussed during the Simons-Sukhodrev talks on August 26 was the question of Soviet disinformation, beginning with its effect on bilateral cooperation in the field of health. Simons commented first on the complicated nature of US-USSR cooperation in health, remarking that the U.S. side is pleased to note that our bilateral cooperation is expanding into areas with great potential benefits for the international medical community. He then identified the political problems that have prevented greater cooperation, delivering a detailed and forceful description of the specific disinformation campaigns that serve as an obstacle to mutually beneficial efforts. Sukhodrev's response was limited to repeated claims that Soviet media are no longer subject to government control and simply repeat allegations made by the foreign press. Simons said this response was unsatisfactory: Either Sukhodrev's claims are untrue, or, if true, they suggest widespread anti-American feeling among Soviet editors and other officials, among whom he singled out *Novosti* head Valentin Falin. End summary.

3. In August 26 discussion on bilateral issues with Soviet MFA USA/Canada Department Acting Director Sukhodrev, EUR DAS Simons made it clear that the U.S. would simply not be able to engage in otherwise potentially useful cooperation on AIDS research with the Soviets as long as Soviet media continue to publish scurrilous and completely unacceptable allegations about the origin of AIDS. While expressing appreciation for recent Soviet efforts to halt the spread of the deadly disease, and acknowledging the publication of numerous articles by responsible Soviet scientists pointing to the natural origin of AIDS, Simons remarked that the U.S. deeply regrets the concerted disinformation campaign and the resulting politicization of the AIDS crisis. In his initial response, Sukhodrev described his pleasure with the fact that U.S. officials had noticed the many articles by responsible Soviet experts, and described recent Soviet Government efforts to stop the spread of the disease, including a new law on AIDS announced

¹ Source: Department of State, Central Foreign Policy File, D870708-0607. Confidential. Sent for information to USIA. Text is from telegram 13845, August 26, from Moscow.

on August 25 (content of *Izvestiya* article entitled “On Measures to Prevent Infections by the Virus AIDS” will be reported septel). In confronting our allegations about a concerted AIDS disinformation campaign, Sukhodrev denied that such a campaign exists and claimed that the stories did not originate in the USSR but had simply been picked up from the foreign press and reprinted in the Soviet Union. Sukhodrev elaborated his position by commenting on the current lack of control over the press, which he claimed is now free to publish almost anything it desires, and blamed the presence of anti-American AIDS articles on a newly-developed thirst for sensationalism in Soviet media. In an attempt to prove his point, Sukhodrev cited the existence of real debate on political and economic issues between leading publications like *Izvestiya* and *Ogonek*, and criticisms of *Pravda* articles not only in other media but also in *Pravda* itself.

4. At this point the pace picked up considerably as Simons delivered a detailed, point-by-point presentation on Soviet disinformation efforts to date. The following specific cases were discussed in a frank and forceful manner:

—The publication of 32 separate articles (by U.S. count) in the Soviet press blaming U.S. biological warfare experiments for the creation of AIDS from January through August 8, 1987 alone.

—The publication of allegations that the U.S. had deliberately microwaved British protesters at the Greenham Commons Military Facility, resulting in hair loss, fainting and miscarriages.

—The publication of a book by the Soviet Ministry of Justice alleging that the CIA was behind the murder of former Swedish Prime Minister Olof Palme and the slaughter of more than 900 American citizens in Jonestown, Guyana.

—The printing of allegations that U.S. citizens are adopting Latin American children in order to use their body parts for transplant operations.

—Allegations that the U.S. has developed an ethnic bomb that only affects non-whites, including one by CPSU CC candidate member and *Novosti* Director Valentin Falin in a June interview reported by *Izvestiya*. (Simons asked if Falin was out of control; Sukhodrev replied jocularly that this was why he was no longer at the MFA.)

5. At various points during Simons’ presentation, Sukhodrev further elaborated his defense of the Soviet position. In short, Sukhodrev attempted to convince the U.S. delegation that, under Glasnost, there is simply no way to prevent the Soviet press from reprinting foreign allegations about U.S. activities. He claimed that Soviet editors now have the freedom and responsibility to print what they choose, with no possibility of control on the part of the MFA Press Department.

When faced with evidence that official Soviet individuals (like Falin) and institutions (like the Ministry of Justice) had been involved in the disinformation campaign, Sukhodrev was unable to counter effectively and simply expressed doubt about the accuracy of Simons' information or attempted to blame incidents on specific individuals. As a general form of rebuttal, Sukhodrev alleged that the Soviet side could easily draw up an even thicker dossier of negative reporting on the Soviet Union by the United States, implying that the Soviets had long suffered such abuse together with official U.S. comments on the freedom of the press, and that now the U.S. would simply have to get used to the degree of freedom currently enjoyed by the Soviet press.

6. Simons politely but firmly rejected Sukhodrev's claim that the Soviet disinformation campaign could be attributed to a free press, and reminded the Soviet delegation of the serious damage such activities can cause. Simons also remarked that, if the publication of inflammatory allegations on AIDS does not represent a government-orchestrated disinformation campaign, then it most surely reflects a strong anti-American feeling on the part of Soviet editors and other officials, contrary to longstanding Soviet denial that anti-Americanism exists here. Simons urged the Soviets to take a more constructive position on this issue, suggesting that the Soviet Union follow the USG practice of issuing official denials and/or corrections in response to the publication of inaccurate information in the U.S. press. He referred in particular to the natural origin of AIDS. Sukhodrev responded by repeating his earlier position, focusing on the need for the U.S. to understand the new freedoms of the Soviet press.

7. Despite obduracy, the Soviet delegation took careful notes throughout the exchange.

Matlock

34. Memorandum From the National Intelligence Officer at Large and the Director of the Analytic Group, Central Intelligence Agency (Hall) to Director of Central Intelligence Webster and the Deputy Director of Central Intelligence (Gates)¹

NIC 03755/1–87

Washington, October 6, 1987

SUBJECT

First Intelligence Community Warning Meeting on AIDS, 29 September

It is evident that US policymakers are becoming increasingly interested in the international dimensions of AIDS and that more and more hard facts are being uncovered by the state officers and intelligence collectors. AIDS continues to spread throughout the world, particularly in Sub-Saharan Africa. Some 125 countries are now officially reporting cases to the World Health Organization (WHO), which estimates that some five to ten million people in the world have the AIDS virus and at least three million new cases of AIDS will emerge in the next five years.

The next warning meeting will be held in January.² You will be notified of the date and time in a future memo. Suggestions for the agenda would be welcomed.

1. Report from the Presidential Commission on AIDS.

Mr. William Walsh, the Commission's economic and international advisor, gave an overview of the Commission's work, with emphasis on the international aspects. He cited rough figures on the incidence of AIDS worldwide but said that "basically we don't know what's going on," as data from the World Health Organization are grossly inadequate. He stressed that for its international analysis, the Commission will depend heavily upon information developed by the Intelligence Community.

[1 paragraph (11 lines) not declassified]

2. Latest Medical Developments.

[name not declassified] (CIA/OSWR) surveyed the state of science regarding methods of detecting, preventing, and curing AIDS. Progress

¹ Source: Central Intelligence Agency, National Intelligence Council, Job 91B00776R: Policy Files, Lectures, Briefings Files (1980–1989), Box 3, Folder 8. Secret; *[handling restriction not declassified]*. The memorandum was printed on National Intelligence Council letterhead and identified Hall as both the National Intelligence Officer at Large and the Director of the Analytic Group.

² No record of this meeting has been found.

towards a vaccine is slow, complicated by the fact that the HIV viruses mutate so quickly. No immediate breakthroughs are expected. Even if a presumed effective vaccine were discovered tomorrow, it would take several years of testing to prove that it worked. Then it would take several more years to produce and distribute it. Therefore, an effective vaccine probably is not possible before the mid-1990s; for the foreseeable future, the only barriers to the spread of AIDS are those already known.

The Soviets are performing research too, but we have no indication that they are making significant progress. The United States and Europe are the main research centers, and international cooperation is progressing.

[1 paragraph (4 lines) not declassified]

3. *AIDS in the Soviet Military.*

Dr. Houston Dewey (AFMIC) said that little is known about the extent of AIDS infection in the Soviet military. It is clear, however, that AIDS is considered to be a problem in the military, particularly since in the entire Soviet population of at least 50,000 or 60,000 are believed to be infected. Dr. Dewey believes that blood infection is the most likely means of spreading AIDS in the Soviet military because (a) their medical hygiene is so primitive and (b) their soldiers are permitted relatively little freedom when they are in foreign countries.

[1 paragraph (7 lines) not declassified]

4. *Soviet Policies and Disinformation.*

Soviet officials are now openly admitting AIDS is a problem in their country.³ Their recognition of this problem was underscored by the recent adoption of a series of measures to combat the disease. While not all details appear clear, a harsh law passed in August provides for a five-year jail sentence for anyone (including foreigners) who have the virus and have sexual contact with another person even if the infection is not passed on. The same legislation allows for an eight-year jail term for those who knowingly transmit the disease. Suspect carriers can be forcibly tested and hospitalized. Soviet domestic media also is urging Soviet citizens to limit their contact with foreigners, particular Americans and Africans. Foreign students who test positive are either prevented from coming to study in the Soviet Union or are being sent home.

The Soviet Union's disinformation campaign has had remarkable success in some parts of the Third World in blaming the inception of

³ See Document 30.

AIDS on US military experiments. But Soviet officials now state they want to cooperate with the United States in combating AIDS, and as a condition for that cooperation the United States has demanded that the campaign of disinformation be halted. There are some indications that AIDS disinformation themes are fading in the Soviet press. But it will be hard to determine whether their sophisticated worldwide campaign “stops,” because the story has already taken root in some Third World countries and continues to change in content.

[1 paragraph (5 lines) not declassified]

5. AIDS in Cuba.

[name not declassified] (CIA/ALA) contrasted Cuba’s official position to the realities that are becoming known. The Cuban government says only four (!) Cubans have contracted AIDS, all of whom have died, that 143 other Cubans have tested HIV positive, and that 114 foreigners have been sent home. In fact, Cuba intends to test its entire population by the end of 1989; and of the first 800,000 tested it is reported that 5,400 tested HIV positive. At least 1,900 foreigners, mainly African students and military trainees, have been deported. The number of deaths is probably in the hundreds and growing.

Castro has taken severe measures, vowing to rid Cuba of AIDS whatever the cost in money or civil liberties. Cubans testing positive are reportedly quarantined for life. One source has claimed that infected Cuban soldiers in Africa are not brought home. Cuba is spending \$10 million of its scant foreign reserves (10 percent of its hard-currency health budget) on the fight against AIDS.

Castro has attempted to blame Cuban AIDS infection on the United States, but it is widely known in Cuba that troops returning from Angola are the main source. This knowledge is certain to further undermine public support for Castro’s African adventures.

Warning Issue. Castro may try to foist AIDS victims on the United States. Any new group that he allows to emigrate may contain a high proportion of AIDS carriers and victims.

[1 paragraph (3 lines) not declassified]

6. AIDS’ Impact on the Political Elite of Africa.

[name not declassified] (CIA/OLA) discussed the situation in Zambia, where 395 cases (of which 67 died) have been reported to the WHO. We are confident that these numbers are vastly understated. One cabinet minister and President Kaunda’s son have died of AIDS. Reportedly, all of the ruling party’s officials were tested, but the results have been kept secret. It is speculated that up to half the military is infected with the virus. There is a growing international fear of accepting exchange students and military trainees from Zambia.

[1 paragraph (4 lines) not declassified]

7. *Data Base and and Modeling*

[*name not declassified*] (CIA/ORD) presented the interim findings of the interagency working group on the development of a data base and models on AIDS. He presented copies of the proposed variables for the data base, a preliminary estimate on costs, and a list of the highest priority countries to be covered in any data base or model.

The working group started some three months ago and includes representatives from CIA/DI Offices, other intelligence agencies, US Census Bureau, Office of the Secretary of Defense (OSD), and the State Department. Purpose of the group is to examine the need and feasibility of using quantitative measures to assist analysts in assessing the world-wide dimensions of the AIDS. Several agencies—NSA, OSD, DIA, and the Intelligence Community Staff—have tentatively pledged funds to support a data base and a model. CIA's Office of Research and Development and Office of Information Resources are continuing to look at ways to streamline both the scope and cost of the current proposal. Towards that end, they will review the report of the upcoming National Academy of Science's conference on modeling which will evaluate current research in the private sector. The Center for Disease Control also will be reviewing and commenting on the proposal within the next month. ORD and OIR expect the final version of the proposal will be ready for review and any decisions on funding by various agencies in November.

Katherine J. Hall⁴

⁴ Hall signed "Kate" above her typed name.

35. Memorandum From the Chairman of the Foreign Intelligence Priorities Committee, Central Intelligence Agency, [name not declassified] to the Deputy Director of Central Intelligence (Gates)¹

Washington, December 11, 1987

SUBJECT

Establishment of DCID 1/2 Topics and Priorities for Intelligence on the AIDS Pandemic [portion marking not declassified]

1. *Action Requested:* That you approve the establishment of DCID 1/2 topics and priorities for the subject of AIDS intelligence, as defined and listed in the attachment. [portion marking not declassified]

2. *Background:* Both State and CIA requested the establishment of priorities on this subject because of its growing importance.² Committee discussion led to the judgment that the priority assigned to a country for intelligence on the epidemiology of AIDS may often be quite different from the priority assigned to sociopolitical impact. Therefore, the Committee agreed to establish topics and priorities for both aspects of the subject, with CIA preparing the proposal on epidemiology and State that on sociopolitical impact. [portion marking not declassified]

3. *Staff Position:* The proposals were addressed at Committee meetings³ attended by NIO-at-Large Kate Hall, NSA's SINIO for Global Issues Gail Reinheimer, and Community analysts. Because of the range of uncertainty about the AIDS situation in particular countries, and about U.S. interests that might be affected, there was considerable discussion of individual priority nominations. The Committee achieved a consensus on the assignment of country priorities worldwide at the [less than 1 line not declassified] levels, as described in the attachment. All of the member agencies and departments agreed that the attached proposal should be sent to you for approval. [portion marking not declassified]

4. *Recommendation:* I recommend that you approve the establishment of the proposed topics and country priorities. [portion marking not declassified]

[name not declassified]

¹ Source: Central Intelligence Agency, Community Management Staff, Job 00B01635R: Committees, Task Forces, Boards, Councils Files, Box 6, Folder 390, FIPC Change Notice #27 Topics For Intelligence on the AIDS Pandemic. Secret [handling restriction not declassified]. Approved by Gates on December 17.

² See Document 29.

³ Not found.

Attachment A

Paper Prepared in the Central Intelligence Agency⁴

Washington, undated

A. PROPOSED TOPIC DEFINITIONS

The subject of AIDS will be listed in the FIRCAP as a new sub-category of two topics within the Special Subjects category. [*portion marking not declassified*]

4.0 SPECIAL SUBJECTS

4.9 ACQUIRED IMMUNE DEFICIENCY SYNDROME

4.9.1 AIDS (Acquired Immune Deficiency Syndrome): epidemiological aspects. Population groups infected with the HIV (Human Immune Deficiency Virus and its variants), the virus that initiates the acquired immune deficiency syndrome; statistics on infected persons and cases of clinical AIDS; causes of and expected spread of disease within population groups; national surveillance and diagnostic capabilities; impact of AIDS on national health structures and budgets. Population movements into and out of the country that pose an infection threat to the U.S. and other countries. [*portion marking not declassified*]

4.9.2 AIDS (Acquired Immune Deficiency Syndrome): sociopolitical impact. Incidence and extent of AIDS within political and economic, elites, the military leadership, and key insurgent movements; impact on political, social, economic, and military organizations, processes, and capabilities. Government responses to in-country AIDS and reactions to international defensive strategies. Country attitudes toward the U.S. relating to AIDS. Indications of and reactions to disinformation concerning AIDS aimed at resident individuals or groups, or against foreign groups and governments. [*portion marking not declassified*]

⁴ Secret. [*handling restriction not declassified*]

Attachment B

Paper Prepared in the Central Intelligence Agency

Washington, undated

B. PROPOSED PRIORITIES

[Secret; *[handling restriction not declassified]* 5 pages not declassified.]

Attachment C

Paper Prepared in the Central Intelligence Agency⁵

Washington, undated

C. JUSTIFICATIONS

The justifications in this section provide relevant factual material and judgments on the AIDS situation in different regions of the world and its potential impact on US interests. The justifications were provided by different individuals and organizations. To maintain a consistent approach to the assignment of country priorities, the Committee assessed the following factors with respect to each country worldwide:

4.9.1 AIDS: epidemiological aspects:

- Infection threat to U.S.
- Infection threat to neighboring countries.
- Importance of country as a source of epidemiological data.
- Importance of epidemiological data to assess likely impact on political, economic, and military capabilities of country—together with consideration of importance of country to U.S.
- Rate of disease spread/control capability and possibility of future priority increase if warranted.

4.9.2 AIDS: sociopolitical impact:

- Impact on country's political, commercial, or military relations with US. Importance of country to US interests.
- Impact on country's political, economic, or military capabilities and relationships. Importance of country to U.S. interests.
- Importance of intelligence on disinformation.
- Likelihood and timing of impacts and possibility of future priority increase if warranted. [*portion marking not declassified*]

⁵ Secret. [*handling restriction not declassified*]

	Topic 4.9.1 Epidemiological Aspects	Topic 4.9.2 Sociopolitical Impact
1. <u>East Europe</u>	<u>[1 column not declassified]</u>	<u>[1 column not declassified]</u>
Albania		
Bulgaria		
Czechoslovakia		
GDR		
Hungary		
Poland		
Romania		
USSR		
Yugoslavia		[portion marking not declassified]

In August 1987 the Politburo adopted a series of dramatic measures against Acquired Immune Deficiency Syndrome (AIDS) and thereby acknowledged the existence of an AIDS problem in the USSR. While the possibility of AIDS has been minimized for several years, intelligence reporting revealed serious concerns among Soviet scientists as early as mid-1985 and confidential estimates of AIDS infection are much larger than the hundred cases officially admitted to date. Fighting AIDS may cause the regime considerable political embarrassment because it highlights deficiencies in the health care system and requires discussing unmentionable realities of Soviet life such as homosexuality and prostitution. Fighting AIDS will also be costly economically because it will force the regime to correct the massive problems of the health care system. These deficiencies include inability to test all blood transfusions and the vulnerability of spreading AIDS through the use of reusable hypodermic needles. The regime has set out to determine the exact extent of AIDS through massive testing, including mandatory testing of high risk groups. Additional definitive information on the disease should be circulating within the Soviet and world scientific communities. [portion marking not declassified]

The course of AIDS within the USSR may have an impact on political standing of the current leadership, the resource options available, and ultimately the country's overall strength. The Soviets have also made AIDS an international issue by fostering the spread of disinformation, blaming the US for the disease and, recently, calling for increased bilateral and multilateral cooperation on medical research. US national concern with the epidemiological aspects of AIDS in the USSR is compatible with the priorities proposed for Cuba, Brazil, and South Africa. [portion marking not declassified]

Very few cases of AIDS have been officially reported by any of the East European Communist governments. The largest number, 11 cases, has been reported by Yugoslavia. Data on this subject is important to provide early indications of potential impact on the economic and military capabilities of these countries. Intelligence on AIDS defensive

strategies is important with respect to each of the Soviet Bloc countries because the outcomes of these strategies can have a bearing on their trade, travel, and military exchange relationships and on their political relationships. *[portion marking not declassified]*

	Topic 4.9.1 Epidemiological Aspects	Topic 4.9.2 Sociopolitical Impact
2. West Europe		
Austria	[1 column not declassified]	[1 column not declassified]
Belgium		
Canada		
Cyprus		
Denmark		
FRG		
Finland		
France		
Greece		
Greenland		
Iceland		
Ireland		
Italy		
Liechtenstein		
Luxembourg		
Malta		
Netherlands		
Norway		
Portugal		
Spain		
Sweden		
Switzerland		
Turkey		[portion marking not declassified]
UK		

According to the World Health Organization, the number of Europeans ill with AIDS is expected to double every nine to 11 months. In addition to over 4,000 West Europeans reported ill with AIDS, half a million to one million are carrying the AIDS virus. If ten to thirty percent of them actually develop AIDS, as seems likely, there will be from 50,000 to 300,000 deaths from AIDS in Western Europe over the next five years. *[portion marking not declassified]*

In West Germany and France, the number of cases of AIDS jumped 150 percent over the past year. France has the most cases in Western Europe. Switzerland and Denmark have the highest per capita rates. Italy, Netherlands, the United Kingdom, and Canada also have a significant number of reported AIDS cases. *[portion marking not declassified]*

Major Western European nations have launched significant prevention campaigns and allocated increased funds to seek cures, develop vaccines, care for the ill, and test for the virus. Mandatory testing proposals are highly controversial, and mandatory testing for high-risk groups has been adopted in the West German state of Bavaria. *[portion marking not declassified]*

	Topic 4.9.1 Epidemiological Aspects	Topic 4.9.2 Sociopolitical Impact
3. <u>East Africa</u>	<i>[1 column not declassified]</i>	<i>[1 column not declassified]</i>
Comoros		
Djibouti		
Ethiopia		
Kenya		
Madagascar		
Malawi		
Mauritius		
Seychelles		
Somalia		
Sudan		
Tanzania		
Uganda		<i>[portion marking not declassified]</i>
Zambia		

Ethiopia’s regional political importance, its active insurgencies, its large population, and its food and refugee problems that spill over into neighboring countries make the monitoring of the epidemiological aspects of AIDS important from the standpoint of the disease’s effects on neighboring countries as well as on US interests in Ethiopia. While Ethiopia officially reports a low incidence of AIDS at the present time, Ethiopians abroad have been found to have the virus, and its social disorganization, due to civil war and famine, threaten to cause conditions conducive to a rapid spread of disease. *[portion marking not declassified]*

There is not much information for Somalia, Sudan, and Djibouti, although their geographic locations, large refugee populations, and insurgencies and dissident activity suggest their populations are probably heavily infected. Kenya, Malawi, Tanzania, Uganda, and Zambia are reporting relatively high incidences of the disease and probably have significant portions of their populations infected. Monitoring the epidemiological aspects of AIDS in these countries is deemed of some importance, possibly pointing to future developments in other countries that are as yet not so highly infected. *[portion marking not declassified]*

	Topic 4.9.1 Epidemiological Aspects	Topic 4.9.2 Sociopolitical Impact
4. <u>West Africa</u>		
Benin	[1 column not declassified]	[1 column not declassified]
Burkina		
Cape Verde		
Chad		
Gambia		
Ghana		
Guinea		
Guinea- Bissau		
Ivory Coast		
Liberia		
Mali		
Mauritania		
Niger		
Nigeria		
Senegal		
Sierra Leone		[portion marking not declassified]
Togo		

US concerns over Chad’s war with Libya and Libyan efforts to support dissidents and infiltrate terrorists into southern Chad, as well as domestic food shortages and refugee movements, are the principal reasons for the selection of Chad for a high rating in this group of countries. While Chad’s reported incidence of AIDS cases to the World Health Organization is low, the conditions for rapid spread of the virus are high—the movements of relatively large numbers of people because of the war and food shortages, and the return of refugees from neighboring countries where the reported incidence of AIDS is higher than in Chad. *[portion marking not declassified]*

Nigeria’s high rating is due to its regional importance in western Africa and its large population. There is interest in monitoring the incidence and impact of AIDS in other countries of the region, even though the reported incidence of AIDS is low and their populations are small, because of the great potential for the relatively rapid spread of the disease, with consequent severe sociopolitical impact. *[portion marking not declassified]*

5. South & Central Africa	Topic 4.9.1	Topic 4.9.2
	Epidemiological Aspects	Sociopolitical Impact
Angola	[1 column not declassified]	[1 column not declassified]
Botswana		
Burundi		
Cameroon		
Cent. African Rep.		
Congo		
Equatorial Guinea		
Gabon		
Lesotho		
Mozambique		
Nambia		
Rwanda		
Sao Tome and Principe		
South Africa		
Swaziland		
Zaire		[portion marking not declassified]
Zimbabwe		

For the Central and Southern Africa Region we assigned high priority to South Africa. South Africa is of concern to US political and economic interests, and has great importance for the political, economic, and military interests of neighboring countries. In this regard, South Africa has offered to assist neighboring countries in assessing the spread and incidence of AIDS through survey and monitoring teams sent to those countries, and testing of blood samples sent to South Africa. Although the incidence of AIDS among white South Africans follows the western pattern and is openly reported, the spread and incidence among its black population and among its foreign labor force is not nearly as well known. We believe South Africa may become the depository of intelligence on the epidemiological aspects of AIDS for neighboring states through its assistance activities, and through its monitoring of the foreign labor force it could be gathering the intelligence necessary to warn of future problems in the home countries of the foreign workers. *[portion marking not declassified]*

Angola, Mozambique, and Zaire were also assigned relatively high ratings. Angola and Mozambique were selected because of their importance to US interests—and because their active insurgencies, severe food and social problems, and geographic location are conducive to

the rapid spread of the virus, despite the small number of cases officially reported. Adjacent countries have reported high infection and incidence rates, harbor large numbers of Angolan and Mozambican refugees, and have active, though informal, trade and tribal contacts across borders. Moreover, Cuba apparently suspects that some cases of infection have been contracted by their troops while stationed in Angola. We believe countries that have active insurgencies and resulting social disruption are creating conditions that favor the spread and incidence of AIDS and should be monitored closely. As for Zaire, its large population is already heavily infected. Major international research organizations are based in Zaire and may produce early and important intelligence relating to the epidemiological aspects of AIDS for all of Africa. *[portion marking not declassified]*

Burundi, Rwanda, and Zimbabwe have relatively high incidence of the disease. Information on each of these countries became available early in the epidemic, and following up on this body of data may yield important intelligence for understanding the epidemiological aspects of AIDS in other countries. *[portion marking not declassified]*

Other countries in the region should be monitored because of the serious threat further spread of the disease poses to their development and stability. *[portion marking not declassified]*

	Topic 4.9.1 Epidemiological Aspects	Topic 4.9.2 Sociopolitical Impact
6. South America		
Argentina	[1 column not declassified]	[1 column not declassified]
Bolivia		
Brazil		
Chile		
Colombia		
Ecuador		
Guyana		
Paraguay		
Peru		
Suriname		
Uruguay		[portion marking not declassified]
Venezuela		

For the countries of South America, we assigned our highest priority *[less than 1 line not declassified]* only to Brazil. According to a recent WHO report, Brazil, with over 1,700 cases of AIDS, has more reported cases than any other country in the world outside of the United States. Not only is the absolute and relative number of AIDS victims high,

but Brazil's bilateral social and economic relationships with the United States and its importance to US foreign policy are also critical. *[portion marking not declassified]*

Argentina, Colombia, and Venezuela *[less than 1 line not declassified]* have relatively high AIDS' incidences, with just under 100 cases each, but also because they are key countries in the region in terms of population, economic power, and strategic interest to the United States. *[portion marking not declassified]*

The rest of the countries in the region were picked *[less than 1 line not declassified]* but with no priority importance. None of the rest of the South American nations have much of a reported problem with AIDS. *[portion marking not declassified]*

	Topic 4.9.1 Epidemiological Aspects	Topic 4.9.2 Sociopolitical Impact
7. <u>Central America</u>	<i>[1 column not declassified]</i>	<i>[1 column not declassified]</i>
Antigua & Barbuda		
Bahamas		
Barbados		
Belize		
Bermuda		
Cayman Islands		
Costa Rica		
Cuba		
Dominica		
Dominican Rep.		
El Salvador		
French Caribbean		
Grenada		
Guatemala		
Haiti		
Honduras		
Jamaica		
Mexico		
Netherlands Antilles		
Panama		
St. Lucia		
St. Vincent		
Trinidad & Tobago		
Turks-Caicos		
Nicaragua		<i>[portion marking not declassified]</i>

In this region, we assigned the highest priorities, *[number not declassified]* to Cuba, the Dominican Republic, Haiti, and Mexico. Because of

Communist Cuba's relationship with the United States, few governments in the world and none in the Western Hemisphere are of such strategic concern for the United States. While the Castro regime claims that the incidence of AIDS is quite small, various other sources indicate that the government is greatly understating the problem largely to prevent the AIDS linkage from further undermining public support for Castro's African adventures. While the current levels of bilateral business, tourism, and immigration are small, since Castro seized power in 1959 more Cubans have immigrated to the United States than any other single nationality, and a new wave of Cuban immigrants is possible should Castro decide to loosen emigration controls. [*portion marking not declassified*]

Haiti and the Dominican Republic were included in this group principally because of their high incidence of the disease and the very large level of social and cultural exchange between the United States and those countries. As reported by the World Health Organization, in Haiti, the absolute number of AIDS cases and the number relative to the population are among the highest in the world. For the Dominican Republic, the number of reported AIDS cases is substantially smaller than for Haiti, but still among the highest in Latin America. For its part, however, the bilateral contacts between the United States and the Dominican Republic are very high. During the 1980s, more Dominicans have immigrated to the United States than any other nationality. Mexico was included because of its high incidence of AIDS (Mexico has the third largest number of cases among Latin American countries), because of its enormous social and economic exchange with the United States, and because of the strategic importance Mexico plays in US international considerations. [*portion marking not declassified*]

Seven countries received a Priority [*less than 1 line not declassified*] on epidemiological aspects of AIDS: Jamaica, Panama, the Bahamas, Barbados, Bermuda, French Caribbean, Trinidad and Tobago. Although Jamaica and Panama each have a relatively small number of AIDS cases, they have fairly large populations and close social and economic relations with the United States. The Bahamas, Barbados, Bermuda, French Caribbean, and Trinidad and Tobago, are included because of their high incidence of AIDS, despite their limited size and importance for US foreign policy. While the absolute number of AIDS cases in these small Caribbean island countries is small, as a share of their population, Bermuda, the French Caribbean, and the Bahamas have the highest reported incidence of AIDS in the world, and Barbados and Trinidad and Tobago are not far behind. [*portion marking not declassified*]

Because of their proximity to the United States, there is U.S. Government interest in monitoring the incidence and impact of AIDS in the remaining countries. [*portion marking not declassified*]

	Topic 4.9.1 Epidemiological Aspects	Topic 4.9.2 Sociopolitical Impact
8. <u>Near East</u>	[1 column not declassified]	[1 column not declassified]
Algeria		
Iran		
Israel		
Libya		
Morocco		
Tunisia		
Western Sahara		[portion marking not declassified]
9. <u>Arab States</u>	[1 column not declassified]	[1 column not declassified]
Bahrain		
Egypt		
Iraq		
Jordan		
Kuwait		
Lebanon		
Oman		
Qatar		
Saudi Arabia		
Syria		
U.A.E.		
Yemen (Aden)		
Yemen (Sanaa)		[portion marking not declassified]
P.L.O.		

The prevalence of AIDS is, as yet, undetermined or vastly under reported in most Near Eastern countries. These countries, however, are unlikely to remain free of HIV infection or disease. The above priorities reflect the need for information on the incidence and impact of AIDS in these countries. The lack of surveillance and diagnostic capability in both rural and urban areas contribute to the statistical morass. Only a few states have the health care or public health systems with resources adequate for mounting effective programs to cope with AIDS or to reduce HIV transmissions. The Council of Arab Health Ministers recently established a committee to draft legislation on means to combat AIDS in the Arab world. [portion marking not declassified]

High risk groups in the region are probably similar to other countries with cases of AIDS. While the sharing of contaminated needles by intravenous drug abusers is a major factor in the spread of the HIV virus in the West, injectable heroin HCL is relatively uncommon in the region and, where available, expensive. The expense will place the urban elite drug abuser—who is typically more affluent and mobile

than his fellow countrymen—at a greater risk of contracting AIDS through this means. As government attempts to cope with the AIDS threat, the US and other Western countries will probably be asked for assistance. *[portion marking not declassified]*

Urban elites, because of affluence, mobility, and lifestyle, probably have a disproportionate risk of infection. The extent of the disease in rural areas, however, may not be recognized because of the lack of reliable testing. While most Arab states have reported cases of AIDS, officials in some countries—such as Algeria, Western Sahara, Syria, Libya—are often unable to conduct sophisticated study of the disease itself or on the cases that have occurred so far. AIDS testing kits are not available in sufficient quantities, and there is no reliable capability to test for AIDS. Screening of blood supplies—particularly in Syria and Morocco—is insufficient, placing those who require blood transfusions at higher risk of contracting AIDS. Israel, Jordan, and Egypt are taking steps to establish national health measures to screen blood supplies and to educate the public on AIDS and AIDS prevention. Tunisia, on the other hand, is aware of the AIDS threat, but is trying to down play the problem lest it have a negative impact on tourism. Relatively little is known about the extent of AIDS in Lebanon and among the PLO.

Many states in the Persian Gulf are devising and implementing a variety of measures to deal with the AIDS threat. Kuwait is attempting to become the regional AIDS testing/research center and recently hosted a conference on AIDS in the Arab world. Many of the states—such as Saudi Arabia, Iraq, Bahrain, Oman, and the UAE—are increasingly concerned with testing foreign residents and some are considering requiring AIDS-free certificates before issuing work permits. Several cases of AIDS and the AIDS virus have been reported in Iran. Iranian doctors believe the disease is primarily spread through blood transfusions and unsanitary needles. Information on AIDS in the remaining Persian Gulf states is of some interest to US officials. *[portion marking not declassified]*

	Topic 4.9.1 Epidemiological Aspects	Topic 4.9.2 Sociopolitical Impact
10. <u>Near East</u>		
Afghanistan	[1 column not declassified]	[1 column not declassified]
Bangladesh		
Bhutan		
India		
Maldives		
Nepal		
Pakistan		
Sri Lanka		<i>[portion marking not declassified]</i>

	Topic 4.9.1 Epidemiological	Topic 4.9.2 Sociopolitical
	<u>Aspects</u>	<u>Impact</u>
11. East and Southeast Asia	[1 column not declassified]	[1 column not declassified]
Burma		
Cambodia		
China		
Taiwan		
Japan		
North Korea		
South Korea		
Laos		
Mongolia		
Thailand		
Vietnam		[portion marking not declassified]
	Topic 4.9.1 Epidemiological	Topic 4.9.2 Sociopolitical
12. Pacific	<u>Aspects</u>	<u>Impact</u>
Australia	[1 column not declassified]	[1 column not declassified]
Brunei		
Fiji		
Hong Kong		
Indonesia		
Kiribati		
Macao		
Malaysia		
Nauru		
New Caledonia		
New Zealand		
Papua New Guinea		

	Topic 4.9.1 Epidemiological <u>Aspects (continued)</u>	Topic 4.9.2 Sociopolitical <u>Impact (continued)</u>
12. <u>Pacific (continued)</u>		
Philippines		
Singapore		
Solomon Islands		
Tonga		
Tuvalu		
Vanuatu		<i>[portion marking not declassified]</i>

The PRC currently is reported to have almost no AIDS transmission among its resident citizens. The few identified cases have been in foreign visitors, or in Chinese returning from residence abroad or associating closely with foreigners. The Chinese Government, however, is taking the threat quite seriously and hopes to block importation of the disease by comprehensive testing of foreign visitors and other preventive measures. The task of excluding AIDS is made more difficult because of the primitive status of China’s health care system; the presence of the infection in Taiwan, Thailand, and Hong Kong; and extensive encounters with foreigners both in China and abroad. Xenophobia, already significant, will be intensified if AIDS becomes a larger problem. *[portion marking not declassified]*

The Philippines are highly vulnerable to AIDS because of high rates of other sexually transmitted diseases for many years and heavy exposure to international travelers. Should disinformation, which links AIDS among Filipinos to U.S. servicemen stationed there, become widely believed, U.S. basing rights could be threatened by strong anti-Americanism. The Republic of Korea is in a similar posture. Both nations are exhibiting increased signs of nationalism. Proponents find the AIDS issue a popular rallying point. Japan, Australia, and New Zealand are cooperating with the W.H.O. program against AIDS, and they are fully able to employ and to contribute to Western technology relating to AIDS detection and treatment. Indonesia, Malaysia, and Vietnam have provided little information, but are also probably highly vulnerable. *[portion marking not declassified]*

36. Letter From Michael Peterson of the Office of the Assistant Secretary of Defense for Health Affairs to the Director of Research and Development, Department of the Navy (Melaragno)¹

Washington, April 13, 1988

Dear Captain Melaragno:

Thank you for the opportunity to review the proposed article, *Epidemiology of HIV Infection Among Prostitutes in the Philippines*,² by Hayes, et al.

The authors used a case-control methodology to compare HIV infected prostitutes to prostitutes not infected with HIV. The authors need to clarify whether there were any differences between cases and controls with respect to age. If, for example, the HIV infected prostitutes were older than the non-infected prostitutes, this age difference could possibly account for increased exposure potential to HIV among the older prostitutes. The cases, if older, may have had more sexual partners than the controls prior to becoming prostitutes.

The overall prevalence rate needs to be better defined (p. 6). The denominator should be the number of prostitutes tested during a specified period and not the number of tests. Another helpful piece of information would be the inclusion of the approximate percent of prostitutes tested by region. Were various regions under or over sampled? If Regions II, IV, V, VIII, IX, X, XI, and XII were undersampled, this might account for the negative findings.³

The authors report that 93% of the infected prostitutes were working in areas adjacent to military bases (p. 7). This is a comparison of numerator data only and is misleading. The Region VI rate is the same as that adjacent to the military bases, but the authors offer no explanation for this.

A brief explanation of the matching ratio would be helpful (61 controls: 34 cases—why not 1:1 or 2:1?).

Some comments on the reliability of the subjective data are also necessary. For example, are there other data to support the reports by the prostitutes that there is no IV drug use among them? If no data

¹ Source: Washington National Records Center, OSD Files: FRC 330-91-0088, Box 4, Loose Document. No classification marking. Drafted by Peterson on April 11.

² A March 31 draft of the manuscript is *ibid*. The role that U.S. military bases in the Philippines played in AIDS transmission is discussed in Document 32.

³ A map of the different regions is in Washington National Records Center, OSD Files: FRC 330-91-0088, Box 4, Loose Document.

are available, some comment needs to be made with reference to IV drug use in the Philippines. No reader will be naive enough to believe Philippine prostitutes do not or never did use IV drugs without some supporting data or frame of reference.

The authors comment that blood transfusion experience was similar among cases and controls. Is blood screened for the presence of antibody to HIV? Were there differences between cases and controls for indications for transfusion (e.g. were more illegal abortions done in cases than controls?)?

The conclusions in the discussion section are not totally supported by the data presented by the authors. Without better data on IV drug use, the assertion that transmission is by heterosexual intercourse is tenuous. Without better information on the age of the prostitutes and mobility of the prostitutes (i.e. are prostitutes brought to areas around military bases from other geographic regions?, could they have been infected elsewhere?), allusions to U.S. servicemen as a primary source of infection are not well founded.

The paper presents data that need to be published. The conclusions should be based on the data. As the paper now reads, that is not the case. I would suggest some changes as I have outlined to insure a fair representation of the data.⁴

Sincerely,

Michael R. Peterson, DVM, MPH, DrPH
Lt. Colonel, USAF, BSC
Senior Policy Analyst
Preventive Medicine and Health Promotion

⁴ The article was printed in the *Journal of Acquired Immune Deficiency Syndromes*, 1990, vol. 3: pp. 913–920, and included the assertion that “HIV was introduced by the heterosexual route,” but the article omitted discussion about U.S. military bases.

37. Paper Prepared in the Department of State¹

Washington, undated

EXECUTIVE SUMMARY

In his memorandum of August 5, 1988 to the Secretary of State, the President directed the development of a three-year plan for international efforts against human immunodeficiency virus (HIV) infection, with emphasis on less-developed countries.² The attached action plan summarizes the current international efforts by federal Departments and Agencies against the HIV pandemic and presents the strategy and plan for their programs for the period FY 1989–1991.

The HIV pandemic continues to grow rapidly. At present, 142 countries report 124,114 cases of the acquired immunodeficiency syndrome (AIDS) worldwide. The AIDS case count, however, represents only a fraction of the extent of HIV infection and is also subject to substantial under-reporting, particularly in the infrastructure-poor developing world.

HIV infection is transmitted in only three ways: through sexual activity, by the exchange of blood or blood products, or perinatally from mother to child. Worldwide, the dominant mode of transmission is through sexual activity.

The extent of HIV infection in many parts of the world and the potential for further spread make control and treatment of infection and related disease a major public policy challenge in many developing countries. The potential implications for the economic and political stability of these countries, their internal security, and regional security, make the control of HIV infection an important foreign policy issue for the United States.

Given the extent of infection and modes of transmission, a worldwide effort will be required to control the further spread of infection. Because of the exceptional public and private sensitivity of human sexuality in all societies, programs to control the spread of infection will require extraordinary social, cultural, and political specificity. These factors require that policy leadership in the worldwide effort be given to an organization such as the World Health Organization (WHO), which has the capacity to interact effectively on international health

¹ Source: Department of State, Central Foreign Policy File, P880041–2106. No classification marking. Levitsky sent the paper to Powell under a December 9 covering memorandum with the subject line: “Three-Year Plan for International Effort Against HIV Infection.”

² A copy is in Department of State, Central Foreign Policy File, P880041–2108.

issues and can provide the framework for effective multilateral and bilateral coordination.

The modes of HIV transmission and the current level of technology dictate that control of the spread of infection will largely depend on changes in sexual behavior. At present, there is no vaccine to protect against infection and no treatment for those who are infected to prevent them from infecting others. Furthermore, there is at present no cure for AIDS or other HIV-related disease, and the limited methods of treatment available are only partially effective and very costly.

The principal program tools for eliciting voluntary changes in the behavior of those at risk of transmitting the infection are information and education. These must be targeted to those at risk and specific to their social, cultural, and political environment. There are encouraging signs that behavior will change when those at risk understand the full extent of the risks and the methods for avoiding them. However, the process of changing behavior will, even under the best of conditions, be slow.

The urgent need for HIV prevention and control worldwide demands the development of better tools. Of highest priority for research are a better understanding of the process of behavior change, an affordable, heat-stable vaccine against HIV infection, and affordable treatment regimens that prevent HIV transmission and development of disease, and, ideally, eliminate infection. Successful development and testing of these tools will depend on international collaboration.

The U.S. has committed itself internationally to support the WHO Global Programme on AIDS (WHO/GPA) in its planning and coordination of programs to control the spread of HIV and to coordinate the research needed to eventually eliminate infection. The WHO/GPA has moved quickly and effectively to develop global and country-specific plans and expects to have put them into place in all cooperating countries within the next three years. Therefore, the WHO/GPA plan for the period from 1989 to 1991 is the framework for U.S. participation in the worldwide effort. The three-year action plan by federal Departments and Agencies outlines program implementation within that framework.

U.S. government actions against the HIV pandemic must be well-coordinated internally and internationally with those of the WHO/GPA and with those of other donor and recipient countries. Coordination mechanisms are in place and are expected to be strengthened in the next three years.

The three-year action plan presented here represents a continuation of programs this Administration has already put into place, is consistent with and supportive of the major international recommendations of the *Report of the Presidential Commission on the Human Immunodeficiency*

Virus Epidemic chaired by Admiral Watkins.³ Current budget plans of the concerned Departments and Agencies will continue these programs. The action plan in FY 1989–91 anticipates expansion of technical assistance and other activities for AIDS prevention and control worldwide and increasing effectiveness of these activities.

The following achievements are illustrative of the progress anticipated during the period of this three-year action plan:

1. All countries with which the U.S. is working will have implemented AIDS and HIV public information campaigns.

2. All of these countries will also have implemented, and most will have evaluated, targeted educational programs aimed at the reduction of high-risk behavior.

3. All of these countries will have implemented blood transfusion screening programs for HIV. There will be a safe source in each country, however, only a few will have ensured complete freedom of the blood supply from HIV infection.

4. New rapid, simple HIV diagnostics appropriate for developing countries will have been field-tested and will be in common use.

5. Development of vaccine field trial sites will have taken place.

6. Models of the economic and demographic impact of the pandemic in the developing world will have been completed and validated and will be in use to further understanding and to more effectively target HIV control strategies.

³ Reference is to James A. Watkins, "Report of the Presidential Commission on the Human Immunodeficiency Virus," Washington: U.S. Government Printing Office, June 24, 1988.

Human Rights

38. Memorandum From the Assistant Secretary of State-Designate for European and Eurasian Affairs (Eagleburger) to Secretary of State-Designate Haig¹

Washington, January 1, 1981

The following more or less random thoughts on some of the procedural and substantive problems you will face as Secretary of State are drawn from over 20 years experience with the fudge factory, 2 transitions, and almost four years as an Ambassador to a middle-sized post. As you will note, I list more problems than answers.

[Omitted here are discussions not related to human rights.]

Human Rights

I spent 3½ years keeping Pat Derian out of Belgrade, so my prejudices are clear. But with all of that, a nuanced human rights policy that is kept in perspective is a major weapon against the Soviets, a sometime effective tool with erstwhile friends, and a bow in the direction of the left in this country.

The Carter Administration handled the issue badly, but you ought not throw the baby out with the bath water.

One warning: if you turn human rights questions over totally to the bureaus, you will soon find that they will be handled with even less consistency than in the recent past.

[Omitted here are discussions not related to human rights.]

¹ Source: Library of Congress, Manuscript Division, Alexander Haig Papers, Personal Files, Personnel, 1980–1982. Secret.

39. Telegram From the Mission to the United Nations to the Department of State¹

Geneva, January 6, 1981, 1745Z

108. Subject: UN Human Rights Commission: U.S. Interests, Objectives and Strategy for the 37th Session, February 2–March 13, 1981. Ref: (A) 80 USUN 5598; (B) 80 Geneva 15676; (C) 80 USUN 5642 (D) 80 Geneva 15659; (E) 80 State 342379.²

1. (C—Entire text.)

2. Introduction/Overview: The 1981 Session of the UN Human Rights Commission affords several excellent opportunities to advance U.S. interests, strengthen cooperation with our allies, increase the West's overall ability to promote human rights objectives, and contribute to the development of more effective multilateral human rights institutions. As the session starts only two weeks after the new U.S. administration takes office, the positions and tactics of the U.S. inevitably will be interpreted by other governments as constituting the human rights policies of the new administration.

3. As the Commission is expected to devote considerable attention to ways of strengthening United Nations human rights machinery and procedures, the session provides an opportunity to achieve significant advances in the multilateralization of efforts to implement universal human rights standards. Success in this institution-building effort would assure more even-handed and less-politicized treatment of human rights issues in the UN, facilitating the ability of the U.S. to advance its interests without bilateral confrontation. Subjects in this category include the terms of reference for a possible High Commissioner for Human Rights, improvement of international fact-finding activities, establishment of an effective mechanism to implement the

¹ Source: Department of State, Central Foreign Policy File, D810007–0392. Confidential; Priority. Sent for information to USUN New York.

² In telegram 5598 from New York, December 5, 1980, USUN reported on a December 3 meeting of the UNHRC. (Department of State, Central Foreign Policy File, D800581–0330) In telegram 15676 from Geneva, December 20, 1980, the Mission reported on a December 18 briefing conducted by the UNHRC Working Group on Disappearances. (Department of State, Central Foreign Policy File, D800605–0392) In telegram 5642 from New York, December 9, 1980, USUN reported on a UNGA resolution to avert new flows of refugees. (Department of State, Central Foreign Policy File, D800586–0051) In telegram 15659 from Geneva, December 19, 1980, the Mission reported on a Council of Europe meeting on the Convention Against Torture. (Department of State, Central Foreign Policy File, D800604–0994) In telegram 342379 to Bonn, December 31, 1980, the Department reported on a West German UNGA resolution on refugees. (Department of State, Central Foreign Policy File, D810001–1187)

Commission's 1980 resolution on mass exoduses,³ determination of an appropriate inter-sessional role for the Human Rights Commission, strengthening and expanding the mandate of the new working group on disappearances, study of a possible universal trust fund for victims of human rights violations, and an international convention to forbid torture and to obligate states to extradite or prosecute torturers. The session also affords an opportunity to carry forward efforts to involve the Commission in a meaningful way on behalf of Andrei Sakharov and other Soviet dissidents. The Commission will also deal with an increasingly diverse range of regional and country situations under its public and confidential procedures. Other states will be looking for signals as to any new U.S. posture toward such countries as the USSR, Israel, South Africa, Chile and Argentina.

4. As progress in all of these areas serves U.S. and Western interests, we should be prepared to work closely with other Western members to develop and promote concrete proposals. While we may not wish to take the lead in tabling resolutions and seeking co-sponsors, we should be prepared to play a vigorous supporting role. Working-level officers of the ten Western Missions represented on the Commission will meet on January 12 to discuss key agenda items.⁴ We would welcome any preliminary comments and guidance the Department may wish to provide in advance of the meeting on the subjects covered in this cable or other agenda items. The working-level meeting is to be followed by a meeting of all WEO Permanent Representatives o/a January 22. Both meetings are being convened by the UK, January Chairman of the WEO Group. End introduction/overview.

5. High Commissioner: The recently-concluded UN General Assembly adopted a Western-backed Costa Rican resolution requesting the Commission to prepare recommendations for the 1981 General Assembly on possible terms of reference for a High Commissioner for Human Rights.⁵ Although the Commission and the Assembly have considered the subject intermittently since 1965, the Assembly's renewed mandate to the Commission provides a fresh opportunity to advance the achievement of this long-sought U.S. and Western goal. Establishment of the post of High Commissioner would bring greater impartiality, coordination, and year-round continuity to UN human

³ In telegram 4247 from Geneva, March 17, 1980, USUN summarized the 36th Session of the UNHRC. (Department of State, Central Foreign Policy File, D800138–0059)

⁴ In telegram 419 from Geneva, January 15, USUN summarized the January 12 meeting. (Department of State, Central Foreign Policy File, D810021–1054)

⁵ In telegram 5759 from New York, December 16, 1980, USUN reported on the December 15 vote at the UNGA. (Department of State, Central Foreign Policy File, D800598–0852)

rights activities. We believe the terms of reference for a High Commissioner should strike a balance between his independence and power of initiative to engage in direct contacts, on the one hand, and periodic policy supervision of his activities by an "intergovernmental oversight committee" (which could be the Human Rights Commission itself). Support for the concept of a High Commissioner has grown steadily over the years, and a balanced approach of the type just described could command sufficient support to gain final approval.

6. Fact-finding: The General Assembly and the Sub-Commission on Prevention of Discrimination and Protection of Minorities passed resolutions this year requesting the Human Rights Commission to develop means to strengthen the UN's fact-finding capabilities in the human rights field.⁶ UN organs now rely mainly on information supplied by governments and non-governmental organizations, and the feeling has grown that a broader, more systematically-collected data base would contribute to greater objectivity and even-handedness in UN deliberations and decisions on reported violations. Sub-Commission Resolution 19 (XXXIII) recommends the establishment of a new information-gathering service within the UN Human Rights Division. Sub-Commission Resolution 22 (XXXIII) envisages onsite observation visits by Sub-Commissioners. Western countries agree on the need for measures to improve UN fact-finding procedures, although as far as we can determine they have so far devoted little concentrated attention to specific proposals. The terms of reference of a High Commissioner for Human Rights would probably include at least a limited fact-finding role.

7. Intersessional Role of the Human Rights Commission: Perceiving a need for improved year-round attention to human rights issues, the Commission at its 1980 session decided to explore a possible intersessional role for its five-member bureau and a mechanism for convening emergency sessions of the full 43-member Commission. The U.S. and other Western countries supported this move as a modest but logical next step in the evolution of effective international human rights machinery which would partially cover the lengthy gaps between the annual sessions of the Commission, the General Assembly, ECOSOC, and the Sub-Commission.⁷ Bi-monthly or quarterly meetings of the bureau would provide a simple, relatively inexpensive method for assuring prompt intergovernmental attention to urgent situations of massive human rights abuse arising when the main UN organs are

⁶ In telegram 5783 from New York, December 16, 1980, USUN reported on UNGA human rights discussions, including the resolution on fact-finding capabilities. (Department of State, Central Foreign Policy File, D800600-0807)

⁷ See footnote 3, above.

not in session. Such meetings could also provide a forum for interim Commission monitoring of the activities of a High Commissioner for Human Rights. Emergency sessions of the full Commission might be warranted under very exceptional circumstances, although criteria should be carefully drawn to prevent over-use of this procedure. Organizing and conducting special sessions would obviously be cumbersome and expensive if governments followed the pattern of sending delegates from capitals. A simpler and less-expensive alternative would be institutionalized meetings of Permanent Representatives assigned to Geneva. (Bi-monthly or quarterly meetings of Permanent Representatives might also be a feasible alternative to the proposal for interim meetings of the bureau.) We should prepare concrete proposals for early discussion within the Western group.

8. Disappearances: With strong Western backing, the Human Rights Commission at its 1980 session established for one year a five-member working group to begin to deal with the problem of “disappearances” (officially-sanctioned political abductions) on a worldwide basis.⁸ The Working Group has held three sessions and will present its report to the Commission in February. (Ref B describes the group’s most recent session.) Creation of the group was a major U.S. and Western objective at the 1980 session, and has generally been regarded as the major achievement of that session. As the development of increasingly effective international machinery can help to multilateralize efforts to solve this tragic problem, we should join other Western countries in pressing energetically for extension of the Working Group’s mandate. The Sub-Commission adopted a resolution this summer urging the Commission to take this action, and the General Assembly adopted a similar resolution by consensus. As the number of new disappearances declined significantly after the establishment of the Working Group, many Western observers believe the very fact of the group’s existence has helped to curb the practice. We would hope that the Commission would agree to extend the Working Group’s mandate without a fixed cutoff date or, alternatively, for a multi-year period. France is likely to take the lead on this issue, as it did at the 1980 session.⁹ As we reported in ref B, Argentina has not cooperated with the WG. Lord Colville, the Western member of the WG, warned that the GOA will try to raise a procedural smokescreen at the Commission in an effort to block further WG inquiries.

⁸ See footnote 3, above.

⁹ In telegram 57570 to Vienna, March 4, 1980, the Department reported on U.S. and French efforts to draft a resolution related to disappeared and missing persons. (Department of State, Central Foreign Policy File, D800111-0541)

9. Mass Exoduses: The Human Rights Commission's 1980 Resolution (30 (XXXVI)) requested the Secretary-General "to consider establishing direct contacts with appropriate governments, to assess the relationship between (the mass exodus) and full enjoyment of human rights, and to make concrete recommendations for ameliorating such situations." To date, however, the Secretary-General has not implemented the resolution. In December, the General Assembly adopted a brief resolution endorsing the Commission resolution. As mass exoduses of refugees have widespread direct implications for the United States, it is in our interest to support continuing efforts to involve the Secretary-General in activities envisaged by the Commission's 1980 resolution. At the 1981 session, we might want to focus on designing an automatic mechanism for triggering implementation of the existing resolution. We will want to consult closely on this subject with the Canadians, who sponsored the 1980 Commission resolution and the recent GA resolution, and are likely to take the lead again in 1981. We will also want to consult with the West Germans, in the light of the FRG's strong interest in this subject and their recent successful initiative at the General Assembly (refs C and E).

10. Trust Fund: The recent General Assembly requested the Commission to study the possibility of converting the trust fund for Chilean victims of human rights abuse to a universal trust fund, and to develop criteria for the administration of such a fund.¹⁰ The U.S. and all Western countries supported the Assembly resolution. Universalizing the trust fund would be consistent with our goal of promoting even-handedness by UN institutions and avoiding the proliferation of one-country trust funds. Denmark will take the lead on this item at the Commission.

11. Draft Convention Against Torture: Under negotiation since 1978, a Working Group of the Commission has adopted many of the substantive Articles of the Convention, including the difficult definition of torture. Two significant issues remain: a) whether to include in the convention a requirement upon parties to extradite or prosecute alleged torturers (similar to the requirements contained in such conventions as those designed to prevent hijacking and the taking of hostages), and b) the implementation articles, especially the issue of whether the Human Rights Committee of the Covenant on Civil and Political Rights or some other entity should be charged with responsibility for implementation. The recent meeting of a Western ad hoc group at the Council of Europe (ref D) revealed divergences of view on these matters. However, a completed torture convention would be a useful step in multilateralizing yet another human rights issue and putting international

¹⁰ See footnote 5, above.

pressure on states to stop this heinous activity. The U.S. should push strongly for an air-tight “extradite or prosecute” provision and for use of the Human Rights Committee (or, preferably, a Sub-Committee chosen from among those states on the Human Rights Committee which are parties to the Torture Convention) as an implementing body. While the U.S. need not be in the forefront of these negotiations, we should ensure that any resulting convention is meaningful and does not, by implication or otherwise, weaken the “extradite or prosecute” obligation in other conventions.

12. Sakharov/Soviet Dissidents: The Commission discussed the question of Andrei Sakharov at length during its 1980 session but deferred further action until 1981, agreeing to accord it priority consideration.¹¹ We should urge the Commission to take a definite stand this year, perhaps in the form of a resolution deploring the practice of punishing, by internal exile or other means, the expression of peaceful dissent in the USSR. The resolution could cite Sakharov and perhaps other Soviet dissidents by name in a preambular paragraph, and might refer to Commission Resolution 23 (XXXVI) affirming the right of all individuals and organs of society to promote human rights. Alternatively, or in addition, the Commission might send a telegram to the Soviet Government protesting Sakharov’s prolonged arbitrary deprivation of liberty and calling upon the authorities to release him. Such a telegram could include a similar expression of concern for other named dissidents subjected to arbitrary imprisonment or exile. Our Western allies will support strong action by the Commission. Success, however, will require a major lobbying effort with selected Third World delegations and probably approaches in their capitals.

13. Regional and Country Issues (Public Agenda Items):

—Middle East: We can expect to see the traditional attacks against Israel, with particular regard to human rights practices in the occupied territories, and a spate of unbalanced condemnatory resolutions. Ambassador Barromi, Israeli Perm Rep in Geneva, believes Arab delegations may raise the issue of the deportation of the West Bank mayors.

—Afghanistan: The Commission last year adopted (27–8–6) a resolution (3 (XXXVI)) condemning Soviet military aggression against Afghanistan. Pakistan took the lead on this issue, and we would recommend following Pakistan’s lead again this year.

—Bolivia: In a U.S. and Western supported resolution, the 35th UNGA requested the Commission to review the human rights situation in Bolivia and to accept the Bolivian Government’s invitation to conduct

¹¹ See footnote 3, above.

an onsite investigation.¹² The Commission will also have before it an analysis of the human rights situation prepared by a special rapporteur of the Sub-Commission, pursuant to Sub-Commission Resolution 23 (XXXIII). We should support efforts to conduct a frank and thorough discussion of human rights abuses in Bolivia since the July, 1980 coup.¹³ We should also strongly support an onsite visit by the Commission, perhaps by a 3-to-5 member working group, as a concrete means of further strengthening international human rights fact-finding machinery.

—El Salvador: The General Assembly adopted an unbalanced resolution sharply criticizing the Salvadorean Government and calling upon the Commission to examine the human rights situation at the forthcoming session.¹⁴ As most Western countries abstained or voted in favor of the resolution at the GA, we can expect difficulties in achieving a balanced approach by the Commission. Success will be conditioned to an important degree by developments within El Salvador itself.

—Chile: We would expect the Commission to follow established lines, i.e., to adopt a resolution endorsing the report of Special Rapporteur Dieye (Senegal), criticizing continuing human rights violations, and extending the Rapporteur's mandate for another year. Western countries have traditionally supported such resolutions and are likely to do so again at the 1981 Commission session. In the absence of significant improvements within Chile, it is difficult to justify discontinuation of the Special Rapporteur's mandate. We should be prepared to remain with other Western countries on this issue, accompanying our vote with an appropriate explanation as in the past.

—Kampuchea: We have supported previous Assembly and Commission resolutions on human rights violations in Kampuchea and should do so again this year. The Commission will have before it a Sub-Commission Resolution (24 (XXXIII)) recommending, *inter alia*, that the Commission "consider inviting the Secretary-General to designate a Special Representative to assist in restoring full respect for human rights and fundamental freedoms as speedily as possible in Kampuchea".

14. Country and Regional Issues (Confidential 1503 Cases): The Sub-Commission referred to the Commission complaints against the following thirteen countries: Afghanistan, Ethiopia, German Democratic Republic, Haiti, Japan, Paraguay, Uruguay, Argentina, Chile, El

¹² See footnote 5, above.

¹³ Reference is to General Luis Garcia Meza Tejada's seizure of power in Bolivia.

¹⁴ See footnote 5, above.

Salvador, Guatemala, Mozambique, and the Republic of Korea. Information concerning these cases is contained in document E/CN.4/R.66,¹⁵ copies of which were forwarded to the Department (IO and HA) on November 3, 1980. The Commission also decided last year to keep several additional country situations on its confidential agenda on the basis of earlier complaints forwarded by the Sub-Commission. A five-member Working Group of Commission members (Netherlands, Panama, Zambia, Cyprus, Yugoslavia) will review all of these cases at a one-week pre-session meeting beginning January 26.¹⁶ The most noteworthy feature of this year's list is the inclusion for the first time of a Warsaw Pact country; the Sub-Commission elevated complaints against the GDR concerning denial of the right to emigrate, imprisonment for attempted emigration, and problems concerning family reunification.

Helman

¹⁵ Not found.

¹⁶ In telegram 1324 from Geneva, February 10, USUN summarized the UNHRC Working Group on Confidential 1503 Procedures report. (Department of State, Central Foreign Policy File, D810064–0720)

40. Memorandum for the Files¹

Washington, January 23, 1981

SUBJECT

Secretary's Meeting with Chairman Zablocki and Ranking Member Broomfield, January 23, 1981, 2:30 p.m., Secretary's Office

Secretary Haig met today with the leaders of the House Foreign Relations Committee—Chairman Zablocki and Congressman Broomfield. Also present at the meeting were Richard Fairbanks (H), Bill Clark (D), Mike Rashish (E).

[Omitted here are discussions not related to human rights.]

¹ Source: Library of Congress, Manuscript Division, Alexander Haig Papers, Department of State, Day File, January 23, 1981. Limited Official Use. Drafted by Fairbanks.

Broomfield said that a new balance on human rights as a component of our foreign policy was needed and he and the Secretary agreed that the concern of international terrorism would rise in importance and human rights would recede soon. With regard to the organization of human rights within the State Department, the Secretary asked for the Congressmen's assistance in getting rid of a separate office for that problem and returning it to the various bureaus. Zablocki said that he was sympathetic but that he had already lost an earlier attempt to do away with a subcommittee targeted to that concern in his own committee.

[Omitted here are discussions not related to human rights.]

41. Telegram From the Department of State to the United States Mission to the United Nations at Geneva¹

Washington, January 31, 1981, 1927Z

25604. Subject: UN Human Rights Commission: Latin America.

1. (C—Entire text.)

2. As usual at recent HRC sessions, several Latin American countries will be considered in public and private meetings. Thus Bolivia, Chile, El Salvador and Guatemala are scheduled for public discussion, and all four of these countries plus Argentina, Haiti, Paraguay and Uruguay are scheduled for consideration under the HRC's confidential procedures. Furthermore, the report and future role of the HRC's Working Group on Missing and Disappeared Persons, which is of particular interest to Argentina, will be considered.² Of course countries in other parts of the world will also be considered, but this cable concerns especially Latin America.

3. In general terms USDel should not take the lead on these Latin American items, but should coordinate closely with WEO group with the expectation of following the WEO consensus. We want to avoid seeming to pick out Latin America for special opprobrium in view of serious human rights situations in other parts of the world. Often

¹ Source: Department of State, Central Foreign Policy File, D810047-0096. Confidential; Immediate. Drafted by Shaft; cleared in ARA and HA; approved by Newlin. Sent priority for information to all American Republic diplomatic posts. Sent for information to USUN New York.

² See Document 47.

human rights abuses in the countries listed in para 2 are on a lesser scale than abuses in countries whose situations are not scheduled for individual consideration or have not received the same level of attention as some Latin American countries. On the other hand, we do not anticipate trying to oppose such concern as other WEO members have about Latin American issues (except in case of El Salvador).

4. Department is preparing detailed U.S. position on consideration of each of these countries under HRC procedures. Bolivia may be somewhat of an exception to general rule in that we might want to take a forward position in support of Andean countries, though procedurally disposition of the Bolivian case may be simple, since all the HRC need do is accept Bolivia's invitation to send a delegation to visit that country.

5. If progress on any constructive initiative appears stalled because of WEO reluctance to take lead, USDel should seek further instruction.

Haig

42. Action Memorandum From the Assistant Secretary of State for International Organization Affairs (Abrams), the Acting Assistant Secretary of State for Inter-American Affairs (Bushnell), and the Assistant Secretary of State for European and Eurasian Affairs (Vest) to Secretary of State Haig¹

Washington, February 18, 1981

SUBJECT

UN Human Rights Commission Vote on Disappeared Persons

SUMMARY: We may face an early test of US human rights policy this week when the UN Human Rights Commission (UNHRC) in Geneva takes up whether the Working Group on "Disappeared Persons"—which has spent most of its time on Argentina—should proceed in public or confidentially. There is a good chance now that the issue

¹ Source: Department of State, Assistant Secretary Files—Elliott Abrams Subject and CHRON Files, 1981–1987, Lot 89D184, Commission on Human Rights Geneva—Feb. 1981. Confidential. Drafted by Vogelgesang. In the upper right-hand margin, Kelly wrote: "2/18 JHK—The Secretary chose to make the decision himself and chose Option 3. Sec-Pres not forwarded. IO doing cable. JK."

will be decided by consensus.² If it is not—and the vote could come as early as February 19—you may wish to refer this policy decision to the President because our vote could signal an important shift in US diplomacy.

ANALYSIS OF ISSUES

The attached Action Memorandum to the President summarizes the background and available options. The Department divides on this issue as follows:

—IO and Ambassador Kirkpatrick favor supporting Argentina's preference for confidential procedures in the Working Group. They argue that we should (1) break with Carter human rights policy, (2) expedite improved relations with Argentina, and (3) shift focus to totalitarian regimes from authoritarian governments.

—ARA and EUR favor the West European resolution³ for continuing public procedures. They argue that support for Argentina⁴ on this issue runs counter to expressed Administration objectives vis-a-vis the USSR, our major NATO Allies, and Latin America. Most specifically, a pro-West European vote will bolster Allied support for US concerns in El Salvador, avoid isolating us in a losing vote with the Soviet bloc and against the free world, and build on a UN process that could put greater focus on Soviet abuses.

RECOMMENDATION

That you sign the attached Action Memorandum to the President.⁵

² In telegram 2022 from Geneva, February 26, USUN reported that the UNHRC had adopted a consensus resolution extending the term of the working group. (Department of State, Central Foreign Policy File, D810091-0551)

³ In telegram 1335 from Geneva, February 10, USUN transmitted the text of a French proposal related to the working group. (Department of State, Central Foreign Policy File, D810064-0740)

⁴ In telegram 41957 to Geneva, February 19, the Department reiterated its position in support of Argentina in the absence of a consensus, but reported that a compromise between France and Argentina was possible. (Department of State, Central Foreign Policy File, D810077-0276)

⁵ There is no indication of approval or disapproval of the recommendation. See footnote 1, above. The latest information from the U.S. Mission in Geneva is that France and Argentina are more than likely to compromise on a consensus resolution. In the event this does not occur, however, this paper gives you contingency choices. [Footnote is in the original.]

Attachment**Memorandum From Secretary of State Haig to
President Reagan⁶**

Washington, undated

SUBJECT

UN Vote on Disappeared Persons

We may face an early test of US human rights policy this week when the UN Human Rights Commission (UNHRC) takes up how the Working Group on “Disappeared Persons”—which spends most of its time on Argentina—should proceed.

Argentina, supported primarily by the USSR and its allies, wants US support for putting the Working Group under *confidential* procedures. Our West European allies all support the present *public* proceedings. Although our delegation worked actively with the West Europeans last year to focus attention on disappearances in Argentina, it has adopted a *lower profile this year*—thus already improving relations with Argentina and signalling a shift in US human rights policy.

At issue now is whether to vote for or against Argentina on this question and thus indicate a *sharper change* of direction for this Administration’s human rights policy, with implications for our relations with West Europeans, including their reaction to our position in El Salvador. The options—if no compromise is possible and the issue comes to a vote—are:

OPTION 1: US abstain, with explanation that our policy is under review.

Pro:

- Avoids early clash with allies on human rights
- Defers decision until we complete full interagency review of US human rights policy
- Gives us time to seek support for possible change in US policy

Con:

- Misses opportunity to expedite improved US-Argentine relations
- Hurts campaign against international terrorism
- Does not make clear break with Carter policy

⁶ Confidential.

*OPTION 2: US vote for French resolution**Pro:*

- Helps build West European support for our concerns in El Salvador and elsewhere in Central America
- Avoids clash with key allies on the eve of visits by the French Foreign Minister and UK Prime Minister⁷
- Protects US from charge of “abandoning” human rights
- Wins allied praise for US leadership since key West Europeans (especially FRG Chancellor Schmidt) believe we serve shared Western security interests vis-a-vis the USSR by addressing underlying problems in developing nations that open the door to Soviet aggression

Con:

- Misses opportunity for more definite step to improve relations with Argentina
- Signals continuation of Carter human rights policy, even though in lower key
- Puts more emphasis on criticism of a Western nation, while no UNHRC working groups direct most of their efforts to totalitarian countries (though other UN and CSCE procedures do spotlight Soviet abuses)

*OPTION 3: US support Argentina**Pro:*

- Signals more strongly Administration’s desire to launch early improvement in US-Argentine relations and wean Argentina away from Soviets
- Breaks dramatically with Carter human rights policy
- Criticizes UNHRC concentration on violations discoverable only because societies in question are partly open, while in closed societies (such as USSR) evidence of violations is harder to obtain
- Criticizes concentration on a form of human rights violation more often found in Latin America, while Soviet violations (e.g., use of insane asylums or labor camps) often go unstudied by UNHRC

Con:

- Aligns us in a losing vote with the Soviet bloc and against most free world nations, without gaining much from Argentina which does not expect US support on this issue
- Undercuts UNHRC process that could focus even more attention on Soviet violations (voting against public procedures this time will weaken our case when we seek public inquiry of Soviet oppression)
- May harm US relations with democratic forces in Latin America and elsewhere in the Third World

⁷ According to the President’s Daily Diary, Reagan met with the French Minister of Foreign Affairs François-Poncet on February 25 and with Thatcher on February 26 and 27. (Reagan Library, President’s Daily Diary)

—Plays into Soviet hands by suggesting to our West European allies and others that we use human rights primarily as a Cold War gimmick and that we are not really interested in the grievances of those in non-Communist countries

—Leads to highly unfavorable press/media comment in US and elsewhere and possible US Congressional backlash

—Ignores fact that we use other UN mechanisms and the CSCE to spotlight Soviet and East European violations

Decision

OPTION 1: US abstain, with explanation that our policy is under review.⁸

OPTION 2: US vote for French resolution, backed by all West European allies⁹

OPTION 3: US support Argentina, backed by USSR, Cuba, etc. (Recommended by Ambassador Kirkpatrick)¹⁰

⁸ There is no indication of approval or disapproval of the decision.

⁹ There is no indication of approval or disapproval of the decision.

¹⁰ Haig initialed the approve option for Reagan. In a March 16 briefing memorandum to Haig regarding the visit of Argentine President-designate Viola, Bushnell wrote: "As we move to improve relations (including lobbying with the Congress for removal or modification of legislative restrictions), *Viola should be made aware of the importance of further progress of human rights.*" Haig circled part of the underlined phrase (italicized here) and, in the right-hand margin next to the sentence, wrote: "Never! You are wrong, wrong, wrong." On the proposed schedule for Viola's visit to the United States, in the right-hand margin next to a tab entitled "Human Rights in Argentina," Haig wrote, "Bull, leave him alone!" (Library of Congress, Manuscript Division, Alexander Haig Papers, Department of State, Day File, March 16, 1981)

43. **Action Memorandum From the Acting Assistant Secretary of State for Human Rights and Humanitarian Affairs (Palmer) to Secretary of State Haig¹**

Washington, undated

SUBJECT

Solicitation of Ambassadors' Views on Annual Country Reports on Human Rights Practices

SUMMARY: Dr. Lefever has proposed, and all concerned Bureaus have agreed, to canvass our Ambassadors' views on the annual human rights reports exercise. We recommend that you authorize the attached cable.

ANALYSIS OF ISSUES

The Administration needs systematically to evaluate how the Congressionally-mandated human rights reports affect our bilateral relations and other national interests. We expect a renewed effort by certain Senators, and perhaps Members of the House, to rescind the requirement for the reports. A logical first step is to solicit the views of our Ambassadors on this annual requirement.

The Embassies' analyses will also provide us with useful background information for the hearings on the 1980 reports, expected next month, by Congressman Bonker's Subcommittee on Human Rights and International Organizations.²

Since the results of this survey may be politically sensitive in the United States, we would make an effort to keep its results confidential. If they should be leaked to the press, we believe this would not cause any serious embarrassment to the State Department or to the governments surveyed. In fact, such publicity might promote a more thoughtful understanding of the role of human rights in foreign policy.

RECOMMENDATION

That you authorize the dispatch of the attached telegram.³

¹ Source: Department of State, Assistant Secretary Files—Elliott Abrams Subject and CHRON Files, 1981–1987, Lot 89D184, Human Rights—General. Confidential. Drafted by Palmer on February 20. A stamped notation on the memorandum indicates that Haig saw it.

² On February 23 Haig wrote in the left-hand margin, "Good AH." See Document 45.

³ Transmitted as telegram 45423 to all diplomatic posts, February 23. (Department of State, Central Foreign Policy File, D810085–0265)

Attachment

Draft Telegram From the Department of State to All Diplomatic Posts⁴

Washington, undated

SUBJECT

Annual Human Rights Reports

1. (LOU) Since 1977 the Department has compiled, with considerable assistance from the field, an annual volume, Country Reports on Human Rights Practices, reporting practices during the previous year. The Congress mandated these reports to assist it in the determination of economic and security assistance.

2. (C) To assist the Department in evaluating this annual exercise, I would welcome your candid assessment, including but not restricted to the considerations noted herebelow. Do not solicit comments outside of your Country Team.

A. How have host government, media and any other important elements reacted to the 1980 report? If you have already reported some reaction, cite reference.

B. What have been the beneficial and/or negative effects, if any, of the 1980 and previous reports in our relations with the host government? If you think that the reports have affected bilateral governmental relations indicate how and why.

C. How have the reports been received by influential non-governmental individuals or groups in the country?

D. Has there been any perceptible effect of the reports on the nature and number of human rights violations by the host government or on violations of the integrity of person by non-government groups in the country?

E. On balance, what effect if any have the reports had on our national interests vis-a-vis your country and region?

3. (C) Please be specific in your response. We shall make every effort to maintain the confidentiality of your assessments. If any significant dissenting opinions emerge within your Country Team, they should be included in your report.⁵

⁴ Confidential; Priority; Exdis. Drafted by LeFever, Palmer, and the HA Staff; cleared in AF/I, EA, NEA, S/P, ARA, EUR, IO, H, PM, S/S, AID, P, and L; approved by Haig.

⁵ See Document 50.

4. (LOU) Your assessment, captioned Stadis and Exdis, is requested within six working days of receipt of this instruction.

44. Summary Memorandum of Conversation¹

Washington, February 24, 1981

PARTICIPANTS

Mr. David Carliner—Chairman, Washington International Human Rights Law Group
 Ms. Amy Young-Anawaty—Executive Director, Washington International Human Rights Law Group
 Mr. Michael Posner—Executive Director, Lawyers Committee for International Human Rights
 Rev. Robert Drinan—former U.S. Congressman (Mass.): Georgetown University
 Mr. Ari Neier—Helsinki Watch Committee; American Civil Liberties Union
 Professor Lou Henkin—Columbia University Law School
State Department
 The Deputy Secretary, Judge Clark
 Acting Assistant Secretary for Human Rights and Humanitarian Affairs
 Stephen Palmer
 Mr. Hugh Simon, notetaker

SUBJECT

Appointment of Dr. Ernest K. Lefever as Assistant Secretary for Human Rights and Humanitarian Affairs

Judge Clark welcomed the visitors, saying that the Secretary, busy with items such as El Salvador, had asked him to receive them. He observed that Justice Frank C. Newman of the California Supreme Court is a mutual acquaintance of several of the visitors and himself.

Professor Henkin began by speaking “for a unanimous human rights community.” He had hoped for a chance to talk before Dr. Lefever’s appointment was announced. The appointment is “a serious mistake” and has drawn more criticism than any other by the Administration.² Opposition to his appointment is in “no sense partisan.” Pro-

¹ Source: Department of State, Files of the Deputy Secretary of State—William P. Clark, 1981–1982, Lot 82D127, Memoranda of Conversation. Unclassified. Drafted by Simon on March 2 and approved by Palmer and Clark on March 11. The meeting took place at the Department of State.

² Details are available in Daniel Southerland, “Taking the Thunder out of US Stance on Human Rights,” *The Christian Science Monitor*, February 4, 1981, p. 1.

fessor Henkin asserted that Dr. Lefever does not understand human rights, is not committed to a human rights policy, and is not the man for the job.

In reply to Judge Clark's request to characterize the job, Professor Henkin said that the job is to ensure that human rights remains an important element in foreign policy and to enforce the human rights-related statutes enacted by the Congress. He added that the appointment suggests the Administration wants to repeal that legislation, and wondered aloud why Dr. Lefever wants the job, as he "seems to find human rights particularly distasteful in foreign policy." Professor Henkin opined that Dr. Lefever's views on Africa will make life very difficult for the African Bureau in the Department.³

Mr. Neier, speaking for the Helsinki Watch, observed that Dr. Lefever is on record against allowing the internal practices of states, including the Soviet Union, to be a subject of U.S. foreign policy attention. To allow trade decisions with communist countries to be based only on economic considerations, and our foreign policy only on a communist state's external policies, would be a "radical shift in U.S. foreign policy as it has been since World War II" and is in conflict with positions taken by other Administration officials.

Judge Clark said that the President and Secretary are on record as committed to human rights. He was not aware of Dr. Lefever's detailed views in the past. Judge Clark reminded his visitors that he had told the Senators during his confirmation hearings that he would not be in a policy-making position, but rather in a role of carrying out Administration policy.⁴ Dr. Lefever, too, would perform such a role.

Father Drinan asserted that a man cannot be expected to implement a policy he opposes. There is great concern on this point in the Church, Congress, and in human rights organizations, especially in Latin America. How can such a person carry out the human rights laws?

Mr. Palmer stated that Dr. Lefever "has made clear to those of us on his staff that the law is to be observed scrupulously."

Mr. Carliner said that he was reassured by Mr. Palmer's statement, but focused on Dr. Lefever's preference for quiet diplomacy. Sometimes, Mr. Carliner said, one must use public methods. It is unnecessarily limiting to exclude in advance the use of public diplomacy. Perhaps Dr. Lefever will change his previous attitudes, as is frequently done by officials after assuming office. Recalling Judge Clark's mentioning that Dr. Lefever would be in a policy implementing position, Mr.

³ Ibid.

⁴ Clark's confirmation hearings are summarized in Judith Miller, "Senators Give Clark Angry Advice, But Still Consent," *New York Times*, February 8, 1981, p. A3.

Carliner asked for "some assurance as to how the human rights mandate will be carried out." He pointed out an apparent contradiction between the recent strong U.S. stand against terrorism and the loosening of human rights sanctions against Chile in the face of Chile's continuing failure to cooperate against terrorism.

Judge Clark observed that "the effectiveness of sanctions must be questioned when they do not show results over a considerable period of time." Whether the human rights of many more people are affected by the sanctions must also be weighed. "This is a value judgment we are making in many countries."

In El Salvador, he said, rather than making the government the target of human rights concern, we are addressing the government because it has jurisdiction over a particular incident—in this case, the slaying of the nuns.⁵ He said that President Duarte has been encouraged by us to continue the investigation using U.S. experts.

Judge Clark reminded the visitors that Secretary Haig has said he expects every bureau and individual to be cognizant of human and personal rights, and not only those in our own situations. Human rights is a very personal thing which cuts across every level and is not a concern which one bureau should claim as its own. He related that at one time his mother, who speaks Spanish, had noticed that a high percentage of Hispanics had been called up for the draft. Without commenting publicly she went to work as a translator for the draft board to see what she could do to remedy the situation.

Although it might be on a much quieter level than under the previous Administration, continued Judge Clark, a large number of appointees will be at work in many ways for the goals and concerns involving human and personal rights. He hoped that our recent action on Chile⁶ doesn't prejudice our case on anti-terrorism policy.

Mr. Neier said he understood that at the UN Human Rights Commission in Geneva the United States and the Soviet Union are on the same side on the disappearances issue in opposition to our Allies.⁷ This is the kind of thing which concerns us, he said.

Mr. Carliner said he wanted to emphasize the importance of continuing to provide substantive and objective reports on human rights practices to Congress. It would be conceivable that the requirement for reports could be filled by a perfunctory issuance of language on

⁵ Reference is to the December 2, 1980, murders of four American nuns by the El Salvadorian National Guard.

⁶ See James Goodsell, "Reagan Team Breaks Ice on Chile, Saying 'What's the Use of Sanctions?'" *Christian Science Monitor*, February 23, 1981, p. 9.

⁷ See Document 42.

each country, but this would disappoint many users, for whom the reports are valuable as a U.S. government assessment. In the fields of immigration and asylum, they serve as a basis for determining the human rights situation in countries of origin.

Professor Henkin thanked Judge Clark for the opportunity to present the group's views. He suggested that Justice Newman would be an ideal person for Assistant Secretary for Human Rights. "We have nothing against Dr. Lefever personally but hope you will be able to find him another job."

After the meeting with the Deputy Secretary, Mr. Palmer extended to the group Dr. Lefever's invitation to meet with them that afternoon or when mutually convenient.

45. Memorandum for the Record¹

Washington, March 12, 1981

SUBJECT

Meeting of the Subcommittee on Human Rights and International Organizations for Purposes of Evaluating the State Department's Annual Country Reports on Human Rights Practices

COMMITTEE MEMBERS PRESENT

Don Bonker, Chairman
Jim Leach, Ranking Republican Member
Benjamin Rosenthal
Michael Barnes (very briefly)
Mervin Dymally

The Subcommittee heard six witnesses who are as follows:

Hon. Patt Derian, former Assistant Secretary of State for Human Rights and Humanitarian Affairs

Michael H. Posner, Executive Director, Lawyers Committee for International Human Rights

Aryeh Neier, Member of the Board, U.S. Helsinki Watch Committee

¹ Source: Department of State, Subject Files, Human Rights Files, 1981, Lot 82D273, SHUM Reports Econ. + Soc. 1981. No classification marking. Drafted by Romine on March 13. Sent under a March 14 covering memorandum from Palmer to Lefever, Bradford, Sarros, Tull, Bache, Simon, Carpenter, Warren, and Williams. The meeting took place in Room 2220 of the Rayburn Building.

Louis Henkin, Professor of Law, Columbia University

Raymond Gastil, Director, Comparative Study of Freedom, Freedom House

Hyman Bookbinder, Washington Representative, American Jewish Committee

The meeting can be summarized as follows: The human rights reports have improved steadily and are very good this year. They are very useful to Congress, to other organs of government and to private organizations as a primary source of information on human rights questions, as a forthright statement of U.S. concern and interest in human rights and as a diplomatic tool which can be used in our relations with other governments.

This year's reports should be a model for future efforts both in form and substance. Chairman Bonker stressed particularly the value of the section on "government policies relating to the fulfillment of such vital needs as food, shelter, health care and education", and of the section on government attitudes toward outside investigations of internal human rights conditions. The legislation requiring the reports is a result of bi-partisan interest in human rights.² This fact should be borne in mind by the new Administration.

Chairman Bonker expressed his hope and belief that human rights matters would continue to occupy an important place in the Administration's foreign policy formulation. He reminded the Administration that the defense of human rights had always been a bi-partisan matter in Congress. Certain witnesses were less sanguine in their assessment of the Administration's intentions in the human rights field.

Ranking Republican Leach defended the Administration's position and stated that human rights is a continuing concern of the President and his administration. A summary of the testimony of the witnesses follows:

Ms. Derian began the hearing with an 18-page statement on the background and the development of the reports.³ The purposes of the report, she stated, are to give a clear picture of the state of human rights practices and circumstances during one calendar year for 162 countries. They are prepared as carefully and objectively as possible and include sections on integrity of the person, fulfillment of social and economic needs and the enjoyment of civil and political liberties. She stressed that no comparable document is published elsewhere. The primary use of the report, she said, is to provide members of Congress

² References are to the Trade Act of 1974 and Section 502(b) of the Foreign Assistance Act of 1961.

³ Not found.

with essential information which will allow them to vote in an informed manner on “developmental, economic and security assistance.” The reports have also been useful in bringing the human rights situation in various countries of the world to the attention of officers in the Department of State. The reports also make information on the human rights situation throughout the world available to the general public and to the press. They are often carefully scrutinized by the leaders of foreign countries who clearly understand that these reports are of decisive importance to the U.S. Congress in deciding what countries will receive the help of American taxpayers’ dollars.

In her discussion of how the reports are prepared, Ms. Derian stressed the continuing efforts made to improve the reports and in particular section II on government policies relating to the fulfillment of vital social and economic needs. She concluded that the reports are non-polemical, non-political and invaluable.

She expressed her concern that the Reagan Administration does not appear to “grasp the nature of the human rights law” and seems to be on the way to downgrade human rights by concentrating on international terrorism. She believed that the reports should be improved, not discontinued and she urged the subcommittee to continue its practice of holding frequent meetings on human rights conditions which will keep the Congress and the public current on the subject and give the new Administration a forum for expressing its views.

Chairman Bonker thanked Ms. Derian for her testimony and stated that the reports are useful in describing not only political but economic and social conditions. He said he is fully committed to the continuation of the reports and said that the Reagan Administration must understand that the reports, which are a cooperative effort between the Executive and Congress, will be continued.

Ranking Member Leach stated that he wished to recall that human rights were not discovered by the previous administration and that the Reagan Administration strongly supports the human rights program. He added that this is true even though he has “personal doubts” about some persons chosen to lead this effort. He questioned whether the reports should be prepared and published by the U.S. Government. He would prefer a study being done by an organization such as Freedom House. He stressed that questions of relativity arise in discussing human rights and that there may be a danger of placing too much emphasis on human rights in relation to other foreign policy considerations.

He recalled that the previous administration had not always given straightforward answers about the human rights situation. For instance, the administration had denied that the Laotians had used chemical weapons in putting down a tribal revolt in that country. He stated that

an assistant secretary had claimed no knowledge of such use, although it was common knowledge that the Laotians had used chemical weapons.⁴ Ms. Derian expressed her astonishment that an assistant secretary had said this.

She reiterated her hope that human rights should not be downgraded and that we not help people to oppress others. Congressman Leach replied the question is how best to carry out such a policy—whether one wears human rights on one's sleeve or whether one quietly pursues one's objectives. He added, however, that he would not advise the present administration to wear anti-human rights on its sleeve. Ms. Derian replied that she hoped legislation would be maintained and that she was heartened by Congressman Leach's comments. Chairman Bonker stated that the policy which has been formulated in the subcommittee has been bi-partisan and that this should be clearly understood. He then asked two questions: Whether the reports prepared on friendly countries were disruptive to our relations and how reports are prepared on countries with which we have no relations.

Ms. Derian stated that the first reports were sometimes disruptive to our relation with certain countries. Some such as Brazil gave up aid from the U.S.⁵ Since then (1977) not much strong reaction has occurred and no countries have broken diplomatic relations with us.

As for countries with which the U.S. has no relations, and where we have no representation reports are prepared from such sources as may be available. On countries such as Albania reports are shorter since there is less information. On others such as North Korea on which there is abundant public information reports are longer.

Michael Posner stated that his committee monitors the administration of the U.S. human rights policy and prepares critiques of the reports. The value of the reports, he stated, is that they show that Congress has made it U.S. policy to promote human rights throughout the world. Secretary Haig, he said, supports this policy. The annual reports have many new uses. In particular, their information on the situation in Eastern Europe should be a great aid to consular officers and to the INS in determining the validity of claims for refugee status or asylum.

⁴ In telegram 109424 to Vientiane, April 25, 1980, the Department reported that Under Secretary of State for International Security Affairs Nimetz had testified that the United States was "not in a position either to confirm or disprove conclusively reports of the use of chemical weapons in remote areas where the United States Government has no presence." (Department of State, Central Foreign Policy File, D800206-0003)

⁵ Regarding the cessation of aid to Brazil, telegrams dated March 5, 1977, which are scheduled for publication in *Foreign Relations, 1977-1980*, vol. XXIV, South America; Latin America Region.

While the reports have vastly improved in five years, he believed they are selective on certain issues and that they understate the situation in many countries such as in Syria or the USSR. He asserted that the situation of the Jews in the USSR was underreported. The reports should be maintained, including the economic and social section, and their accuracy and objectivity improved. One officer should be assigned primary responsibility for the reports and given special training in preparing them. He opposed discontinuing the reports by the State Department, but said other agencies could supplement them.

Aryeh Neier stated that his committee monitors governmental practice with respect to the human rights sections of the Helsinki Accords. In this connection he stated that the reports on Eastern European countries are invaluable because they disseminate information on non-compliance of those governments with the human rights provisions of the Helsinki Agreements. The dissemination of these reports by the U.S. government affords a great measure of protection to many people in Eastern Europe. Their discontinuation would be a great blow to these people. He stated that he would like to see a wider use of names of persons persecuted by their governments in the reports. He felt this would afford individuals greater protection from persecution.

Louis Henkin urged Congress to maintain legislation on the reports. The reports, he stated, are a matter of controversy not so much between political parties as between branches of government. The executive branch does not support public reports with the same degree of enthusiasm as Congress. The executive branch does not like public diplomacy as characterized by the reports. Nevertheless, the reports have helped us in countries such as South Africa and have given us a tool to use against the USSR. They are widely recognized as helpful in the promotion of human rights.

He stated that the compilation of the reports is not an intervention in the internal affairs of other countries as is often claimed. It is not unlawful to criticize other countries and any country in the world may determine its policies in any way it chooses including the preparation of public reports on other countries. The reports serve needs other than congressional ones. They can aid the Attorney General in making determinations as to who should be deported. They are extremely useful to bodies and groups interested in human rights. They are invaluable to scholars and students. While the reports are not perfect and should be improved, he expressed the hope that Congress will insist that the reports be continued.

Raymond Gastil stated that the reports have steadily improved in completeness and objectivity and are a major source of information to the Congress and to human rights organizations. They have certain weaknesses which should be corrected. Some reports tend to “white

wash” the countries concerned. No one would ever be aware of the hostility of the French government to the press by reading the human rights report, he said. Some reports are distorted. Government oppression and denial of civil and political rights often are justified in terms of the need to press forward with economic development. Nevertheless, he feels the reports send a message to the world that the U.S. is interested in human rights everywhere. That alone is invaluable.

Hyman Bookbinder stated that the United Nations organization is guilty of selective morality⁶ and this is one compelling reason for the United States to continue the publication of these reports. Preparation should not be delegated to private organizations that do not have the resources which can in any way compare to those of the United States. He complained, however, that even the U.S. reports give some indication of selective morality when they devote 19 pages of commentary to Israel whereas only 15 are given to the Soviet Union.

Mr. Bookbinder expressed his regret at the downgrading of human rights by some members of the Administration. He stated that Ms. Derian’s replacement in the Bureau of Human Rights and Humanitarian Affairs had made clear that all references to human rights should be removed from statutes dealing with aid and relations with other countries.

⁶ Reference is to UN Human Rights Commission.

46. Paper Prepared in the Department of State¹

Washington, March 14, 1981

HUMAN RIGHTS AND U.S. FOREIGN POLICY

This Administration is determined to pursue a vigorous and humane foreign policy designed to protect the integrity and independence of the United States and that of its allies. At the same time, we

¹ Source: Department of State, Assistant Secretary Files—Elliott Abrams Subject and CHRON Files, 1981–1987, Lot 89D184, Human Rights—General. Limited Official Use. Drafted by Lefever. A March 14 covering memorandum from Lefever to all HA Officers reads: “The attached statement is intended for your guidance. It has been cleared by the Secretary of State and is for *internal* use only.”

will seek to develop a world community that respects diversity and fosters peaceful relations among states. In making our decisions, we will take into account their impact on freedom, dignity, and human rights.

Indeed, it is our intention to broaden and deepen the concept of human rights which too often has been limited to a narrow range of specific violations by governments against their own people. Assaults on the integrity of the person, such as torture, prolonged imprisonment without due process, exile under brutal conditions, and the denial of emigration are always reprehensible. But we must also recognize that human rights are seriously violated, and on a much larger scale, by direct or indirect aggression, the imposition of foreign control over other peoples, external subversion, genocide, and terrorism. Seen in this perspective, human rights are an inescapable concern in all our foreign policy deliberations.

Of necessity, foreign policy decisions emerge from a calculus of competing ends, alternative means, and anticipated consequences. These decisions always involve considerations of national security, regional stability and the freedom and independence of peoples. We are determined to pursue these ends with the least possible political and human cost.

In recent years, there has been a lively debate on how best to integrate human rights considerations into our pursuit of national security and international order. There are four specific ways the U.S. Government, with the support of the American people, can advance the cause of freedom and dignity:

1. Perhaps the most significant contribution the United States can make is to remain an example of a society which strives successfully to guarantee the full range of human rights for all our citizens. Since the founding of our republic, America has been regarded by peoples the world over as an example to be emulated.

2. We must stand by our allies and friends when their survival as independent states is jeopardized by external military pressures or political subversion. It would be tragic if, in the name of human rights, we were to refuse vital assistance to an ally in grave danger and thus open the way for a successor regime that would abolish virtually all human rights. We must be willing to help endangered allies in all appropriate ways.

3. We believe that quiet diplomacy, rather than public scolding or threats, is a more effective way to encourage greater respect for human rights by allied and friendly governments.

4. In the face of gross violations of human rights—genocide, aggression, external subversion, or terrorism—by any government, it is entirely appropriate for the United States to engage in public condem-

nation. In the recent past and at present such gross violations are largely confined to adversary states, notably the Soviet Union. Most communist regimes brutalize their own people, and some of them are engaged in exporting their repressive systems by subversion and terrorism. Thus, they are not only gross violators of human rights, but they threaten the peace as well. Moscow's conquest of Afghanistan, Cambodia's genocide, the use of surrogate forces to subvert African states, and Libya's sponsorship of terrorism all deserve public condemnation by the U.S. Government and by private groups.

There is a significant moral and political distinction between *totalitarian* regimes that brutally repress their own people and deny them virtually all political and civil rights and *authoritarian* regimes which permit a measure of freedom and guarantee some human rights. Violations of fundamental rights by any government, totalitarian, authoritarian, or democratic are wrong, but we must respond to different situations with a measured sense of proportion.

The world rarely presents us with a choice between the perfect and the imperfect. We are usually confronted with choosing between two less-than-perfect courses of action. A major factor in any decision affecting another state is the foreign policy of its government. Some of our Third World allies who are pursuing constructive external policies simply have not developed the civic culture that can sustain the concept of a loyal opposition or institutions capable of guaranteeing the human rights we Americans take for granted. We must seek to understand these realities or we may find ourselves in self-righteous isolation in an increasingly hostile world.

In developing a deeper and more effective approach to the role of human rights in our foreign relations, we seek the advice and support of the United States Congress and of the scores of private groups which have a distinguished record of nonpartisan humanitarian service and a genuine concern for the freedom and dignity of human beings everywhere.

We Americans will not always agree on methods, but we are united in our commitment to enlarging the frontiers of freedom and respect for human rights in a dangerous world.

47. Telegram From the Mission to the United Nations to the Department of State¹

Geneva, March 18, 1981, 1732Z

2796. Subject: United Nations Human Rights Commission: Final Report on the Thirty-Seventh Session

1. (C—Entire text)

2. Summary: This report summarizes the work of the Thirty-Seventh Session of the Human Rights Commission. Department please repeat as appropriate. End summary.

3. The 37th Session of the United Nations Commission of Human Rights met in Geneva February 2 through March 13, 1981. The session opened less than two weeks after the beginning of the Reagan administration. The United States Representative and Principal Alternate Representative were appointees of the new administration. Moreover, the delegation had to cope with political and press speculation regarding a new U.S. human rights policy. The USDel accordingly resolved neither to be defensive nor to disorient friends or foes in the HRC. Instead, USDel launched a persistent, daily effort of private conversations with allies, neutrals, and foes, in order to provide the background against which to interpret U.S. positions as they emerged. Facing skepticism (even anxiety) and puzzlement, USDel aimed gradually to win friendship, understanding, shared conviction (or grudging admission, among foes) about U.S. priorities.

4. The Commission dealt with a heavy agenda with which it was not able to cope fully during the six weeks of the session. Although the Commission decided at the outset upon a timetable which should have allowed for adequate consideration of each of the items on its thirty-item agenda, the Commission by the end of its third week started to fall badly behind. During the fifth and sixth weeks, the Commission resorted to extended day sessions and night sessions, but was forced during the final week to limit debate on the large number of resolutions put forward under agenda item 13 (human rights violations in any part of the world) and to give only perfunctory treatment to several remaining agenda items.

5. Since it was the Latin American group's turn for chairmanship, the Commission elected as its Chairman the LA group candidate, Ambassador Calero-Rodrigues, the representative from Brazil. Calero-

¹ Source: Department of State, Assistant Secretary Files—Elliott Abrams Subject and CHRON Files, 1981–1987, Lot 89D184, Human Rights—1981 UNHRC. Confidential; Priority. Sent for information to Madrid for USDel, CSCE, and USUN.

Rodrigues personally presided at every meeting throughout the session, relinquishing the chair to one of the Vice Chairmen only for a brief period at the beginning of one meeting when he was late in arriving. In this respect he broke with normal practice. At past sessions the chairmen have extended opportunities to preside to each of the three vice chairmen.

6. The following were Commission actions of special interest to the U.S. delegation:

A. Israeli-Occupied Territories.

Following settled practice the Commission opened its substantive debate by considering the recurring item relating to human rights in the occupied Arab territories, including Palestine. The usual two-part resolution was put forward. One part contained a blanket condemnation of Israeli policies and practices and the other dealt with the application of the Geneva Convention on Civilian Persons to the Occupied Territories. This latter part of the resolution contained a provision first put forward last year characterizing the failure to apply the Geneva Convention as a grave threat to world peace and security. A number of WEO delegations were intending to vote against because of this characterization. Prior to the vote this phrase was replaced so that the failure to apply the Geneva Convention was described as creating "a situation fraught with danger." With this change, the position of all the WEO delegations except the U.S. shifted to one of support for that part of the resolution. In the final vote, only the U.S. voted against, with no one abstaining. In the vote on the part of the resolution containing the broad condemnation of Israel, the U.S. was joined by Australia and Canada in voting against, and eight abstained.

B. Measures Against Terror or Incitement to Racial or Group Hatred.

This item was placed at an early spot in the Commission timetable as a part of an arrangement whereby the Eastern European group agreed to split the item on self-determination, with part taken up first in conjunction with the Palestine item, and part later in the session. The discussion of the item on terror and group hatred centered upon a draft resolution put forward by the Eastern European group of countries. The U.S. delegation led consultations in the WEO group looking toward a possible resolution dealing with the problem of terrorism as a human rights issue. Although there was general interest in the WEO group in discussing terrorism under the agenda item, and acknowledgement of its importance as a human rights issue, there was also a decided general view that a resolution on terrorism should not be pursued. The Eastern European draft resolution, which featured Nazism and Fascism as current problems, was countered by amendments proposed by several WEO countries designed to broaden the focus

to all totalitarian ideologies. The amendments' sponsors decided to negotiate with the Eastern European sponsors, with the result that a revised text was produced which was acceptable to all WEO delegations except the U.S. In the final vote the revised resolution was approved with only the U.S. abstaining, on the ground that the verbal formulations in the resolution are useless because they merely paper over the fundamental differences of the two sides.

C. Africa and Racial Discrimination.

Other subjects of special interest to Third World countries regularly taken up early in the Commission sessions, were the four agenda items relating to South Africa and racial discrimination. The discussions provided the occasion for the new administration to state its views on the problem of apartheid. The debate ended with votes on five resolutions sponsored principally by the HRC's African members. Of the five resolutions, the United States voted against two, abstained on two, and did not participate in the vote on the one relating to the decade against racism. The voting pattern followed by the U.S. delegation was in line with that followed in recent previous Commission sessions. In the cases of the negative votes we were joined by the FRG, UK, and France. On the resolution concerning Namibia, all of the Western Five were able to abstain.

D. Disappearances.

The item on missing and disappeared persons, which centered upon the issue of whether to impose the rules of confidentiality on the Ad Hoc Working Group established by the Commission at its last session,² featured a draft resolution by the French delegation providing for a simple extension of the Working Group's existing mandate. The original French resolution went through a number of changes reflecting the results of the long and arduous negotiations carried on privately between the French and Argentine delegations, with the active involvement of UK Representative Lord Colville, the Working Group's Acting Chairman and spokesman. The U.S. delegation took no part in the debate on the item. Our position favoring a consensus decision was expressed in the regular WEO consultations and was obviously a factor in the willingness of France and Lord Colville to go almost the last mile to achieve consensus. The issue at stake was the extent to which the Working Group would be obligated to keep its proceedings confidential. The compromise language is subject to varying interpretations, and its precise effect must await the functioning of the Working Group during the coming year under its renewed one-year mandate. The shift

² See Document 41.

in the U.S. position on this issue, and our efforts to achieve consensus caused strain with our WEO allies, who favored the original French proposal and opposed the effort to impose rules which could provide a basis for claiming confidentiality.

E. Self-Determination.

The recurring agenda item relating to peoples' right to self-determination was split into two parts as a result of the efforts of Pakistan to assure that part of the item would be held over until after the completion of the Nonaligned Ministers meeting in New Delhi. The first part was considered together with the item relating to the occupied Arab territories and, as has been customary, resulted in a draft resolution cosponsored principally by Arab delegations supporting Palestinian self-determination, and condemning the Camp David Accords. This resolution received nine negative votes, including that of the U.S. When consideration of the item on self-determination was resumed, three resolutions were presented dealing with Kampuchea, Afghanistan, and Western Sahara. A fourth resolution sponsored by some radical Third World countries once again dealt with Palestine and self-determination together with Namibia and South Africa. There were strong votes in favor of both the Afghanistan and Kampuchea resolutions. In voting on the Western Sahara, the United States reacted to the strong criticism of Morocco by voting no—and gained a warm expression of appreciation from the Moroccan delegation.

F. Human Rights in Chile.

The question of human rights in Chile has been considered at each session of the Commission since 1974. It centered this time on a draft resolution cosponsored once again by the leading activists on the issue, Algeria, Cuba, Mexico, and Yugoslavia. In WEO consultations, USDel made clear its viewpoint that the unequal treatment which had been meted out to Chile by the Commission since 1975³ should end, and that the mandate of the Special Rapporteur should not be renewed. This viewpoint found some sympathy within the group, particularly on the part of the FRG and France. A further USDel argument that the Chile case henceforth be pursued under the confidential 1503 procedures did not, however, find any support in the group. In the voting on the draft resolution, the United States signaled its change in policy by, for the first time since the Chile issue had been considered in the Commission or in the General Assembly, voting against. The trend in

³ In telegram 44937 to Saigon, February 27, 1975, the Department transmitted the text of a draft UNHRC resolution on Chile. (Department of State, Central Foreign Policy File, D750072-0614)

the Commission towards a more moderate stand on Chile was reflected in the fact that in addition to the four negative votes, there were 17 abstentions so that only a bare majority of the Commission voted in favor. However, much WEO support for the resolution was lost in reaction to the narrow defeat of a series of FRG amendments designed to bring the proposal in line with the more moderate resolution adopted at the recent General Assembly and to eliminate the special “Chile item” from the Commission’s agenda.

Under a separate agenda item, the Commission approved and sent to ECOSOC a proposal to replace the Chile trust fund by a UN voluntary fund for victims of torture. The new fund would not be country-specific. Approval of the new fund came after the Commission defeated a series of Soviet amendments designed to gut the proposal and/or postpone action indefinitely.

G. Economic Human Rights.

The growing concern of the Third World countries over promotion of economic rights as a central task of the Commission on Human Rights was reflected in the debates on this recurring agenda item. In order to avoid a repetition of the situation at the past several sessions in which the West has limited itself to a defensive reaction to the proposals of the more radical nonaligned, the French delegation early in the session instituted and led negotiations between some WEO delegations (including the U.S.) and some nonaligned delegations led by Algeria. The French aim, as frequently explained and defended in the daily WEO meetings, was to achieve agreement on an essentially procedural resolution which could be adopted by consensus and which could possibly signal the beginning of a genuine dialogue between developed and less developed countries. The emerging product of the negotiations gave the USDel increasing cause for concern, but France remained determined to carry them forward and in the end did so without U.S. participation. The resulting draft resolution was presented to the Western group by France as a fair compromise and one which presented an opportunity to the Western delegations which they would ignore at their peril, if their governments were interested in future productive relations with the nonaligned members of the Commission. The resolution was cosponsored by a large number of nonaligned governments but had no WEO sponsors. It was approved with only one negative vote, that of the United States and two abstentions, the UK and the FRG. The U.S. explained its vote by saying that the text contained no genuine compromise of substance. We continue to believe that a comparison with the initial Nonaligned text bears out this judgment. The firm opposition of some Western delegations (e.g., Canada, UK) to our bid for membership on the expert group established by the resolution is a clear reflection of their annoyance at our stand.

H. Violations of Human Rights Anywhere in the World.

This item consumed by far the largest number of meetings of the Commission. A perhaps disproportionate part of these meetings was devoted to the confidential part of the item under which the Commission acted pursuant to the procedures of ECOSOC Resolution 1503. Fourteen country situations were considered in these confidential procedures. Those which occupied the bulk of the Commission's time were the GDR, Argentina, Bolivia, and Ethiopia. The high point was the decision by the Commission to keep under review the human rights situation in the GDR. The low point was the decision of the Commission to cease consideration of the human rights situation in Ethiopia, a decision which was made almost inevitable by the benignly favorable last-minute report issued by the Secretary-General's representative. In both cases the Communist delegations went to extraordinary, time-consuming lengths to achieve dismissal. Other highlights of the 1503 proceedings were the decision to keep the case concerning Afghanistan under review, the dismissal (at least partly at U.S. urging) of the case against Japan, the decision to keep the Argentina case under review, including the disappeared persons part of that case, the refusal to move the Bolivian case from public to private proceedings, the dismissal of the case concerning Paraguay, the continuation of the case concerning Uruguay, and the decision to keep the case concerning the Republic of Korea under review. A final episode which occurred at the end of the 1503 proceedings involved the initiative undertaken by the USSR to reopen the GDR case as a result of the publication in the local press of an interview given by the U.S. representative. The interview evidenced a breach of the rule of confidentiality and led to an explanation of regret by the U.S. representative. After several delegations objected to nullifying the decision on the GDR, the USSR deleted that portion of its proposal. However, the adopted decision deploring the breach of confidentiality contains language which the Soviets will no doubt cite in trying to dismiss the case against the GDR next year.

The public proceedings under this agenda item began as the Commission was entering its final week. Because of the heavy workload, the Chairman was forced to set time limits on statements, with the result that many Western delegations were unable to say as much about the worldwide human rights situation as they had intended. A record number of resolutions was put forward under the public part of the item, including two important U.S. initiatives: The draft resolution condemning the taking of hostages and a draft decision assuring consideration next year of the plight of Sakharov.⁴ The hostages resolution,

⁴ Reference is to Soviet dissident Andrei Sakharov.

which in its original conception was designed to secure a condemnation of Iran for its taking and maltreatment of the hostages, was throughout the session progressively modified to remove in the end any direct or implied mention of a target country. The generalized version was easily approved by consensus. The draft decision concerning Sakharov was greeted by a counter resolution from Byelorussia focusing on the racial situation in the United States and designed to force a withdrawal of the U.S. proposal. In the end, the draft decision and the draft resolution, together with another set of resolutions involving Jordan/Syrian charges and counter-charges, were disposed of, over U.S. opposition, by a procedural motion to take no decision. However, in a separate resolution implicitly intended to cover dissidents in the USSR and Eastern Europe, the Commission strongly reaffirmed the right to defend human rights and deplored “all harsh and punitive treatment” of people who exercise this right.

The issue which consumed the greatest amount of the time of the U.S. delegation concerned El Salvador. Engaging in long discussions within the WEO group and working closely with the Netherlands delegation acting as leader, the USDel significantly influenced an outcome which saw the adoption of a comparatively moderate Netherlands/Denmark text instead of a competing Algerian/Mexican/Yugoslav text. Other important decisions taken under the item which were supported by the United States concerned the human rights situations in Guatemala and Bolivia.

The Commission took a step toward implementing last year’s resolution on mass exoduses by deciding to appoint a Special Rapporteur to study the question of human rights and mass exoduses.

I. Religious Intolerance and Other Working Groups.

A signal achievement of the session in which the U.S. played a key role as WEOG coordinator was the approval after twenty years of effort of a draft declaration on religious intolerance. The result was achieved despite of determined obstructionism by the Soviet and Byelorussian delegations. The final product is in full conformity with positions urged by the USDel and can be regarded as a significant new instrument for furthering the promotion of religious freedom in the world. U.S. follow-through at ECOSOC and the General Assembly will be essential to ensure final adoption.⁵ Other drafting exercises on the Draft Conven-

⁵ In telegram 2095 from New York, June 22, USUN provided a summary of the Economic and Social Council session, including the proposed measure on religious intolerance. (Department of State, Central Foreign Policy File, D810292–1125) In telegram 4445 from New York, December 3, USUN reported that the UNGA had adopted the Declaration on the Elimination of all Forms of Intolerance and of Discrimination Based on Religion or Belief on November 25, without a vote. (Department of State, Central Foreign Policy File, D810573–0603)

tions Against Torture and on the Rights of the Child and a Declaration on Minorities proceeded slowly with only the Rights of the Child Convention making noticeable progress. Progress on the Torture Convention was blocked mainly by Argentina, Brazil, and the USSR, in that order. Argentina made it clear it did not want the negotiations to succeed. The Netherlands and Australia played maverick roles, complicating the effort to present a united Western front on the issue. In the case of the Rights of the Child Convention, the original Polish draft has been gradually transformed, primarily through U.S. efforts, into a document much more in concert with Western concepts, values, and priorities. Although Eastern Bloc obstructionism eventually prevented consensus in the Working Group on strengthening UN human rights machinery, the group was able to focus the discussions largely on Western proposals to develop an intersessional role for the Commission's bureau, and to lay the groundwork for further consideration of this subject next year. As this working group was allotted only six meetings, there was insufficient time to explore the limits of Eastern flexibility on this and related issues. The proposal for a High Commissioner, which was dealt with mainly outside the framework of the Working Group, saw no progress, but we understand Senegal intends to pursue the matter at the next General Assembly.

J. Subcommittee on Discrimination and Minorities.

At the initiative of the Brazilian delegation, the Annual Report of the Subcommittee on Discrimination and Minorities was given a more prominent than usual place in the timetable, with the result that a quite thorough examination of the Subcommittee's role took place. The Brazilian intention was to underscore its concern over recent tendencies of the Subcommittee to move beyond its mandate and assigned functions without the authority of its parent body. While the Brazilian critique received some sympathetic echo in the debate that took place, the end result was only a mild resolution of concern with no restriction at all on the Subcommittee's existing mandate. A related item concerned the election of the entire Subcommittee membership. Of the 26 seats open, six were available to WEO candidates. Of the seven WEO candidates, the U.S. nominee narrowly defeated the seventh candidate in a runoff vote. This election outcome was the first time that a U.S. candidacy for a post on a body in the ECOSOC structure came so close to failing.

6. The foregoing summary of the results reached with respect to the principal items on the agenda of the 37th Session of the Commission features a number of specific accomplishments in line with United States objectives. In a number of cases, the United States delegation was in a minority position, extending in three cases to isolation. More important than the tally sheet of resolutions adopted and votes

recorded must be the impression made by the United States delegation speaking for the new administration. Our daily contacts with the WEO delegations and less systematized contacts with delegations of other regions assured knowledge of and, we believe, a growing understanding of our new approaches and the new points of emphasis. The USDel had the principal task of continuing the traditional U.S. emphasis on human rights, while executing smoothly a new administration's unique sense of strategy and tactics. The change in strategic focus by the United States delegation consisted in advocating three main substantive points: (1) no more double standards in the Commission; (2) human rights exist in mediating institutions of due process and in constituencies committed to moderation and law in making such institutions work; and (3) the special threat to human rights institutions posed by the new international terrorism. With respect to voting patterns, the United States delegation maintained overall consistency with past U.S. positions; the most striking differences occurred in changed strategy and tactics for improving the human rights situation in South and Central America.

Helman

48. Memorandum of Conversation¹

Washington, March 18, 1981

PARTICIPANTS

Robert L. Bernstein, Chairman, Helsinki Watch
Orville H. Schell, Vice-Chairman, Helsinki Watch
Aryeh Neier, Executive Committee member, Helsinki Watch
Jeri Laber, Executive Director, Helsinki Watch
Dr. Ernest Lefever, Assistant Secretary-Designate, HA
Stephen Palmer, Acting Assistant Secretary, HA
Theresa Tull, Acting Deputy Assistant Secretary, HA
Hugh Simon, HA/HR

SUBJECT

Human Rights Policy

¹ Source: Department of State, Subject Files, Human Rights Files, 1981–1990, Lot 92D49, HUMAN RIGHTS Admin—Generated. No classification marking. Drafted by Simon on March 24 and cleared by Tull and Palmer. The meeting took place at the Department of State.

SUMMARY

Mr. Bernstein explained that the Helsinki Watch had not taken a position on Dr. Lefever's nomination, but is concerned about the perception that the new administration is less mindful of human rights than the former. He pointed out that use of the authoritarian/totalitarian dichotomy and the terrorism/human rights concept, and the failure to condemn the attempted Spanish coup² early on were signals of diminished interest in human rights. Mr. Schell and Mr. Neier questioned the wisdom of using quiet diplomacy with Argentina.

Dr. Lefever outlined U.S. human rights policy. He said that we oppose torture everywhere. We will operate mainly with quiet diplomacy, although gross and consistent violations may require condemnation in a public forum. The Soviet Union, the world's worst violator of human rights at home and abroad, will be condemned publicly.

In describing his intention to deepen and broaden the concept of human rights, Dr. Lefever called for more attention to the possible results of an intended punitive move on human rights: would human rights conditions only worsen if the government were replaced by one more oppressive? Other U.S. interests, such as security, are overriding in Argentina, but improved results on human rights are expected from quiet diplomacy there.

Mr. Bernstein asked that the U.S. try to assist the Helsinki Monitors as we wind up the Madrid conference and offered to help in publicizing human rights violations when it would be useful. Dr. Lefever welcomed the critical support of NGOs and asked for patience should there be disagreement on the means of promoting human rights. End Summary.

Mr. Bernstein explained that the Helsinki Watch had not taken a position on Dr. Lefever's nomination. They had called on him because of their interest in human rights.

Dr. Lefever said he had a longstanding personal interest in human rights. He is against torture everywhere. He might differ with some people on methods for supporting human rights; one should not go about bashing one's friends for human rights violations. We should oppose gross violations wherever they occur; sometimes this would call for public condemnation.

This administration is committed not only to quiet diplomacy; already it has used public fora, such as the U.N. Human Rights Commission.

² On February 23, members of the *Guardia Civil* held the Spanish Parliament hostage for 22 hours in a failed coup attempt.

Speaking from a cleared statement, Dr. Lefever said that he could assure the group that this administration will seek to deepen and broaden the concept of human rights, applying the policy as equally as possible. It is important to keep in mind that expectations of United States omnipotence are illusory. Nevertheless, the commitment to human rights is there, as the Secretary has said repeatedly. We will pursue human rights in a more effective manner, quietly, but with vigorous private arm twisting, if necessary.

Mr. Schell said that the Helsinki Watch tries not to be strident and to be informed. He hoped that Dr. Lefever believes in human rights; he should not head HA if he didn't.

Dr. Lefever replied that he should not be an American if he didn't believe in human rights.

Mr. Schell responded that that is what we are all about. He referred to his recent trip to Geneva and Madrid, observing that a great contrast exists between approaches to human rights in the two cities. In Geneva, it seemed that we had chosen to go easy on some human rights violators. Despite Max Kampelman's³ strong commitment to human rights, this perception seemed to have gained currency in Madrid. Romanian Ambassador Dactu had told him that the next session of the CSCE conference should be held in Bucharest, saying that he could give him all the assurances he wanted for the same access by organizations and press that were enjoyed in Madrid. When Mr. Schell reminded Dactu that the USG is dedicated to human rights, underlining the importance of an improvement in the Romanian record, Dactu had replied, "You know perfectly well your government is easing up on human rights."

On the perceptual level, this is a problem. In Argentina, General Viola gave the same assurances of improvement one and a half years ago that he is giving in now to us in Washington.

Dr. Lefever said that the successes of quiet diplomacy are difficult to communicate. Progress might well have been better in Argentina with quiet diplomacy. We have security interests in Argentina. We have informed Argentina and Chile that we want improvement in relations⁴ but that they have to help us on human rights.

Mr. Neier asked about the six thousand missing persons for whom the Argentines refuse to be held accountable.

Mr. Bernstein pointed out that the public perception of U.S. human rights policy has been hurt by Ambassador Kirkpatrick's dichotomy

³ U.S. Chairman to the Commission on Security and Cooperation in Europe.

⁴ In telegram 72034 to Buenos Aires and Santiago, March 20, the Department transmitted statements made by Buckley regarding human rights and security assistance to Argentina and Chile. (Department of State, Central Foreign Policy File, D810133-0590)

between authoritarians and totalitarian regimes,⁵ by the Secretary's statements on terrorism replacing human rights,⁶ and by the Secretary's failure to back democracy in Spain until it seemed certain that democracy had survived the coup attempt.

Dr. Lefever replied that the Secretary had been emphasizing USG opposition to terrorism. He had gone on to explain that terrorism was a serious abuse of human rights. There is now an agreed statement on human rights policy.

Normally quiet diplomacy can accomplish more with it one can be more effective—twist arms if necessary—than in an atmosphere of confrontation. The U.S. ambassadors with whom he has spoken say that they prefer quiet diplomacy.

There are exceptions to the rule of quiet diplomacy, Dr. Lefever added. If violations are gross and consistent, the situation may cry out for condemnation in a public forum. Private groups such as the Helsinki Watch should speak out regularly; governments are more restrained, carrying the burden of diplomacy. When you cannot have naval maneuvers or arms cooperation with certain countries, it is not good for the cause of freedom in the world.

Mr. Schell said he believed that Dr. Lefever and Helsinki Watch views are much closer together than one might realize. We are building up our arms, as the Soviets know well. He observed that Dr. Lefever has a difficult problem with which to contend. The Reagan administration is not well-known for its support of human rights. Dr. Lefever's personal dedication is to human rights, but Viola and Dactu don't know it.

Dr. Lefever replied that Viola is starting to know it.

Mr. Schell stated that this office (HA) is the protector of human rights. Dr. Lefever must make clear that he is dedicated to human rights.

Ms. Laber observed that the concept of HA in the previous administration was that it should be the conscience of the State Department.

Dr. Lefever said that this had been discussed. Deepening the concept of human rights is important. People tend to use a two dimensional concept of human rights. Speaking hypothetically, he said that if bad things are happening, if four nuns are killed for example,⁷ and we react against the government, thereby paving the way for a regime which kills 400 nuns, what of our first reaction then? We must consider what may happen later. Abuses cannot be ignored, but we must weigh the alternatives. Would more repression result?

⁵ See Document 46.

⁶ See Document 40.

⁷ See footnote 5, Document 44.

The human rights component was present in all State Department decisions, even before HA existed, and will continue to be. It is present because of the sensitivity of individual officers. We are not going to let up on human rights now but are going to implement our continuing concern in a more effective way.

Mr. Neier pointed out that bringing along the West Europeans had been a tremendous accomplishment during the implementation review phase in Madrid.⁸ Human rights treatment in Madrid differed considerably from that in Belgrade, when our allies were put off by our human rights concerns.⁹ Now the West Europeans are out in front on human rights. In Geneva, even the French took the lead on the Working Group on Disappearances. What have we accomplished in voting against our friends and allies in Europe?¹⁰

Dr. Lefever attributed some of the problems to the haste with which preparations had to be made for the meeting. The dispute concerning the Working Group on Disappearances involved its confidentiality. This government had decided at high levels to move on that track. Men may differ on this point. Our delegation was disturbed at the lack of focus on other violations, equally serious, such as the abuse of psychiatry. The country-specific approach creates difficulties also.

Mr. Neier favored the non-country specific approach, i.e., to focus on all offenders, denounce all, and to vote for all country-specific measures.

Dr. Lefever explained that this administration has a fairly coherent view of human rights methods. U.S. ambassadors do not support more condemnation and more punitive measures announced in public. This administration is more interested in results than rhetoric.

Mr. Neier agreed that results were our objective, and pointed out that Hungary does not list political prisoners. They want MFN treatment; thus, their people are not in jail. Hungary responded to the threat of punitive economic measures, the withholding of MFN.

Dr. Lefever said this is the essence of the Jackson-Vanik amendment,¹¹ which he supports. It operates best with adversary countries

⁸ In telegram 8095 to USNATO, January 12, the Department reported that the implementation review phase of the CSCE was a success and mentioned the support for human rights issues from the Western delegations. (Department of State, Central Foreign Policy File, D810016–959)

⁹ Documents regarding the CSCE meeting in Belgrade are scheduled for publication in *Foreign Relations, 1977–1980*, vol. V, European Security, 1977–1983.

¹⁰ See Document 42.

¹¹ The Jackson-Vanik amendment denies “Most Favored Nation” status to non-market states that restrict immigration.

where abuses tend to be greater. The Soviets are attempting to export repression; it is more appropriate to go public in criticism of them.

Mr. Neier expressed concern that Cold War rhetoric will weaken East-West policy.

Dr. Lefever replied that the Soviet Union is a vast system of violations of liberty—the worst in the world—and demands a different type of attention than an ally which puts some people in jail. We will just go about it differently in such cases.

Mr. Bernstein pointed out that private organizations can help. The Helsinki Monitors are a key symbol of human rights in the Soviet Union. But private groups need to have trust that quiet diplomacy is not a dodge.

Dr. Lefever said he is against the hobnail boot on the neck of another human being, anywhere in the world. This is the real world where other countries have foreign policies of their own. In Argentina, the dead are dead. We want to improve the behaviour of Argentina, but the government will not admit to the disappearances.

Mr. Neier claimed that the Argentine government operates concentration camps.

Dr. Lefever said we must deal with Argentina, but quietly. The noise level, even in dealing with adversary states, may be reduced.

Mr. Schell asserted that Dr. Lefever should have no illusions about Argentina; the Argentine government uses Hitler-style tactics.

Dr. Lefever answered that diplomacy is not a mutual admiration society. We do not seek to restore normal security ties with Argentina because we like the Argentines. There is a better chance for progress on human rights there if we cooperate on a range of issues.

Mr. Bernstein summed up the purpose of the visit by expressing hope that a solution in Madrid will include something for the Helsinki Monitors. He said that the U.S. can get more for the two Soviet spies in South Africa than Shcharanskiy. The Helsinki Watch hopes some way can be found to help the Monitors; a conference on family reunification would not be sufficient balance in post-Madrid human rights CSCE activities. He urged that HA use NGOs to make noise when it is useful to aid quiet diplomacy. Finally, he said there is a need to redress an imbalance in the public perception of diminished respect for human rights by the new administration.

Dr. Lefever said he will cherish and respect critical support from groups with the same ideals. He asked for understanding if there is disagreement on means. Honest people disagree on means, he said, but warned of the dangers of successor governments to regimes whose methods we may not like in the short run.

49. **Action Memorandum From the Assistant Secretary of State for European and Eurasian Affairs (Eagleburger) and the Acting Assistant Secretary of State for Human Rights and Humanitarian Affairs (Palmer) to Acting Secretary of State Clark¹**

Washington, undated

SUBJECT

CSCE—Concrete Human Rights Steps By The Soviets

ISSUE FOR DECISION

Whether to *suggest to Ambassador Dobrynin* that concrete *human rights steps* by the Soviets *outside the Madrid CSCE meeting* would do much to create an atmosphere conducive to progress at the meeting.

ESSENTIAL FACTORS

Some *tentative agreement on human rights issues* has been reached in Madrid² and the *Soviets expect the West to press for more*. Much of the agreement centers, however, on final document verbiage and more meetings. We should *take advantage of this expectation* of the Soviets *to press them for actual human rights improvements*. We would offer to consider these improvements as *constituting part of the balance in results* between human rights and security in Madrid.

You *could suggest to Dobrynin* that the Soviets are well aware of the range of Americans' *human rights concerns*. These concerns have been *indicated, for example*, by the Secretary's recent discussion with Dobrynin³ of the *Shcharanskiy and Embassy Pentecostals' cases*⁴ and by the *presentations at Madrid*.

ANALYSIS OF OPTIONS

A. *That you suggest to Dobrynin that concrete steps on human rights concerns outside the CSCE context can improve CSCE prospects at Madrid.*

¹ Source: Department of State, Central Foreign Policy File, D810098–0755. Confidential. Drafted by Simon and Clyatt on June 8; cleared in EUR/RPM, CSCE, EUR/SOV, and EUR. Haig was in the Philippines attending the ASEAN Foreign Ministers meeting.

² See footnote 8, Document 48.

³ In telegram 129537 to Moscow, May 19, the Department transmitted a brief summary of Haig's May 15 meeting with Dobrynin. (Department of State, Central Foreign Policy File, [no film number])

⁴ Shcharanskiy was a Soviet Refusenik who wished to emigrate to Israel, but Soviet authorities imprisoned him. In 1978, seven Soviet Pentecostals took refuge in the U.S. Embassy in Moscow, citing religious persecution.

The Soviets may believe that such steps would improve prospects for agreement on a CDE. This option may provide an early opportunity to show results from the quiet diplomatic approach to human rights in US-Soviet relations. The chances for a demonstrable success are slim. EUR is particularly skeptical, but feels such an approach, in the context of other business, can do little harm and agrees we may have a unique window of opportunity. In any event, such a demarche would strengthen our position at the Madrid meeting. Ambassador Kampelman agrees.

B. That such a suggestion be made by Ambassador Kampelman at Madrid.

This has already been done and would therefore appear to the Soviets to be a less serious approach.

RECOMMENDATIONS

That you approve option A, favored by HA, EUR and Ambassador Kampelman.⁵

Alternatively, that you approve Option B.

⁵ Kelly checked the approve option and wrote: "(Amb. Stoessel will raise at a future lunch with Dobrynin). JHK 6/18/1981."

50. Memorandum From George Lister of the Bureau of Human Rights and Humanitarian Affairs to the Acting Assistant Secretary of State for Human Rights and Humanitarian Affairs (Palmer)¹

Washington, July 6, 1981

SUBJECT

Annual Country Reports on Human Rights Practices

The Department's EXDIS cable 45423 of February 23 (attached),² sent to Ambassadors at all diplomatic posts, transmitted the Secretary's request for answers to five specific questions concerning our annual Human Rights Reports. The 143 replies are summarized below. Sepa-

¹ Source: Department of State, Assistant Secretary Files—Elliott Abrams Subject and CHRON Files, 1981–1987, Lot 89D184, Untitled. Confidential. Drafted by Lister and Romine on July 2. Printed from an unsigned copy.

² Not attached. See Document 43 and the attachment thereto.

rate summaries, showing in more detail how each question was answered in the five regional Bureau areas, are attached.

Conclusions

It should be kept in mind throughout that the questions and answers concern only the Reports, as such, not our over-all human rights policy. Embassy replies provide much evidence of the obvious fact that the latter exerted far more influence than the Reports. Although generalizations can easily be misleading (if only because of the vast variety of political, economic and social factors and conditions encompassed) it is apparent that the Reports, by themselves, have not had a major impact on our foreign relations. But it would be a mistake to assume, therefore, that the Reports have been of little or no consequence. They constituted a significant element of the human rights policy in recent years.

In almost 100 countries the Reports are perceived to have had little or no *net* effect on our national interests (including instances in which positive and negative effects approximately balanced out). In some 33 countries our Embassies judged the Reports had, on balance, served our national interests, while in 11 others they appear to have had a net negative effect.

In 23 replies the Ambassador and/or Country Team recommended termination of the Report, as distinct from our policy, at least for their countries. Some of these considered it useful to continue the Reports on Governments with poor human rights records. Embassy replies from only six countries were negative across the board, that is, negative on the effect on bilateral relations, negative on the effect on our national interests, and recommending termination of the Reports (at least for those countries on a public basis). The six were Israel, Argentina, Brazil, Chile, Yugoslavia and France. (Embassy Paris did not reply to the five questions but these are understood to be the views of Ambassador Hartman.) In 20 countries our Embassies recommended continuation of the Reports. About a dozen Embassies urged shortening or tightening the format, with less attention to economic and social considerations.

Details follows.

[Omitted here is information regarding the 143 replies to EXDIS cable 45423.]

51. Telegram From the Department of State to All Diplomatic and Consular Posts¹

Washington, August 8, 1981, 0643Z

210557. Subject: Annual Country Reports on Human Rights Practices Ref: A) 80 State 224684.² For Ambassadors from the Under Secretary for Political Affairs.

1. Summary: Country reports on human rights this year need only be updated versions of last year's report, with increased emphasis on rights involving the integrity of the individual and civil and political rights. Guidelines for a somewhat broader focus on these rights are included. A shorter section dealing with vital economic and social needs should be rewritten, using universal economic indicators to be provided posts by the Department. Objectivity should be maintained. A schedule of submission dates will be established by septel, with the first group of reports due September 15. End summary.

2. The Department plans to provide Country Human Rights Reports to Congress for 1981, in keeping with the continuing legal requirement for such materials. As you are aware, the reports are intended to assist Congress in assessing human rights conditions in connection with congressional decisions on economic and military assistance. It is essential that the reports maintain the objectivity for which they are widely recognized. The reports volume should continue to serve as a work of reference on human rights conditions in each country in the light of that country's historical, economic and security situation.

3. It will not be necessary to draft entirely new reports for 1981. Instead, posts should largely update last year's reports with information concerning events in 1981, using the basic text (if still applicable) and same general approach of the 1980 reports. Any new trends, positive as well as negative, should be identified and fully documented.

4. The section dealing with the fulfillment of vital needs should be totally revised and shifted from Section II to become Section IV of the 1981 report. This reflects a strong USG concern that while human aspirations repeat aspirations for the fulfillment of vital economic, social and cultural needs must be met to the maximum extent, the

¹ Source: Department of State, Central Foreign Policy File, D810371-0204. Unclassified; Priority. Drafted by Simon; cleared in HA, EUR, ARA, IO/HR, INR, P, H, S/P, M, L/HR, RP, S/S, AF, EA, EB, NEA, and AID/PPC; approved by Stoessel.

² In telegram 224684 to all diplomatic and consular posts, August 23, 1980, the Department transmitted the instructions for the 1980 Human Rights reports. (Department of State, Central Foreign Policy File, D800403-0131)

urgent and pressing rights repeat rights involving the integrity of the person and civil and political liberties should be emphasized.

5. The new report format would thus be as follows: Introduction (summary comments and description supported by information contained in the body of the report); Section I (entitled Respect for the Integrity of the Person, including freedom from: A. Torture, B. Cruel, Inhuman or Degrading Treatment or Punishment, C. Disappearances, D. Arbitrary Arrest and Imprisonment, E. Denial of Fair Public Trial, F. Invasion of the Home); Section II (entitled, Respect for Civil and Political Liberties, including: A. Freedom of Speech, Press, Religion and Assembly, B. Freedom of Movement Within the Country, Foreign Travel, Emigration and Repatriation, C. Freedom to Participate in the Political Process); Section III (entitled, Government Attitude and Record Regarding International and Non-Governmental Investigation of Alleged Violations of Human Rights); Section IV (entitled, Economic and Social Circumstances).

6. The Department expects that the primary focus of the report will be on the degree of respect for the right to the integrity of the person and for civil and political rights. Posts should be guided in their approach to updating in these areas by last year's drafting instruction telegram, which is being repeated (80 State 224684). Additional mention, however, of the degree of respect accorded the right to participate in the political process should be made. A closer look at the right of assembly with respect to labor unions also is desirable.

7. Posts should broaden their focus on the rights of the person and civil and political rights by directing attention this year to significant violations of human rights perpetrated in the host country not only by the government but also by opposition or insurgent groups or by agents of other governments, excluding border skirmishes. The use of terrorist methods by foreign and domestic elements should be examined. An attempt should be made also to portray the wider context of the human rights situation, including threats from hostile powers. Such mention, as appropriate, may be included in Sections I and II.

8. The new Section IV should provide a brief survey of the economic, social and cultural environment within which the government administers policies affecting economic and social needs of the country. This should include reference to the extent to which these needs are met on a non-discriminatory basis. For most posts, Section IV should center upon the broad categories of (A) Health and Nutrition, (B) Education and, (C) Income and Poverty, using statistical economic indicators, which the Department will provide, to support the discussion.

9. The following indicators for each country drawn from World Bank figures will be sent septel to be integrated into the discussion:

- GNP per capita
- Life expectancy at birth
- Infant mortality rate
- Adult literacy rate (total, urban, and rural)
- Population growth and total fertility rates
- Percentage of population with access to safe water (total, urban and rural)
- Adjusted primary school enrollment ratio (total, female, urban, and rural)
- Average number of persons housed per room (total, urban, and rural)
- Ratio of calorie supply available for consumption relative to nutritional requirements
- Population below absolute poverty level (total, urban, and rural)

10. For Section IV, posts in industrial market economy countries (IMEC) need not submit more than a table with the economic indicators and a brief statement on the extent to which food, shelter, health care and education are available to all inhabitants regardless of race, religion, sex, ethnic background, or political opinion. More extensive reporting in this section is desirable from other countries so as to continue to inform Congress and the public of the degree of economic and social development in non-IMEC lands.

11. In updating the new Section III, posts need not report the international human rights and refugee conventions to which the host government is a party. The Department will place a table containing this information in the reports volume, derived from listings available in Washington, as was done last year.

12. A schedule for submission will be established shortly by septels from the regional bureaus.³

13. As before, drafts of the reports should not be shown to or discussed with foreign officials, foreign nationals, or other non-embassy persons.

Clark

³ The Department transmitted the regional submission schedule in telegram 214068 to all East Asian and Pacific diplomatic posts, August 12; telegram 215288 to all American Republic diplomatic posts, August 13; telegram 216807 to all African diplomatic posts, August 14; telegram 217546 to all European diplomatic posts, August 15; and telegram 225582 to all Near Eastern and South Asian diplomatic posts, August 24. (Department of State, Central Foreign Policy File, D810377-0840, D810379-0364, D810381-0937, D810382-0617, and D810397-0095)

52. Memorandum of Conversation¹

Washington, September 24, 1981, 11:30 a.m.

SUBJECT

Appointment of an Assistant Secretary for Human Rights, Consultation with Congress on IFI Votes, Asylum for Iranian Jews

PARTICIPANTS

David Carliner, Chairman, International Human Rights Law Group
Leonard Sussman, Executive Director of Freedom House
John Carey, alternate U.S. representative to the UN subcommission on Human Rights in Geneva
P. Peter Sarros, Acting Assistant Secretary, Bureau of Human Rights and Humanitarian Affairs
Hugh Simon, Jr., HA, Notetaker
Richard Morris, Assistant to Judge Clark

Judge Clark welcomed the group, saying that he is familiar with their interest and shares their concern.

Mr. Carliner said their primary reason for coming to see the Deputy Secretary is to discuss the vacancy in the position of the Assistant Secretary of State for Human Rights. Judge Clark responded that this issue has not been forgotten. Under Secretary for Management Richard Kennedy has been studying the reorganization of several State Department positions. An announcement will be made in about two weeks, but it would be an unfair tipping of the hand to go into detail now. If the reorganization requires Congressional approval, which it may not, the approval will be sought. The prior administration's human rights policy, said Judge Clark, was not a resounding success—"I prefer to speak of personal or individual rights". We recognize our national responsibilities in that area, and there has been no slippage on that account in this administration. Amnesty International has reported a worldwide reduction in political prisoners. The defeat of Dr. Lefever has nothing to do with our current plans for restructuring of the human rights bureau, although the defeat was, naturally, a great disappointment to the White House.²

Mr. Carliner expressed his view that, if the Human Rights Bureau is subsumed into another bureau, it would be considered by observers

¹ Source: Department of State, Central Foreign Policy File, P810146–0873. Confidential. Drafted by Simon on September 25; cleared in HA, D, and S/S. Sent to Clark, Perito, Fairbanks, Surena, Kennedy, Palmer, and Williams. The meeting took place in Clark's office.

² Details of the Senate vote are available in Judith Miller, "Rebuffed in Senate, Lefever Pulls Out as Rights Nominee," *New York Times*, June 5, 1981, p. 1.

to be a diminution of concern for human rights. Similarly, a change of the name "human rights" to individual or personal rights would also be given a more symbolic importance than it would deserve. Human rights has an international significance. Dealing exclusively with the concept of individuality and personality, while extremely important, would fail to address group problems, such as those of Jews in the Soviet Union and, historically, Armenians in Turkey.

Mr. Sussman observed that Freedom House has always used the term "individual political and civil liberties". Social and economic concerns are important, but only as desirable categories. If individual rights are protected, then social and economic needs will be satisfied more easily. Ambassador Kampelman at the CSCE meeting in Madrid has operated splendidly in a situation in which our geo-political interests coincide with outspoken human rights concerns. Radio Liberty and Radio Free Europe would be able to deliver a strong message by reporting U.S. human rights concerns. He urged the Administration to marshal all its available tools, including human rights.

Mr. Carey said that there is no magic in the use of the formulation "human rights", because he has seen personally how civil liberties evolved into civil rights and human rights. The important thing is to be out there pushing for individual rights. It is an effective way to fight communism. Emphasis on the individual is the best way to be forceful.

Judge Clark responded that "this is certainly the thinking of the Secretary. We have not lost sight of the concern you have brought here today, and as the policy unfolds, I would like to receive your further comments". Mr. Carey asked if the statutory functions of the human rights bureau are to continue. Judge Clark said that they would "continue until Congress says otherwise".

Mr. Carliner summed up by saying he understood that no decision would be made on filling the human rights job before a decision is made on the position itself. Judge Clark expressed agreement.

[Omitted here are discussions not related to human rights.]

53. **Action Memorandum From the Director of the Policy Planning Staff (Wolfowitz) and the Assistant Secretary of State for European and Eurasian Affairs (Eagleburger) to Secretary of State Haig¹**

Washington, October 2, 1981

SUBJECT

Human Rights Policy

ISSUE FOR DECISION

Your speech² and Ambassador Stoessel's testimony³ established a new direction for U.S. human rights policy. To sustain its credibility, there is now an *urgent need for more detailed guidance*. We recommend the approach developed here and in the Tabs. It is not a total policy, but specifies (a) the *basic principles* we should follow, and (b) how to deal with *urgent near-term decisions* forced on us by events and by legislation.

WHY WE NEED FULLER ELABORATION OF POLICY

Congressional belief that we may not have a consistent policy threatens to disrupt important foreign policy initiatives such as aid to El Salvador. So far, human rights has been one of *the main directions of domestic attack on this Administration's foreign policy*. There is no reason for us to be on the defensive here. And most important, "Human rights"—a somewhat narrow name for our values—gives us *the best opportunity to convey what is ultimately at issue in our contest with the Soviet bloc*.

Merely responding to specific legal requirements and criticisms as they arise will not meet our needs. Such a policy is *intrinsically defensive*: it *allows our critics to define the issues*. The cases they bring up will be those most embarrassing to the United States. Greater abuses in places such as Cuba and Vietnam will escape notice. Since we do not give foreign assistance to our adversaries, *a reactive policy will again wind up victimizing our friends and giving immunity to our enemies*.

¹ Source: Department of State, Central Foreign Policy File, P910037–2282. Confidential; Exdis. Drafted by Fairbanks on September 25 and cleared in S/AL, S/CSCE, S/P, H, PM, PA, HA, AF, ARA, EA, EUR, NEA, EB, IO, and AID. A stamped notation on the memorandum indicates that Bremer saw it. In the upper-right hand margin, a stamped notation reads, "Expedite."

² In telegram 102450 to all diplomatic and consular posts, April 22, the Department transmitted the text of Haig's March 31 speech on human rights and foreign policy. (Department of State, Subject Files, Human Rights Files, 1981, Lot 82D273, SHUM Policies 1981)

³ An unknown hand wrote: "September 6."

BASIC PRINCIPLES OF A STRONG AND REALISTIC POLICY

We cannot return to earlier policy. Our experience shows that miscalculated human rights policy has a potential to press unfairly on our friends, and can even be exploited by anti-democratic opposition movements to undermine friendly governments. It can prevent us from doing what is necessary in tough situations, and is frequently an irritant in bilateral relations.

Earlier human rights policy tended to be negative rather than positive: it was highly interventionist on isolated human rights cases without being able to change the underlying conditions that produced these cases. Our new policy should convey a sense that U.S. foreign policy as a whole is a positive force for freedom and decency in the long run; without creating an inflated rhetoric that would increase demands for unnecessary short-term negative steps. If the positive dimension of our policy is convincing, it will help relieve the disproportionate pressure on specific short-term human rights problems that create difficulties for the United States.

We recommend that you adopt a two-track approach, positive as well as negative, to guide our public statements on human rights and our specific policy choices. On one track these are the positive policy requirements to work for individual freedom and decency (a clearer expression than human rights):

—Providing an example of the success of our principles by maintaining our world positions and a strong defense posture.

—Restoring America's reputation as a reliable partner for our friends, so as to maximize the influence of our quiet diplomacy.

—Promoting economic progress in the developing world to create a more stable environment for freedom and maintain a sense of progress.

—Increasing world understanding of democratic values and institutions.

—Taking the offensive against the Soviet bloc, pointing out their abuses of freedom and decency, to discourage the spread of their system.

—Expounding our beliefs and opposing the USSR through our strong role in UN bodies and CSCE (Tab 1b, c). This is central.

—Reinforcing international moral and legal standards whenever possible. We can help by responding strongly to outrages against our citizens and diplomats, and by undertaking a serious program against terrorism, one of the cruelest violations of human rights.

—These long-term elements of positive policy must be supported by an early package of positive initiatives (details at Tab 1), e.g., designating a reorganized HA as the coordinating point for guidance to ICA on the dissemination of our concept of freedom abroad.

On the other track, short-term policy is also necessary to respond to serious abuses. It should not undercut our positive effort. But the sense

that freedom and decency are moving forward in the world depends on there being a reaction to serious abuses.

Among the instruments we use on this track we *should stress traditional quiet diplomacy* and use it effectively. Only in this way can we avoid using public criticism when it is not necessary. In using policy instruments we should follow criteria outlined in Ambassador Stoessel's testimony (Tab 2). Just as these criteria should not apply only to our friends, *a human rights policy cannot be credible if it has impact only on pro-Soviet countries.*

DEALING WITH URGENT NEAR-TERM DEMANDS IN THE HUMAN RIGHTS AREA

Policy Management

Designating Judge Clark to head the Interagency Group on Human Rights and Foreign Assistance would give out policy credibility. *An Assistant Secretary of HA clearly committed to the aspirations of the Administration should be nominated quickly.* If HA is reduced or important functions put elsewhere, HA, rather than our new policy, will become the focus of attention; it would also become more difficult for HA to execute a balanced policy (positive as well as negative). Once HA has firm policy guidance, it can resume its role in policy.

Legal Obligations in Foreign Assistance (Summarized at Tab 3)

The Kennedy and Humphrey-Kennedy Amendments⁴ should be repealed. Since repeal of the general legislation would not be worth the cost, the Administration will continue to have obligations to act in certain ways where there is "a consistent pattern of gross violation" of human rights. *In most areas of assistance, the law also requires us more generally to "advance" or "promote" human rights.* In these areas the Executive is thus legally required, in deciding on aid, to give human rights considerations weight as part of an integrated assessment. If we appeared not to do so, we would build Congressional pressure to designate governments as gross and consistent violators and to pass country-specific legislation prohibiting aid to them.

Human Rights Considerations in Specific Areas

Military Assistance (including IMET) is an area in which there should be, consistent with the legislation, a presumption in favor of arms transfers to friends when they are needed and practicable with Congress. Reason: *here a miscalculated human rights policy runs the greatest risk of harming US security—and thus, in the long run, human rights.*

⁴ The Kennedy amendment and the Humphrey-Kennedy amendment banned the export of arms to Chile and Argentina, respectively.

We have not yet built up enough credibility with Congress to pursue the optimum course here. It would be counter-productive to propose military assistance in a few problem cases, such as Guatemala.⁵ The overall policy sketched here will eventually give us greater freedom in military assistance by making it clear that we are consistent and humane.

Crime Control Equipment (Tab 4), on the other hand, *should not be licensed in questionable cases*. In a number of cases we will need, as an exception, to license non-lethal crowd control equipment to a country if it is vital to our security (e.g., Iran 1978) and faces serious attack in the streets by forces antagonistic to us. Reason: Most crime control equipment is inexpensive and relatively easily obtained on the world market or manufactured locally. Thus, *we do not weaken our friends substantially by failing to license crime control equipment*. On the other hand, while licensing decisions have little positive value to human rights policy, *no other action we take in the human rights field is potentially such a powerful—and misleading—negative symbol*.

In *Bilateral Economic Assistance (and ESF)* decisions we must pay attention to human rights, especially where urgent security interests are not involved and aid does not directly serve basic human needs. But there are so many diverse kinds of economic assistance, and purposes it serves, that the role of human rights considerations will have to be decided on a case-by-case basis.

Multilateral Assistance: Votes on MDB Loans

Our primary criterion in voting should be to *motivate further improvement by voting yes where there has been substantial progress* in respect for freedom and decency. This implies that we should abstain or vote no if there is a serious and sustained retrogression. *Credibility of our policy also requires that we abstain or vote against friendly countries on human rights grounds if their conduct merits it*.

Reasoning: Votes on MDB Loans are essentially symbolic, but for the near term they are an important symbol of policy. *If we vote for every friendly country, regardless of their various human rights records, our policy will be misrepresented as a hypocritical cover for an anti-Soviet policy. Such a series of votes would contradict our earlier statements that we changed votes on Argentina, Chile, Uruguay and Paraguay because of improving conditions.*⁶ Moreover, *we are likely to vote against countries*

⁵ Reference is to the conflict between left-wing insurgents and the government of Fernando Lucas García.

⁶ For text of Bushnell's March 10 statement before the Subcommittee on Latin American Affairs of the House Foreign Affairs Committee, see Department of State *Bulletin*, April 1981, pp. 44–46.

such as Cuba. To avoid politicization of international organizations such as the MDBs, we must attribute such votes to financial/economic considerations or to human rights considerations. If we use the latter, *we will have to show how our votes are compatible with votes in favor of friendly countries that are accused of equally bad practices.*

Country Reports on Human Rights Practices should not be abridged or taken away from the State Department, where we can assure a realistic appreciation of how an inept presentation can harm our bilateral relationships. This Administration does *need to change* the Country Reports (Tab 5), including *consideration, where relevant, of the human rights orientation of guerrilla and terrorist groups opposing governments*—so that we do not lightly allow governments to be displaced by an opposition worse for freedom. Reasoning: the Country Reports are required by a law difficult to repeal: *it seems better to turn the legal requirement to a positive use.* The Country Reports can help the Administration define the terms of domestic debate over human rights policy.

Nine *International Human Rights Agreements before Congress* (Tab 6) mostly need careful restudy. We have already recommended approval of the Hostage Convention. We should prepare to give an early and vigorous push toward ratification of the Genocide Convention. Ambassador Kampelman judges this would yield major dividends.

RECOMMENDATIONS

That you approve the human rights policy summarized here, with implementing action to be monitored by the Deputy Secretary and approved by Action Memo to him.⁷

If you approve, that we be tasked to prepare a memorandum for the President on this policy.⁸

⁷ There is no indication of approval or disapproval of the recommendation.

⁸ There is no indication of approval or disapproval of the recommendation. In a December 22 memorandum to Haig, Clark stated: “The real stimulus to the deliberations that led up to the appointment of Elliott Abrams as Assistant Secretary of State for Human Rights was a memo from Wolfowitz and Eagleburger outlining the need for and the content of a new, clearer and more positive Reagan Administration policy on Human Rights.” (Department of State, Files of the Deputy Secretary of State—William P. Clark, 1981–1982, Lot 82D127, Memos to S, P, T, E, M, C, S/S—1981)

54. **Memorandum From the Deputy Secretary of State (Clark) and the Under Secretary of State for Management (Kennedy) to Secretary of State Haig¹**

Washington, October 26, 1981

SUBJECT

Reinvigoration of Human Rights Policy

PART I: *HUMAN RIGHTS POLICY*

Overall Political Goals

Human rights is at the core of our foreign policy, because it is central to America's conception of itself. This nation did not "develop." It was *created*, with specific political purposes in mind. It is true that as much as America invented "human rights," conceptions of liberty invented America. It follows that "human rights" isn't something we add on to our foreign policy, but is its very purpose: the defense and promotion of liberty in the world. This is *not* merely a rhetorical point: *We will never maintain wide public support for our foreign policy unless we can relate it to American ideals and to the defense of freedom.* Congressional belief that we have no consistent human rights policy threatens to disrupt important foreign policy initiatives, such as aid to El Salvador. In fact, human rights has been one of the main directions of domestic attack on the Administration's foreign policy.

East-West Relations and the Battle for Western Opinion

"Americans don't fight and die for a second car or fancy refrigerator. They will fight for ideas, for the idea of freedom."

Representative Millicent Fenwick

"Human Rights"—meaning political rights and civil liberties—gives us the best opportunity to convey what is ultimately at issue in our contest with the Soviet bloc. The fundamental difference between us is not in economic or social policy, but in our attitudes toward freedom. *Our ability to resist the Soviets around the world depends in part on our ability to draw this distinction and persuade others of it.*

Neutrality in Europe or Japan, or a sagging of spirit here at home, results in part from fear of Soviet military might and fear that we do not or will not have the power to resist. But—particularly in the younger generation—its cause lies even more in *relativism*, in a refusal to acknowledge the distinctions between them and us. Why arm, and

¹ Source: Department of State, Central Foreign Policy File, P820048-0941. Confidential. Printed from an unsigned copy.

why fight, if the two superpowers are morally equal? *Our human rights policy is at the center of our response, and its audience is not only at home but in Western Europe and Japan, and among electorates elsewhere.* We must continue to draw that central distinction in international politics—between free nations and those that are not free. *To fail at this will ultimately mean failure in staving off movement toward neutralism in many parts of the West.* That is why a credible US policy in this area is so vitally important. Our new policy should convey a sense that US foreign policy as a whole is a positive force for freedom and decency in the long run.

Two-track Policy

We recommend a two-track policy, positive as well as negative, to guide our rhetoric and our policy choices. On the *positive track we should take the offensive*:

—Expounding our beliefs and opposing the USSR in the UN, CSCE and other bodies;

—Hitting hard at abuses of freedom and decency by communist nations;

—Reinforcing international moral and legal standards whenever possible. (We can help by responding strongly to outrages against our citizens and diplomats and by undertaking a serious program against terrorism.)

—Restoring our reputation as a reliable partner for our friends, so as to maximize the influence of our quiet diplomacy.

On the *negative track, we must respond to serious abuses*. It is clear that human rights is not the largest element in bilateral relations. It must be balanced against US economic and security interests. It must take into account the pressures a regime is under and the nature of its enemies. We must be *honest* about this. We should not, if Pakistan or Argentina is abridging freedom, say it is not; we should instead say (if it is) that it *is* and that we regret it and oppose it. Then we can add that in the case in question, terrorism or revolution or US security interests, or whatever, are present and make a cutoff of aid or arms or relations a bad idea. We should note the words the Hippocratic oath addresses to would-be intervenors, “First do no harm.” It does not help human rights to replace a bad regime with a worse one, or a corrupt dictator with a zealous Communist politburo.

We have to be prepared to pay a price. In most *specific cases* taken alone, the need for good bilateral relations will seem to outweigh our broad concerns for freedom and decency. Nevertheless, it is a major error to subordinate these considerations in each case—because *taken together* these decisions will destroy our policy. They will therefore feed the view that we don’t care about violations of human rights and

will undercut our efforts to sway public opinion at home and abroad. *If we act as if offenses against freedom don't matter in countries friendly to us, no one will take seriously our words about Communist violations, and few abroad will take seriously our argument that our society (and our military effort) are dedicated to preserving freedom.*

In practice this means that we must, in the MDBs,² abstain or vote against friendly countries on human rights grounds if their conduct merits it, although we should also motivate further improvement by voting "yes" when there has been substantial progress. It also means that in highly controversial areas such as crime control equipment, we should not issue licenses in questionable cases. (While there will be exceptions, this is a political rather than a security issue: this equipment is readily available on the market and those who need it can get it, so that our decision will not hurt other nations' security but can powerfully undercut our human rights policy.

Dealing With The Soviets

We must also be prepared to give human rights considerations serious weight in our dealings with the Soviet Union. The Soviets are a special case, for they are the major threat to liberty in the world. Human rights *must* be central to our assault on them, if we are to rally Americans and foreigners to resist Soviet blandishments or fight Soviet aggression. But to be seen as serious we must raise human rights issues in our discussions with the Soviets. In forums such as the UN, we must address issues such as abuse of psychiatry and restrictions on emigration. With Soviet or Soviet-sponsored invasions (in Afghanistan and Kampuchea) under attack in the UN, with Poles demanding political freedom, with Soviet CW violations coming to light,³ now is the time to press the issue of Soviet human rights violations.

A human rights policy means trouble, for it means hard choices which may adversely affect certain bilateral relations. At the very least, we will have to speak honestly about our friends' human rights violations and justify any decision that other considerations (economic, military, etc.) are determinative. There is no escaping this without destroying the policy, for otherwise what would be left is simply coddling friends and criticizing foes. Despite the costs of such a real human rights policy, *it is worth doing and indeed it is essential.* We need not only a military response to the Soviets, which can reassure European and Asian allies and various friends around the world. We also need an ideological response, which reminds our citizens and theirs what the game is all about and why it is worth the effort. We aren't struggling for oil or

² Reference is to multilateral development banks.

³ Not further identified.

wheat or territory but for political liberty. The goal of human rights policy is to improve human rights performance whenever we sensibly can; and to demonstrate, by acting to defend liberty and speaking honestly about its enemies, that the difference between East and West is the crucial political distinction of our times.

**55. Memorandum From Secretary of State Haig to
President Reagan¹**

Washington, November 9, 1981

SUBJECT

Release of Soviet Dissidents

The CSCE meeting in Madrid could conclude this fall, if we can reach agreement on the mandate for a conference on military confidence-building measures in Europe (CDE), balanced by human rights provisions that go beyond the Helsinki Final Act of 1975.² This gives us an opportunity to try to get some people out of the USSR.³ Specifically, we should seek release of Shcharanskiy, the jailed Jewish dissident and Helsinki monitor, whose wife you met, and Sakharov, the exiled physicist who has been critical of the Soviet regime. If this proves impossible, we could settle for one or the other, or a larger number of lesser-known dissidents.

The incentive for the Soviets to agree to this is that we, in turn, would reduce somewhat our demands for language on human rights⁴ in the concluding document at Madrid. We would thus achieve “balance”:⁵ in part by the significant political—and humanitarian—symbolism of getting people released. We would meet Congressional concerns that we won’t get enough out of Madrid on human rights, and we would demonstrate that the Administration’s approach to human rights produces more results than rhetoric.

¹ Source: Department of State, Subject Files, Human Rights Files, 1981, Lot 82D273, Untitled. Secret.

² Reference is to the Helsinki Final Act of 1975, which stated: “Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion, or belief.”

³ Reagan underlined the two previous sentences.

⁴ Reagan underlined this sentence up to this point.

⁵ Reagan underlined the phrase: “We would thus achieve ‘balance’.”

I will raise this initially with Ambassador Dobrynin; then, if the Soviets agree to talk,⁶ Ambassador Max Kampelman will pursue it with his Soviet counterpart in Madrid.⁷ The discussions would be kept totally secret. While we will resist any Soviet effort to get a quid pro quo beyond the CSCE context, we will tell them that this gesture would improve the tone of our relationship.

This is a long shot, but well worth trying. I will of course keep you informed of any developments.

⁶ In a November 11 memorandum to Caldwell, McManaway attached a non-paper for Haig to present to Dobrynin on the release of Soviet dissidents, noting Andrei Sakharov and Shcharansky. (Library of Congress, Manuscript Division, Alexander Haig Papers, Department of State, Day File, November 11, 1981) In telegram 323753 to Bonn, December 8, the Department transmitted a message from Hartman that references a non-paper "stiffarm" from Dobrynin on Sakharov and Shcharanskiy. (Department of State, Central Foreign Policy File, D810581-0673)

⁷ Not found.

56. Memorandum From Secretary of State Haig to Multiple Recipients¹

Washington, January 21, 1982

SUBJECT

Human Rights Policy

I have asked Assistant Secretary Elliott Abrams to ensure that human rights and humanitarian affairs occupy a prominent place in the formulation and conduct of our foreign policy. Assistant Secretary Abrams and the HA Bureau will be working closely with all regional and functional bureaus. The promotion of political freedom should not be considered only as an afterthought. Rather, it should be integral to our work and we should give careful thought to means to advance this goal in our day-to-day diplomacy. Quiet diplomacy, public statements, and economic and security assistance policies should all be

¹ Source: Department of State, U/S for Political Affairs Michael Armacost Correspondence, 1969-1988, Lot 89D265, Human Rights 1982. Confidential. Sent to Stoessel, Rashish, Buckley, Kennedy, McFarlane, Crocker, Enders, Holdridge, Hormats, Eagleburger, Velote, Platt, Malone, Fischer, Burt, Wolfowitz, Robinson, and Perez.

given close scrutiny for the impact they can have on expanding civil liberties and political rights.

I count on you and HA to work together in this effort, and want you to instruct your staffs to pay close attention to these issues in discussions you and our Embassies have with foreign government officials here and abroad. I particularly want you to include background and talking points on these considerations, whenever relevant, in the briefing papers you do for me and department principals for our meetings with foreign officials. We must be sure to convey to these officials the continuing interest of Congress, the American people, and the Administration in the expansion of personal and political freedom.

Our preferred method of action is traditional diplomacy, especially as to friendly countries where public accusations can harm relations and therefore make it more difficult to achieve our human rights goals. Private communication can be more precise, and less offensive to feelings of national sovereignty, and can often be more effective. Public chastisement is a weapon in our arsenal as well, and will be used when appropriate, but diplomacy should be our usual tool. You and your staff should continue, wherever appropriate, to undertake vigorous diplomatic initiatives on human rights matters. Human rights abuses violate our fundamental principles and inevitably harm relations with the U.S. Your efforts to reduce these abuses, especially in friendly or neutral countries, will thus help lay the basis for better relations and will serve our mutual interests.

Many questions have been asked about the policy of the Administration in this area. In order to provide some guidance, I am attaching a memo² prepared for me and outlining our main concerns. I believe you will find it helpful.

Alexander M. Haig, Jr.

² Attached and printed in Document 54.

57. Telegram From the Mission to the United Nations to the Department of State¹

Geneva, March 17, 1982, 1628Z

3170. Subj: UN Human Rights Commission: Final US Delegation Report on 1982 Session.

1. (C—Entire text.)

2. Introduction: This message summarizes the work of the UN Human Rights Commission at its 38th Session, Feb. 1–March 12, 1982. It is descriptive in character; an evaluative summary will follow by March 31.² Dept please repeat as appropriate. End introduction.

3. Commission Officers and Agenda: It was the Eastern European group's turn for the Chairmanship and, as foreseen, they selected Ivan Garvalov of Bulgaria for the post. The Vice-Chairmen were Prof. Kooijmans (Netherlands), Amb. Salah-Bey (Algeria), and Amb. Pouyouros (Cyprus). Argentine Mission Counselor Daverede was chosen Rapporteur. The provisional agenda was adopted without debate, since the U.S. had decided on the basis of intensive consultations in capitals and in Geneva to raise the Polish issue³ under the following item (Organization of Work) rather than to seek inscription of a separate new agenda item on the topic.

4. Organization of Work (Poland: Phase One): The U.S. and Western countries brought the Polish issue to center stage on the second day through substantive statements by Canada and Denmark (the latter for the EC-10), and by the tabling of a draft decision expressing concern about violations in Poland, according priority to the Polish question under Item 12 (violations anywhere in the world), and requesting the Secretary General to prepare an initial report for consideration at the present session. Western statements on Poland and on the draft decision were frequently interrupted by the USSR and its friends on points of order, and Syria eventually moved adjournment of debate on the draft decision until Item 12. Overruling (and in some cases merely ignoring) procedural objections from Senegal, Brazil, and several Western delegations, Chairman Garvalov pushed the Syrian motion to a vote in which all WEOG delegations plus Japan, Argentina, Brazil and Uruguay refused to participate. Although its subsequent "adoption" by 11–0–14–14 (non-participation) meant that Poland was not formally given

¹ Source: Department of State, Central Foreign Policy File, D820142–0716. Confidential; Priority. Sent for information to Brussels. Sent to Paris and USUN.

² Not found.

³ Reference is to the December 13, 1981, declaration of martial law in Poland.

priority, USDel accomplished its initial objectives of focussing early attention on Poland while forging a strongly united Western position on the issue. Beyond that, we obtained priority anyway by tabling the Polish resolution before any other resolutions under Item 12. Had our draft decision come to a vote, winning votes were possibly available. But the procedural wrangles resulted in a dramatic, suspended meeting, much press attention, and building suspense for the rest of the session. The Bulgarian Chairman seemed to bend or ignore the rules and otherwise move lazily; the resulting bad publicity increased the pressure on him to be more conscious of his reputation—and the rules—late in the session. The USSR won the support of barely a quarter of the Commission's membership. The result demonstrated relative strengths and weaknesses.

5. Israeli-Occupied Territories: After the initial debate on Poland, the Commission settled into the time-honored ritual of belaboring Israel for alleged misdeeds in the occupied territories and also, this year, for its decision to annex the Golan Heights. The Commission adopted the usual two-part resolution (a) condemning Israeli policies and practices in the occupied territories and (b) condemning Israel's refusal to apply the fourth Geneva convention to the occupied territories. The vote was virtually identical to that in 1981: On Part A (32–3–7), the U.S. was again joined by Canada and Australia in voting no, and was alone in voting against Part B (41–1–0). The resolution condemning the decision to annex the Golan Heights was adopted 22–11 (WEOG minus Greece plus Japan and Fiji) –7. Peru and the Philippines refused to participate. Under the agenda item on self-determination, the Commission also adopted another resolution this year rejecting the Camp David Accords and endorsing the PLO. Although the final vote (24–8–10) fell only slightly below last year's tally (25–9–8), a separate vote on a paragraph rejecting the Camp David Accords was retained by only 17–12 (U.S.) –12. The vote last year on a similar paragraph was 21–11 (U.S.) –10.

6. Scientific and Technological Developments: Although the Eastern Bloc asked that this item be scheduled early in the session in order to serve its all-fronts disarmament campaign, Western delegations were able to focus much of the discussion on Soviet abuse of psychiatric confinement. USDel distributed to all delegations and main NGOs a package of materials on this subject.⁴ The Commission passed four resolutions under this agenda item (versus one last year). The first was similar to last year's, a Byelorussian text on the use of science and technology to ensure "the right to work and development." It passed 31–0–12 (WEOG, Japan, Philippines); last year's tally was 28–1 (UK

⁴ Not further identified.

-13. A resolution condemning the Israeli raid on Iraq's nuclear reactor was adopted 30-1 (U.S.) -11 (Japan, Costa Rica, Fiji, WEOG minus Greece). A Soviet disarmament resolution passed 32-0-11 (Japan, China, WEOG minus Greece) after having been substantially modified through negotiations. A UK resolution on protection of persons detained in psychiatric institutions and endorsing the Subcommission's ongoing work in this area was adopted by consensus.

7. Africa and Racial Discrimination: The four agenda items related to these subjects were again dealt with at length for four largely wasted days early in the session. The debate followed traditional and predictable lines, with no surprises. The Commission adopted five resolutions under this cluster of items. US was able to shift from no (1981) to abstention this year on the general resolution on violations in South Africa; however, we found ourselves alone in not supporting the text (adopted 41-0-1) because last year's five abstainers and two other negative votes went into the yes column this time. On Namibia, the vote (37-0-6) was almost identical with last year's tally; the same was true for the resolution on the Apartheid Convention (32-0-11) and the Decade Against Racism (34-0-8); the US abstained on the first two resolutions and did not participate in the vote on the decade. The vote on adverse consequences of assistance to South Africa was 32-4 (US, UK, FRG, France) -7 (other WEOS plus Japan).

8. Self-Determination: As was the case last year, the Commission adopted resolutions on Afghanistan, Kampuchea, the Western Sahara, and Southern Africa. All were basically similar to their predecessors, except that the last-named differed from its 1981 counterpart by omitting references to the Palestinians. Pakistan again took the lead on the Afghanistan resolution, which passed 32-7-4, closely approximating last year's tally of 31-8-3. The result on the Kampuchean resolution showed a similar trend (28-8-5 this time compared with 26-9-6 last year). The US voted for both resolutions. The Western Sahara resolution was adopted 27-3 (US) -13, as compared with 26-5-11 a year ago. The resolution on self-determination in Southern Africa passed 32-8 (US) -3, which differs from last year's tally only by the addition of one yes vote.

9. Right to Development: This issue, which stands near the top of the priority list for a substantial number of members of the Commission, was the subject of extended public discussion and intensive consultations, led by Senegal and France, to develop a consensus resolution. The effort very nearly succeeded (40-0-1 (US)), and the resulting text is a significant improvement over last year's version. Although the US was in the end instructed to call for a vote and abstain, our constructive attitude during the protracted consultations, as well as during the four weeks of Right to Development Working Group meetings over the past

year,⁵ was well received by many developing nations. Our abstention, although isolated, was also recognized by some as a positive move; on recent GA and HRC resolutions, where we have cast a (lone) negative vote. All US public comments were conciliatory, constructive.

10. The Subcommittee: The Commission adopted five resolutions related to the Subcommittee on Prevention of Discrimination and Protection of Minorities. The one which sparked the most interest was an Italian-Costa Rican resolution to direct the Subcommittee to prepare proposed terms of reference for a High Commissioner for Human Rights and to submit its recommendations to the next Commission Session. The idea arose from the Subcommittee's own strong display of interest in this approach last summer.⁶ The proposal was adopted 29 (US) –8–6 after the Commission narrowly approved (16–15 (US) –12) a set of Brazilian amendments which soften it in some minor respects but leave its essential elements intact. Once again, Greece deserted the West by supporting the amendments; a no vote, or even an abstention would have been decisive in our favor. The Commission also approved three resolutions submitted to it by the Subcommittee. A resolution to create a new Presessional Working Group on Indigenous Populations was adopted 35 (US) –0–7. A resolution on slavery and slavery-like practices (apartheid, prostitution, etc.) passed 34–0–9 after a separate vote approved (30–7 (US) –5) retention of a paragraph calling for mandatory economic sanctions against South Africa. A third resolution, on the publication of the SC's Report on Child Labor, was adopted without a vote. Finally, the Commission adopted an Australian-Byelorussian proposal reaffirming the SC's terms of reference and urging that special care be taken in cases where an alternate expert must be appointed. The latter provision is intended to discourage the practice of appointing permanent mission officers and other government officials as alternates for the elected members, who are, in principle, independent experts.

11. Poland: Adoption of a strong resolution on Poland, providing follow-up action by the Secretary-General, was the major US objective at this session. Intensive, US-led consultations within the Western Group began well before the Commission session opened and continued on a

⁵ In telegram 7549 from Geneva, July 27, 1981, USUN reported on the working group session held July 20–24. (Department of State, Central Foreign Policy File, D810349–0710) In telegram 12220 from Geneva, December 11, 1981, USUN reported on the working group session held from November 23 until December 4. (Department of State, Central Foreign Policy File, D810592–0702) In telegram 1567 from Geneva, February 9, 1982, USUN reported on the working group session held January 18–22. (Department of State, Central Foreign Policy File, D820071–1033)

⁶ In telegram 9068 from Geneva, September 11, 1981, USUN reported on a UNHRC vote on a measure urging the establishment of the post of High Commissioner for Human Rights. (Department of State, Central Foreign Policy File, D810427–0991)

daily basis throughout the entire period. These consultations, including repeated high-level *démarches* in capitals⁷ and soundings among selected non-Western delegations, produced a common Western draft resolution and strategy. Further intensive and sustained lobbying in non-Western capitals and among non-WEO delegations gradually increased the number of commitments to support our resolution. Repeated *démarches* in capitals helped to ensure against slippage; equally important, they enabled us to secure commitments of support against the expected Eastern procedural moves to prevent a decision on the resolution itself. When the crunch came on the night of March 10, it quickly became apparent that these extraordinary efforts had borne fruit: On the first vote, we defeated by 13–20–8 a Zambian motion to postpone action until next year. Subsequent procedural motions went our way by even larger margins. The final vote on the resolution almost exactly matched our expectations: 19 in favor, 13 opposed, and 10 abstentions, with 1 not participating. The Polish question clearly provided the main drama at this year's session; even when other topics were being discussed, the Polish issue remained in people's minds; we worked hard to keep it there. When we finally reached the hour of decision, the atmosphere in the packed hall was charged with anticipation. Because of our earlier efforts, we were confident of success. That we were able to reach a decision at all is due primarily and essentially to the intensive lobbying described above. In retrospect, we see that it was also critically important that ours was the first resolution tabled under this catch-all agenda item, and therefore had to be taken up before the dozen or so other controversial (and time-consuming) proposals submitted under it. This point is worth remembering for future top-priority initiatives; in the past, we and our allies have sometimes been too slow in tabling our proposals, with the result that we are forced into a damage-limiting posture, or, equally bad, that our initiatives are not even considered. Our clear-cut resolve precluded this happening in the case of the Polish resolution.

12. Disappearances: The debate on this item centered around the annual report of the UNHRC Working Group established two years ago to deal with the problem of enforced disappearances, and on the need to renew the WG's mandate for another year. The debate lacked the suspense of last year's discussion and the overall tone was much more moderate. A controversy erupted over whether the International Commission of Jurists could designate Emilio Mignone, the head of the ICJ's Argentine affiliate, as its spokesman. Argentine Ambassador

⁷ In telegram 22116 to multiple recipients, January 28, the Department transmitted the text of a *démarche* on the human rights situation in Poland. (Department of State, Central Foreign Policy File, D820047–0611)

Martinez objected, asserting that Mignone, a well-known human rights activist and former Undersecretary in Peron's government, was politically-biased against the GOA. In the end, most delegations agreed that an NGO's right to select its representatives should not be restricted, and Mignone was able to address the Commission. Later in the session, the Commission adopted by consensus a French resolution extending the Working Group's mandate for another year.

13. Chile: Although there is growing sentiment in Western delegations to eliminate the separate agenda item on Chile and include the question under the general item on human rights violations, this goal could not be reached this year. An Uruguayan amendment to this effect was defeated 13 (US) –22–7; a similar proposal by the FRG last year was rejected 12 (US) –19–12. The Commission then adopted, 28–6 (US) –8, a resolution very similar to last year's, once again extending the mandate of the public Special Rapporteur. The vote last year was 22–4 (US) –17.

14. Country-Specific Action by the Commission Under the Confidential Procedures: The Commission considered eight countries this year under the confidential procedures established by ECOSOC Resolution 1503. It decided to drop the cases concerning Paraguay (19 (US) –8–13), the Republic of Korea (30 (US) –7–4), and Venezuela (consensus). After a hard-fought battle, the Commission voted 22 (US) –12–11 to keep the GDR under review. The vote last year was 19 (US) –14–9, but it should be noted that a preceding vote, which tested the substance of the resolution, went our way by only one vote. On Afghanistan, the Commission voted 33 (US) –7–2 to keep the situation under review. In 1981, the resolution on Afghanistan was adopted without a vote, but only after the acceptance of amendments which tended to soften it. This year's resolution is couched in stronger terms. The Commission decided by consensus to keep Argentina, Uruguay, and Haiti under review. The resolution on Uruguay includes a clause looking toward possible discontinuation of the case next year. Inclusion of this provision made the resolution acceptable to the Uruguayan delegation. USDel contributed to this outcome.

15. Violations Anywhere in the World (Public Procedures): the Polish issue, discussed elsewhere in this message, clearly dominated the proceedings under this item. El Salvador was probably the second major topic. Given the General Assembly voting pattern of Commission members on the El Salvador issue, it seemed fairly clear from the outset that our efforts would have to be of a damage-limiting character. Our initial exploration of the possibility of a moderate, balanced resolution persuaded us that the prospects were dim at best, and that we should try instead to erode support for the expected condemnatory resolution. The Salvadoran Ambassador fully shared this view, and we worked

closely with him throughout the session. The results were mixed, leaving the final outcome (25–5 (US) –13) almost exactly the same as the GA pattern. The only significant shift was the FRG, which went from yes to abstain. The Salvadoran delegation expressed warm gratitude for our efforts. A strong resolution on Guatemala passed 29–2–12 (US), and a balanced text on Bolivia was adopted without a vote. On Iran, the Commission adopted (19 (US) –9–15) a strongly-worded resolution focussing on summary and arbitrary executions and on the plight of the Baha's. A highlight of the Commission's work under this agenda item was the report of Prince Sadruddin Aga Khan on human rights and mass exoduses; Prince Sadruddin's personal prestige, and the intellectual power and depth of his report, focussed special attention on the issue. (E.g., a separate speakers' list was opened for discussion of the topic.) A Canadian resolution providing for follow-up action was adopted by consensus. Another Canadian proposal, on the right to individuals and groups to promote human rights—designed to express moral support for Helsinki Monitors and similar groups—also passed by consensus. It goes beyond previous resolutions on this subject by requesting the Subcommission to prepare draft Principles for the Commission's 1984 Session. The Commission also adopted a Danish resolution deploring summary and arbitrary executions and providing for the appointment by the Chairman of the Commission of a Special Rapporteur to examine the question and prepare recommendations. Ethiopia cast the lone negative vote on the proposal; there were several abstentions. (Given the bias shown by the Bulgarian Chairman, attention will have to be paid to try to ensure that the Rapporteur will be of high caliber.) The Commission also adopted by consensus a resolution, similar to one last year, concerning UN-system assistance to Equatorial Guinea in rebuilding the institutional framework needed to effectively safeguard human rights.

16. Working Groups: The Commission's Working Group on the drafting of an international convention against torture registered some progress under its new Chairman, Herman Burgers (Netherlands). However, the fundamental issues of universal jurisdiction and of implementation still remain unresolved, in the former case because of Argentine obstructionism. If efforts are not made to bring Argentina around, it can be anticipated that next year's work on the convention will not be conclusive. As reported comprehensively septel, the WG drafting a Convention on the Rights of the Child also moved forward, albeit at a stately pace, with USDel again serving as WEOG spokesman and coordinator, with primary responsibility for drafting and negotiating numerous revisions and amendments to unsatisfactory Polish draft convention. The Working Group considering a draft Declaration on the Rights of Minorities, a Yugoslav project, was relatively less active

but did complete preamble. The fourth working group, on alternative approaches, forwarded several nuts-and-bolts proposals intended to improve the functioning of the Commission. They include the possible rescheduling of the sessions of the Subcommission and Commission to provide a more logical sequence of UN human rights meetings (e.g., Subcommission, Commission, ECOSOC, GA); establishing at the next HRC session an informal agenda group to “rationalize” (i.e., redraft the titles of) the agenda items for the succeeding session; considering the establishment of a time limit on statements (in order to avoid the lack of discipline which led to a lengthy series of late-night meetings this year); and examining the organization and functioning of open-ended working groups. The resolution also provides for continued consideration of the High Commissioner proposal, taking into account the work which is to be done by the Subcommission under the separate resolution on the subject.

17. *The Totalitarian Ideologies*: In the closing moments of the final substantive session, the Commission agreed to postpone until next year the consideration of any action under this item. In recent years, the Soviet Bloc has used this item as a propaganda vehicle to criticize Western countries for allegedly tolerating a resurgence of Nazism and Fascism. This year, the item fell into the oblivion of the end-of-session calendar and was not even debated. The East Bloc made a half-hearted attempt at the last minute on behalf of a draft which would have narrowed the scope of the resolution from totalitarianism to Nazism/Fascism, but withdrew in the face of Western opposition (principally from the Netherlands). The Netherlands also objected that the Eastern Bloc sponsors had made no effort to consult with Western countries on the text and had ignored language in previous resolutions on the item which was widely acceptable.

18. *Advisory Services*: This item, another perennial end-of-session footnote, received little attention again this year. However, the Commission approved by consensus a Ugandan resolution calling for UN-system human rights assistance to Uganda to help rebuild its judicial and related institutions.

19. *Alternative Approaches*: In addition to the aforementioned proposals by the working group on this subject, the Commission also adopted by consensus a resolution providing for the wide dissemination of the recently-adopted declaration on the elimination of religious intolerance.⁸ The US co-sponsored the resolution.

20. The USDel made a special effort this year to develop and maintain closer liaison with accredited NGOs. A series of meetings with

⁸ See footnote 5, Document 47.

them at the US Mission, a reception, and a luncheon strengthened and improved our relationships. The NGOs said they appreciated these efforts from our standpoint, we welcomed their important inputs of ideas and information. Further development of close relationships with human rights oriented NGOs is recommended. Some of them expressed interest in having meetings in Washington or New York prior to the start of next year's Commission session. We suggest Department and USUN bear this in mind when we begin next year to gear up for the Commission.

21. This summary is intended to be descriptive; an evaluative summary will follow from Washington by March 31 when US Reps Novak and Schifter and IO Officer Warren Hewitt return.

Swaebe

58. Papers Prepared in the Department of State¹

Washington, June 25, 1982

PAPERS FOR SHULTZ BRIEFING BOOK

1. Human Rights in the Administration's Foreign Policy.
2. Human Rights and the Communist Countries.
3. Human Rights and Latin America.
4. Human Rights and the Congress.
5. State Department Role in Granting Political Asylum.

¹ Source: Department of State, Subject Files, Human Rights Files, 1979-1981, Lot 92D165, Briefing Papers for Sec-designate Shultz June 82. No classification marking. Drafted by Levitsky and cleared by Abrams. Papers 1 and 2 are printed as attachments; 3, 4, and 5 are attached but not printed. All are undated.

Attachment

Paper Prepared in the Bureau of Human Rights and Humanitarian Affairs, Department of State²

Washington, undated

HUMAN RIGHTS IN THE ADMINISTRATION'S FOREIGN POLICY

This Administration took office with a determination to make foreign policy reflect the American concern for freedom throughout the world; at the same time there was a widespread feeling that Carter's human rights policy had actually hurt the interests of freedom. The evolution of a detailed Administration human rights policy embodying these perceptions took some time, and emerged in the Clark/Kennedy memo of November [October] 1981.³

The Reagan Administration has made it clear that *human rights is at the core of US foreign policy*, for the goal of our foreign policy is to preserve our liberty and the forces of liberty in the world. *Freedom is the issue that separates us from the Soviet bloc and that embodies America's claim on the imagination of people all over the world.*

Our human rights policy has two "tracks", the negative and the positive. The *negative track is embodied in legislation which prohibits aid to governments which are "gross and consistent" abusers of human rights*, and in the way we oppose (through act or word) human rights violations. The *positive track is a significant Reagan Administration innovation, in which we seek actively to help democracy.* The President's speech to Parliament⁴ noted our intention to study an "Institute for Democracy" modeled on the German Parties' foundations, and announced an *international conference on free elections* to be held here in the Fall. This positive track also includes use of ICA, working with Armenian foundations, and other initiatives.

Our human rights policy has two goals. First, *we seek to improve human rights practices in numerous countries—to eliminate torture or brutality, to secure religious freedom, to promote free elections, and the like. A foreign policy indifferent to these issues—if US influence could ameliorate conditions—would not appeal to the idealism of Americans, would appear amoral, and would lack public support.* Moreover, these are *pragmatic, not utopian, actions for the US.* Our most stable, reliable allies

² No classification marking. Drafted by Abrams on June 25.

³ See Document 54.

⁴ For full text of the speech before, see *Public Papers: Reagan*, 1982, Book I, pp. 742–748.

are democracies. Our reputation among the populace in important countries that are dictatorships will suffer if we come to be associated with repression rather than progress. Often the people whose rights we are defending are the national leaders of future years.

The Reagan Administration differs from the previous administration over the most effective tactics to achieve these pragmatic goals. *Our litmus test is effectiveness. With friendly countries, we use diplomacy, not public pronouncements.* We seek not to isolate them for their sins and thereby render ourselves ineffective, but to use our influence to effect desirable change. *Our goal is to achieve results, not to make self-satisfying but ineffective gestures.*

But the second goal of our human rights policy sometimes conflicts with this search for effectiveness: *we seek also a public association of the US with the cause of liberty. This is a pragmatic, not just idealistic goal: our ability to win European cooperation and defeat Soviet propaganda will be harmed if we seem indifferent to the fate of liberty.* Friendly governments are often susceptible to quiet diplomacy, and we therefore use it rather than public denunciations. *But if we never appear seriously concerned about human rights in friendly countries, our policy will seem one-sided and cynical.* Thus, while the Soviet bloc presents the most serious human rights problems, we cannot let it falsely appear that this is our only human rights concern. *So a human rights policy does inescapably mean trouble—for example, from friendly governments if we pressure them, or from Congress if we appear not to be doing so.* Yet a human rights policy embodies our deepest convictions about political life, and our interests: *the defense and expansion of liberty.*

Attachment

Paper Prepared in the Bureau of Human Rights and Humanitarian Affairs, Department of State⁵

Washington, undated

HUMAN RIGHTS AND THE COMMUNIST COUNTRIES

The greatest human rights problem in today's world is not Guatemala, Chile or South Africa but the repressive communist system and the international influence of the Soviet Union and its allies. It follows that the human rights problem in the Soviet bloc must be a major focus of U.S.

⁵ No classification marking. Drafted by Fairbanks and Levitsky on June 26; cleared by Abrams.

human rights efforts. *It is important to avoid the temptation of pushing for human rights improvements only where our influence is greatest, and not where the biggest problem lies—with the Soviet bloc.* Moreover, it follows that human rights policy must not systematically diminish U.S. strength or undermine the incentives of other countries to be a friend of the United States.

Domestic Aspects—Since a policy that appears to be based on pure power-politics will never win the sympathy of the American public, serious attention to human rights abuses in the Soviet bloc is a necessary part of any policy that intends to resist the expansion of Soviet power. Human rights abuses in Soviet-bloc countries are also the subject of particular concern by a number of important constituencies, particularly ethnic groups, such as Polish-Americans and Jews.

Methods—We have to combine private and public diplomacy in dealing with human rights abuses in Communist states. Because our diplomatic influence is limited, *public pressure (USG statements, CSCE, UN, etc.) is more important for communist states than elsewhere.*

Linkage—The President has stated that human rights will be on the agenda of every high level meeting with the Soviets. Linking human rights with improvements of bilateral relations with Communist states, particularly in the area of trade, has shown itself to be an effective tool for gaining improvements in countries like Romania and Hungary. In Poland, human rights linkage has undoubtedly acted as a brake against even more severe repression of Solidarity. Linkage can only be effective if it is used and timed carefully.

Prominent Issues

—*Freedom of emigration.* No communist state allows free emigration. Their citizens are allowed to leave only for “family reunification”. The Jackson-Vanik Amendment ties most-favored nation status to emigration. We have extended this status to Poland, Hungary, the PRC and Romania. We have the greatest problems with emigration from the USSR and Romania. Jewish emigration from the USSR is running at the lowest levels [*since 1970?*].

—*Civil and political rights.* The most prominent abuses are the imprisonment of virtually the entire Helsinki Monitoring Group,⁶ and the internal exile of Andrei Sakharov in the Soviet Union; the stifling of Solidarity in Poland; the repressive actions against Charter 77 in Czechoslovakia;⁷ systematic and pervasive oppression in Cuba and

⁶ Reference is to the Ukrainian Public Group to Promote the Implementation of the Helsinki Accords.

⁷ Reference is to the informal initiative in Czechoslovakia that criticized the government's record on human rights issues.

Vietnam; and a variety of individual cases of repression in Romania, Bulgaria and Yugoslavia.

—*Freedom of religion.* All religious denominations in communist countries are either tightly controlled or coopted by the regimes or suppressed outright. In Poland and Hungary religion has been allowed freer rein. Unregistered Baptists in the Soviet Union and Romania are creating growing problems for those regimes and are attracting greater attention in the West, while the Lithuanian Catholic Church continues to be repressed by the Soviet authorities.

Poland—*The repression in Poland that began in December 1981 was the most significant human rights event in this Administration's term, because it affected a whole nation that was gaining a significant measure of freedom, and not just a few people. Because Poland (together with CBW and Afghanistan) is one of the few issues that lend themselves to major use against the USSR in the contest for European and world opinion, it is important to keep alive international awareness that a massive violation of human rights is going on in Poland. The U.S. sanctions against the Polish government and the Soviet Union have kept the issue alive and given meaning to our statements of concern for human rights.*

Afghanistan—Massive human rights violations continue in Afghanistan as a result of the Soviet occupation. We do not have friendly influence with the Babrak Karmal government or the Soviet occupiers. So these responses are available to us: 1) *Actions that bring the Afghan struggle to the attention of the world;* 2) *Humanitarian aid to the Afghan refugees;* 3) *Military and humanitarian aid to the Afghan resistance.* In this category the concrete policy issue that confronts us is whether the level of our military and humanitarian aid is optional.

The Afghan human rights problem has created significant international sympathy for our side, particularly in Europe. But *the conflict in Afghanistan has thus far created far less concern than similar conflicts such as the Spanish Civil War or the Vietnam war. Afghanistan may have the potential to become a major cause into which international protest is channeled.* The policy issue facing us is whether the USG has any way of using its capacity to organize and draw attention to create greater world concern about Afghanistan.

59. Memorandum of Conversation¹

Washington, April 6, 1983, 4 p.m.

[Omitted here is information unrelated to human rights.]

It was therefore agreed that Secretary Shultz should call in Dobrynin this week to express our satisfaction with the Pentecostalist events² and to lay on the table four proposed courses of action:

1. Negotiation of a long-term grain agreement.
2. Conversations on arms control between Shultz and Dobrynin with Rowny present for START talks, Nitze for INF talks, and Abramowitz for MBFR talks. These would be probing discussions to see if any progress can be made at respective negotiation tables.
3. Probing discussions on regional issues (Afghanistan, Poland, Kampuchea, etc.) by Ambassador Hartman in Moscow.
4. Progress on our human rights agenda, particularly emigration of the remainder of the embassy Pentecostalists, Soviet Jewry emigration and Poland.³

[Omitted here is information unrelated to human rights.]

¹ Source: Department of State, Not for the System Documents, 1979–1989, Lot 92D630, Not for the System, April 1–15 1983. Secret. In the upper right-hand margin, an unknown hand wrote: “Original Carried to White House by the Secretary on 4/7/83.”

² The Soviet Government permitted the emigration of several of the Pentecostals who had approached the U.S. Embassy in Moscow in early 1983.

³ Memoranda of conversations between Shultz and Dobrynin regarding these four issues are scheduled for publication in *Foreign Relations, 1981–1988*, vol. IV, Soviet Union, January 1983–March 1985.

60. Action Memorandum From the Assistant Secretary of State for European and Eurasian Affairs (Burt), the Assistant Secretary of State for Human Rights and Humanitarian Affairs (Abrams), and the Coordinator of Refugee Affairs (Douglas) to Secretary of State Shultz¹

Washington, May 9, 1983

SUBJECT

Briefing Team on Soviet Jewry

Issue for Decision

Whether to intensify our efforts on behalf of Soviet Jewry including dispatch of a senior person to Europe, to enhance European Governments' awareness of the worsening situation for Soviet Jews, and to seek their support in making confidential approaches to the Soviet Union.

Essential Factors

Over the past several months, reports from the USSR have painted an increasingly gloomy picture of Soviet Jews' circumstances. The drop in emigration has been the most visible indicator, with 1982 the lowest year (2,700) since 1970, and the situation even worse thus far in 1983 (yearly projection is 1,100). Other manifestations of anti-Semitic phenomena are even more ominous, including "anti-Zionist" propaganda, an article in an Israeli paper by KGB-connected spokesman Viktor Louis² announcing the end of the emigration era, ethnic discrimination and repression of the Jewish cultural movement. Some American Jewish leaders have expressed fear of actual physical danger to Soviet Jews as the Soviet Government steadily moves to eliminate their contacts with the West. The American Jewish community is restless for some tangible action by this Administration to bring this situation to heightened international attention.

We believe that the current situation for Soviet Jews merits major additional USG efforts on their behalf, and that extensive activities should be adopted to enlist Western democracies in these efforts as well. While European governments have historically tended to limit

¹ Source: Department of State, Central Foreign Policy File, P830152-1883. Confidential. Drafted by Nesbit and cleared in EUR/SOV, EUR, HA, P, S/R, and IO. Krieger initialed for Douglas. Sent through Eagleburger. In the upper right-hand margin, an unknown hand wrote: "Memo to DCM on call to WJStoessel. A stamped notation on the memorandum indicates that Shultz saw it."

² In telegram 143458 to Moscow, May 24, the Department discussed statements regarding Jewish emigration, including the Louis article. (Department of State, Central Foreign Policy File, D830294-0950)

their human rights efforts to carefully modulated rhetoric, the gravity of the present potential danger to Soviet Jews may make them more sensitive to what should be our common concerns. To properly apprise the Europeans of the deteriorating situation in the USSR, of which our Government is much better informed than are theirs (thanks to our posts in the USSR, plus our contacts with the Israelis and the American Jewish community), and to urge them to make direct and if possible coordinated approaches to the Soviet Union, we propose to send a senior person to brief European governments—someone with sufficient prestige to have access to senior European leaders and officials. Our recommendation would be Walter Stoessel, who is widely known and respected in Europe, and who knows the situation in the Soviet Union. He would be assisted by one or two experts from the Department.

The team would travel to approximately ten countries of Europe. The mission should maintain a relatively low public profile, to impress upon the Europeans the seriousness of our purpose. If possible, this point could be emphasized by having you meet briefly and privately with Ambassador Stoessel before the team's departure.

At the same time, we would utilize existing multilateral fora, including the UN Human Rights Commission and the Madrid CSCE meeting, to emphasize the worsening situation of Soviet Jewry. And, assuming our official briefing team is well received, we could encourage a selected high level American-Jewish delegation to make follow-on visits to European capitals.

*RECOMMENDATIONS*³

1. That you approve intensification of USG efforts on behalf of Soviet Jewry, as outlined above.
2. That you approve the concept of a Department team to brief European governments on the present circumstances of Soviet Jews.
3. That you authorize our asking Ambassador Stoessel to serve in your name as team leader.
4. That you have a brief, unpublicized meeting with the team leader prior to departure.

³ Shultz approved all four options on May 12.

61. Memorandum From the President's Assistant for National Security Affairs (Clark) to President Reagan¹

Washington, June 13, 1983

SUBJECT

Ambassador Stoessel's Mission to Europe for Consultations on Soviet Human Rights Performance

Issue: Whether to designate Ambassador Stoessel's July trip to Europe for consultations on Soviet human rights performance as a Presidential mission.

Facts: In response to increased Soviet human rights violations, George Shultz decided to intensify our efforts to combat these illegal and inhumane Soviet actions by sending Ambassador Stoessel and Assistant Secretary Elliott Abrams on a special mission to eight European countries (Austria, Belgium, England, Federal Republic of Germany, France, Italy, the Netherlands and Spain) in early July.² The purpose of their visit is to consult and inform our European Allies of projected U.S. efforts on behalf of Soviet Jewry and other human rights issues.

In order to maximize the impact of Ambassador Stoessel's trip, State suggests that the trip be designated as a Presidential mission and that Ambassador Stoessel carry individual letters from you to the respective European heads of government. At Tab A is a draft letter outlining your concerns about the increased evidence of Soviet anti-semitism and repression of human rights. The text has been cleared by Speechwriters.

Discussion: I concur with State's recommendation and believe that Ambassador Stoessel's trip will provide us with a timely opportunity to enlist the help of our Allies in devising a common human rights policy.

RECOMMENDATION³

1. That you approve the designation of Ambassador Stoessel's trip to Europe as a Presidential mission.
2. That you approve the proposed text of a letter to be delivered by Ambassador Stoessel to Heads of State.

¹ Source: Reagan Library, European and Soviet Affairs Directorate, NSC: Records, Economic Summit, Human Rights (2 of 2). Confidential. Sent for action. Drafted by Dobriansky. A stamped notation on the memorandum reads "The President has seen."

² See Document 60.

³ Reagan checked and initialed the "OK" option for both recommendations.

Tab A**Draft Letter From President Reagan to Multiple Recipients⁴**

Washington, undated

Dear:

I have asked Ambassador Walter Stoessel to make a special trip to several countries in Europe to let you know of my concern about the human rights situation in the Soviet Union. The situation concerns me because of the importance I attach to the Helsinki Final Act commitments, because of the terrible costs that are being paid by individual human beings, and because our overall relationship with the Soviets is seriously affected by human rights violations. Our Western countries have been working hard to find ways of dealing with the Soviet Union that enhance the chances for peace. Arms control negotiations are naturally a major focus of this effort. But I am convinced that human rights must be another, and for that reason we give it a central role in our discussions with the Soviets.

In some cases our talks with the Soviets have made us hopeful that progress is possible. Yet, at the same time, Soviet performance on human rights has deteriorated badly in several specific areas; one manifestation of this is the drastic cutback in the number of Jews and other Soviet minority groups permitted to emigrate. There is also evidence that a renewed anti-Semitic campaign is underway. The current repression of human rights points to a decision to eliminate ties between the Soviet people and the outside world that are not under the complete control of the authorities. This includes jamming of Western broadcasts, cutbacks in international telephone service, harassment of Western tourists who seek contact with Soviet citizens and the continued campaign of arrest and imprisonment of Soviets who express ideas not in keeping with official policy. Andrei Sakharov's exile to Gorkiy, the elimination of his direct contact with the outside world, and the difficulties his wife has experienced in Moscow symbolize this intensified atmosphere of repression.

I have, therefore, asked Ambassador Stoessel to give you our thoughts and to hear yours on how we might most effectively deal with the Soviets on this vital issue. He has an especially distinguished record of professional involvement in Soviet affairs, and no one is

⁴ Confidential. In a June 18 memorandum to Hill, Kimmitt transmitted the text of a copy of a letter from Reagan to multiple heads of state regarding the Stoessel mission. (Department of State, Central Foreign Policy File, P830095–1934)

better qualified as an interlocutor. Ambassador Stoessel has my full confidence, and I know he will be worthy of yours.

Sincerely,

Ronald Reagan

62. Telegram From the Department of State to the Embassy in Greece¹

Washington, July 12, 1983, 2300Z

191589. Subject: Stoessel Mission on Soviet Human Rights Performance: Vatican Meeting. Madrid for Ambassador Kampelman.

1. C—Entire text

2. Summary: Ambassador Stoessel and Assistant Secretary Abrams presented US views on human rights situation in the Soviet Union to Vatican officials. Cardinal Casaroli said that the church agreed with US concerns and the need to continue raising these issues. Casaroli said the Helsinki process was particularly valuable. End summary.

3. Ambassador Stoessel and Assistant Secretary Abrams met July 6 with the Vatican Secretary of State Cardinal Casaroli and Under Secretary of the Council for Public Affairs of the Church, Archbishop Silvestrini, to explain US views on the Soviet human rights situation and seek the Vatican's ideas.

4. Ambassador Stoessel outlined the worsening human rights situation in the Soviet Union, particularly the plight of Jews and groups associated with monitoring the Helsinki Accords. He emphasized the President's concern with these developments and that pursuit of human rights issues is an important part of our policy toward the Soviet Union. Stoessel noted that our approaches to the Soviets on these questions might take various forms but that we considered human rights questions of paramount importance. Now that the Madrid CSCE meeting seemed to be coming to a conclusion, we would not stop raising these issues with the Soviets, but would keep a dialogue alive.

5. Cardinal Casaroli responded that the church agreed completely with the general US approach. He said that public pressure on the

¹ Source: Department of State, Soviet Union, 1958–1984, Lot 90D438, Stoessel Mission to Europe, 1983. Confidential. Drafted by Zebatto, cleared in EUR/SOV, and approved by Palmer. Telegram 191589 is repeat of telegram 15755 from Rome, July 15, 1983.

Soviets was not all bad, but that sometimes public pressure needed to be combined with private approaches to be most effective. Casaroli observed that approaches to the Soviets on these questions had to be tailored to the situation, and often involved several different tactics. Frequently, a private approach was more effective; in other cases combined public/private pressure seemed to work. The Cardinal said he agreed completely on the overall need to maintain a dialogue on these issues.

6. In this connection, Casaroli said that the Helsinki process had been most useful. He said he disagreed with those who opposed the process and felt that it was valuable to have some objective words for which the Eastern European “totalitarian regimes” must be accountable. The Marxist state’s view of man, he noted, considered the individual a part of a collective, devoid of any personal, individual dignity. This philosophy was directly opposed to the church’s view of man. For this reason, it was necessary to keep these regimes engaged on these issues. At the same time, Casaroli noted that when pressing human rights concerns in Eastern Europe it was necessary to keep our interests in proportion. Assuming our ultimate objective was the avoidance of war, which could be a tragedy for the planet, we had to be careful in raising the expectations of oppressed peoples. Poland, the Cardinal suggested, was a case in point. It was necessary to craft our approaches carefully to have a maximum impact without creating conditions which might contribute to an eruption—an eruption which the West probably would not be a position to support. Ambassador Stoessel agreed with the Cardinal’s observations and assured him that the US was cognizant of these factors and they formed part of our approach.

7. Ambassador Stoessel handed the Cardinal the President’s letter to the Pope,² expressing the hope that our consultations with the Vatican on human rights matters would continue. Cardinal Casaroli agreed that this would be useful. In an aside to Assistant Secretary Abrams on leaving, Monsignor Silvestrini said that the Vatican raised individual human rights cases with the Soviet Embassy in Rome but with rare success.

8. Ambassador Stoessel has cleared this message.

Planty unquote: Dam

Shultz

² See the attachment to Document 61.

63. Telegram From the Embassy in Spain to the Department of State¹

Madrid, July 11, 1983, 1359Z

7138. Subject: Madrid CSCE Amb. Stoessel's Luncheon Meeting With NATO CSCE Caucus. Ref: A) State 185396;² B) State 186240. Geneva for US INF from USDel CSCE.³

1. Confidential—Entire text.

2. Summary. Representatives of all the NATO CSCE countries were present at Saturday July 9 luncheon offered by Amb. Todman in honor of Amb. Stoessel and his party. Amb. Stoessel made general presentation along lines of ref A, emphasizing that the USG was very interested in learning the ideas of its NATO allies about how to keep the focus on human rights in the USSR after the Madrid CSCE meeting concluded. All of the NATO Representatives welcomed the opportunity to exchange ideas with the members of the Stoessel party and there was general agreement that further consultations would be desirable both bilaterally and multilaterally. Amb. Kampelman outlined a possible joint allied statement,⁴ immediately following the conclusion of Madrid, which would state the intention of the NATO countries to continue systematic consultations on CSCE human rights issues. Italian Amb. Bilancioni suggested an interrogatory letter to NATO governments proposing this course, and Amb. Kampelman suggested that this question might also be taken up at a NATO meeting in the near future, perhaps as early as next week (when Amb. Stoessel will be in Brussels). Much work remains to be done, but it appears that the caucus has accepted this course of action and will be consulting with their respective governments on next steps. For action requested, see comment in para 24. End summary.

3. Amb. Stoessel reviewed USG concerns over human rights situation in the Soviet Union and highlighted need to keep human rights on our agenda after the conclusion of the Madrid meeting. He pointed out that the U.S. has no magic formula for dealing with this matter. He welcomed the opportunity to exchange views with the members of the NATO caucus, which has, like the Madrid meeting itself, been an important forum for exchanging views on human rights issues.

¹ Source: Department of State, Soviet Union, 1958–1984, Lot 90D438, Stoessel Mission to Europe, 1983. Confidential; Priority. Sent for information to the CSCE Conference Collection. Sent to USUN and the mission in Geneva.

² Not found.

³ Not found.

⁴ Not further identified.

Although the Madrid meeting may be drawing to a close, he pointed out, we should not allow our interest in human rights to lapse.

4. Amb. Kastl (FRG) led the sequence of replies to Amb. Stoessel's opening remarks, emphasizing that everyone wants to preserve a network of fora in which to focus on human rights and human contacts. A major success of the Madrid meeting has been the opportunity it has presented to us to keep public opinion attuned to such issues and to highlight the provisions of the Helsinki Agreements and the commitments of 35 nations to live up to those agreements. There are other ways to do this, he added, noting in passing that Chancellor Kohl's party, the CDU, had actually opposed the Helsinki Final Act when it was signed in 1975 but now supports it. Most recently, he commented, the FRG has concentrated on emigration problems, especially those of ethnic Germans. He thought that blunt speaking at the Madrid meeting and to Soviet representatives in Moscow and elsewhere can be helpful in improving that situation.

5. Amb. Williams (UK) followed with two warnings about possible future problems. A) We should resist the Soviet line that movement in human rights can only come after progress in detente, rather than vice versa. The neutral and non-aligned countries have not yet understood this question and we need to attack the issue so that they will recognize it. B) The Western press is concentrating too much on the final stages of the negotiations in Madrid, i.e. the textual placement of the human contacts meeting. We should stress instead the fact that the HC meeting is actually going to take place, and to take place before the Vienna Review Conference. This is the icing on the cake represented by the rest of the draft concluding document. As Amb. Stoessel has pointed out, "we do have problems with our public opinion, with some believing that you can't have better emigration from the USSR while the U.S. is being beastly to the Soviet Union".

6. Amb. Rogers (Can) commented that he feared there might be a tendency for ministers who come to Madrid for the closing ceremonies not to speak much about implementation. This would be a mistake, since the situation is now worse in the USSR than it has been and getting worse in Poland. We need to focus on this fact rather than on the words in the document. Rechnagel (Denmark) indicated that in his view we already have a forum for pushing our views on human rights: The CSCE process. Moreover, we have improved this forum via the Madrid meeting by providing for regular follow-up meetings. The human rights and human contacts meetings are to take place and Vienna⁵ is expected to add others of the same type. There will also be

⁵ Reference is to the 1986–1989 CSCE meetings in Vienna.

bilateral human rights roundtables among many participants. Moreover, we can call attention to our spectacular victory on the human contacts meeting.

7. Bilancioni (Italy) commented that we have done a good job in Madrid even if the final document is incomplete and unclear. Above all, the document will be read in the East, much more than in the West. He asked whether the Stoessel mission had spoken at the Vatican about the Pope's visit to the Baltic States. Amb. Stoessel replied that the subject of Poland had been discussed with Cardinals Casaroli and Silvestrini.⁶ The Vatican, he continued, is still trying to evaluate the results of the Pope's trip to Poland,⁷ but they consider it in general to have been successful. They consider that the Pope encouraged the Polish people but order was maintained, which could be seen as a gain for the Polish Government. The Vatican thinks that further progress is possible but that a lifting of martial law would not mean the end of strict controls.

8. Greek Amb. Papadakis asked whether there was not another way to keep attention on human rights every day, via foundations for example. Amb. Stoessel responded that we need a combination of things. We can intensify our liaison with public groups dealing with the matter; we can enhance the coordination of official presentations we make to the Soviet Government (*démarches* on specific cases, replists, etc.); and we can look into ways to increase the role of our Embassies in Moscow, although they are already doing very fine work.

9. Amb. Curien (France) noted that we agree on the many ways our work here in Madrid will have an impact on the human rights situation. We cannot expect the walls to come tumbling down at the first trumpet call, however, reminding his colleagues that it took seven tries for that to work at Jericho. If we fail at Madrid, however, we will lose all those opportunities. In effect, he reasoned, we have to live with the Soviet Union and its various practices, but we must keep trying to improve them systematically.

10. Amb. Mevik (Norway) drew attention to a White Paper published by his government several years ago,⁸ which reported that progress in the human rights field was more likely in conditions of *détente*. While it was difficult to establish that link conclusively, there was one. He agreed with his Canadian colleague about our lack of enforcement measures. However, we have refined our instruments

⁶ See Document 62.

⁷ In June 1983, Pope John Paul II traveled to Poland and visited Solidarity leader Lech Walesa.

⁸ Not further identified.

here and, in his opinion, we have moved the Soviets on this. He recommended that human rights and human contacts be put on the agenda for all talks with Soviet leaders, stressing that we need to adopt an offensive but not an aggressive attitude.

11. Amb. Kampelman said he would try to concretize some of what had been said. As Amb. Curien had said, there is need to deal with the matter more systematically. We could not have moved as far as we have in Madrid without consultations among the 16 (NATO) and the 17 (NATO plus Ireland). We need not lose this system as Madrid ends, but should continue it. Bilateral meetings with the USSR are important and there should be no such meetings without attention to human rights. We should continue to develop consensus within the sixteen and seventeen. On the basis of continued caucus consultations, we should further develop our coordinating system among ourselves. Perhaps we should all designate a senior official to deal with human rights problems in the USSR and those officials might consult regularly among themselves several times a year.

12. In Amb. Kampelman's view, the West needs to plan and consult on these matters. Words will get lost without a system and we can start in Madrid. We can't just trumpet our success here at Madrid because the other reality exists and we must highlight its inadequacies. At the end of the Madrid meeting, he suggested, we could have a press conference announcing that our human rights concerns are not over as they have not been resolved. Accordingly, we intend to pursue a systematic method of consultation regarding this subject during the period between CSCE meetings. Amb. Kampelman continued that, in speaking of "we", he did not mean to prejudge the issue of who would be included in that group. Should we, for example, include countries such as Austria? Perhaps in such cases, it would be better to coordinate on an ad hoc basis.

13. Amb. Croin (Netherlands) spoke briefly to indicate that basically he agreed with everybody else. His minister, he noted, will not be too exuberant about the concluding document. His line is apt to be that the document is deficient but it has good points. Croin concluded that public opinion is very important.

14. Amb. Todman pointed to the intervals which are expected to occur between CSCE meetings. He realized that bilateral discussions were important but pointed out that multilateral meetings, such as the UN General Assembly, could also play a role. They could add to the moral pressure on the Soviet leaders, enhance public awareness of the problems and encourage public action. As did Amb. Croin, he emphasized the importance of public opinion in this area.

15. Norwegian Amb. Mevik took the floor again, this time to stress his view that we should avoid overemphasizing human rights at the

expense of other CSCE elements. Without the participation of the Eastern European states there is no CSCE, he commented, and we must give them something so that they will go along with the CSCE process. As examples, he offered such items as economic cooperation and security matters. In his opinion, moreover, we should avoid making too direct links between progress in the various CSCE areas.

16. FRG Amb. Kastl suggested that it is not only states which can play a useful role on human rights. Young people are often more concerned about human rights in Central America than in the USSR or Eastern Europe. We should, therefore, get in touch with non-governmental organizations such as the Socialist International. This would show that our concern for human rights is not a cold war phenomenon.

17. UK Amb. Williams cautioned that we can't change things overnight in Eastern Europe. If the provisions of the Helsinki Final Act were actually carried out, the Soviet system would disappear overnight. We should understand the incremental nature of the process and try to get Soviet recognition of what is acceptable behavior. He noted, as an example, that the Soviets in Madrid no longer speak of "so-called human rights" but simply of human rights. Concluding, he asked that we not bad-mouth our real achievements here.

18. Danish Amb. Rechnagel seconded Kastl's remarks on the need to avoid the appearance that we have a selective human rights policy. He added that both legal and political means are necessary to pursue an effective policy in this area.

19. Italian Amb. Bilancioni suggested that his Budapest experience and that of Rechnagel argued that we insist on talking with the Eastern Europeans as well as the Soviets. This, in his opinion, could serve to widen the gap between them. He also agreed with Kastl about the importance of Latin America. Many European young people are closer socially and culturally to Central America than to the Soviet Union. Bilancioni added that with regard to "Max's statement" (para 11), he would be inclined to go even further and suggest that NATO caucus members agree on an interrogatory letter to be presented to their governments.⁹ The letter would propose that the NATO caucus call a press conference following the close of the Madrid meeting and declare its intention to continue regular consultations on the human rights aspects of CSCE.

20. Canadian Amb. Rogers, in connection with Bilancioni's suggestion (para 19), asked whether the regular meetings at NATO of Eastern European experts might not be a useful forum for discussion [of] human rights issues. Amb. Kampelman agreed, and seconded Bilancioni's sug-

⁹ Not further identified.

gestion for an interrogatory letter. He also suggested that the question of continued CSCE-related consultations on human rights matters be taken up at a NATO meeting in the near future, perhaps as early as next week. The participants at the luncheon meeting indicated their agreement to start taking the steps necessary to implement the Bilancioni and Kampelman suggestions.

21. Spanish DepRep Cuervo commented that his government understood the need to hammer away at human rights problems. Spaniards of his generation, he commented, had to strive for a long time before attaining their present democratic liberties.

22. Amb. Stoessel concluded the meeting by emphasizing again that his mission was an exploratory one and that we would be getting in touch bilaterally with the countries which he had not been able to visit on this trip.

23. In a conversation with Greek Amb. Papadakis after the luncheon, Amb. Stoessel handed him the non-paper (ref B), asking him to pass it on to his government. Noting the importance of the Greek role as EC President, Ambassador Stoessel told Papadakis that the USG would brief the Greek Government through the EPC channel on the results of the Stoessel mission. Papadakis in turn said his government would be in touch with the USG in the near future to establish consultation dates.

24. Comment: Much work remains to be done, but it does appear that the caucus had agreed in principle that an interrogatory letter should be done along the lines suggested by Rogers, Bilancioni and Amb. Kampelman. It will probably not be possible, however, to coordinate with respective governments before Amb. Stoessel's NATO meeting on July 13. Therefore, if this initiative is to be pursued vigorously, some follow-up may be desirable in Washington. If Department agrees, Stoessel party suggests that HA, EUR/SOV and EUR/RPM brief NATO embassies in Washington on results of NATO caucus meeting with Stoessel party. Purpose of briefing would be to emphasize USG support for continued systematic consultations on CSCE human rights questions following Madrid (whether it be in NATO, on an ad hoc basis, in the UN framework or bilaterally), and to express strong support for Amb. Kampelman's idea of a closing NATO caucus statement that systematic consultation on CSCE human rights matters, in particular Soviet and Eastern European performance, will continue after Madrid. End comment.

25. Amb. Stoessel reviewed and cleared this message before his departure from Madrid.

Killham

64. Telegram From the Embassy in the United Kingdom to the Department of State¹

London, July 13, 1983, 1525Z

14781. Subject: Consultations in Capitals on Soviet Human Rights—London Meetings. Ref: A) State 186240,² B) State 185396. Madrid also USDel CSCE.³

1. (Confidential entire text.)

2. Summary: British Government officials and members of Parliament expressed appreciation for the Stoessel mission and general agreement with its goals during London meetings on 12 July. The Stoessel party called briefly on Foreign Secretary Sir Geoffrey Howe, met at length with Parliamentary Under-Secretary of State Raymond Whitney and FCO staff, lunched with members of Parliament and FCO officials, and held meetings with European Parliament Human Rights Working Group Chairman Lord Nicholas Bethell, and with Soviet expert Prof. Peter Reddaway (London School of Economics). Highlights follow. Meetings with Professor Reddaway and Lord Bethell will be reported separately. End Summary.

3. Call on Foreign Secretary: After an overall presentation of US concerns, Ambassador Stoessel suggested continued consultations after the close of the Madrid CSCE meetings. Stoessel presented President Reagan's letter to Prime Minister Thatcher,⁴ then asked for British views of the reasons for worsened Soviet human rights behavior, and for suggestions on how the West could encourage improvement.

—Howe agreed that the situation regarding Soviet Jewish emigration had worsened during the past five years, but noted that the high levels of emigration achieved during détente constituted a somewhat anomalous interlude between periods of more "normal" low levels of emigration. FCO Soviet Department Head Broomfield added that although Soviet human rights practices had begun to worsen long before Andropov's accession as General Secretary, Andropov could still be regarded as the architect of the policy, part of an overall crackdown instituted during his term as KGB Chief. Abrams noted that the heightened anti-Semitic campaign had begun since Andropov's takeover.

¹ Source: Department of State, Soviet Union, 1958–1984, Lot 90D438, Stoessel Mission to Europe, 1983. Confidential; Immediate. Sent Immediate for information to USNATO. Sent for information to Bonn, The Hague, Madrid, Rome, Paris, Vienna, Brussels, Moscow, Leningrad, and USUN.

² Not found, but see footnote 2, Document 65.

³ Not found.

⁴ See the attachment to Document 61.

—In Broomfield's view, the Soviets regret having admitted the principle that a particular nationality group (such as Jews or Germans) could be allowed to emigrate to a national homeland outside the USSR. This set a troublesome precedent which they now wish to reverse. They will clamp down until the problem disappears, relenting only in particular cases where the political cost in Western public opinion is high.

—Howe felt the West should be able to get much more political mileage out of the Soviet human rights issue, particularly in Third World countries. He called the Stoessel initiative an important one, and hoped it would generate as many constructive ideas as possible.

4. Meeting with Parliamentary Under-Secretary Whitney: Stoessel presented the non-paper (ref A) and outlined its main features. He suggested strong statements by Ministers at the Madrid Concluding Sessions, calling for continued consultations on Soviet human rights violations. He also raised the possibility of a NATO caucus statement registering the progress made at Madrid, and calling for future consultations, but noted that there were pros and cons to this idea and that the Germans favored separate statements.

—Whitney welcomed the opportunity afforded by the Stoessel mission to exchange ideas. He voiced UK support for United States goals. HMG uses every opportunity, in meetings with the Soviets, to press on this issue. The UK advises the Soviets that those members of the British public to whom the USSR tries to present itself as a peace-loving nation are unconvinced of Soviet sincerity, due to human rights violations. HMG presents lists of human rights cases to the Soviets. British Embassy officials visit Soviet synagogues and churches, and meet with dissidents. Prime Minister Thatcher intends to meet with Avital Shcharanskiy later this week.⁵

—Madrid Ministerial Statements: Whitney agreed with the German view that separate but coordinated statements by ministers would be more appropriate than a joint NATO statement.⁶ They would have a greater impact than a single, necessarily watered-down, statement agreed upon by all. The large body of Madrid-generated material available at NATO could be drawn upon in drafting ministers' remarks. Whitney did not expect great variations in Western governments' views. The UK saw Madrid as a modest achievement, not a major breakthrough. Others might express dissatisfaction with the lack of

⁵ An unknown hand placed a question mark and bracket in the left-hand margin of the two previous sentences.

⁶ In telegram 9506 from Madrid, September 9, the Embassy transmitted the text of several individual ministerial concluding statements but no joint statement. (Department of State, Central Foreign Policy File, D830520–0003)

concrete improvements, especially since 1979, and a wish that more had been achieved.

—Public Information on CSCE: Broomfield called for advance coordination to harmonize the substance of public remarks, while leaving room for individual variations in tone. Abrams stressed the need to properly prepare the press for a Western “show of unity” at the conclusion of the conference.

—Stoessel stated the need to bring Soviet human rights problems more into the public eye via the media. Abrams called for improved appeals to Western peace activists on this theme. Broomfield signaled FCO plans to publish CSCE results as a White Paper. Parliamentary debate on the paper would be initiated by the Foreign Secretary in a major speech which would focus public attention on the subject and set the tone.

—High-level Attendance at Madrid: Broomfield asked whether Secretary Shultz would attend the Madrid Concluding Session, noting that it would be a shame to leave the field to Gromyko, who had already stated he would be there. Stoessel said the Department had recommended his attendance, but a decision had not yet been made. Abrams noted that if Shultz did attend,⁷ a strong US statement should be expected, in order to take full advantage of the forum.

—Post-Madrid Consultations: Stoessel raised the possibility of using NATO experts meeting, an entirely new Ad Hoc Group, or possibly the UN Commission on Human Rights at Geneva, as ways to intensify post-Madrid consultations, recognizing that each forum had its unique shortcomings. Broomfield noted that the EC-10 East European Working Group already functioned as a forum for consultation which included the neutrals, as did the European Parliament at Strasbourg. “To put it crudely,” he said, there was a US problem, since the US was not included in these groups. The need now is to key in the US interest, as the US “cutting edge” is crucial for continued achievements in this area. NATO is an obvious forum. At Madrid, the neutrals and nonaligned have already formed a consultative body that could be an interlocutor for Western countries, either bilaterally or as a group via its chairman. Whitney expressed reluctance to see any new body created especially for the purpose of post-Madrid consultations, but offered to examine all alternatives.

—Broomfield stated that UK Madrid delegate Williams would be instructed to submit recommendations on the best means of continued consultation, and urged that Ambassador Kampelman be asked to do

⁷ Shultz visited Madrid September 7–9 and attended the Final Session of the CSCE Follow-up Meeting.

the same. We should tap their experience of the past two and one-half years.

—Closing the meeting, Whitney said HMG would study the US non-paper with great interest, and would remain in touch.

5. Luncheon with Parliamentarians and FCO Officials: Seven British parliamentarians who are especially active on the issue of Soviet human rights abuses welcomed the Stoessel mission (with acerbic comments by some MP's on what they saw as FCO's lack of enthusiasm in this area) and offered a number of suggestions on tactics. Among them:

—Study more thoroughly the underlying reasons for Soviet behavior, so as to achieve more influence over it.

—Persuade the Soviets that their interests suffer more from continued human rights abuses than they would from more liberal policies. Use ridicule where appropriate.

—Mobilize left-wing Western opinion and Third World (especially Indian) opinion, both of which (in the view of one participant) would be more influential on Soviet policy than Western governmental initiatives.

—To maintain Western credibility, apply the same human rights criteria to all countries.

—Use economic incentives to encourage human rights improvements.

—FCO Assistant Under-Secretary and former Ambassador to Poland Kenneth James called for a more extensive high-level dialogue with the Soviets to gain a deeper understanding of their thinking, combined with a high level of public pressure on human rights questions. He felt that potential political costs had successfully kept the Soviets out of Poland—and thus preserved a greater degree of freedom for the Poles than would have been the case otherwise. The West did have cards to play and should use them.

6. This cable was cleared by Ambassador Stoessel.

Louis

65. Information Memorandum From the Assistant Secretary of State for European and Eurasian Affairs (Burt) to Secretary of State Shultz¹

Washington, August 2, 1983

SUBJECT

Stoessel Mission Results, Follow-up and Prospects

Results

Ambassador Stoessel's July 4–14 mission to European capitals was largely successful in achieving its primary aims, which were to:

—make our friends and Allies aware of the strong concerns of the President and the USG about the deteriorating Soviet human rights situation; and

—achieve agreement in principle on continuing consultations on Soviet human rights matters after Madrid, with a view toward increasing all our efforts to encourage better Soviet human rights performance.

Allied Responses: The Allies have promised at NATO to get back to us with detailed responses to the ideas we presented in our non-paper (Tab A),² and we expect to have soon more general responses from heads of government to the President's letter.³ (We have already received positive responses from Kohl and Fanfani.)⁴ The Allies have also agreed to coordinate statements on human rights matters at the close of the Madrid meeting, and to increase NATO activities and consultations on Soviet human rights issues following the close of Madrid. These represent modest steps to transfer as much human rights work as possible from the CSCE NATO caucus to NATO itself when CSCE human rights meetings are not in session, and to use NATO more effectively to coordinate Allied positions and actions on human rights issues.

¹ Source: Department of State, Soviet Union, 1958–1984, Lot 90D438, Stoessel Mission to Europe, 1983. Confidential. Drafted by Schumaker on August 1 and cleared in EUR/SOV, EUR, HA, C, EUR/RPM, and P.

² Undated, attached but not printed.

³ See the attachment to Document 61.

⁴ In telegram 213215 to Bonn, July 29, the Department transmitted the text of Kohl's July 27 letter, which stated that West German leaders had discussed the issue of Jewish immigration with the Soviets. (Department of State, Central Foreign Policy File, D830436–0560) In telegram 16099 from Rome, July 12, the Embassy transmitted the text of Fanfani's letter, which expressed support for American human rights policies. (Department of State, Central Foreign Policy File, D830429–0604) In telegram 193915 to Athens, the Department provided a summary of Stoessel's meeting with Fanfani. (Department of State, Central Foreign Policy File, D830397–0348)

Neutral Responses: The Stoessel mission also found strong interest among the two neutrals visited (Austria and the Vatican) in bilateral consultations on Soviet and Eastern European human rights matters. Bilateral consultations with Austria, the Vatican and others promise to form a useful adjunct to our consultations in NATO, and among other things will serve as a means of communicating agreed NATO positions to others.

Follow-up

In the near term, we are pursuing five major courses of action.

First, we are planning to follow up Ambassador Stoessel's initial round of consultations with an expanded series of consultations which will include many countries we had to leave off the July 4–14 trip due to time constraints. Assistant Secretary Abrams plans to go to Canada in mid-September,⁵ and we are tentatively considering asking Ambassador Stoessel to undertake another mission to Europe, this time to Switzerland, Greece, Sweden, Ireland, Denmark, Norway, Finland, and perhaps a second stop at NATO Headquarters. We will also be following up at a lower level with the Japanese, since they are a party to Western Embassy human rights discussions in Moscow.

Second, we will be working with the Allies to explore the possibilities for both public and private approaches on human rights. Publicly, Max Kampelman is working with the Allies to arrange a joint press conference by the 16 NATO Heads of Delegation at the closing ceremonies in Madrid at which they would emphasize their commitment to continuing to focus on human rights post-Madrid.⁶ Privately, we want to urge the Europeans to raise human rights performance issues when they see the Soviets at Madrid, at the UNGA and in other bilateral meetings. This is a point you can reinforce with the Allied ministers at the September 8 breakfast in Madrid.⁷

Together these efforts would put the Soviets on notice that although Madrid is over, the Allies' concern about abysmal Soviet human rights performance is not. We will advise you of the results of our consulta-

⁵ In telegram 8001 from Ottawa, October 26, the Embassy provided a summary of Abrams's discussions with the Canadians. (Reagan Library, European and Soviet Affairs Directorate, NSC: Records, USSR—Human Rights/Stoessel Mission [2]) In an October 11 letter to Trudeau, Reagan wrote: "I have asked Assistant Secretary Elliott Abrams to make a special trip to Canada to let you know of my continuing strong concern about the human rights situation in the Soviet Union, and to extend my thanks for the splendid assistance which the Government of Canada has already given in helping us to carry this message of concern to our European friends and allies." (Ibid.)

⁶ Not further identified.

⁷ Telegram 9009 from Shultz's delegation in Madrid, September 7, transmitted Shultz's remarks at the September 6 breakfast. (Department of State, Central Foreign Policy File, D830516–0130)

tions with the allies on this point as preparations get underway for your meeting with Gromyko in Madrid.

Third, we will be consulting with Art Hartman in Moscow about the possibilities for upgrading Embassy human rights consultations to the Ambassadorial level, perhaps creating in Moscow an *ad hoc* committee of Allied Ambassadors which would meet quarterly to review Allied (and perhaps neutral) efforts to monitor Soviet human rights performance.

Fourth, we will be seeking to include CSCE human rights performance as an issue on the December NATO Ministerial agenda. This would be the first step in our efforts to preserve and expand the NATO caucus process. The ideas presented in our non-paper (Tab A) could serve as a basis for further discussions at the Ministerial.

Finally, beginning in early-September we will start holding meetings and human rights workshops with interested U.S. public groups (Jewish groups, scientific groups, American Psychiatric Association, Freedom House, Amnesty International, P.E.N.) to exchange views on the Soviet human rights situation, to facilitate public discussion in the U.S. of Soviet human rights abuses, and to encourage U.S. groups to work with European counterpart groups on Soviet human rights issues.

Prospects

This preliminary game plan gives us a very full plate of follow-up actions to pursue. It should not be expected that all of the proposed actions, particularly those within NATO, will be greeted with universal acclaim. However, the long run objective—to energize Allied and neutral governments and publics on Soviet human rights issues—is worth the effort. A successfully pursued strategy could eventually encourage increasing Western European aggressiveness in presenting human rights issues to the Soviets. This would, in turn, add to the political pressure on the Soviets to moderate their human rights abuses to the extent that they valued European opinion.

66. Briefing Memorandum From the Assistant Secretary of State for Human Rights and Humanitarian Affairs (Abrams) to Secretary of State Shultz¹

Washington, November 23, 1983

SUBJECT

Key Issues in Thinking About U.S. Human Rights Policy

Potential Advantages of a Human Rights Policy

—It can reduce suffering in certain specific cases.

—It can help explain to the public why our relationship with the Soviet bloc constitutes a permanent problem—why they are not like us and why there is no simple answer to getting along with them.

—Human rights policy can make visible what we have in common with our Western European and Japanese allies, transcending short-term irritations over trade and foreign policy issues.

—Finally, a human rights policy can tap the idealism of the American people and use it to reinforce effective foreign policy, reducing the temptation to isolationism.

Potential Dangers of a Human Rights Policy

—Such a policy if not carefully designed can harm bilateral relations.

—It can impede us in meeting security threats, as in El Salvador.

—Because existing legislation and public concern focuses on cases where the U.S. is giving assistance or otherwise involved, there is a real danger that human rights policy will harm friends, but leave enemies unaffected. There is a danger that we will be active not where the problems are most serious, but where we are already at work. Such a process would create a double standard by which similar human rights violations are treated much more severely in friendly countries than in communist countries. (A double standard is also possible in the other direction: to hit communist countries but ignore friends.)

—Finally, human rights policy can give opposition groups a means of destabilizing their own governments by provoking the withdrawal of American support.

¹ Source: Department of State, Central Foreign Policy File, P910037–2272. Confidential. Drafted by Fairbanks on November 22. Fairbanks initialed for Abrams. A stamped notation on the memorandum indicates that Shultz saw it.

Limits to Any Human Rights Policy

—For no country can human rights be our sole motive. This imperative must always be weighed with other U.S. concerns: security, the economy, etc.

—The internal practices of states are deeply ingrained, and therefore difficult to change from outside. Our experience in Vietnam and El Salvador has underlined this fact.

—Good human rights practices rest on many preconditions and traditions which United States foreign policy cannot create in the short run.

—Certain emergency situations almost inevitably result in human rights violations (civil war as in El Salvador, terrorism as in Argentina).

—For these reasons, no human rights policy can avoid frequent and tormenting dilemmas for policymakers: what to do about the Nuns' case in El Salvador, for example.

Options for Constructing a Human Rights Policy That Will Minimize Its Potential Disadvantages, and Maximize Its Potential Advantages

—One option is to do the minimum required by legislation and by public opinion. This option would evade some difficulties, but does not help with the double standard problem. In fact, it makes this problem worse, because the legislation and public concern disproportionately target friendly countries. This option frustrates, rather than utilizes, the idealism of the American people.

—Another option would focus our concern on "basic" human rights, such as freedom from murder or torture. Such a stance would have the advantage that this kind of human rights observance can be demanded nearly everywhere; such rights have fewer preconditions than things such as freedom of the press. This option has the drawback that it emphasizes some of the cases most difficult for our foreign policy, such as El Salvador. The kind of violations this option would concentrate on are often less common in communist countries, because they are no longer needed—the basic repression of the society has been accomplished at an earlier stage. Such totalitarian societies are not in fact better, but this option tends to exonerate them. Finally, both the foregoing options deal only with symptoms—with specific violations of human rights—and not with their causes.

—A third option is the two-track policy adopted by the Reagan Administration in October 1981,² which calls for us to respond to specific human rights violations in the short term, as during the Carter

² See Document 54.

Administration, but also to encourage the growth of democracy world-wide over the long term. Accordingly, this policy sees U.S. strength as useful to human rights policy. A further important element of this policy is to report and respond to human rights violations by opposition and guerrilla groups as well as those by governments. This policy is the root of the President's Westminister Speech, The National Endowment for Democracy, and similar efforts along this line.

Disadvantages: The non-democratic character of some important Third World allies, the impossibility of democracy in some places (e.g. Zaire), and the incomplete nature of our knowledge about how to encourage democracy.

Advantages: This policy correctly understands that specific human rights violations are not an accident; they are symptoms that flow from the underlying political order. Only democracy has proved to be a good guarantee of proper human rights practices. This policy also has the advantage that it takes off part of the pressure to react to human rights violations only in the short term—as in El Salvador—because short term reaction is not all we are doing. Such a policy thus makes it easier to explain apparent inconsistencies in our short term human rights responses.

What Is Our Attitude Toward Existing Non-Democratic Regimes?

—We ought in time to be able to shape a situation like the one the USSR now enjoys: the USSR is able to work flexibly with non-communist regimes in practice, but without giving up the long term encouragement of communist regimes.

—Throughout the world's nations different categories of human rights violations are combined in many different ways. In the Philippines, for example, there are political killings, but also considerable freedom to oppose the government; in China there are very few killings, but no freedom to oppose the government. Our attitudes thus must be determined on a case by case basis.

—In determining our attitude, we will need to raise the following questions: What is the likeliest alternative to a regime? Is it in transition toward democracy? How great are our security interests? (The alliances of the democracies with Stalin and, after Stresa in 1935, with Mussolini against Hitler show the power of security interests, but also their limitations in democratic societies.) How great is our power to change a system? Finally, how great is a regime's potential for internal change? (Grenada is the first communist regime to be displaced from power since 1919.)

Is the Totalitarian/Authoritarian Distinction a Useful Guide?

—Advantages: This distinction forces us to think about the result of political changes. It plausibly argues that "authoritarian" govern-

ments do not control the whole of society, and that they are usually forced in practice to resort to democratic codes of legitimacy, which may create an opening for democratization.

—Disadvantages: This is only one of a number of distinctions necessary to explain human rights behavior. It does not explain, for example, why the Idi Amin regime was as brutal as many totalitarian regimes. The distinction can be misinterpreted as implying that we are less opposed to authoritarian torture than to totalitarian torture. It should always be clear that we react to a given human rights violation with the same seriousness, regardless of its author; the distinction is useful only in *predicting* human rights behavior after a change of regime.

What Instruments Should We Use?

—We are obliged by law to use security assistance, economic assistance, MDB votes, crime control licensing, and the Human Rights Reports in certain circumstances. All recent administrations have also used some mix of private diplomacy and public comment on abuses.

—This administration has generally chosen to use private diplomacy more and public denunciation less, arguing that we should use the instrument most effective in a given case. Traditional diplomacy is obviously more useful where we have a friendly relationship, public statements where our best tool is the mobilization of world opinion—as often in the case of communist regimes. In most cases, it is probably necessary to have some mixture of traditional diplomacy and symbolic affirmation of the U.S. commitment to human rights.

Dealing With Charges of Inconsistency

—These necessarily arise, due to bureaucratic interests that put bilateral relations before everything, to the variety of conditions, to the variety of appropriate instruments, and to competing foreign policy priorities.

—To deal with this charge, must we be willing to show that we will inconvenience friendly, as well as communist, countries when necessary? Will it help to be honest when security considerations take priority, as with the PRC? It helps to emphasize that security or economic priorities which may compete in the short run will reinforce our human rights policy in the long run.

Attached are the Clark-Kennedy memo which set our current human rights policy, (Tab A),³ a more detailed memo partly used in

³ Tab A is attached and printed in Document 54.

developing it (Tab B),⁴ and the Country Reports introduction (Tab C),⁵ which was intended as an authoritative exposition of the intellectual background of this policy.

⁴ Tab B is attached and printed in Document 53.

⁵ Tab C, dated March 1983, is attached but not printed.

67. Action Memorandum From the Assistant Secretary of State for Human Rights and Humanitarian Affairs (Abrams), the Legal Adviser of the Department of State (Robinson), the Coordinator of Refugee Affairs (Douglas), and the Assistant Secretary of State for International Organization Affairs (Newell) to Secretary of State Shultz¹

Washington, November 30, 1983

SUBJECT

Convention on the Prevention and Punishment of the Crime of Genocide

ISSUE FOR DECISION

What position you should recommend to the White House on the Genocide Convention. (Tab 1)²

ESSENTIAL FACTORS

The Genocide Convention defines the act of genocide, confirms that it is a crime under international law which may be prosecuted in an international penal tribunal, obliges States Parties to enact legislation to make genocide a crime under national law, and specifies that genocide shall not be considered a political offense for the purpose of extradition. The Convention also provides that disputes relating to its interpretation, application or fulfillment shall be submitted to the International Court of Justice.

¹ Source: Department of State, Assistant Secretary Files—Elliott Abrams Subject and CHRON Files, 1981–1987, Lot 89D184, Correspondence: March 1984. Confidential. Drafted by Surena and Burke on November 23 and cleared in L and H. Sent through Dam. A stamped notation on the memorandum indicates that Shultz saw it.

² Not attached. See *United Nations Treaty Series*, "Convention on the Prevention and Punishment of the Crime of Genocide," vol. 278, p. 1951 (accessed online).

President Truman sent the Convention to the Senate for its advice and consent to ratification in 1949 and it has remained pending in the Senate ever since. More recently Presidents Nixon, Ford and Carter endorsed the Convention. On several occasions, the Senate Foreign Relations Committee has favorably reported out the Convention,³ but the Senate has not given its advice and consent to ratification of the treaty for a number of reasons including: the initial American Bar Association (ABA) opposition (although the ABA has supported adherence since 1976), initial Senate doubt whether genocide was a proper subject of the treaty making power, and the strenuous opposition of many conservatives on constitutional and other grounds.

The Genocide Convention has been under Departmental review since the beginning of this Administration, and it has become increasingly difficult to continue to claim that it is still under study. After having reviewed the legal and policy issues related to the Convention, all bureaus agree that we should *not* recommend against its ratification. However, the issue remains whether and on what basis the Administration should endorse its ratification. Informal soundings by HA indicate that the White House would expect the Department to take the lead in managing the Administration's posture with the Senate.

We will prepare a memorandum to the President based on the option which you select.

ANALYSIS OF OPTIONS

Option 1: Administration Support for the Convention and Proposal of Two Reservations

HA, IO, S/R and H believe that the Senate will not give its advice and consent to ratification of the Genocide Convention without reservations. On the other hand, based on HA's preliminary soundings on the Hill, HA, IO, S/R and H believe that the Senate could give its advice and consent if the Administration supports two specific reservations dealing with extradition and the International Court of Justice, respectively. (Tab 2)⁴

HA, IO, S/R and H also believe that if the Administration proposes these two reservations, obtaining Senate advice and consent will only require moderate involvement by the President and high level Department officials because many conservatives among the President's supporters (although not Senators Helms and Thurmond) who oppose the

³ The Senate Foreign Relations Committee reported out the Convention in 1970, 1971, 1973, 1976, and 1978.

⁴ Not found.

Convention may well be mollified by the reservations. HA's soundings also indicate that traditional supporters of the Convention would have little difficulty with the proposed reservations.

In the Convention's long history, a number of objections to it have been raised in the Senate, in addition to the extradition and ICJ questions addressed by the two proposed reservations. In L's view, shared by the Department of Justice, the legal and constitutional issues raised in the past have not been well-founded; nevertheless, they may resurface. We intend to try to deflect them by proposing reservations which would demonstrate our willingness to anticipate and deal sensibly with concerns on extradition and the ICJ that have previously been raised.

Option 2: Administration Support for the Convention Without Proposing Reservations

Given the large number of objections to the Convention that have been raised in the past, it may be advisable for the Administration not to propose reservations at the time it expresses support for the Convention. Instead, the Administration, while supporting ratification of the Convention, could note that a number of objections have been raised about the Convention and could express a serious intent to give full consideration to any reservations that members of the Senate may consider necessary in order to give their advice and consent. By demonstrating recognition of the need to accommodate their views, this approach might blunt some negative reactions from the President's supporters who now oppose the Convention, although it might also be interpreted as an invitation to critics of the Convention to deluge it with reservations. Nonetheless, this approach could be portrayed to supporters as a serious effort to secure ratification as opposed to the sort of posturing in which past Administrations have engaged. In addition, it would allow the President and high ranking Department officers more flexibility in deciding how visible they would be in the process.

Option 3: Maintain the Status Quo

From time to time, the White House and the Department receive inquiries from members of Congress and the public concerning our stance on the Convention. H notes that despite occasional inquiries, there is no noticeable Congressional pressure for ratification. In addition, each January, the Senate Foreign Relations Committee requests an official statement of the Administration's views on each treaty still pending with the Senate. In each case, this Administration has replied that the Convention and other "human rights" treaties are "under review." Maintenance of this posture is increasingly awkward, although it does avoid potential conflict with Administration supporters who have opposed the Convention and would not be mollified by reservations.

Bureau Views:

HA and IO strongly support Option 1 because they believe that indicating support for the Convention without putting forward specific reservations would not be successful either in blunting conservative opposition or obtaining Senate advice and consent to the Convention. S/R and L would support either Option 1 or Option 2. H sees no compelling Congressional reason to alter the Administration's stance with respect to the Convention. However, if for other than Congressional reasons the Department wishes to go forward, H supports Option 1.

RECOMMENDATIONS

That you recommend to the White House:

Option 1: Administration support of the Convention and the proposal of two reservations.⁵

Option 2: Administration support of the Convention without proposing reservations.

Option 3: Maintain the status quo.

⁵ Shultz approved option 1 on December 5.

68. Memorandum of Conversation¹

Stockholm, January 18, 1984

HUMAN RIGHTS extracts from Secretary's Stockholm Meeting with Gromyko, January 18, 1984.

Gromyko said that he had not consented to all the specific issues mentioned by the Secretary, but, as he had said, the two broad areas for discussion would be the international situation and bilateral relations. He thought that, as he had told Dobrynin, this was the direction in which the discussions should go. He noted that the Secretary had named a number of other items, among them, for example, human rights. Since the Secretary had named this matter, he would tell him at the very outset of their discussion that he did not intend to discuss

¹ Source: Department of State, Soviet Union, 1958–1984, Lot 90D438, Shultz-Gromyko Stockholm Jan 18, 1984. Secret; Sensitive.

any such topic. Of course, the Secretary could talk about it if he insisted, but Gromyko would not enter into discussion of this item.

The Secretary said that of course it would be up to Gromyko whether he would wish to respond to something the Secretary would say. That was Gromyko's privilege. But the Secretary said that he must make some comments.

Gromyko repeated that he would tell the Secretary at the very outset that he would not enter into discussion of this topic. The two of them already had some experience when one side does not wish to discuss some specific issue. He would only say again that he would not discuss this item because the Soviet Union would not allow anyone to interfere in its internal affairs. To raise this issue would therefore be an evident waste of time. Surely it would be too much of a luxury for foreign ministers to lose time on that sort of item. As for himself he had no wish to lose time. As for the Secretary, he could of course do so, but without Gromyko's participation. He would suggest that the Secretary feel free to speak on the two items named, i.e. the international situation and bilateral issues. Or, if the Secretary preferred, Gromyko would lead off and talk on our bilateral relations. He thought that neither of them would feel constrained and they would have enough room to exchange views, particularly about the Stockholm Conference. At the Conference the Secretary had expressed the views of the U.S. Administration and today Gromyko had expressed the views of the Soviet Government and the Soviet leadership. He thought it would not be superfluous if he said something in addition to what he had stated publicly.²

These were some of the comments the Secretary wanted to make with reference to the various forums in which the topics Gromyko had properly identified as matters of concern in our country and in the world would be discussed.

Gromyko said that first of all, he wanted to reply to one of the questions the Secretary had touched on at the beginning of their talk today. The Secretary had raised the question of human rights, blowing it out of all proportion. He would say that the Secretary was probably well aware of the Soviet appraisal of his entire position on this question. Gromyko was convinced that the U.S. position on this subject was entirely pervaded by falsehood, and that the U.S. was exploiting this matter for propaganda purposes. In essence, the Soviet position was more or less generally shared in the world, and it was that nowhere

² In telegram 1013 from Shultz's delegation in Stockholm, January 17, the delegation transmitted Shultz's January 16 arrival statement. (Department of State, Central Foreign Policy File, D840032–0332)

else were human rights violated so much as in some of the places in the Western hemisphere that were so dear to U.S. hearts, not to mention in the U.S. itself.

Gromyko said he would ask the Secretary not to ask him to be more precise; he could of course be more precise, but he did not believe he should waste time on this matter. If he were to talk on this subject he would only restate his assessment of the human rights situation as it existed in the United States. The Secretary had spoken of the importance of people moving across borders, the importance of reunifying families, etc., but he would simply point out that he did not know of a single instance where these matters had caused wars to break out. The Soviet Union was unshakeable in that position. He would not want to devote any time to the details of these matters.

The Secretary said he was surprised that it was Gromyko who had raised the subject of human rights. He was ready to discuss this topic and there were a few comments he wanted to make:

—First, the Secretary wanted to express his admiration for the Soviet Union for taking a decision on the Pentecostal families.³ The decision had been up to the Soviet Union, and it had been made. It showed that progress was possible.

—Second, he wanted to say that with reference to individual issues, President Reagan preferred a process of quiet diplomacy in this area.

—Third, he wanted to mention the cases of Shcharanskiy, Sakharov and Begun,⁴ as people of great interest to the United States.

—Further, he would also mention a subject we had discussed with the Soviets many times: the question of Jewish emigration from the Soviet Union and its radical decline in recent years.

—He also wanted to note that Edgar Bronfman, President of the World Jewish Congress, had made an arrangement to come to Moscow to discuss issues concerning Jews in the Soviet Union. The Secretary hoped that Gromyko would receive him and work with him.

—On a more traditional note, the Secretary recalled that at their earlier meeting in New York he, in the usual practice, had given the Soviet side a list of people who claimed U.S. citizenship under our laws, but had been refused permission to leave the Soviet Union. He would like Ambassador Hartman to provide Minister Korniyenko with an updated list of such cases, and also lists of persons seeking to join members of their families in the U.S. and of binational divided spouses.

³ The Soviet Government permitted the emigration of 15 additional Pentecostals in June 1983. See John F. Burns, "15 Pentecostals to Leave Soviet: 5 Spent 5 Years in U.S. Embassy," *New York Times*, June 27, 1983, p. A1.

⁴ Reference is to Soviet dissident Iosef Begun.

(Ambassador Hartman passed these lists to Korniyenko following the meeting.)⁵

⁵ Not found.

69. Information Memorandum From the Assistant Secretary of State for International Organization Affairs (Newell) to Acting Secretary of State Dam¹

Washington, January 31, 1984

SUBJECT

The 40th Annual Session of the UN Human Rights Commission

The 40th annual session of the UN Human Rights Commission will meet in Geneva February 6–March 16, 1984. The United States delegation will be headed by the United States Representative, Richard Schifter. A send-off meeting has been scheduled between the President and Mr. Schifter on February 2, the day of his departure for Geneva.

Unlike the UN General Assembly, where the human rights agenda continues to be highly selective in its concentration upon only a few Latin American countries, the agenda of the Human Rights Commission has in recent years taken on a broader focus. The Commission will continue its consideration of the human rights situations in the Israeli-occupied territories, South Africa, Chile, El Salvador and Guatemala; it will also examine the human rights situations in Afghanistan, Kampuchea, Poland and Iran. Our delegation has set for itself two major priorities, (a) the adoption of another resolution on the human rights situation in Poland calling for the preparation of a report by a Special Rapporteur, and (b) the approval of a balanced, factual resolution on the human rights situation in El Salvador which avoids the political extremes which have characterized the resolutions adopted at the last two Commission sessions.

¹ Source: Department of State, Central Foreign Policy File, D840090–0664. Confidential. Drafted by Hewitt on January 30 and cleared in HA/MA and IO. A stamped notation, dated February 6, on the memorandum reads: “Mr. Dam has seen.” Shultz was in El Salvador to meet with Magana.

Other issues which the United States delegation intends to highlight are psychiatric abuse in the USSR, the situation of minorities in the USSR, religious intolerance, and enforced or involuntary disappearances. Finally, our delegation will try to negotiate with the African delegations the text of a resolution on *apartheid* in South Africa which we can support.²

² The minutes of an April 12 Human Rights Subcommittee meeting contain a concise summary of the events at the 40th UNHRC including a resolution on apartheid in South Africa. (Department of State, Assistant Secretary Subject Files—Human Rights Country Files, 1984, Lot 86D221, UNHRC—General 1984)

70. Memorandum From the President's Assistant for National Security Affairs (McFarlane) to President Reagan¹

Washington, July 12, 1984

SUBJECT

Ambassador Stoessel's Second Mission to Europe for Consultations on Soviet Human Rights Performance

Issue: To endorse Ambassador Stoessel's second mission to Europe for consultations on Soviet human rights performance.

Facts: In response to increased Soviet human rights violations, Secretary Shultz decided last year to intensify our efforts to combat these illegal and inhumane Soviet actions. As part of this initiative, in July 1983, Ambassador Stoessel led a three-man team which you designated as a Presidential Mission to eight European countries to consult and inform them of the projected U.S. efforts on behalf of Soviet Jewry and other human rights issues. As a continuation of these efforts, Ambassador Stoessel has agreed to return to Europe this July to revisit Bonn and Paris for follow-up discussions and to meet with officials in Switzerland and Denmark, who were not included in the 1983 trip.

¹ Source: Reagan Library, Executive Secretariat, NSC: Subject File, Human Rights (05/1984–07/1984). Confidential. Sent for action. Drafted by Dobriansky. A stamped notation on the memorandum reads: "The President has seen."

In order to maximize the impact of Ambassador Stoessel's trip, State recommends² that the trip be designated as a Presidential Mission, as was the first Stoessel mission, and that the Ambassador be authorized to carry individual letters from you to President of the Swiss Confederation Schlumpf and Danish Prime Minister Schluter. At Tabs A and B, respectively, are proposed letters for your signature outlining your concerns about the increased evidence of Soviet anti-semitism and repression of human rights.³ The text has been cleared by Speechwriters.

Discussion: I concur with State's recommendation and believe that Ambassador Stoessel's second mission to Europe will provide us with a useful follow-up to last year's consultations and a timely opportunity to enlist the help of the Swiss and the Danes in devising a common human rights policy.

RECOMMENDATION

1. That you approve the designation of Ambassador Stoessel's trip to Europe as a Presidential Mission.⁴
2. That you approve the proposed text of the attached letters to be delivered by Ambassador Stoessel.⁵

² In a July 3 memorandum to McFarlane, Hill forwarded the Department's recommendation of the second Stoessel mission to the NSC. (Department of State, Central Foreign Policy File, P840123–1695)

³ Tabs A and B are not attached. In telegram 208685 to Bern, Copenhagen, Bonn, and Paris, July 17, the Department transmitted the text of the Presidential letters. (Department of State, Central Foreign Policy File, D840455–0286)

⁴ Reagan checked and initialed the "OK" option.

⁵ Reagan checked and initialed the "OK" option.

71. Memorandum From the Executive Secretary of the Department of State (Hill) to the President's Assistant for National Security Affairs (McFarlane)¹

Washington, August 4, 1984

SUBJECT

Ambassador Stoessel's July 18–25 Mission to Europe

Ambassador Stoessel, accompanied by HA Deputy Assistant Secretary Gary Matthews and an officer from the Soviet Desk, recently completed the second round of his Presidential Mission to consult with friends and allies on Soviet human rights performance (the first mission took place July 4–14, 1983). This leg of the mission included visits to Switzerland, West Germany, Denmark and France. Ambassador Stoessel and his party were received at the Secretary-General or Political Director level, and were able to engage in extensive consultations² on the Soviet human rights situation and joint strategy for the upcoming CSCE meetings in Ottawa, Budapest and Bern.³

In general, all of Ambassador Stoessel's interlocutors agreed that the situation inside the Soviet Union had deteriorated significantly⁴ since his last series of consultations in 1983, although the French in particular seemed to be unaware of the extent to which matters had worsened.⁵ There was also general agreement that at this stage there was little outsiders could do to influence the overall course of events within the Soviet Union, though there were still limited possibilities for quiet diplomacy on specific cases. All felt it was important to keep the issue of Soviet human rights violations before the international public. Finally, all agreed that the West should work to prevent the Soviets from shifting the focus of upcoming CSCE human rights meetings in Ottawa, Budapest and Bern away from implementation questions and toward more theoretical and less controversial issues.

¹ Source: Reagan Library, Executive Secretariat, NSC: Subject File, Human Rights (08/1984–12/1984). Confidential. McKinley signed for Hill.

² See footnote 6, Document 70.

³ References are to the Budapest Cultural Forum of 1985 and the Bern Human Contacts Experts' Meeting of 1986, respectively.

⁴ In telegram 3114 from Moscow, March 15, the Embassy reported that Soviet emigration to Israel had reached its lowest level since 1970. (Department of State, Assistant Secretary Subject Files—Human Rights Country Files, 1984, Lot 86D220, SHUM—Soviet Union Jewish Emigration 1984)

⁵ In the left-hand margin, McFarlane highlighted this sentence.

New Ideas

Two new ideas emerged during Ambassador Stoessel's consultations. The first came from the Swiss, who said they were planning to propose at the Ottawa Human Rights Experts Meeting in May 1985 that the CSCE countries should form a "human rights mechanism" in each country, modeled fairly closely on the State Department's Bureau of Human Rights and Humanitarian Affairs, which would enable the CSCE countries to consult bilaterally and multilaterally on human rights issues of interest. We made the obvious points that the Warsaw Pact countries would be driven up the wall by this proposal, and that there was a reluctance on the part of many Western countries (notably the French) to establish new mechanisms of this type. However, we also agreed that the idea deserved a good deal more study, and encouraged the Swiss to pursue their investigations. MFA State Secretary Edouard Brunner will be in the United States in October, and will relay to us the results of further Swiss consideration of this issue.⁶

Second, French opposition deputies Francois Leotard and Michel Noir expressed to Ambassador Stoessel a strong interest in forming a legislative CSCE watch group in Paris, along the lines of the Joint Congressional CSCE Commission. Leotard and Noir, who met with Mrs. Bonner this March in Moscow shortly before the beginning of Dr. Sakharov's hunger strike,⁷ are committed to increasing international attention to Soviet human rights abuses. They were fascinated by Ambassador Stoessel's description of the way in which our CSCE Commission works, and will be coming to the United States at an appropriate time to consult with us and with Congressmen and Senators with the aim of establishing such a Commission in France.

Follow-up

In addition to the consultations referred to above, we will be conducting a continuing series of meetings with friends and allies, within the context of the Stoessel Mission and complementing our efforts in NATO, aimed at increasing Western unity at upcoming CSCE meetings. Max Kampelman will be journeying to several European countries this September as part of the second round of Stoessel Mission consultations. In addition, Elliott Abrams may go to Ireland on a separate trip this fall to take up Stoessel Mission themes. If there is sufficient reason

⁶ In telegram 293916 to Bern, October 3, the Department summarized Brunner's October 1 meeting with Dam. (Department of State, Central Foreign Policy File, D840629–0443)

⁷ Sakharov began a hunger strike on May 2. (Dusko Doder, "Sakharov's Condition During Hunger Strike Remains a Mystery," *Washington Post*, May 17, 1984, p. A33)

and a continuing demand from our friends for such consultations, we would also envisage a third Stoessel Mission for mid-1985.

Charles Hill

72. Memorandum From the Executive Secretary of the Department of State (Hill) to the President's Assistant for National Security Affairs (McFarlane)¹

Washington, August 22, 1984

SUBJECT

Genocide Convention

In recent months a variety of groups and individuals have written to the President or to senior staff members of the White House to urge Administration support for Senate ratification of the Genocide Convention. These have included a letter (dated April 12, 1984) to the President from Mr. Gerald Kraft, the President of B'nai B'rith,² and most recently a letter to you (dated August 2, 1984) from Professor John Norton Moore on behalf of the American Bar Association.³ Attached is a draft presidential statement supporting ratification of the Genocide Convention.⁴

The Genocide Convention has been pending before the Senate for 35 years, and ratification has been supported by Presidents Truman, Kennedy, Johnson, Nixon, and Carter. The Senate Foreign Relations Committee last reported the treaty out in 1976 with three understandings and one declaration.⁵ Due to opposition from various groups, the treaty was never brought to a vote on the floor.

Over the years, opposition to the Genocide Convention has diminished. The American Bar Association, which until the 1970s was opposed to the treaty, is now a very strong supporter. Moreover, conservative opposition has diminished, and senators such as Lugar and

¹ Source: Department of State, Assistant Secretary Files—Elliott Abrams Subject and CHRON Files, 1981–1987, Lot 89D184, Correspondence: August 1984. Confidential. Drafted by Abrams on August 21 and cleared in L and H. Bova signed for Hill.

² Not found.

³ Attached but not printed.

⁴ Attached but not printed.

⁵ See footnote 3, Document 67.

Armstrong have privately said they would support ratification under appropriate circumstances. The core opposition now appears to be limited to Senators Thurmond, East, and Helms, and the Liberty Lobby. Jewish groups have long urged ratification.

We consider that our technical questions about the treaty can be cured by the three understandings and one declaration that the Committee approved in 1976. The Committee's position, which we endorse, was even more restrictive than that taken by the Nixon Administration.

The key argument against presidential support for ratification at this time is political. The Administration might be accused of a cynical electoral ploy, in submitting the treaty too late for action during the President's entire term after sitting on it for three and a half years; as noted, a few conservatives would oppose ratification on substantive grounds. The key argument in favor of an announcement of presidential support for ratification at this time is in essence defensive. It is not urged that the Administration would gain a great deal by announcing support, but rather that a failure to support the treaty might well be denounced as an extreme position at variance with those of most preceding presidents including President Nixon. Moreover, the treaty is substantively acceptable and there is increasing pressure for the Administration to take a position on it.

Senate Foreign Relations Committee staff have made it clear to us that the treaty cannot be considered this year, and we could seek to defer the holding of a hearing on the treaty if we felt such a hearing would be controversial. The Department recommends that the President announce support for ratification, as part of his overall human rights policy, at whatever time the President may consider appropriate.⁶

Charles Hill

⁶ The U.S. Senate consented to ratification of the Genocide Treaty on February 19, 1986. Reagan signed the treaty's implementing legislation on November 4, 1986.

73. Memorandum From the President's Assistant for National Security Affairs (McFarlane) to President Reagan¹

Washington, August 27, 1984

SUBJECT

Ambassador Kampelman's Mission to Europe for Consultations on Soviet Human Rights Performance

Issue

Whether to designate Ambassador Kampelman's mission to Europe for consultations on Soviet human rights performance a Presidential mission.

Facts

In 1983 and 1984, Ambassador Stoessel led a three-man team which you designated as a Presidential mission to ten European countries to consult and inform them of the projected U.S. efforts on behalf of Soviet Jewry and other human rights issues. As a continuation of this initiative, Ambassador Kampelman has agreed to go to Europe in early September to visit Rome, Brussels and London for follow-up discussions, and to meet with officials in Norway, Sweden, and Finland, who were not included in the two earlier missions.

In order to maximize the impact of Ambassador Kampelman's trip, State recommends that the trip be designated a Presidential mission, as were the two previous missions, and that the Ambassador be authorized to carry individual letters from you to the heads of state of Norway, Sweden, and Finland. At Tabs A, B, and C, respectively, are proposed letters for your signature outlining your concern about the increased evidence of Soviet anti-Semitism and repression of human rights.² The text has been cleared by Speechwriters.

Discussion

I concur with State's recommendation. Ambassador Kampelman's mission will further broaden the scope of our previous consultations in Europe, will keep the matter of Soviet human rights violations in the forefront of European thinking, and will provide us with a timely

¹ Source: Reagan Library, European and Soviet Affairs Directorate, NSC: Records, USSR Human Rights/Stoessel Mission (1). Confidential. Sent for action. Drafted by Dobriansky. A copy was sent to Bush.

² None of the tabs is attached. In an August 30 memorandum to Hill, Kimmitt forwarded letters to the heads of government in Norway, Sweden, and Finland that had been signed by Reagan. (Department of State, Central Foreign Policy File, P850001-2407)

opportunity to enlist the help of the Norwegians, Swedes and Finns in devising a common human rights policy.

RECOMMENDATION

That you approve the designation of Amb. Kampelman's trip to Europe as a Presidential Mission.³

That you sign the attached letters to be delivered by Amb. Kampelman.⁴

³ Regan checked and initialed the "OK" option.

⁴ There is no indication of approval or disapproval of this recommendation.

74. Editorial Note

During September, October, and November 1984, Ambassador Max Kampelman traveled to Norway, Sweden, Finland, Italy, the Vatican, NATO headquarters, the United Kingdom, Belgium, and Ireland to discuss Soviet human rights violations. Further documentation of the Kampelman mission is in the Department of State, Assistant Secretary Subject Files—Human Rights Country Files, 1984, Lot 86D220, SHUM—Soviet Union Mission on Soviet Human Rights 1984.

On September 7, Kampelman met with Vatican officials. In a discussion with Vatican Secretary of State Cardinal Agostino Casaroli, the Vatican diplomat emphasized that "the Soviets are extremely sensitive and mistrustful. If pushed too hard, they will react negatively because of this insecurity." Casaroli indicated "the mood in Poland as one of resignation and silent, unenthusiastic agreement" and added that "the Poles are more concerned with economics and daily life." (Telegram 22253 from Rome, September 10; Department of State, Assistant Secretary Subject Files—Human Rights Country Files, 1984, Lot 86D220, SHUM—Soviet Union Mission on Soviet Human Rights 1984)

On September 11, Kampelman met with Norwegian Foreign Minister Sverre Strøm. Strøm stressed that while he agreed that greater multi-lateral coordination on human rights issues should occur, the Norwegian Government "preferred to emphasize pragmatic approaches rather than public posturing and that the West should focus on the rights of individuals rather than upon attempting to alter Soviet society." Strøm suggested allowing non-members of the Council of Europe, such as Canada and the United States, to participate in "preparatory

work on specific human rights issues." Kampelman welcomed the suggestion. (Telegram 5096 from Oslo, September 13; Department of State, Central Foreign Policy File, D840582-0752)

On September 14, Kampelman met with Swedish Prime Minister Olof Palme and stressed the importance of injecting a "humanizing influence into Soviet thinking." Palme replied that he felt "pessimistic about the present trend of tightening up [on human rights] in the Soviet Union," adding "The Soviets seem insensitive right now to what others say; they have internal problems and are tightening their grip, and moreover they believe they can't get anything from the West now anyway." Palme criticized U.S human rights policy, stating, "You don't care about human rights in your own orbit," and rejecting Ambassador Jeanne Kirkpatrick's distinction between authoritarian and totalitarian states. Palme added, "Your position would be better if you showed you care about human rights outside of the Soviet empire." Kampelman stated that "while Pinochet's policies are deplorable—and indeed we are doing what we can to improve them—they do not threaten the peace of the world. Because they affect the overall East-West relationship, Soviet human rights violations do, and that is why we are concentrating on them." (Telegram 6320 from Stockholm, September 15; Department of State, Assistant Secretary Subject Files—Human Rights Country Files, 1984, Lot 86D220, SHUM—Soviet Union Mission on Human Rights 1984)

75. Memorandum to the File¹

Washington, October 24, 1984

I sat in on the Secretary's meeting with Assistant Secretary Abrams, who is in charge of the Human Rights Bureau of the Department. We discussed a variety of topics, particularly the question of Soviet Jewry. The Secretary expressed his view that if we were to establish a better working relationship with the Soviet Union, the chances are that the Soviets would be willing to see more Jews emigrate from the Soviet Union. He said that at one point Gromyko had as much as told him so. But he thought that in any event it was likely to be so because the

¹ Source: Department of State, Files of the Deputy Secretary of State—Deputy Secretary Kenneth Dam Official Files, 1982-1985, Lot 85D308, Personal Notes of Deputy Secretary—Kenneth W. Dam—Oct. 1984-June 1985. No classification marking. Drafted by Dam.

Soviets seemed to be using the rate of emigration as a policy tool to bring leverage on the United States. In the meantime, we should continue to express our views to the Soviets on all human rights issues on every possible occasion.

[Omitted here are discussions not related to human rights.]

76. Telegram From the Mission to the United Nations to the Department of State¹

New York, December 20, 1984, 2211Z

3763. Department please pass to all other diplomatic posts. Subject: 39th UNGA: Adoption of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Agenda Item 99). Ref: (A) USUN 3408, (B) USUN 3546, (C) State 248102.²

1. (C) Summary and action requested: On December 10, 1984 (Human Rights Day), the UN General Assembly decided by consensus to adopt and open for signature a convention against torture and other cruel, inhuman or degrading treatment or punishment. The final text of the convention is identical to the draft convention submitted by the UN Commission on Human Rights (UNHRC) following seven years of negotiations, except for revisions to Articles 19 and 20 (concerning implementation) and a new Article 28 which expressly provides that states can make reservations about Article 20 at the time of ratification.³

2. (C) While USUN regrets the concessions which were considered necessary by the main proponents of the convention, which weaken its implementation mechanism, we regard the consensus adoption of the convention (following informal consultations under Dutch Chairmanship) as a major achievement of the 39th UNGA. Proponents of

¹ Source: Department of State, Central Foreign Policy File, D840815–0661. Confidential. Sent for information to Bangkok, Buenos Aires, Cairo, Dakar, Freetown, Geneva, Jakarta, Monrovia, Nairobi, Nassau, Stockholm, The Hague, and Yaounde.

² In telegram 3408 from New York, November 27, USUN summarized the draft convention as well as Soviet strategy regarding the draft convention. (Department of State, Central Foreign Policy File, D840757–0727) In telegram 3546 from New York, December 4, USUN reported on the upcoming vote on the draft convention. (Department of State, Central Foreign Policy File, D840775–0668) Telegram 248102 to multiple recipients, August 2, was not found.

³ In telegram 199267 to multiple recipients, July 6, the Department asked the Embassies to lobby their host governments in favor of the convention. (Department of State, Central Foreign Policy File, D840433–1009)

the convention achieved a key objective by avoiding the creation of a formal UNGA working group, sought by convention opponents such as the USSR, which would have been likely to bury the draft convention for several years and finally to produce a significantly inferior text. As adopted, the convention provides for a system of universal criminal jurisdiction in cases of torture and it establishes an expert committee against torture to monitor implementation of the convention by states parties. In Article 20, it includes the most far-reaching mandatory implementation mechanism which is an integral part of any international human rights instrument; this represents a small but significant step forward in the development of international human rights law. USUN expresses appreciation to all posts which contributed to greater international awareness of and support for the convention through pre-UNGA démarches and other approaches to host governments. The Department is requested to explore the possibility of signing the convention and submitting it to the Senate for advice and consent to ratification at an early date (action request in para 9). Text of U.S. explanation of vote appears in para 10. End summary.

3. (U) UNGA plenary approved a draft resolution by consensus on December 10, 1984 to adopt and open for signature a convention against torture and other cruel, inhuman or degrading treatment or punishment (Agenda Item 99). Adoption of the convention capped seven years of negotiations in the UNHRC, as well as informal consultations at the 39th UNGA under the chairmanship of the Netherlands delegation (Alphons Hamer), and it reflected a final compromise worked out between proponents of the convention and the Soviet Union in the Third Committee on December 5.⁴

4. (U) Essentially, the compromise involves two matters of substance. A revision to Article 19 of the convention will limit the mandate of the newly created Committee Against Torture to making "general comments on the report" submitted to it by each state party, instead of making "comments or suggestions" as stipulated in the UNHRC draft. A new Article 28 will allow states to make a reservation at the time of ratification to the effect that they do not recognize the competence of the Committee Against Torture to initiate its own inquiries whenever it receives "reliable information which appears to it to contain

[Omitted here are excerpts from and analysis of the Convention Against Torture.]

⁴ In telegram 3725 from New York, December 19, USUN reported that the convention was approved without a vote as part of a compromise with the Soviets. (Department of State, Central Foreign Policy File, D840809-0719)

9. (C) Action requested: The new convention will enter into force when it has been ratified by 20 states. USUN believes that there would be significant advantages to ratifying the convention before it enters into force, so that the U.S. will have a voice in development of the machinery and a vote in the first election to the Committee Against Torture. We fully appreciate that the Department and other relevant executive departments will need to review the final text of the convention before deciding whether to sign it and seek ratification. However, we note that both Houses of Congress unanimously expressed general support for the draft convention in a joint resolution which was signed by the President on October 4, 1984 (Public Law 98–447). The Department is requested to consider the possibility of signing the Convention Against Torture and submitting it to the Senate for advice and consent to ratification at an early date. End comment and action request.

[Omitted here is a public statement from Schifter.]

Kirkpatrick

77. Memorandum From the United States Representative to the United Nations Commission on Human Rights (Schifter) to the Special Assistant to the Under Secretary of State for Political Affairs (Courtney)¹

Washington, July 29, 1985

RE

Human Rights in the Soviet Union

The basic point I made at our meeting last week is that it is now clear that the Soviet Union under Gorbachev will be aggressive rather than defensive in the area of human rights.² There is no doubt that we can deal effectively with this new aggressive stance. However, more than ever before, we need an overall strategy on how to deal with what is essentially the political and public diplomacy aspect of the

¹ Source: Department of State, CSCE; Vienna Follow Up Meeting, 1986–1989, Lot 92D223, 3–6 Vienna; General Human Rights Issues 1983–7. Confidential. Drafted by Schifter. A stamped notation, dated August 3, on the memorandum reads: “Under Secretary has seen.”

² No record of this meeting was found.

human rights situation in the Soviet Union. This encompasses not only conditions in the Soviet Union, but also Afghanistan, repression by the satellites at Soviet behest, and the various issues raised by the Soviets in their efforts to embarrass us, including the right to peace, economic rights, El Salvador, etc.

What I would recommend is that an overarching strategy be developed that would be reflected in our pronouncements in the various relevant United Nations fora, particularly the United Nations Human Rights Commission, and in the CSCE fora, and for which we would actively engage USIA support. I would further recommend that rather than waiting for time to get close to a particular international meeting before we gear up for the event in question we engage in a continuing effort, keeping future international meetings and their potential publicity value well in mind.

To illustrate the point I have just made, let me suggest the following specifics concerning the next session of the Human Rights Commission, which will begin in February 1986:

(1) At the 1985 Session of the Commission,³ the office of a Rapporteur on Torture was established. Largely as a result of our activity, Peter Kooijmans, a Professor of Law at the University of Leyden, was appointed to this position. As Soviet abuse of psychiatry is unquestionably a form of torture, I believe that Kooijmans should be urged to include a report on Soviet psychiatry in his submission to the Human Rights Commission next year. We ought to encourage the American Psychiatric Association to submit material to Kooijmans and for that Association to organize other psychiatric groups around the world to be in touch with Kooijmans.

(2) The position of Rapporteur on Torture was established in light of the adoption of the Torture Convention.⁴ In view of the fact that in 1981 the United Nations adopted a Declaration against Religious Intolerance, there would be logic in establishing a further Rapporteur's position, that of Rapporteur on Religious Intolerance. We have suggested to the Belgians,⁵ who are joining the Commission as new members, to take the lead on this subject and they have agreed. However, it is necessary to provide comprehensive support for them. Furthermore, thought should be given as to who might be an appropriate Rapporteur. At the present time the Human Rights Commission does not have any Rapporteurs from Asia. An Asian would, therefore, be considered an

³ In telegram 110497 to multiple diplomatic posts, April 12, the Department transmitted a summary of the 41st session of the UNHRC. (Department of State, Central Foreign Policy File, D850252-0438)

⁴ See Document 76.

⁵ No record of this was found.

appropriate choice. My recommendation would be that we support Ambassador Moreno-Salcedo of the Philippines.

(3) We should make a major effort at the next session of the Commission to end the special U.N. monitoring of El Salvador.⁶ In order to accomplish that result at the Commission, it is also necessary to try to get the United Nations General Assembly to approve a resolution on El Salvador which foreshadows the termination of that country's special status at the next Commission session.

(4) For years the Soviet bloc, led by Cuba, has used the "Right to Development" issue to attack the West in general and the United States in particular. As indicated in the letter which I have sent to General Walters, I recommend that we go along with the Yugoslav declaration on the Right to Development and that we then use this issue in a manner similar to our use of it in Ottawa.⁷

(5) At the next Human Rights Commission session the Soviet Union will undoubtedly harp again on the "Right to Life" issue, which is its way of introducing disarmament into the human rights debate. In past years we have not made a major effort on this topic at the Human Rights Commission. I would suggest that next year we engage in a detailed analysis of the Soviet Union's role in the arms race and that we distribute a brochure on that subject.

(6) There will be another Ermacora⁸ Report on Afghanistan at the next Commission session. We should prepare to publicize the Report and the vote on the relevant resolution.

In order to move forward effectively, we should try to identify by the end of August the delegation that will be going to Geneva and enable it to put a comprehensive program together.

Turning to the CSCE process, we can note that all the UNHRC issues other than El Salvador and Afghanistan are equally relevant to that process. Here it would be my suggestion that we begin now to prepare for Berne and Vienna and that we do so by encouraging our NATO allies and Ireland to view the Ottawa proposal which has been designated as OME-47 as our continuing platform.⁹ Our action program should encompass the following:

⁶ See Document 84.

⁷ In a July 12 letter to Walters, Schifter set forth his thoughts on the Right to Development issue. (Department of State, Human Rights Subject Files, 1985, PREL—UNHRC #8 1985)

⁸ Reference is to United Nations Special Rapporteur for Afghanistan Felix Ermacora.

⁹ Reference is to the concluding document from the Ottawa meeting. See telegram 199163, July 16, 1983.

(1) Repeated references on our part to OME-47 and reminders to the 16 other sponsors that they signed on to this document.

(2) Encouraging the CSCE Commission to develop contacts with Western parliamentarians, who would also be reminded of OME-47.

(3) Preparation at regular intervals of a compendium of recent violations by the Soviet Union of the standards set forth in OME-47.

(4) Staying in touch with Western MFA officials responsible for human rights and CSCE and making sure that they are supplied with the data on Soviet violations of Principle VII of the Helsinki Final Act,¹⁰ in general, and the standards of OME-47, in particular.

¹⁰ Principle VII concerns human rights and freedom of religion.

78. Memorandum From the Deputy Director for Operations, Central Intelligence Agency (George) to Director of Central Intelligence Casey, the President's Assistant for National Security Affairs (McFarlane) and the Director of Intelligence and Research, Department of State (Abramowitz)¹

Washington, September 20, 1985

SUBJECT

[less than 2 lines not declassified] Gorbachev's Reaction to the Moscow Visit of World Jewish Congress Representatives

[WARNING NOTICE: IN THE EVENT THAT REPRESENTATIVES OF THE WORLD JEWISH CONGRESS BRIEF RECIPIENTS OF THIS MEMORANDUM ON THEIR RECENT VISIT TO MOSCOW, OR ON SUBSEQUENT CONTACTS BY SOVIETS AS DESCRIBED HERE, PRIOR KNOWLEDGE OF THESE DETAILS SHOULD NOT BE CONVEYED.]

1. *[1 paragraph (2 lines) not declassified]*

2. *[1 paragraph (17 lines) not declassified]*

a. The 9 September meeting in Moscow between Vadim Zagladin and WJC Representatives was subsequently reviewed at the highest

¹ Source: Reagan Library, 1985 SYS 4 INT, 41101-41200. Secret; Noform; Nocon; *[handling restriction not declassified]*

levels of the Soviet government, and the results were considered positive.

b. The Soviet side believes it is dealing with “good people” (at the WJC), but the USSR will continue to require positive signals from the world Jewish community for further progress to occur.

c. As a sign of Soviet good will, Jewish emigration over the next three months will be permitted to increase substantially.

3. *[less than 2 lines not declassified]*

a. CPSU General Secretary Mikhail Gorbachev specifically instructed Zagladin to have these comments conveying his positive reaction to the Moscow meetings delivered to a senior WJC official during the week of 16 September. *[name not declassified]* said Zagladin and Gorbachev thoroughly discussed the WJC meetings shortly after their completion.

b. *[name not declassified]* said many Central Committee members, including Georgiy Arbatov, were opposed to Zagladin’s meeting with the WJC delegation, but Gorbachev personally overrode these objections and authorized the Moscow discussions. He said Gorbachev specified that the Zagladin–WJC meeting occur in the Kremlin to elevate its importance.

c. *[name not declassified]* said the Soviets will authorize direct emigration flights if positive results, including a decline in the level of French Jewish criticism of the USSR, are forthcoming at the Gorbachev summit meeting with French President Francois Mitterrand.²

d. According to *[name not declassified]* the Institute for the USA and Canada (IUSAC) serves as a consultant to the CPSU Central Committee but is not in the Soviet policymaking chain. IUSAC Director Georgiy Arbatov was informed of the WJC visit to Moscow only two days before it occurred. Also, IUSAC official Radomir Bogdanov’s attempted message-passing role³ during the WJC visit was unauthorized at government levels above IUSAC, and represented the Institute’s belated attempt to “jump on the bandwagon.”

4. *[name not declassified]* further indicated that the Soviets do not wish to discuss the Jewish emigration issue officially with the U.S. Government but that they want to eliminate the issue as an impediment to official Soviet-U.S. negotiations on other matters. He stated that the Soviets view the atmospherics surrounding bilateral relations as crucial

² In telegram 39555 from Paris, October 3, the Embassy reported on the Mitterrand-Gorbachev meeting. (Department of State, Central Foreign Policy File, D850704–0730)

³ Not further identified.

to the success of the Reagan-Gorbachev summit.⁴ He also remarked that the Soviets hope the summit will be a substantive and serious meeting. [*less than 1 line not declassified*] the U.S. at this time is to determine the level of U.S. commitment to a productive summit. He claimed the CPSU CC International Department will formulate Gorbachev's negotiating posture in advance of the November meeting, [*less than 2 lines not declassified*].

Clair E. George⁵

⁴ In an October 22 memorandum to multiple recipients, George wrote: "The Soviet Union is not interested in a discussion regarding human rights at this [Geneva] meeting. However, if the United States insists on raising this subject at the Geneva talks, or at any future time in talks concerning bilateral issues, the Soviets have prepared for Gorbachev a comprehensive file on human rights violations in the United States. (Reagan Library, 1985 SYS 4 INT, 41251-41300) For a memorandum of conversation between Reagan and Gorbachev concerning human rights at the Geneva Summit, see Document 80.

⁵ Printed from a copy that indicates George signed the original.

79. Information Memorandum From the Director of the Policy Planning Staff (Rodman) to Secretary of State Shultz¹

Washington, October 21, 1985

SUBJECT

Gorbachev, Human Rights and Jewish Emigration

Summary: Gorbachev has taken an assertive stance toward human rights and emigration, refusing to be put on the defensive and accusing the West of neglecting the "economic and social" dimensions of human rights. Gorbachev's rhetoric is consistent with Soviet policy, which has included increased repression of dissidents, a severe cutback in emigration, and efforts to manipulate Western and Israeli concerns

¹ Source: Reagan Library, Papers of George P. Shultz, Executive Secretariat Sensitive (10/21/1985). Secret; Sensitive. Drafted by VanOudenaren on October 11. In the upper right-hand margin, Shultz wrote: "P Rodman and Roz Ridgway: I need some strong talking points for the Moscow trip. GPS." In the top margin, an unknown hand wrote: "S/S, SP & EUR see GPS note."

about Soviet Jewry for foreign policy purposes. Despite these negative trends, the Soviets clearly are interested in influencing Western publics before the Geneva meeting,² and might be receptive to resolving major human rights cases. The U.S. therefore should intensify efforts to win the release of Sakharov, Shcharanskiy and other dissidents and to resolve family reunification cases. However, the U.S. should not allow progress on high visibility cases to obscure broader human rights issues, and should resist Soviet efforts to defuse the Jewish emigration issue by dealing with private Jewish groups in the West. *End summary.*

Gorbachev and Human Rights

During his recent visit to Paris, Soviet leader Gorbachev demonstrated a new and more assertive Soviet approach to human rights and emigration.³ Despite persistent questioning by the Western news media, Gorbachev refused to be put on the defensive. In a pre-summit interview with French television, he astonished Western audiences by claiming that Jews enjoy more rights in the Soviet Union than in any other country.⁴ In addition to upholding the Soviet human rights record, Gorbachev tried to put the West on the defensive by talking about “economic and social rights” and pointing to unemployment, racial tensions and other problems in the West.

Gorbachev’s handling of human rights suggests that he may be overly self-confident about his ability to sway Western audiences with clever propaganda arguments. In comparing the plight of Jews in the Soviet Union with that in other countries, Gorbachev overstated his case and undermined his own credibility. In stressing the allegedly democratic character of the USSR’s Supreme Soviet, he offended many West Europeans by charging that “workers and peasants” are not represented in European parliaments. He also disappointed Western observers by his public attack on Anatoly Shcharanskiy.

Gorbachev’s blunt, almost brutal approach to human rights is consistent with the overall pattern of Soviet policy in recent years. The Soviets have intensified the repression of dissidents and have cut back on the numbers of Jews, ethnic Germans, and Armenians granted permission to leave the Soviet Union. The Soviets have been unresponsive to Western demands that Shcharanskiy, Sakharov and other well-known dissidents be allowed to emigrate.

Despite the harsh Soviet posture toward Shcharanskiy and other dissidents, rumors persist that Gorbachev may be considering a pre-

² See footnote 4, Document 78.

³ See footnote 2, Document 78.

⁴ In telegram 39444 from Paris, October 2, the Embassy provided an analysis of Gorbachev’s interview. (Department of State, Central Foreign Policy File, D850702–0064)

or post-November gesture such as a negotiated release of Sakharov or Shcharanskiy.⁵ While the Soviets show few signs of wanting a breakthrough on this issue, the possibility that the Gorbachev will try to influence the pre- or post-meeting atmosphere by a major human rights gesture cannot be excluded.

The one area of human rights on which Gorbachev has shown some flexibility is that of family reunification, which can be portrayed as an "administrative" rather than a "political" issue. Discussing family reunification cases with the U.S. does not require the Soviets to concede even implicitly that they obstruct emigration or unjustly persecute Soviet citizens. In any case, the Soviets can block the emigration of particular individuals by claiming that they had access to "state secrets."

Jewish Emigration

Jewish emigration from the USSR has declined from over 51,000 in the peak year of 1979 to 896 in 1984. The drastic decline has been accompanied by an increase in the intensity and a change in the character of official repression of Soviet Jews. The most striking feature of the present campaign of repression has been the arrest and imprisonment (on various pretexts) of teachers of Hebrew. Alarmed at these developments, Soviet Jews have looked to the West for support and have urged the world Jewish community to use "quiet diplomacy" in dealing with the USSR on the emigration issue.

The way in which the Soviets have responded to Western and Israeli attempts to raise the issue of Jewish emigration strongly suggests that the current Soviet leadership believes it can exploit concerns about Soviet Jewry for foreign policy purposes. At a minimum, the Soviet leadership would like to eliminate emigration as a subject of U.S.–USSR government-to-government discussion and transfer the issue to private, non-publicized channels. This would help to prevent U.S. administrations from "linking" trade and other issues to emigration.

In addition, the Soviet leaders hope that a subtle policy of carrots and sticks toward Israel and the world Jewish community will succeed in defusing Jewish emigration as an international political issue. Soviet officials traveling in the West have hinted that direct emigration flights from Moscow to Tel Aviv could result if French Jewish groups were to moderate their protests against Gorbachev during his visit to France. In an apparent gesture to the Soviets, Israeli Prime Minister Peres is reported to have tried to discourage large anti-Gorbachev demonstrations by Jewish groups in Paris. When World Jewish Congress (WJC)

⁵ See Document 78.

director Edgar Bronfman visited Moscow in September,⁶ Soviet officials are reported to have pledged that Jewish emigration will rise over the next several months, but linked continued increases to “positive signals” from the world Jewish community. Many Israeli and WJC officials are highly skeptical of Soviet intentions, and oppose concessions and goodwill gestures. But others are willing to work with the Soviets in searching for common ground.

Policy Implications for the U.S.

As the November meeting approaches, the United States should:

- intensify efforts to negotiate the release of Sakharov, Shcharanskiy and other well-known dissidents;

- “pocket” Soviet gestures on family reunification, but not allow Soviet moves in this area to divert attention from broader human rights issues;

- continue to press the Soviets on the Jewish emigration issue, but in doing so carefully consult with the WJC, the government of Israel and other interested parties;

- continue to undercut Soviet efforts to talk about “economic and social rights” by pointing out Soviet failures in these areas.

⁶ See Document 78.

80. Memorandum of Conversation¹

Geneva, November 20, 1985, 10:15–11:25 a.m.

REAGAN–GORBACHEV MEETINGS IN GENEVA

November, 1985

Third Private Meeting

PARTICIPANTS

United States

President Ronald Reagan

Dimitri Zarechnak, Interpreter

Union of Soviet Socialist Republics

Mikhail Gorbachev, General Secretary, Central Committee, Communist Party of
the Soviet Union

Yuri D. Uspensky, Interpreter

After the photo opportunity in an adjoining room, General Secretary Gorbachev invited President Reagan to join him in a small room next to the main meeting room while the rest of the delegation took their seats, after which he and the President could join them.

President Reagan told the General Secretary that he wanted to talk with him privately about a subject which he knew that the Soviet side considered to be interference in its internal affairs. The President stressed that he did not want to interfere in the internal affairs of the Soviet Union, but he did want to speak with Gorbachev about human rights.²

The President indicated that in the U.S. system of government many of the things that we would hope to accomplish with the Soviet Union would require the support of the Congress, which, in turn, is influenced by the people of the country. He could get such support if some things were done in the area of human rights. In the U.S., as Gorbachev knew, we have people from all over the world. Many of them retain a pride in their heritage, with regard to the countries where their parents and ancestors came from.

The President said that religious groups in the U.S. tend to influence Congress through lobby groups. An example of strong attachment to

¹ Source: Reagan Library, Executive Secretariat, NSC: System Files, 851041 (1). Secret; Sensitive. Prepared by Zarechnak. In the upper margin, an unidentified hand drew a checkmark, circled the word "Private," and wrote: "Whole meeting on Human Rights. MG agrees to look into specific cases!"

² In the left-hand margin, an unknown hand wrote, "HR."

religious celebration occurred in the U.S. on St. Patrick's Day. This was a special holiday for the Irish, and Reagan's father had come from Ireland. Other groups in the U.S., such as Ukrainian Americans, Lithuanian Americans and Polish Americans have their organizations, customs and holidays.

The President said that he did not wish to raise this issue in the main meeting. He was also not asking to get Gorbachev's agreement to publicly announce actions which were being taken to deal with difficulties in this area, such as emigration. The recent release of several men and women who were allowed to join their spouses had made a big impact on the people in the U.S., but the President wished to be frank and said that the question then arose—why not the rest? An example of such an issue was the desire of Soviet Jews to emigrate to Israel. There was a large Jewish community in the U.S., which had an influence on Congress.

The President told Gorbachev that if he could resolve some of these issues on his own, the President would never boast that the Soviet side had given in to the U.S. We would express our appreciation for what was done, and there would be no hint that this was done as a result of U.S. efforts. But the fact that something was done would make it easier for the President to do the type of things which the two countries could do together, such as in the area of trade, for which the President needed Congressional support.

The President said that he wished to give an example of this type of approach. In 1981, during his first year in office, the Soviet government was eager to have a new long-term grain agreement with the U.S., after the imposition of the grain embargo by Reagan's predecessor. The President had sat down with the Soviet Ambassador and had spoken with him about human rights concerns, citing the specific example of the Pentecostals who had been living for five years in the basement of the Moscow Embassy. If they had left the Embassy, they would have been taken by the police. They had come to the Embassy because they had gotten into trouble after having asked for permission to emigrate. The President told the Ambassador that he would not speak publicly about this, but there would be a better chance to have a grain agreement, since there was opposition in the U.S. to such an agreement, if something were done to free those people. Shortly after that, they left the Embassy and emigrated to the U.S. The President never told anyone that he had done this. Those people were gratefully received in the U.S., and they did not even know that the President had spoken on their behalf. A short time later, the long-term grain agreement was concluded without difficulties in Congress, and this agreement is in place today.

The President indicated that this was the type of thing which he was seeking here and that is why he did not wish to raise these issues

in the full meeting, not to make it appear that he was trying to interfere in the internal affairs of the Soviet Union. It would make it easier for us to do the type of things that we could do together if he were not constantly reminded about the restrictions imposed on Soviet people, the refusal to permit them to practice their religion, etc. The President would not tell anyone that he had raised this issue with Gorbachev.

Gorbachev replied that he considered that at some stage of U.S.-Soviet relations, the issue of human rights was being used for political purposes, not only by representatives of various political organizations which were anti-Soviet, but, and this came as a surprise, also by officials of the U.S. Administration, including the President. The Soviet side did not understand this. The President had mentioned why and how he had come to be involved in these issues. Gorbachev wished to say in all sincerity that the Soviet Union was in favor of broader contacts, exchange of people—scientists, cultural representatives, all types of people—with the U.S. The Soviet side felt that this was necessary, and Gorbachev thought that Reagan had said the same. The two countries depended on each other today and would in the future. We should get to know each other better and create a good atmosphere. The Soviet people have no enmity for the American people. The Soviet people have a positive attitude toward the people of the United States. If we work at this on the basis of non-interference in the internal affairs of the other country, the Soviet side would be ready to broaden its contacts with the U.S. It is truly interested in doing so. But what we need first is an atmosphere of good will between the countries. This was the fundamental question.

Gorbachev then went on to give specific examples. People from the U.S. travel to the Soviet Union and vice versa. People in the U.S. have relatives in the USSR, and they come visit the places of their origin, such as the Ukraine, the Baltic States, and so on. The Soviet Union welcomes this and is open to such visits. There are no difficulties in this regard. Lately, there has been an increase in contacts between representatives of religious groups. The Soviet side was in favor of this. There were marriages between U.S. and Soviet citizens. This was a very natural and understandable thing, and there were no objections to this. Since the group of U.S. Senators that had met with him before this meeting in Geneva had mentioned these issues, Gorbachev had looked into them. During the past five years more than 400 marriages had taken place, and out of these, only ten people had not been permitted to emigrate. The only obstacle to emigration is involvement of the person in question with state secrets. In this case, the state has a specific responsibility, but it tries to let time pass, to let the individual do different kind of work so that his knowledge becomes outdated. His case is then returned too, and he is released. Gorbachev repeated that

within the past five years restrictions had been placed only on ten of 420 to 450 people. But these were Soviet regulations, and the Soviet side asked that they be respected. This was one example.

Gorbachev continued that the President had mentioned Jews. The fate of Jewish people was of concern to the Soviet government. There are many Jews in the Soviet Union, as there are in the U.S. (which has the greatest number) and in other countries. After what the Fascists had done to the Jews, the Soviet Union had done everything it could to give them special attention, and it had not regretted doing so. Since many Jewish families had been separated, difficulties existed because of this, and the Soviet side tried to examine such cases. But when such issues are mixed in with discussion of the situation of the Jews in the Soviet Union in general, this is not right. Then the Soviet side objects and furnishes data to back up what it says. This has been the Soviet Union's approach in all cases, including in its discussions with the U.S. The Soviet Union was willing to look at specific cases, but when these things are used for political aims, they would be rebuffed. Specific cases would be examined quietly, in a humane way.

Gorbachev said that when a U.S. Congressional delegation had visited the USSR at the invitation of the Supreme Soviet, the two bodies had agreed to establish a permanent group to examine such issues, and the Soviet side was in favor of this, but would not permit this issue to be used for political aims.

The President said that with regard to Jews and other religious groups, there were restrictions in the Soviet Union on their ability to practice their religion, e.g., Jews were not permitted to teach Hebrew. In the U.S., in addition to attending the usual schools, Jewish families sent their children to their own schools to study their ancient language. Perhaps some people would not think of emigrating from the Soviet Union if they were allowed to practice their religion.

The President continued that with regard to other questions, the two countries had signed the Helsinki Accords which assured certain freedoms, such as family reunification and the right to emigrate. However, our two countries were big ones, with very large bureaucracies. It was not possible for Gorbachev or the President to know everything that went on at the lower levels, where people could make decisions which were contrary to the desires of the leadership.

The President said that Gorbachev had mentioned that only ten people had not been permitted to rejoin their spouses. But he had a much larger list of cases of separate families. He also wished to give Gorbachev one more example of a case in this category. He knew of a piano player, a young man in the Soviet Union, who wished to emigrate to Israel. Not only was he denied such permission, but he was also denied permission to play the piano with major orchestras,

and his records could no longer be sold in stores. His career had been destroyed as a result of the fact that he had wished to emigrate. The bureaucracy could do many things of which Gorbachev was not aware. This man had a wife and a small child. Apparently, he and his wife had been told that they could emigrate, but the baby would have to remain. Since the child was only one year old, they certainly could not have left him behind, so they did not emigrate.

Gorbachev said that he would like to ask the President about the following. For the Soviet leadership and for everyone in Soviet society it was clear whose side the President was on in the area of human rights. The President always spoke of the lack of human rights in socialist countries. In other countries there was democracy and everything was okay. Since people were aware of the rights situation in the Soviet Union and in other countries, and could compare the situations, why was the President taking this point of view. If other people said this, this might be understandable, but the President always said that there is a clear distinction, namely, that there are no rights in socialist countries, but they are in bloom in the democracies. This caused consternation.

Gorbachev continued that at the level of General Secretary and President one should be responsible and call things by their proper names, no matter where they occur. If things are painted only in black and white, this would only inflame the distrust between the countries. He thought that it would be better to take steps to improve the general atmosphere of our relationship, and then specific humanitarian issues could quickly be resolved. The Soviet Union was prepared to resolve them. But if questions of human rights were used for political purposes, the Soviet side would rebuff such attempts. He repeated that the Soviet Union was ready to examine specific cases, especially those mentioned by the President.

The President replied that he was trying to clearly indicate that if such changes occurred, he would not indicate that he was the one that had persuaded Gorbachev to do this. He realized that both of them had concerns about their political image, namely, that they did not want to have it seen that they were giving in to outside influences. He wished to assure Gorbachev that he would have no such problems with the President. What happens is that various groups in the United States have relatives and families in other countries, and they get information from these people. Then organizations deliver this to the President and demand that their grievances be resolved with regard to people in the Soviet Union. These things make their way into the press, and he could not do anything about that since the U.S. has a free press. He was trying to say that we could work better together if such issues did not appear on the front pages, but rather if he spoke with Gorbachev about these things confidentially.

Gorbachev replied that he welcomed the President's decision to have such a private meeting. He had heard him out, and the President had heard him out as well, and the two of them would bear in mind what had been said.

The President indicated that he would like to make one last point. With regard to what *Gorbachev* had said about issues like this in the U.S., the President wished to say that in the U.S. there are laws which prohibit discrimination on the basis of religion, national origin, sex and race.

Gorbachev interjected that he was familiar with the state of things in the U.S. The President had said that there was no discrimination on the basis of sex. This was not true. According to U.S. law a woman could make 60 percent of the salary a man made for the same job. The President had spoken of equality. But so much time had passed since the American Revolution, and women still did not have the same rights as men. He knew this to be the case. He was informed. He had a legal education. The President should not think that he saw only the negative aspects of things in a primitive way. He saw things from a broad perspective, and he was responsible. He supported the rights of families. If there was a need, we should have exchanges and see what could be done about specific problems. But if we are referring to changing laws, with other interests in mind, this could not be done. The Soviet people set their laws. Any other approach shows a disrespect for the Soviet people. This must be the basic framework. The U.S. had its own system, and the Soviet Union had its own. The President would defend the United States, and he, *Gorbachev*, would defend the Soviet Union. Such a discussion could take a very long time.

The President replied that there were differences in our economic system and in our societies. *Gorbachev* had mentioned the question of women's rights. The President noted parenthetically that women own more than 50 percent of all the wealth in the United States. But the difference in the systems was that, yes, there were individuals, perhaps employers in factories, with personal prejudices about hiring women, blacks, and so on. But the law says that there can be no discrimination. So when various groups indicate that there are those who discriminate, the government must abide by the law and punish those individuals. No U.S. law permits discrimination—quite the contrary.

The President continued that he had spoken about the bureaucracy. He wished to recall that when he was Governor, he learned from one of his assistants that the latter had taken some young black people to the State Labor office to fill out some job applications (the President explained that there was a Department of Labor in California, which helped people to find jobs). When the applicants had subsequently

been questioned about whether they had filled out the applications correctly, one said that he had not. Reagan's assistant took the man back and asked to see his application. They could not find it. Then the man to whom they had been talking slowly edged over to the wastebasket and pulled the application out of it. The Governor was not the one responsible for this. It was one prejudiced clerk who had thrown the application into the wastebasket.

Gorbachev said that people in the U.S. should live as they like. If they choose something, the Soviets would not judge them. The U.S. had many achievements, and the USSR would not interfere in its internal affairs. But the U.S. should do the same with regard to the USSR.

The President said that it would be easier for him to fulfill some of the possible agreements between the two countries if he were not beset by people in the U.S. Congress and by organizations that hear of their relatives and friends and complain about the restraints which they consider should not be imposed upon them, such as with respect to the right to live in other places or the right to emigrate. So if Gorbachev would think about these things, the President would have more freedom to work together.

Gorbachev said that he had heard the President's thoughts, but he could not agree that the President was so dependent on the opinion of small groups. He knew what the President could do as a political leader when he wanted to. When he did not want to, he would talk about pressure groups, and so on. The Soviet side saw all of this. It had a realistic view of life, and asked the U.S. side to have a realistic view of the USSR.

The President said that he realized that it was difficult for the General Secretary, within his system, to believe the President that he, Gorbachev, was wrong about the President's power. In the U.S. system, including during the time after he had become President, one part of the Congress, i.e., the House of Representatives, was dominated by the opposition party.

Gorbachev interrupted, without listening to the translation, to say that he had understood what the President had said, and that he took all of this into account. He was familiar with the American political process, and the President should not hide behind this. (U.S. Interpreter's Note: Gorbachev's indication that he had understood what the President had said without translation was unexpected, since he had never shown any indication of understanding English in previous or subsequent conversations. After the President's following remarks, Gorbachev specifically asked for interpretation and looked like he had not understood what the President had said. I think that the first time he was simply assuming that he knew what the President was saying, and was anxious to get into the plenary meeting.)

The President indicated that there were things which he was not able to get approved at the present time because of his opposition, which based its position on what was said by lobby groups.

Gorbachev said that the President had talked about certain issues and he, *Gorbachev* had expressed his views.

The President interjected that with regard to some cases involving individuals *Gorbachev* could make it easier for him with regard to the relationship between the two countries.

Gorbachev said that he was glad that they had had a private talk and that this had let them get to know each other better, and this was important. When the two of them would communicate, especially about the larger political issues, they would know what the other one looked like, and the image of the other person would be present when decisions would be made.

81. Information Memorandum From the Assistant Secretary of State for Human Rights and Humanitarian Affairs (Schifter) to Secretary of State Shultz¹

Washington, November 22, 1985

SUBJECT

Human Rights Policy after Geneva Summit

At our staff meeting with Deputy Secretary Whitehead this morning, we had a brief discussion on the issue of our human rights policy toward the Soviet Union.² There were differences of opinion around the table as to what the present guidelines might be concerning our tactics on this subject. I believe it would be helpful if there were a

¹ Source: Department of State, Correspondence File—Ambassador Richard Schifter CHRON and Subject Files, 1984–1991, Lot 94D411, R. Schifter's Monthly Chron—November 1985. A stamped notation on the memorandum indicates that Shultz saw it. A copy was sent under a November 25 covering memorandum from Schifter to all HA officers. In the upper right-hand margin an unidentified hand wrote: "GPS: 'I agree with your summary. Please arrange for you and I and others who are concerned to talk about how, tactically, we can handle this issue.' Per SECTO 27002." Telegram Secto 27002 from Shultz's delegation, November 23, is in the Department of State, Central Foreign Policy File, N850012–0372.

² No record of this meeting was found.

meeting of all those directly concerned to clarify such questions as now exist.

I would like to take this opportunity to present a few thoughts on what I believe to be the import of the President's recent statements on human rights. The President has evidently taken the position that we should adopt a policy of quiet diplomacy in dealing with Soviet human rights cases.³ I assume that this means that specific cases of prominent or not-so-prominent individuals should be discussed privately with our Soviet interlocutors in an effort to resolve these cases without bruising Soviet egos.

On the other hand, I note that the President had this to say to the Congress:⁴

"We cannot assume that their ideology and purpose will change. This implies enduring competition. Our task is to assure that this competition remains peaceful. With all that divides us, we cannot afford to let confusion complicate things further. We must be clear with each other and direct. We must pay each other the tribute of candor."

Human rights is at the heart of our ideological differences with the Soviet Union. The foregoing statement, it seems to me, makes it clear that by committing himself to quiet diplomacy on human rights cases, the President did not intend for us to consider ourselves muzzled in any discussion of the systemic shortcomings of the Soviet Union in the human rights area, nor to give any impression that we are becoming less vigilant in our role as a leading defender of universal human rights. To be sure, our discussion should not be shrill and undignified. We could speak more in sorrow than in anger. But we would, I hope, not hesitate to lay before the world the fundamental defects of the Soviet system. (I am certain that they will not stop laying before the world their negative views of our socio-economic system.)

³ In an October 29 interview with the BBC, Reagan stated: "I don't think, however, that the human rights thing should be a kind of public discussion and accusing fingers being pointed at each other and their claim that this is an internal matter with them." (*Public Papers: Reagan*, 1985, Book II, pp. 1310-1316)

⁴ For text of Reagan's remarks see *Public Papers: Reagan*, 1985, Book II, pp. 1411-1415.

82. Telegram From the Mission to the United Nations to the Department of State¹

New York, December 20, 1985, 2306Z

3912. Subject: 40th UNGA: Third Committee Wrap-Up

1. C—Entire text.

2. Summary: United States interests fared well in Third (Social, Humanitarian, and Cultural) Committee² during the 40th UNGA. The adoption of resolutions for the first time on human rights in Iran and Afghanistan marked a major and welcome departure from the practice of dealing only with the human rights situations in a few Latin American countries. In another promising development, the human rights situations in El Salvador and Guatemala received more balanced treatment than in prior years, permitting U.S. abstentions. On the negative side, the human rights situation in Chile was again dealt with in harsh and unfair terms, forcing us to vote “no.”³

3. The committee acted by consensus to:

—Endorse the results of the Nairobi Women’s Conference and the seventh UN Crime Congress without reopening any of the controversial issues raised earlier in 1985;

—Hold a non-contentious “World Conference for International Youth Year” in the UNGA plenary;

—Convene an International Conference on Narcotic Drug matters in 1987;

—Defer consideration of the “right to development” issue and a scheduled UN Human Rights Commission Working Group on the same subject;⁴

—Adopt a harmless—and meaningless—Declaration on the Rights of Non-Nationals,⁵ which neither expands nor constricts the rights already granted aliens under national law and existing international instruments.

4. Most resolutions adopted were similar to those of previous years; while the texts of some G-77 and Soviet-initiated resolutions were

¹ Source: Department of State, Human Rights Subject Files, 1985, Lot 87D205, PREL—UNGA—Nov thru Dec 1985. Confidential. Sent for information to USUN Geneva. Sent to Islamabad, Moscow, Pretoria, and Vienna.

² An unknown hand underlined the phrase, “United States interest fared well in Third (social, humanitarian, and cultural) Committee.”

³ An unknown hand underlined this sentence.

⁴ An unknown hand underlined this sentence.

⁵ An unknown hand underlined the phrase, “the Rights of Non-Nationals.”

worse than their immediate predecessors, they encountered, in most cases, greater Western opposition. Soviet bloc initiatives which bear watching in the future include: two consensus resolutions on UN work in the field of social development and on the convention against genocide; one on the "indivisibility" of economic, social, cultural, civil and political rights (adopted over a U.S. negative vote); and a draft resolution on "exploitation" of human rights issues. The latter draft did not come to a vote owing largely to opposition from the Third World.

5. We presented our views on racism, self-determination, social and women's issues, refugee and narcotic drug matters, and a range of human rights questions. The following report summarizes Third Committee activity on its various "clusters" of agenda items. End summary.

6. Human rights (items 101, 102, 103, 104, 144, 12)—Iran and Afghanistan resolutions adopted, Soviet draft on "inadmissibility" deferred:

Despite concerted and vigorous lobbying by the Soviet bloc and Iran, the committee broke new ground at the 40th UNGA by adopting resolutions on the human rights situations in Afghanistan and Iran. The resolutions drew on reports submitted by the U.N. Human Rights Commission's Special Rapporteur on Afghanistan, Felix Ermacora of Austria, and its Special Representative on Iran, Andres Aguilar of Venezuela. The resolutions expressed deep concern over the human rights situations in both countries: The plenary vote on Afghanistan was 80 (US) -22-40, and on Iran 53 (US) -30-45. In the voting on both resolutions we noticed clear signs of deal-making between the Soviet bloc and Iran. Syria, acting as a surrogate for Iran and the Soviets, proposed that no action be taken on either resolution: The proposal was defeated in committee. In plenary, the bloc countries either opposed, abstained, or did not participate in the vote on Iran, with the Iranians not participating on Afghanistan.

7. The Committee also adopted resolutions, as it has for several years, on Chile, El Salvador, and Guatemala. The resolutions on El Salvador and Guatemala reflected many of the improvements in these two countries as they head toward democracy and a greater respect for human rights. While the resolutions still remained unbalanced, the U.S. was able to abstain on both; we would have joined consensus on El Salvador had the Soviet Union not called for a vote. The Chile resolution was harsh and out of proportion to the other resolutions and to the situation in Chile. The U.S., while expressing concern about the human rights situation in Chile, voted "no."

8. Obviously stung by the Afghanistan report, the resulting resolution, and the Committee's willingness to deal with human rights situations in places other than Latin America, the Soviets proposed (through

the Ukrainian “delegation”) a resolution on the “inadmissibility of the exploitation or distortion of human rights issues for interfering in the internal affairs of states.” This transparent effort to set back or even eliminate the U.N.’s ability to work in the human rights field was put off when it encountered strong opposition not only from Western but also from Third World delegations. (Comment: We have not seen the end of Soviet efforts to cut the U.N.’s Human Rights machinery.)

9. One of the two long-running Third Committee working groups concluded several years of work by drafting a declaration on the rights of individuals who are not nationals of the country in which they live. The final product, adopted by the UNGA, contributes nothing to the existing human rights instruments and merely reiterates, in a qualified fashion, that certain basic rights should be enjoyed by aliens as well as nationals of a state.

10. The U.S. cosponsored consensus resolutions on religious intolerance and on the UN Voluntary Fund for Victims of Torture. Consensus texts were also adopted on: The rights of the child; the human rights covenants (and reporting obligations thereunder); the status of the Convention Against Torture; summary executions; disappearances; mass exoduses; and the United Kingdom’s slow-moving initiative on psychiatric abuse. A Soviet resolution on “The Right to Life” (i.e., let’s work to disarm NATO) was met by slightly stronger Western opposition than in the past (nine negative votes) and the West broke consensus for the first time in recent years on a GDR resolution on measures to be taken against Nazism and Fascism, etc. A new Soviet initiative to introduce the status of the convention against genocide into UNGA debates led to consensus adoption of a bland resolution which could be troublesome in the future.

[Omitted here is information unrelated to human rights.]

14. Alternative approaches/right to development (Item 107):

As a result of a Cuban-sponsored resolution at the UN Human Rights Commission,⁶ the Third Committee considered the esoteric—and undefined—concept of “the right to development.” Despite Western willingness to join consensus (after separate paragraph voting) on a compromise Yugoslav draft declaration, Pakistani amendments and disunity among Third World delegations led Yugoslavia to propose deferring consideration of the item until the 41st UNGA. A UNHRC working group scheduled to meet in January 1986 to consider “measures to promote the right to development” was postponed as the deferral of the declaration on this subject would have left the group discussing only, in the words of the Moroccan delegate, “the sex of angels.”

⁶ See footnote 7, Document 77.

The working group meeting was postponed until the UNHRC provides “appropriate guidance.” The decisions to postpone consideration of the draft declaration and the working group nullified the UNHRC resolution forced through by Cuba in March 1985 over Western and moderate African objections. Cuba also suffered a minor setback on the Omnibus Resolution presented under the agenda item on alternative approaches: This time around, 22 delegations abstained on almost the same text which in 1984 had been adopted by a vote of 131–2 (U.S.) –12.

83. Action Memorandum From the Assistant Secretary of State for Human Rights and Humanitarian Affairs (Schifter) to Secretary of State Shultz¹

Washington, January 2, 1986

SUBJECT

Treatment of Human Rights After Geneva

In light of the President’s and your discussions with the Soviets,² it is understood that the specific cases and problems on which we hope to make concrete progress in the near term will henceforth be handled through quiet diplomacy.

At the same time we recognize that our fundamental ideological differences, which encompass human rights, will continue to be the subject of public debate. The Soviets will certainly not end their propaganda campaign. On the contrary, under Gorbachev we have already seen a step-up in the propaganda effort, including emphasis on what the Soviets view as our own shortcomings in the field of human rights.

Accordingly, we shall distinguish between matters on which the Soviets seem at least to *consider* acting positively and those matters on which they are clearly not prepared to engage us in discussion. We should handle our concerns in the first category quietly and our concerns in the second category publicly.

The first category will deal almost exclusively with emigration issues: divided spouses, release of dual nationals, family reunion, and

¹ Source: Department of State, Central Foreign Policy File, P860116–0912. Confidential. Sent through Armacost. Cleared in EUR. A stamped notation on the memorandum indicates that Shultz saw it.

² See Document 80.

more broadly Jewish, Armenian, and German emigration. It would also deal with the release of certain persons from incarceration, usually followed by emigration. Adjustments in Soviet policy in these areas, it should be noted, would not involve fundamental change in the character of the Soviet state. (It should be understood that though the Department would not go out of its way to emphasize these issues, we shall, as appropriate, occasionally, and generally at levels below the President and you, make it clear that the aforementioned problems do exist and that we hope for early resolution.)

The second category of issues would indeed involve basic change in Soviet domestic policy. It would cover freedom of speech, the press and assembly, the free exercise of religion, cultural freedom, the absence of governmentally-directed repression, an end to psychiatric abuse, etc.

As to this second category of issues it is my understanding that the following guidelines will be adopted:

(1) The President and you will choose the occasions carefully as to when he or you would speak out.

(2) The rest of us will not hesitate to deal with these ideological questions fully. We shall, however, concentrate on the presentation of facts, facts that speak for themselves, rather than engage in rhetorical flourishes. Our public diplomacy efforts in the field of human rights should, therefore, continue, and should, if anything, be more fine-tuned.

It is this last point which needs special emphasis. I believe that our approach to public diplomacy in the field of human rights has tended to be episodic. We have generally picked up on issues to which the media have paid attention and may occasionally have contributed an item or two to the general discussion. What I believe we have not had is a coherent, cohesive, systematic and persistent approach to Soviet human rights violations as part of our public diplomacy effort.

I would propose that we take a leaf out of the Soviet book in this connection. I have been impressed in every encounter with them, how well prepared they are with regard to their propaganda themes and documentation (phony as it may be), how extraordinarily well they synchronize their efforts in different fora, and their ability to stick to a theme long enough to get it to sink in. They have, I believe, been more successful than they should have been in their propaganda campaigns, particularly those that have been directed against us and our friends. They have not been able to do equally well in affirmative propaganda for themselves simply because the product they are seeking to sell is so obviously shoddy.

RECOMMENDATION:

Here is the operational program which I would propose:

(1) In the first instance this Bureau, working with other relevant bureaus of the Department and other appropriate agencies, will identify the important human rights themes for use in our public diplomacy efforts.

(2) As the themes are identified this Bureau will assemble the relevant data and prepare easily readable monographs thereon. The monographs should be available for circulation within the United States Government.

(3) The participants in the group which identified the public diplomacy topics (see (1) above) should then meet to discuss dissemination and (a) identify appropriate target audiences, (b) the manner of dissemination to these audiences, and (c) responsibility for the preparation of the required pinpointed material. Each plan of dissemination will encompass dissemination directly to the target audiences as well as dissemination through multilateral fora (UN, OAS, CSCE, etc.) and interested private organizations.

I recommend we proceed immediately to effect the necessary inter-agency coordination. The HA Bureau could then begin the effort with the use of existing resources. We might need a small number of additional positions and research funding to sustain it over the long haul.³

³ Shultz initialed the approve option on January 11.

84. Telegram From the Mission to the United Nations to the Department of State¹

Geneva, March 21, 1986, 1640Z

2780. Subject: 42nd UN Human Rights Commission: Draft Summary Report.

1. Confidential—Entire text.

2. Summary: After six arduous weeks, the 42nd session of the UN Human Rights Commission concluded near midnight on March 14. The meeting was a success for the United States. Judged against its pre-

¹ Source: Department of State, Subject Files, Human Rights, 1986, Lot 88D242, PREL—UNHRC 1986. Confidential. Sent for information to USUN New York.

session objectives,² the US Delegation, led Assistant Secretary Richard Schifter, achieved nearly all its goals including the adoption of US-drafted resolutions on Chile and religious intolerance. In contrast, the Soviets were forced to back down on a number of items and ended the session in disarray. Beginning with an opening statement on the budget crisis by Assistant Secretary Herndl,³ the Commission was unusually preoccupied with its own mechanics and that of its subordinate Sub-Commission. The session was also contentious, with divisions apparent between African and Latin American members. At a postmortem on the Commission March 19,⁴ MissOfs from Australia, India, Argentina, and the Philippines agreed that among the most positive aspects of the Commission was the unprecedented activity of the US Delegation in introducing and lobbying for its own resolutions. End summary.

3. After six arduous weeks, the 42nd session of the UN Human Rights Commission concluded near midnight on March 14. The meeting was a success for the United States. Judged against its pre-session objectives, the US Delegation, led by HA Assistant Secretary Richard Schifter, accomplished the following:

- Adoption of a resolution establishing a new Special Rapporteur on Religious Intolerance;

- Adoption of a US-drafted resolution on the human rights situation in Chile;

- A show of solid support among Western donor countries on a procedural vote relevant to our resolution critical of the Ethiopian resettlement program;

- Adoption of resolutions on Afghanistan and Iran which extended the mandates of the special rapporteurs for both countries;

- Adoption of a Costa Rican draft resolution on El Salvador; and,

- Adoption of a resolution on Guatemala which terminates the mandate of the special rapporteur and moves that country under the commission's program for advisory services.

4. On the down side, the US failed by narrow margins on separate votes on two "name calling" paragraphs in resolutions dealing with the Middle East. We were also unable to obtain a resolution condemning apartheid which we could support. As in the past, African moderates

² See Document 77. In telegram 145 from Geneva, January 8, USUN further refined its strategy for the UNHRC. (Department of State, Subject Files, Human Rights, 1986, Lot 88D242, PREL—UNHRC 1986)

³ In telegram 2796 from Geneva, March 24, USUN outlined the rumored cuts to the UNHRC budget. (Department of State, Central Foreign Policy File, DD860224–0771)

⁴ No record of this meeting has been found.

(Senegal and Kenya) were unwilling to oppose the radicals (the National Liberation Movements and Tanzania) in order to remove objectionable paragraphs from the text. The US was joined by two other Western countries in abstaining on the resolution.

5. The USSR: While the US could look back with a sense of achievement, the Soviets must have left Geneva feeling that something had gone awry. In a series of abortive efforts the Soviets and their allies:

- Failed on a procedural motion to block consideration of the US resolution on religious intolerance by a vote of 7–22 (US) –14;

- Substantially modified their resolution on “Totalitarianism, Nazism and Facism” and accepted biannual consideration in the future in the face of a UK proposal to take the item off the agenda;

- Withdrew a draft resolution calling for the dissemination of only “truthful and balanced information on human rights”;

- Backed off on allegations against the Special Rapporteur on Torture and demands that the job be rotated annually on a geographical basis in allowing the resolution extending the rapporteur’s mandate to be adopted by consensus;

- Lost by a vote of 32 (US) –4–5 on an annual UK procedural motion to provide on a contingency basis for extra meetings for next year’s Commission. (The Soviets had argued for more than an hour that the West was acting in disregard for the UN’s current financial problems); and,

- Failed by a vote of 10–28 (US) –5 to defer consideration of all cases under the Commission’s Confidential 1503 Procedures until next year.

6. In a major intervention under the Commission’s agenda item on human rights violations worldwide, the Soviets alleged that the greatest threat to human rights was the US policy of training armed bands and sending them against emerging nations such as Angola, Afghanistan and Nicaragua. This theme was picked up in speeches by bloc members and reflected in a resolution on the use of mercenaries to impede the exercise of the right of self-determination in Southern Africa which was introduced by 18 African and Eastern co-sponsors and adopted by a vote of 31–5 (US) –7. The Soviets turned aside a Western procedural challenge and then easily adopted their biannual resolution on “the right to life”. They also succeeded in adopting a much watered down resolution on the right to adequate housing introduced by Mongolia.

7. Procedures: Beginning with Assistant Secretary General Herndl’s opening statement on the budget crisis, this Commission seemed preoccupied with the mechanics of its own operations and those of its subsidiary body the Sub-Commission (SC) on the Prevention of Discrimination and Protection of Minorities. Debate on the Sub-Commission was advanced in the order of business and 45 speakers were heard on

the item. Comments were almost uniformly critical and there were numerous suggestions for reform. Finally, after the issue was also considered by an ad hoc working group, the Commission adopted resolutions which (A) placed restrictions on reports prepared by Sub-Commission rapporteurs and ended the practice of their personally reporting to the Commission; (B) extended the term of SC members to 4 years; (C) provided for review by the Commission and ECOSOC of all SC actions having financial implications; and, (D) encouraged greater independence from government influence on the part of SC members.

8. In a debate which ranged over the entire session, the Commission also chewed over the institution of “special rapporteurs” and other types of Commission representatives. Members seemed to agree that including the Sub-Commission, there were too many rapporteurs, too many studies in progress, and no real plan for ensuring that the end product was worthwhile or even relevant. Beyond that [illegible] countries argued that there was a hierarchy among “special rapporteurs”, “special representatives” and “independent experts” and that the choice of one or another of these “mechanisms” indicated the seriousness with which the Commission viewed the human rights situation in a given country. Non-aligned members supported by the East claimed that rapporteurs were drawn mainly from Western countries and that this practice could not continue. Greater concern was also shown over the role of NGO’s with highly critical views expressed by Brazil and Colombia. The issue did not surface in the WEOG, but suggestions were reportedly advanced in other groups on ways to curtail interventions by NGO’s, especially their attacks on governments.

9. In particular, concerns over procedure were evident in the commission’s consideration of countries under the confidential procedures established under ECOSOC Resolution 1503. Starting with the abortive GDR effort to defer the proceedings and the annual Soviet attack on their legitimacy, the Commission largely ignored the substance of the complaints and instead concentrated on debating which of the procedures available to it would send what signal to what country. Voting on countries was heavily influenced by a common perception that implementation of the procedures is unfair and that only small and friendless countries are caught while major offenders are not questioned. It also reflected changes in governments which occurred during the session. The Commission generally disregarding the recommendations of its working group terminated consideration of Gabon and the Philippines, and selected “milder intervention mechanisms” for Zaire and Haiti. The debate over Zaire and Haiti surfaced a regional division between the African and Latin American groups which developed into a bitter relationship between Commission Chairman Charry (Colombia) and African group leader Ambassador Sene (Senegal) that may affect the future role of both groups in the Commission.

10. General issues: While the Commission's actions on the Philippines and Haiti were influenced by recent events in those countries,⁵ the Commission's consideration of the Middle East and Southern Africa failed to reflect events in those areas. The debate on South Africa was pro forma and the resolutions adopted nearly identical to those of previous years. On Israel the debate and resolutions were also close reproductions of last year.⁶ The Israeli Delegation felt it scored minor victories: (A) When seven Western countries voted against the application of the Third Geneva Convention, to "Palestinian fighters captured by Israel" (Resolution L. 12B, OP. 6); and (B) by raising the issues of Soviet Jewry and human rights abuses in Arab countries. Israeli accusations that GDR Representative and Commission Vice President Hermann Klenner was a former member of Hitler's SS received wide coverage in the US and European press.

11. On other issues of importance the Commission extended the mandate of its Special Rapporteur on Arbitrary and Summary Executions and, on a trial basis, the mandate of the Working Group on Disappearances for two years. The right to development was dealt with in a largely procedural resolution which left the task of drafting a declaration to the General Assembly, but provided for the convening of the working group for three weeks in January 1986 to "study measure necessary to promote the right". Annual resolutions on self-determination in Western Sahara, Cambodia, and Afghanistan were adopted by large majorities in a form unchanged from previous years. An Argentine/India resolution on disarmament was adopted by a vote of 34-0-8 (US) after all references to placing disarmament on the Commission's agenda were removed from the text. Finally, the Commission adopted a resolution condemning hostage taking which was introduced by France in a move motivated by the French elections.

12. In a "postmortem" on the Commission attended by MissOfs from Australia, India, Argentina, and the Philippines March 19, participants agreed that one of the most positive aspects of the Commission was the unprecedented activity of the US Delegation in introducing its own resolutions and lobbying on their behalf. All felt that adoption of the US-drafted resolutions on Chile and religious intolerance were the major achievements of the Commission. Although MissOfs may have disagreed with US on specific issues, all appeared reassured by this US expression of interest in the Commission.

Carmen

⁵ Reference is to the exiling of Ferdinand Marcos, President of the Philippines, and Jean-Claude Duvalier, President of Haiti.

⁶ See footnote 2, Document 77.

85. Information Memorandum From the Assistant Secretary of State for Human Rights and Humanitarian Affairs (Schifter) to Secretary of State Shultz¹

Washington, August 5, 1986

SUBJECT

Human Rights in the USSR

EUR Deputy Assistant Secretary Tom Simons and I met on August 1 with Ambassador Kashlev, the head of the new Administration of Humanitarian and Cultural Affairs in the Soviet MFA. It appears that the Soviet intention in creating this office was to imitate our own Bureau of Human Rights and Humanitarian Affairs, but it is clear that Kashlev has no interest in discussing specific cases of Soviet human rights violations.

Kashlev's new office will apparently focus on areas such as social welfare, culture and information which the Soviets have traditionally tried to use as counterpoints to U.S. charges of specific human rights violations. This, of course, means that the new office will concern itself with what the Soviets consider major human rights problems *outside* the borders of the Soviet Union. Kashlev mentioned apartheid, hunger, and a freeze on nuclear testing. The new office may also have an important role in the current Soviet media campaign to sell the Soviet Union as a progressive state on humanitarian issues. But Kashlev emphasized that U.S. concerns about specific cases and other human rights issues would continue to be the responsibilities of the Consular Office of the Foreign Ministry and the Soviet Ministry of the Interior. He also mentioned that the Soviets are busy reconciling their legal regulations with their international commitments and ridding their practices of "bureaucratism and voluntarism" in the humanitarian area.

Tom and I said we welcomed the creation of the office as an opportunity to engage in dialogue on the issues and we made a major effort to present Kashlev with a list of our principal human rights concerns, including emigration, Sakharov, and cases of imprisoned or exiled Helsinki monitors.² Tom made the particular point of emphasizing that human rights is an international rather than just a bilateral concern and is an integral element in our overall agenda for relations with the Soviet Union. He also made the point that poor Soviet perform-

¹ Source: Department of State, Central Foreign Policy File, P860121–1589. Confidential. Drafted by Schifter and cleared by Simons and Schmidt. A stamped notation on the memorandum indicates that Shultz saw it.

² Not found.

ance on Jewish issues puts “quiet diplomacy” under strain and promises real problems for an eventual summit, since it provides speculation that a Soviet policy decision had been made to get rid of the Jewish emigration issue once and for all.

Kashlev was either unprepared or unauthorized to deal with the political aspects of the situation. His only relevant comment was that there has been no change in the way Jews will be treated, i.e. not differently from other Soviet citizens for emigration purposes.

Though the meeting was conducted in a reasonably friendly atmosphere, the benefits, if any, were small. It may help if Kashlev were to report accurately to his superiors what we said. On the other hand, he had very little to say. As long as his office is not prepared to discuss cases, the value of dialogue with him will be limited.

Your meeting with Shevardnadze³ will be an opportunity to deliver our human rights message directly to a top Soviet official.

³ In telegram 299682 to USNATO, September 23, the Department provided a summary of the Shultz-Shevardnadze meeting. (Department of State, Central Foreign Policy File, D860724-0917)

86. Memorandum of Conversation¹

Reykjavik, October 12, 1986, 10 a.m.–1:35 p.m.

PARTICIPANTS

US Side

The President

Secretary Shultz

Mr. Parris

Mr. Zarechnak (Interpreter)

Soviet Side

The General Secretary

Foreign Minister Shevardnadze

Mr. Uspenskiy

Mr. Paleschenko (Interpreter)

[Omitted here is information not related to human rights.]

Gorbachev said that that was the case. He suggested the two devote a few minutes to humanitarian and regional questions, which, he pointed out, had been discussed by the second (non-arms control) working group. The President agreed, and the two briefly reviewed papers prepared by the working group the night before.²

The *President* asked to make a few comments on human rights. He had no intention of saying publicly that he had demanded anything from *Gorbachev* in terms of such issues as family reunification and religious persecution. But he did want to urge *Gorbachev* to move forward in this area, since it was a major factor domestically in limiting how far the President could go in cooperation with the Soviet Union. As he had told *Gorbachev* before, one in every eight people in the United States had family connections of some sort to the Soviet Union, so a significant part of the American population was concerned by such phenomena as the shut-down in emigration from the Soviet Union. We would continue to provide lists of people we had reason to believe wanted to depart. And if the Soviets loosened up, we would not exploit it. We would simply express our appreciation.

Gorbachev expressed regret that there was not more time to address humanitarian questions. There were some specific concerns he had wanted to put before the President. And he wanted to make clear that Soviet public opinion was also concerned about the state of human rights in the United States.

[Omitted here is information unrelated to human rights.]

¹ Source: Department of State, Secretary Subject and Country Files—MemCons on US-USSR Relations, 1981–1990, Lot 93D188, Reagan/Shultz/Gorbachev/Shevardnadze in Reykjavik, October 1986. Secret; Sensitive. The meeting took place in Hofdi House.

² Not further identified.

87. Information Memorandum From the Acting Director of the Policy Planning Staff (Ledsky) to Secretary of State Shultz¹

Washington, undated

SUBJECT

Drawing Up the 1987 U.S. Human Rights Agenda: A Response to INR's "Has Gorbachev Made a Difference?" Memo

SUMMARY. INR's memo (copy attached)² objectively summarizes Gorbachev's 1986 human rights record and serves as a starting point for addressing U.S. objectives in the coming year.

While Gorbachev hasn't improved human rights in the Soviet Union or resolved his modernization/repression dilemma, he has manipulated Western concerns to serve his own purposes. Under Gorbachev, the traditional Russian inferiority complex has been given modern expression through the pronounced sensitivity to bad publicity and a concerted effort to appear the global "good guy."

As the Soviets try to put *us* on the defensive by selectively improving their human rights performance, we must guard against charges that our firm policies are the result of domestic political pressures rather than adherence to principle. While pressing for increased Jewish emigration, we should address the entire range of human rights issues. We also should rebuff Soviet efforts to redefine human rights in economic and social terms by continuing to point out Soviet deficiencies under *any* definition of human rights. *END SUMMARY.*

Culture and Human Rights: Drawing a Distinction

We should not confuse a cultural "thaw" with an improvement in human rights. Stymied by an entrenched bureaucracy and the ingrained habits of the Soviet people, Gorbachev has enlisted artists and intellectuals in his campaign to "restructure" Soviet society. Few topics are now off limits and faults can—indeed must—be addressed. In that regard, cultural life has been liberalized. Yet, the stated function of the arts and sciences under Communism has not changed. Gorbachev has re-emphasized that art and scientific inquiry must serve the state and its goals.

As a government, *we should neither condemn nor praise developments in the cultural field.* We should no more praise Gorbachev for *ordering*

¹ Source: Department of State, Central Foreign Policy File, P8700056-1812. Confidential. Drafted by Galatz and VanOudenaren and cleared by Schifter on January 6, 1987.

² Attached but not printed.

artists to expose faults than we might praise Brezhnev for ordering that they be covered up.

Human Rights: A More Mixed Picture

We agree with INR's assessment that Gorbachev's human rights policies are basically repressive, but that he has made changes.³ Gorbachev probably concluded that while the human rights policies he inherited were *in the main* correct, they were encrusted with the same arbitrariness and bureaucratism that pervades all Soviet society. Recognizing that refusal to clear up divided family cases, to allow sick and old people to seek medical care in the West were often pointless, Gorbachev probably decided that resolving those cases offered public relations benefits in the West without compromising hardline attitudes on dissidence and emigration.

Gorbachev has also streamlined administrative procedures. The changes may speed up resolution of some cases, but imply no real change in Soviet attitudes toward human rights, and may, as Shcharanskiy and others have argued, actually hinder emigration by erecting more clear-cut legal barriers.⁴

Gorbachev clearly intends to integrate "humanitarian issues" into his overall foreign policy. What we face is not a short-term public relations blitz, but a decision to put the U.S. on the defensive by launching a Soviet campaign of well timed releases, calls for a Moscow human rights conference, attacks on the ills of Western society, and a shift of human rights discussions from political and civil rights to so-called social, economic and cultural rights, e.g., employment, housing, medical care and education.

Drawing up the 1987 U.S. Agenda

The releases of the past year are in part Moscow's response to the traditional Russian inferiority complex which has grown, fueled by technological backwardness and public bashings over human rights abuses. INR correctly points out the fundamental contradiction between oppressive human rights policies and Gorbachev's controlled "thaw" designed to advance his modernization goals. It is a point you have made in speeches and private discussions on the Information Age

³ In telegram 18877 from Moscow, October 31, 1986, the Embassy transmitted the text of the 1986 report on Human Rights in the Soviet Union. The report discussed Soviet emigration policy and the release of Shcharanskiy. (Department of State, Central Foreign Policy File, D860835-0279)

⁴ Telegram 389774 to Moscow and Leningrad, December 17, 1986, provided a summary of a December 13 meeting between Shultz and Shcharanskiy, during which they discussed Shcharanskiy's concerns about Soviet emigration rules. (Department of State, Central Foreign Policy File, D860958-0351)

and the relationship between societal openness, human rights and economic vitality. While we should continue pointing out the Information Age conundrum to Gorbachev, ultimately it is up to the Kremlin to resolve that contradiction. Meanwhile we should spotlight what the Soviets themselves see as their own human rights "image" problem.

We should be wary of the Soviet call for a CSCE-sponsored human rights conference in Moscow,⁵ and work to counter Soviet efforts to redefine human rights in ways that emphasize social and economic conditions (as well as "the right to peace") rather than individual liberties. We need to stress that Soviet performance is seriously deficient under *any* definition of human rights. We should continue the approach laid out by Ambassador Schifter at Ottawa when he pointed out Soviet economic and social failings.

While some of our allies may accuse us of being confrontational, we can point out to them that we (and to some extent the British) bear the brunt of Soviet attacks on our domestic failings (real or alleged). If we show a readiness to retaliate in kind, in part by pointing out growing Soviet problems such as infant mortality and hidden unemployment, Gorbachev may be put back on the defensive and either moderate his attacks on the U.S. or make additional human rights improvements such as increased emigration.

While continuing to press the Soviets on emigration, we should be careful to lay equal stress on other human rights issues, including abuses of psychiatry, the repression of Russian Orthodox priests, Catholics, Baptists, and Pentecostalist believers, Ukrainian and Tatar nationalists, and members of the Soviet "peace movement." As the Soviets take the offensive on human rights, we could become vulnerable to charges that we are unwilling to respond positively to Soviet gestures largely because of domestic political pressure from Jewish, Baltic nationalist and other groups.

Pressure from these groups is a reality of American politics, and we should not conceal this fact. But we should also demonstrate, by stressing the whole range of human rights issues, that the fundamental basis of our concern for human rights is not domestic political pressure, but our own values as reflected in our human rights legislation and

⁵ In telegram 23035 to Shultz's delegation in Austria, November 7, 1986, the Department reported on a conversation between Vranitzky and Shultz, during which "Vranitzky noted that Shevardnadze had suggested that the Soviet Union host a human rights conference in Moscow, and asked for the Secretary's comment. The Secretary told Vranitzky that it was a proposal that should be examined carefully, that we must look and see what they have in mind." (Department of State, Central Foreign Policy File, D860851-0354)

our own insistence that the Soviets adhere to agreements such as the Helsinki Final Act that they themselves have signed.

88. Information Memorandum From the Assistant Secretary of State for Human Rights and Humanitarian Affairs (Schifter) to Secretary of State Shultz¹

Washington, January 23, 1987

SUBJECT

Our Approach to the Soviet Union Concerning Human Rights

Summary

The purpose of this memorandum is to set forth HA's thoughts as to the goals and objectives of our Soviet human rights policies, on which an action program can be based. Goals can be divided among those that are (a) immediate, basically humanitarian in nature, and requiring no significant change in the Soviet system, (b) intermediate, which would call for a shift to a somewhat more open society, and (c) long-range, involving genuine adherence to the provisions of the Helsinki Final Act.² Our objectives are both to help persons in the Soviet Union who suffer from the deprivation of their rights and to gain support for our own foreign policy. To reach our goals we need to develop a consistent program directed at the highest level of Soviet decisionmaking. *End Summary.*

Dick Solomon has made the very wise suggestion that the in-house dialogue on Soviet human rights could be helped if the Human Rights Bureau were to spell out, for your consideration, its ideas on goals, objectives and other relevant policy concerns regarding that subject. This memorandum seeks to do that.

¹ Source: Department of State, Central Foreign Policy File, P870040–1908. Secret. Copies were sent to Ridgway, Solomon, Derwinski, Kampelman, and Abramowitz. In the upper right-hand margin, Shultz wrote: "Dick—An excellent and helpful analysis. We need to identify all the operational handlers and arguments we can G. I am ready for another discussion of all this G."

² The Helsinki Final Act of 1975 declared: "Respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion, or belief."

Goals

As to goals, we distinguish between those which are:

(a) immediate:

(i) The release from imprisonment, internal exile or mental hospitals of persons imprisoned, exiled or committed for no reason other than the exercise of a human right (freedom of expression or religion), even though such exercise may have violated the laws of the Soviet Union; this should include persons convicted on trumped-up charges; (ii) a resolution of all our divided spouses and dual nationality cases; (iii) an end to jamming; (iv) a modest step-up in emigration, to perhaps 10,000 to 12,000 annually (which would not require an immediate change in the 1986 Emigration Law);³

(b) intermediate:

(i) a general loosening of controls on freedom of expression so as to allow a return to at least those standards which were applied in the USSR in the period 1958–65 or prior to Stalin's rise to preeminence (basically, no punishment for mere speaking and writing, if not accompanied by organizational activity); (ii) substantial loosening of controls on the exercise of religious belief (allowing congregations to engage in religious activities such as bible study and charitable work), permitting the importation of bibles, prayerbooks, and other objects of religious significance; (iii) an end to the abuse of psychiatry; (iv) relaxation of controls on the importation of books, periodicals, newspapers, and films; (v) people-to-people exchanges of a magnitude that makes KGB control practically impossible (perhaps in excess of 15,000 persons annually); (vi) allowing greater cultural freedom, including the teaching and use of non-Russian languages; (vii) modification of the 1986 Emigration Law to allow annual emigration in excess of 25,000 (possibly by expanding the circle of relatives who may extend an invitation for emigration); (viii) respect for the right of privacy and a reduction of the status and powers of the secret police to, at least, the role it played in the early Sixties;⁴

(c) long range:

full compliance with the provisions of the Helsinki Final Act.

Objectives

In pursuing our human-rights goals, we are motivated by the following considerations:

³ Reference is to the Immigration Reform and Control Act of 1986.

⁴ See footnote 5, below.

(a) Our Government's commitment to human rights reflects the truly idealistic sentiment of the American people that we are our brothers' keepers. We engage in human rights activities first and foremost to help individual human beings.

(b) A more open and democratic Soviet Union is less likely to pursue expansionist goals. Our advocacy of respect for human rights in the Soviet Union is, therefore, in harmony with our interest in the genuine relaxation of tension between us and in mutual arms reduction.

(c) As long as our relations with the Soviet Union continue to be adversarial, our public emphasis on human rights helps advance our cause in the court of world public opinion and strengthen domestic support for our foreign policy vis-a-vis the Soviet Union.

(d) Also, for that period our statements serve to give psychological support to Soviet citizens who are subjected to persecution for their political or religious beliefs.

Possibilities of Attaining Goals

The "immediate goals" identified above are basically humanitarian and can be achieved by the Soviet leadership without any significant tinkering with its totalitarian system. It is for that reason that they may very well be within reach.

The "intermediate goals" would involve willingness to make some truly meaningful changes in present practices without necessarily changing the basic structure of the state. They will undoubtedly be difficult to attain.

The "long-range goal" would indeed require basic change in the state's structure. Although this goal may appear quixotic, it provides us with a framework within which we can pursue our immediate and intermediate goals and aligns our Soviet human rights policy in a logically consistent manner with our overall approach to human rights as an element of our foreign policy.

Targets

To reach the third and fourth of the above-listed four objectives we would, of course, need to concentrate on the general public, both at home and abroad. To realize the first two objectives, however, namely to effect significant change in Soviet human rights performance, we need to zero in on the highest level of leadership, the Politburo. This is so because of the highly centralized character of the decisionmaking process in the Soviet Union's totalitarian system. Given the present system of tight police control, it is highly unlikely that change can be brought about through pressure from the general public. Nor, given the subservience and careerism built into the bureaucratic system, can it be expected that significant changes in policy will be effected on

the basis of recommendations from the Soviet Union's lower-ranking officialdom. For our goals to be attained, we must persuade the Politburo, most importantly the General Secretary, that taking such a course is in the Soviet Union's best interest.

Methods of Persuasion

Steeped as they are in Leninist thought, the Soviet leaders will not be willing to effect changes in their system which would improve human rights conditions unless such changes can be justified in a Marxist-Leninist context. This means that neither Judaeo-Christian concepts of moral behavior toward one's fellow-human being nor the Enlightenment's notions of the inalienable rights of the individual will cut any ice with them.⁵ One cannot appeal to their "better nature."

What one can do with the present Soviet leaders is persuade them that better human rights performance will result in some benefits in which they are interested. This requires that we try to determine what benefits are of interest to them and that we also decide which of these benefits we are willing and able to deliver.

Though Leninist in their political behavior and their ideas about the dominance of the party and the state over the individual, the present Soviet leaders do not share the idealistic objectives of the founders of their faith. Maintaining the rights and privileges of the Nomenklatura, the Communist leadership group, is a most essential piece of their governmental program. That is why our immediate and intermediate goals must be limited to fit this aspect of present-day Soviet reality. That is why, also, we must search for the benefits that we can offer and which would be of interest to the other side by analyzing the frame of mind of the present Soviet leaders.

Gorbachev's Outlook

Gorbachev is a product of the Soviet Union's post-Stalin bureaucratic system: a party operative who combined outstanding intelligence and managerial ability with a willingness to work on behalf of the party and to his superiors, which enabled him to climb the promotional ladder to the very top. He is not a closet liberal or anything close to it. On the contrary, our best information suggests that he is a hard-liner, but shrewd and rational. Our notions of human rights simply do not fit into his value system. But he has clearly recognized the Soviet

⁵ The decision of Khrushchev and his colleagues in 1953 to sideline the secret police is a unique exception. After having lived for years in utter fear of Stalin's and Beria's NKVD, they decided not to do to others what they were afraid could have been done to them. The present generation of leaders did not experience the same fear and is, therefore, more inclined to give greater rein to the secret police. [Footnote is in the original.]

Union's serious economic shortcomings and is eager to do something about them. In fact, he appears to have staked his leadership role on this issue.

Gorbachev appears to believe that the Soviet Union's economic performance can be turned around through improved management and motivation of the work force, from top to bottom, but without fundamental changes in the system. He is interested in ending the Soviet malaise. His notions about how to accomplish these results are reasonably enlightened and involve somewhat greater freedom of expression—as long as the system is not being questioned—and an emphasis on the rule of law, including repressive laws, rather than the exercise of broad administrative discretion. Also, punishment for the exercise of human rights is to be meted out more sparingly, only if it clearly serves a state purpose, rather than as an expression of state displeasure.

These efforts at self-improvement appear to go hand-in-hand with Gorbachev's thoughts about Western help. As distinct from Brezhnev, who expected billions of American dollars for Siberian development, Gorbachev appears to have a far more sophisticated understanding of his country's needs and is more realistic about what the West is willing to provide. He may very well be interested in Western credits, but he is interested in Western economic development know-how as well. Gorbachev's interest in practical ways and means to pull the Soviet economy out of its present rut may very well identify for us the benefits we can offer for which the Soviet Union might make human-rights concessions.

Our Leverage

We should not overestimate the leverage with which we are thus provided. Neither should we underestimate it. Arrangements between us and the Soviets can provide immediate practical benefits to them. They can also send a signal to the private sector and to the international community that it is all-right to do business with the Soviet Union, thus providing indirect benefits as well. The challenge to us is to develop a long-term method of operations under which we relate Soviet human rights performance to the benefits we are prepared to offer them. I hope we shall be able to furnish you with an agreed-upon memorandum along these lines.⁶

In addition, it is essential that we keep our goals well in mind, particularly those which have here been labeled "intermediate," and keep the pressure up. It is critically important that we do not suggest

⁶ Not further identified.

to the Soviets that just because their behavior in the past has been extraordinarily brutal, a lesser order of repression is now acceptable. On this point we ought to go with A.M. Rosenthal, who in his column in *The New York Times*⁷ had this to say:

Mr. Gorbachev is certainly a smoother chap than most of his predecessors but he has not touched the police nature of the Soviet state and has not even hinted he will. How could he? He is part of it and rules through it. But everytime he says he will let a suppressed book be published or a private citizen own a pushcart or releases one of his ample supply of prisoners the West goes into a mad fandango of appreciation. There are, blessedly, Shcharanskys and some journalists who cry "wait, wait" to the world but they are outnumbered by eager folk who clap hands and sing praise. Myself, I will wait until Mr. Gorbachev arrests and tries the men who sent Mr. Shcharansky to jail and Dr. Sakharov into exile; time enough then to clap and sing.

⁷ For text of the full article, see A.M. Rosenthal, "Please Read This Column! Outline for a Pretty Good Job," *New York Times*, January 6, 1987, p. A21.

89. Action Memorandum From the Assistant Secretary of State for Human Rights and Humanitarian Affairs (Schifter), the Legal Adviser of the Department of State (Sofaer), and the Assistant Secretary of State for International Organization Affairs (Keyes) to the Deputy Secretary of State (Whitehead)¹

Washington, February 5, 1987

SUBJECT

Torture Convention: Differences with the Department of Justice

ISSUE FOR DECISION

Whether to convene a meeting of high-level State and Justice Department officials to attempt to obtain Justice Department support for U.S. signature and ratification of the Convention against Torture

¹ Source: Department of State, Subject Files, Human Rights Files, 1987, Lot 89D186, PREL UNHRC TORTURE 1987. Unclassified. Drafted by McLeod and cleared in L, HA, and IO.

and Other Cruel, Inhuman, or Degrading Treatment or Punishment (the Torture Convention).

ESSENTIAL FACTORS

In our previous memorandum of December 24, we detailed the preliminary objections to the Torture Convention that have been raised by Justice Department officials.² We appreciate your offer in response to call Attorney General Meese or Deputy Attorney General Burns to solicit their support for U.S. signature and ratification of the Convention. While such a call would undoubtedly be helpful, we believe an even more effective means of gaining Justice Department support for the Convention would be for you to convene a meeting of high-level officials from Justice and State.

We believe the Torture Convention merits such high-level attention. The practice of torture is abhorrent, and the United States should do everything in its power to bring it to an end. While recognizing that it may be difficult for the United States to prosecute those accused of torture abroad, we nonetheless believe that the threat of prosecution will deter some torturers and will prevent the United States from becoming a haven for torturers. Moreover, we are constantly under fire from the Soviet bloc for our failure to ratify human rights conventions. The Convention offers a concrete opportunity to demonstrate that the United States is prepared to sign on to such instruments when they are of sufficient value.

The Justice Department objections expressed so far reflect a fundamental disagreement with us over the value of U.S. ratification of the Convention and an underlying pessimism about the Administration's ability to get the necessary declarations, understandings and reservations from the new Democratic Senate. These are essentially political, and not technical legal, judgments. We need to find out now whether the highest political levels at Justice agree or can be persuaded to agree that the U.S. should move forward with the Convention and are willing to direct their subordinates to review the Department of State package expeditiously and in that spirit. If we cannot obtain political support at Justice, we will be resigning ourselves to letting the Convention languish in the Justice Department bureaucracy for the rest of this Administration. A high-level meeting would allow us to demonstrate to Justice the priority that we place on signature and ratification of the Convention.

If you are able and willing to host a meeting, we would propose that the participants from the Justice Department include: Deputy Attorney

² Not found.

General Burns, Associate Attorney General Steve Trott, Assistant Attorney General for the Criminal Division William Weld and Deputy Assistant Attorney General, Victoria Toensing. The State participants, besides yourself, would be Ambassador Schifter, Judge Sofaer and Ambassador Keyes.

We have prepared the attached talking points³ for your use in a meeting. Also attached is a background memorandum⁴ detailing our responses to the Justice Department objections raised thus far.

RECOMMENDATION

That you convene a meeting of high-level State and Justice Department officials to attempt to reach agreement that the Executive Branch should seek signature and ratification of the Torture Convention.⁵

³ Undated, attached but not printed.

⁴ Undated, attached but not printed.

⁵ There is no indication of approval or disapproval of the recommendation. In an August 8 memorandum to Farrand and Dobriansky, Schifter stated: "I brought the Secretary up to date on our problem concerning the Justice Department position on the Torture Convention. He said that Abe Sofaer usually can resolve matters of this kind with the Justice Department and asked me whether I had discussed it with him. I told him that Abe was indeed involved and had struck out. I added that John Whitehead is now looking into the matter. If he fails, I explained, we need to go to the NSC." (Department of State, Correspondence File—Ambassador Richard Schifter CHRON and Subject Files, 1984–1991, Lot 94D411, R. Schifter's Monthly Chron—August 1987)

90. Draft Telegram From the Department of State to Secretary of State Shultz¹

Washington, February 22, 1987

From: USUN—Vernon Walters, IO—Alan L. Keyes, ARA—Elliot Abrams, HA—Richard Schifter. Subject: UN Human Rights Commission: U.S. Initiative on Cuban Human Rights Abuses (S/S No. 5704623).

1. (C) Issue for Decision:

Our principal goal at the February 2–March 13 Human Rights Commission meeting is adoption of a U.S. resolution to place Cuban human rights abuses under the Commission’s scrutiny. We need your personal intervention, in the form of a letter to your colleagues in key Commission member states, to overcome the deep reluctance of many members to confront this issue.

2. (C) Essential Factors:

The implications of the U.S. initiative extend well beyond the Human Rights Commission. The initiative is a test case of our ability to begin to translate the institutional improvements obtained at the 41st UNGA into the political sphere throughout the UN system. In addition, it is a rare opportunity to undermine one of Cuba’s most important international assets, the protective cover of its regional and non-aligned groups. It is also a means of escalating pressure on Cuba to ameliorate abuses in individual human rights cases. As such, this initiative amply merits your personal intervention.

Our initial contacts with member state governments indicate deep reluctance to confront Cuba, despite private agreement that the human rights situation on the island is one of the worst in the world. Latin American and non-aligned member states are particularly vulnerable to Cuban and Soviet pressures. The key to success is the attitude of our Western allies. Among these, the Australians and Belgians have been forthcoming, the British very negative, with the rest in between. The British attitude, which may be related to their wish not to jeopardize their chances of re-election to the Human Rights Commission at the Spring 1987 ECOSOC Session, is the most disturbing and potentially damaging.

Despite the expected initial reluctance, we believe there is a good chance to obtain Western support and to achieve our objective at this

¹ Source: Department of State, Correspondence File—Ambassador Richard Schifter CHRON and Subject Files, 1984–1991, Lot 94D411, R. Schifter’s Monthly Chron—Feb. 1987. Confidential. Drafted by Jacobs on February 21 and cleared in IO, IO/UNA, HA/MLP, P, ARA/RPP, NEA/PAB, and ARA/CCA.

session of the Commission, with sustained high-level U.S. input. A letter from you to your counterparts in key Commission member governments will be an important link in our overall effort.

We have prepared letters in cable form tailored to the circumstances of the twenty five key countries involved. The countries are:

African States: Gambia, Lesotho, Liberia, Rwanda, Somalia, Togo.

Asian States: Bangladesh, Japan, Pakistan, Philippines, Sri Lanka.

Latin American States: Argentina, Brazil, Colombia, Costa Rica, Mexico, Venezuela.

Western European States: Australia, Austria, Belgium, France, Ireland, Netherlands, Norway, UK.

4 [3]. (C) Recommendation:

That you approve the dispatch of letters to the Foreign Ministers of the 25 countries, based on the representative texts attached at Tabs A through F (Australia, Belgium, Great Britain, Venezuela, Liberia and Bangladesh.)²

[Omitted here are Tabs A–F.]

² Below this sentence on the draft telegram, Quinn wrote: "Approved by C Hill per KQ—2/21/87."

91. Telegram From the Mission to the United Nations to the Department of State¹

Geneva, March 13, 1987, 1418Z

3051. Subject: 43rd UNHRC: U.S. Defeated on Cuba Resolution.

1. This is HRC–391.

2. As widely expected, on March 11 India introduced a motion to "take no action" on the U.S. resolution on human rights in Cuba.² After

¹ Source: Department of State, Central Foreign Policy File, D870196–0128. Limited Official Use; Immediate. Sent immediate for information to the U.S. Interests Section in Havana and USUN New York. Sent for information to Caracas, Bogota, Lima, Mexico City, San José, Brasilia, Buenos Aires, New Delhi, and Managua.

² In telegram 6148 from New Delhi, March 11, the Embassy reported that Indian disagreement over the resolution on Cuba was due, in part, to U.S. opposition to an Argentine resolution on human rights violations in Sri Lanka. (Department of State, Central Foreign Policy File, D870477–0364)

lengthy debate, and the defeat of a Bulgarian motion to close debate, the Indian motion was approved by a vote of 19–18 (U.S.) –6. Therefore, the U.S. resolution never came to be voted upon.

3. The loss by one vote (a tie would have meant victory for us) was heartbreaking. Particularly disappointing was the behavior of the major Latin democracies, in particular Argentina, Venezuela, and Colombia. With the exception of Brazil (abstained), all of South America voted in favor of the Indian motion. The only bright spot was Costa Rica. The Costa Rican Ambassador Soley Soler was simply magnificent. He took the floor on numerous occasions to speak against the Bulgarian and Indian motions and voted with us throughout. We hope that AmEmbassy San Jose will express our deep appreciation for Costa Rica's brave, energetic, and principled stand.

4. Further details to follow septel.³

Flack

³ In telegram 3123 from Geneva, March 14, USUN provided a detailed post-mortem of the debate regarding the resolution on Cuba. (Department of State, Subject Files, Human Right Files, 1986, Lot 90D53, Human Rights Commission II)

92. Memorandum of Conversation¹

Washington, March 18, 1987

The President's Meeting with Secretary Shultz and Howard Baker

[Omitted here are discussions not related to human rights.]

4. Focus on human rights in Moscow.²

Before going consult w/human rights organizations & Jewish Community.³

¹ Source: Reagan Library, Carlucci Files, Secretary Shultz (03/13/1987–04/15/1987). No classification marking.

² Reference is to Shultz's April 13–15 visit to Moscow.

³ In telegram 108751 to Moscow, Leningrad, and Tel Aviv, April 10, the Department provided a summary of the April 7 meeting between Shultz and Morris Abram, Chairman of the Conference of Presidents of Major Jewish Organizations, during which they discussed Abram's trip to the Soviet Union and Shultz's upcoming trip to Moscow. (Department of State, Central Foreign Policy File, D870593–0563)

Will develop public diplomacy and private efforts before we go.⁴

Our policy working; consistent but not shouting.

Want Sovs to comply w/Helsinki acts.

During mtg I would:

- 1) Acknowledge progress, but long way to go.
- 2) Want to have them make divided family cases routine. Want unconditional release of political prisoners.
- 3) Push for unrestricted emigration.

Want to move HR discussion into new areas.

- 1) Jamming and communications.
- 2) More media appearances.
- 3) Access thru telephone & mail.
- 4) Religion. 1/3 prisoners are for religious reasons.
- 5) Reinforce commitment to regular forum for US-Sov. dialogue on human rights.

Bait to use.

Trade & Economics. Not linked, but mentioned in same breath.

Gob. pushing for openness. Open society will be necessary for them, & is consistent w/human rights. If treat people decently could unrestricted emigration & people wouldn't leave.⁵

P. Sounds good.

Useful to know when agreeable to have Gob. visit here.⁶

⁴ In telegram 4784 from Moscow, March 31, the Embassy outlined the media strategy for Shultz's visit. (Department of State, Central Foreign Policy File, D870247-0014)

⁵ The minutes of a March 18 Policy Review Group meeting, during which Ridgway stressed a four-element agenda of arms reduction, regional conflict, human rights, and bilateral issues for Shultz's visit, is in *Foreign Relations*, 1981-1988, vol. VI, Soviet Union, October 1986-January 1989, Document 24. In telegram 6022 from the Secretary's Delegation in the Soviet Union, April 15, Shultz transmitted an account of his meeting with Gorbachev. Shultz stated: "On human rights, I challenged him to step up to freedom for Soviet Jews. He cited increased emigration figures to me and said they would continue to consider and work on humanitarian issues. But when I raised Jewish rights here he got hot under the collar about interference in internal affairs before he broke off." (Department of State, Soviet Union, 1958-1984, Lot 90D438, Shultz-Shevardnadze April, 1987)

⁶ Gorbachev visited Washington December 8-10, 1987.

93. Information Memorandum From the Assistant Secretary of State for Human Rights and Humanitarian Affairs (Schifter) to Secretary of State Shultz¹

Washington, March 28, 1987

SUBJECT

Human Rights in Gorbachev's Second Year: "Openness" and "Restructuring"

Summary. Driven largely by domestic concerns, namely his desire to reinvigorate the Soviet Union and improve the operations of the economy, Gorbachev has initiated major programs to open up to public scrutiny and debate governmental operations at the local level. For the same reason he has loosened somewhat the rigid controls recently in effect with regard to cultural activities. Change with regard to other aspects of freedom of expression has been far more limited and driven more by efforts to improve the Soviet Union's public-relations image. There is no indication as yet of any change in the Soviet Union's basic structure as a totalitarian dictatorship, in which the fundamental human rights spelled out in the Universal Declaration of Human Rights (and therefore covered by the Helsinki Final Act) are denied and in which the secret police apparatus plays a central role. *End Summary.*

The Gorbachev Innovations

At first blush, it seems that confusing and contradictory messages are coming out of the Soviet Union these days concerning respect for human rights. As we try to analyze recent developments, we often speak of "mixed signals." Some observers suggest that Gorbachev is pressing for liberalization, but that some hardliners, particularly in the KGB, are attempting to sabotage his efforts through acts of a repressive nature.

We cannot speak with certainty as to what goes on in the Soviet leadership behind the scenes. However, the leaders do speak out and their statements are published. A careful reading of these statements, when placed in the context provided by Soviet history and Leninist ideology and terminology, helps provide us with an understanding of the new developments in the USSR.

What the new leaders emphasize and demonstrate is their belief in Marxism-Leninism and their intent, in the spirit of Lenin, to "get

¹ Source: Department of State, Subject and Chron Files, 1985–1986, Lot 89D56, Human Rights. Confidential. Drafted by Schifter on March 27. Copies were sent to Ridgway, Solomon, Abramowitz, Derwinski, Kampelman, and Adelman. There is no indication that Shultz saw the memorandum.

the Soviet Union moving again" toward its socialist goals, through more and harder work, improved management, and greater efficiency. This preoccupation with better economic performance appears to influence all aspects of Gorbachev's program, including the innovations that have human rights implications. What may appear as "conflicting signals" turn out to be part of a logical scheme if we sort out the various strands of the Gorbachev program that relate to human rights.

For purposes of this analysis, the programs of "openness" and "restructuring" are divided into three distinct categories:

- (1) Personnel changes and other governmental reforms;
- (2) Loosening controls over cultural affairs; and
- (3) Other aspects of fundamental freedoms.

(1) *Personnel Changes and Other Governmental Reforms*

This is the area in which Gorbachev is making the most profound changes, taking the greatest risks, and encountering his most substantial opposition. His motivation is clear. He recognizes the weakness of the Soviet economy and wants to strengthen it. As management of the Soviet economy is an integral part of governmental operations, Gorbachev's efforts at improving the economy are an essential element of his program of governmental reform.

One of the major problems identified by Gorbachev has been the personal and professional inadequacy of a great many persons in leadership positions. The major culprits, in his opinion, were Leonid Brezhnev and other people associated with Brezhnev in the 18 years in which he led the Soviet Union. Gorbachev and his associates have now replaced Brezhnev and his crew in the principal positions of leadership. But Gorbachev has concluded that that is not sufficient, that the orders from the top are not effectively carried out at lower levels, that it is necessary to reach into the lower rungs of the bureaucracy and shake things up, replace those who take bribes, are drunk on the job, or fail to perform effectively and efficiently.

As the leadership could not possibly identify all the weak links throughout the entire Soviet system, another way had to be found. It was "glasnost." The bureaucracy, it was made clear to all, was no longer sacrosanct. Persons criticizing public officials would no longer be incarcerated or committed to mental institutions. On the contrary, their comments would be welcomed and action would be taken thereon. In order to effect improvements in the operations of the state and its enterprises, citizens would not be limited in their critiques to the naming of individual wrong-doers. They could also feel free to offer their thoughts on what they might perceive as inefficiencies on the local level, at which they could observe conditions directly. In that way the whole country could become involved in the effort to upgrade economic and other governmental operations.

Closely related to the opening up of the bureaucracy to public scrutiny and criticism is Gorbachev's emphasis on the rule of law. In a country in which so many aspects of the citizen's life are regulated by the government, the arbitrary use by local officials of administrative discretion can be particularly oppressive. As another element of "openness" Gorbachev has insisted on the writing and publishing of laws and regulations on a variety of subjects which in the past have been controlled through vague confidential policy guidelines. The purpose of the new approach is to let the officials know precisely what the limits of their authority are and to let the public know these limits so that they can insist that officials do indeed follow the instructions they have received.

This change in the rules under which the Soviet state operates is indeed most profound. For many a Soviet citizen this is what freedom of speech is all about. All that citizen ever wanted to do in exercising freedom of speech was to complain about the wrongdoing in front of his own eyes and about officials who were treating him unfairly and unjustly. He can do that now.

To the government officials the effect of this change in the rules has been equally profound. The entire Soviet bureaucratic system is built on lock-step advancement based on seniority. The road ahead was always safe and secure. All one had to do is engage in apple-polishing, including cooperation in the petty (or not so petty) graft in which one's superiors were involved. By playing along in this manner, one was fully protected against all criticism. The bureaucracy was sacrosanct.

This system of rule by a sacrosanct bureaucracy, the prohibition of any kind of criticism of its work, had been in effect since the rise of Stalin to one-man leadership in the early Thirties. Khrushchev tried to tackle some aspects of the problem toward the end of his period in office. His efforts along these lines may very well have been a factor in his downfall. What this means is that Gorbachev's openness and restructuring with regard to the Soviet bureaucratic system is taking the Soviet Union back to the Twenties, the time of Lenin, and that portion of the post-Lenin period in which Stalin had not yet achieved sole and supreme power.

But one of the essential elements of Leninism is that no questioning of the basic structure of the system is allowed. *That facet of the system remains unchanged.* Openness is limited to the exercise of freedom of expression on local problems. It does not extend to questions of basic governmental policy. The rules prohibiting the discussion of such questions remain fully in force. The lines are clearly drawn.

Nevertheless, the Nomenklatura, the term used to describe the privileged state and party bureaucracy, is troubled and the Nomenkla-

tura is powerful. If Gorbachev falls, his efforts with regard to governmental restructuring will be the principal cause.

(2) *Loosening of Cultural Restrictions*

In their allegedly classless society, the Soviets recognize as a subgroup of the working class the men and women who work with their brains. They are referred to as the "intelligentsia." In his analysis of conditions in the Soviet Union, Gorbachev appears to have recognized that this group, in particular, had lost hope, had been affected by a malaise which sapped its vitality. In focusing his attention on the intelligentsia in an effort to change the basic outlook of the group, Gorbachev may have been motivated by a number of factors, namely (a) the recognition that in the information age this is indeed the group whose performance will most significantly affect the future development of the Soviet economy; (b) an understanding that it is the intelligentsia from which dissidents and any dissident movement might spring.

Cynics among the ancient Romans expressed their disdain for democracy by suggesting that all that the people wanted were *panem et circenses*, bread and circuses. As the Soviet intelligentsia has sufficient bread, Gorbachev appears to have concentrated on the equivalent of circuses, changes in the drab field of Soviet culture. Thus we now see books published or to be published, theatrical plays, and films allowed to be shown, all of which were heretofore on the prohibited list.

What must be underlined in this context is that a close examination of the books now being published raises questions as to why they were prohibited in the first place. Nabokov² may have been prohibited because of the Soviet Union's insistence on high standards of morality in its literature. (This relates to personal, not political morality.) Pasternak's³ writings have political implications, but relate to a period in the long-distant past.

Other heretofore prohibited books as well as plays and films which may now be published or shown reflect Gorbachev's theme of glasnost. They show the cruelty and brutality of the Stalinist system but also its utter senselessness: the victims of the terror were not enemies of the state, just ordinary people who were being persecuted without good reason.

Another aspect of Gorbachev's "new thinking" is that history is to be rewritten once more. Stalin's failure as a military strategist in 1941⁴

² Vladimir Nabokov, Russian-American novelist and lepidopterist, 1899–1977.

³ Boris Pasternak, Russian poet and novelist, 1890–1960.

⁴ Reference is to the 1941 Nazi invasion of the Soviet Union.

is again to be noted. And there is even the possibility that old Bolsheviks like Zinoviev, Kamenev and Bukharin, all executed in the Stalin purges, who have for decades been non-persons, will be mentioned again. But there is no suggestion at this time that any other aspects of Soviet or of world history are to be reviewed. Lenin's friends and colleagues will be rehabilitated posthumously, but not the persons he considered his enemies.

Thus, to date there is no indication that the new cultural freedom is reaching beyond the limits which Lenin would have permitted. No books are published, nor plays or films shown, nor history books rewritten which challenge basic Marxist-Leninist assumptions. We must assume the leadership believes that it can keep things that way. Whether it will succeed, or whether the intelligentsia, once its appetite has been whetted, will push beyond the lines of the presently permissible, whether the authorities will resist, and if so, how successful they will be, only time will tell. What must be kept in mind is that the Soviet government's ability to maintain controls in this field is formidable: it owns the printing presses, the theaters and the movie projectors. It may very well have the power it needs to keep the intelligentsia in check.

(3) Other Aspects of Fundamental Freedoms

The "mixed signals" referred to at the beginning may be a reflection of the major changes in the behavior of Soviet authorities in the areas of local governmental reform and of culture, which contrast with the minor changes in the Soviet behavior pattern in all other areas affecting human rights. To be sure, there have been hints of further changes in the offing and some observers have expressed great hope that there will be a general relaxation of controls. This memorandum concentrates only on what *is* and does not seek to predict future developments.

When we examine the field of human rights beyond the areas of local governmental reform and of culture, we come up against the limitations imposed on Soviet citizens because of their political outlook, their religion, their desire to maintain their native culture, or in the case of Jews and Crimean Tatars, their ethnic descent. In all these areas there appears to have been no basic change. Public expressions of dissent and failures to adhere to regulations governing the formation of associations, including religious associations, remain punishable.

Whereas the changes set forth in (1) and (2) above seem to be driven by domestic imperatives, concern over the Soviet image abroad seems recently to have brought about some relaxation in the treatment of dissent. The most significant evidence of such relaxation has been the release from prison, exile and mental institutions of about 100

political dissenters, including Andrei Sakharov⁵ and other personalities well known in the West.

The limited significance of the prisoner releases is underlined by the following:

(a) more than 600 persons remain on the list of *known* political prisoners; estimates of the total number of political prisoners range from 1,000 to 10,000; no one has been released from Special Regime Labor Camp 389/36-1 at Perm, known as the most brutal of the camps, where many political prisoners have died;

(b) as distinct from Stalin's prisoners, whom Khrushchev, declared "rehabilitated," i.e. totally exonerated, the recently freed prisoners merely had their terms cut short; Irina Ratushinskaya told us that the KGB officer who told her that she would be released added expressly that she was *not* being rehabilitated;⁶

(c) persons released from confinement were required to sign statements that they would henceforth refrain from "illegal activities;"

(d) released prisoners who are believed less likely to cause harm abroad than at home are pressed to leave the country.

The recent prisoner-release program, it should be noted, is neither a large-scale "rehabilitation" effort nor a large-scale amnesty. The Soviet authorities have announced that releases are based on case-by-case reviews of the files. It would appear that with the political dissident movement destroyed and the Jewish emigration movement focusing on departure from the country, the release of persons associated with either group is deemed tolerable. The religious and nationality movements that are committed to staying in the U.S.S.R. are deemed greater threats and persons affiliated with either of them seem to have a more difficult time getting released.

What must be kept in mind, therefore, in analyzing the present state of human rights in the Soviet Union, is that hundreds if not thousands of political prisoners remain in jail, exile or mental institutions, that we don't know of any change in the treatment of these prisoners, that the power and practices of the KGB have not changed, that the same is true of the laws and regulations governing religion, that abuse of psychiatry has not been ended, that private organizations may not be formed, that no Samizdat ("self-published") literature is now circulating (as it did in the Seventies), that all media remain under central State control, that the one-party system remains untouchable,

⁵ The Soviet Government loosened restrictions on Sakharov's travel in December 1986.

⁶ Soviet poet Irina Ratushinskaya was released from Soviet custody in October 1986.

and that the same is true of what Lenin called “democratic centralism,” i.e. control of the party from the top.

Note: Discrimination against Jews and the emigration issue will be dealt with in a separate memorandum.⁷

⁷ In an April 10 information memorandum to Shultz, Schifter addressed anti-Semitism and Jewish emigration in the Soviet Union. (Department of State, Correspondence File—Ambassador Richard Schifter CHRON and Subject Files, 1984–1991, Lot 94D411, R. Schifter’s Monthly Chron—April 1987)

94. Information Memorandum From the Assistant Secretary of State for Human Rights and Humanitarian Affairs (Schifter) to Secretary of State Shultz¹

Washington, April 20, 1987

SUBJECT

Our Moscow Talks on Human Rights

Summary. The accomplishments of the Moscow trip in the area of human rights encompassed (a) your re-emphasis of our concerns, (b) our getting a better understanding of the specifics of Soviet policy and practices in this field.² *End Summary.*

Re-Emphasis of our Concerns

The Soviets don’t deal with human rights issues in as crass a manner as Fidel Castro, who, like a medieval potentate, releases prisoners from his dungeons in honor of visiting dignitaries. With the Soviets it is necessary to lay down our markers on human rights issues and await their action. In your discussions and by calling for the designation of an official who would meet with me on human rights issues you once again sent the message that you and thus the United States Government care.

¹ Source: Department of State, Central Foreign Policy File, P870099–1749. Confidential. Copies were sent to Ridgway, Solomon, and Kampelman. A stamped notation on the memorandum indicates that Shultz saw it.

² Shultz was in Moscow April 13–15. See footnote 5, Document 92.

*Clarification of Policy and Practices**(1) Religion*

I found my discussions with the Chairman of the Religious Affairs Commission, who has operational responsibilities, more enlightening than my discussions with the Foreign Ministry officials, who could only note our comments and promise to pass them on to the offices having direct responsibility.³

What I gathered from him is that recognized denominations will be allowed to open more places of worship, import bibles and prayer books and maintain contacts with co-religionists abroad. The present scheme of governmental regulation of religion will, however, be maintained, the sphere of authorized activity will remain limited to ritual functions, and religious education outside the home will remain prohibited. The Ukrainian Catholic Church, about which I made specific inquiries, will remain outlawed (probably because of the Church's Ukrainian nationalist tendencies).

A list of 235 religious prisoners was accepted and a report promised.

(2) Political Prisoners

The cases of political prisoners will continue to be reviewed, as will be the provisions of the Criminal Code relating to political crimes. Our expression of concern with regard to Camp 36 at Perm was noted. The matter will be looked into. I presented a list of political prisoners and an appeal concerning them prepared by the American Association for the Advancement of Science, calling attention to the high standing of the Association in the United States and its non-political character.

(3) Emigration

The various lists of prospective emigrants regarding which we expressed concern will continue to be reviewed. The principal problem standing in the way of positive resolution of cases on our rep lists as well as the refusenik list are determinations that a person possesses security-sensitive information, which results in the denial of permission to depart. In response to my observation that some of these determinations may have been wrong in the first instance and in other cases

³ In telegram 6023 from Moscow, April 15, the delegation summarized Schifter's April 13 talks with Kharchev. (Department of State, Subject Files, Human Rights Files, 1987, Lot 89D186, PREL UNHRC Religious Intolerance 1987) In telegram 6026 from Brussels, April 15, the delegation summarized Shultz's April 14 talks with Gorbachev. (Department of State, Central Foreign Policy File, N870004-0028) In telegram 6027 from Brussels, April 15, the delegation summarized Shultz's April 13 talks with Shevardnadze, Dubinin, Bessmertnykh, and Karpov. (Department of State, Central Foreign Policy File, N870004-0020)

information at issue may now no longer be security-sensitive, I was told that during recent weeks a process has been set up under which requests to review such determinations may be filed with the Presidium of the Supreme Soviet. I was further told that the Presidium is required to decide simple cases within thirty days and complex cases within six months. (We subsequently urged persons who could benefit from this procedure to take advantage of it.)

Concerning emigration of persons not on the refusenik list, my principal interlocutor made a point of reading to me, word for word, section 20 of the new emigration decree, concerning non-discrimination, so as to underline the Soviet position that there will be no special treatment of Jews. (This is in contrast with what Morris Abram understood Dobrynin to say to him.)⁴

The list which you were finally given was clearly a status report on a series of cases which we have presented to the Soviets in the past.⁵ (Some of the cases which were reported to us as satisfactorily resolved were cases of whose resolution we have been told before.) Accordingly, I assume that the fact that Feltsman⁶ may merely “go abroad,” which implies short-term visits, does not mean that the final word on his emigration application has been spoken. Similarly the negative response on two of the cases may also not mean that this is, in fact, the last word.

⁴ Not further identified.

⁵ Not found.

⁶ Soviet pianist Vladimir Feltsman.

95. **Information Memorandum From Karen Galatz of the Policy Planning Staff to Secretary of State Shultz¹**

Washington, April 24, 1987

SUBJECT

Soviet Human Rights: Time to Emphasize Non-European, Muslim Minorities

SUMMARY: Having highlighted U.S. concerns about Soviet Jews during your Moscow trip, S/P believes there is merit in a new, but complementary emphasis on the rights of Muslims in the USSR. This would be consistent with our overall human rights strategy of nuanced, but steady pressure on the Kremlin, and with our stated policy of broad human and religious rights concerns. It also would enhance our position with Muslim nations.

S/P believes there should be increased monitoring and discussion about the status of Soviet Islam within the U.S., with intermediary Muslim countries, and with the Soviet Union. This proposed discussion could focus on the following concerns:

- Islam as a religion remains under attack in the USSR;
- Islamic peoples are routinely discriminated against, earn less money, have higher infant mortality rates and are under-represented in state and party organizations; and
- Gorbachev's glasnost and promised religious reform has not been extended to Central Asia. *END SUMMARY.*

U.S. Objectives

This broader engagement would be designed to correct the widespread perception that when the U.S. says human rights, it means Israel and the American Jewish lobby. It would ease Muslim feelings that their needs are subordinate to those of Jews, and the corollary assumption that we are also anti-Islamic. It would also increase our credibility in the Arab world by doing something positive, thus reducing concerns that the U.S. is less reliable because of the Iranian arms shipments. Finally, this advocacy of the rights of Soviet Muslims would slow the pace of growing Soviet engagement in the Middle East and parts of Asia, including Bangladesh, Indonesia and Malaysia. We can accomplish this by reinforcing traditional Muslim suspicions of the Soviet Union, pointing out the contradiction between the Kremlin's external

¹ Source: Department of State, Central Foreign Policy File, P870112-0964. Secret. Drafted by Galatz. Sent through Solomon. A stamped notation on the memorandum indicates that Shultz saw it.

policy of touting religious freedom, and its domestic suppression of religion and related ethnic/nationalist tendencies.

Possible Approaches

Within the USG, we could increase monitoring of human rights abuses in Islamic republics (Our latest annual human rights report, for example, contains but one reference to Muslims);

—Spotlight the problems of Soviet Muslims in speeches (You have two upcoming speeches before Jewish groups; specific references to Soviet Islam could be included);

—End the use of Russian transliterations of Central Asian (and other non-Russian) words, which amounts to our acceptance of the Russianization of these non-Russian languages.

—Prepare monthly pamphlet reprints of Islamic articles appearing in the Western and Soviet press for Muslim leaders and journalists;

—Translate anti-Muslim Soviet articles into Arabic and Central Asian languages (We're already doing this into Turkish);

—Work to send Korans and other religious articles into the Soviet Union, and promote educational exchanges for students of Islam;

—Urge re-opening of mosques;

—Establish a Radio Liberty/VOA policy on Islamic programming (with increased commentary on the role of Islam in world affairs to supplement extensive Saudi broadcasts of the Koran).

With Muslim nations, we could encourage our friends to act both directly and as intermediaries with others to advocate Soviet Muslim rights and, more particularly, to:

—Sponsor resolutions in international organizations on the rights of Muslims (access to sacramental scriptures, educated clergy and the right to propagate their faith).

—Encourage the Saudis to press Moscow to increase opportunities for Soviet Muslims to make pilgrimages to Mecca;

—Ask Egypt to attempt bringing more Soviet Islamic students to Al-Azhar University and ask for reciprocity;

—Urge Pakistan, Turkey, India and others to send Korans in Central Asian languages to their co-religionists in the USSR;

—Seek access to Daghistan for study of classic Arabic, the one region where the language is spoken as in the days of Mohammed.

With the Soviet Union, we should consider pressing all of these issues privately in upcoming meetings with Soviet officials. This is consistent with the basic EUR/HA strategy of continuing to work for resolution of existing cases and starting to press new ones.

The Issues

There are four key points around which we could center discussions about Soviet religious and ethnic discrimination against Muslims:

1. *Islam is under attack in the Soviet Union.*

—In 1913, there was one mosque for every 500 Muslims. Today there is but one mosque for every 50,000 Muslims.

—Korans are in short supply. Only six inadequate editions have been published since 1917.

—The Soviet Union is trying to pervert Islam into a variation of other institutionalized (and therefore, more easily controllable) religions with an official clergy. This is contrary to Islamic law.

2. *Yet, Soviet Muslims, by virtue of their faith, have developed remarkable ways to fulfill the 5 pillars of Islam.*

—For example, while few can make the Hajj, Soviet Muslims substitute pilgrimages to sacred Islamic sites within the USSR.

—Vast networks of illegal Islamic secret societies exist. Thousands of unregistered mullahs lead prayers and assist with circumcisions, weddings, burials and dietary restrictions.

—And despite it all, demography and other sociological trends are helping Central Asians advance: their birthrate is about 3 times higher than the all-union average and, while their role in the central party and state hierarchies is small, it is growing at the republic level.

3. *Soviet Muslims—as an ethnic group—are persecuted.*

—While the standard of living in Central Asia is up since the revolution, income levels are lower for Muslims and infant mortality is two times higher than in the rest of the country.

—Muslims are under-represented in the key institutions of state and party (Only one Muslim serves on the Politburo; none in the Secretariat).

—When drafted, Muslims are conscripted to the hardest work with the least chances for advancing professionally. The official explanation cites language barriers, but the underlying reason is deep racial prejudice.

—And ideological campaigns continue to question the basic loyalty of Central Asians, again a reflection of the traditional Russian bias.

—This domestic repression clashes with the Soviet use of Muslims to cultivate cultural, economic and political ties in the Third World.

4. *Gorbachev's glasnost isn't helping Soviet Muslims: The post-Afghanistan, post-Iranian Revolution crackdown continues.*

—In Gorbachev's own words: "A pitiless struggle" must be waged against religion (Tashkent, November, 1986).

—Persecutions and attacks upon unlicensed mullahs continue, the number of activists on trial has increased, media attacks go on, and the publication of anti-religious books still disproportionately focuses on Islamic questions.

S/P will be discussing a more detailed work plan with HA and EUR.²

² Not further identified.

96. Information Memorandum From the Assistant Secretary of State for Human Rights and Humanitarian Affairs (Schifter) to Secretary of State Shultz¹

Washington, September 17, 1987

SUBJECT

Our Human Rights Discussions with the Soviets

Though our discussions on September 16² produced only meager concrete results (four dual nationals allowed to depart), the following general observations were made to us:

(1) The Soviet Foreign Ministry is prepared to discuss all emigration cases (not only the U.S. representation list) with us. My interlocutor, Yuri Reshetov, told me that he can henceforth be contacted directly on specific cases by our Embassy.

(2) The MFA is prepared to intercede with other Soviet authorities on emigration cases at our request. Your interest in the separated-spouses cases and the Nudel, Slepak and Meiman cases is noted. Some of the remaining separated-spouses cases may be resolved before long, others are quite difficult, one is nearly impossible (a person who may

¹ Source: Department of State, Correspondence File—Ambassador Richard Schifter CHRON and Subject Files, 1984–1991, Lot 94D411, Untitled. Confidential. Drafted by Schifter. Copies were sent to Matlock and Simons. “KC” initialed for Schifter. There is no indication that Shultz saw the memorandum.

² An undated memorandum of conversation of the September 16 meeting of the U.S.-Soviet Human Rights Working Group is in Department of State, Secretary Subject and Country Files—MemCons on US-USSR Relations, 1981–1990, Lot 93D188, Shultz-Shevardnadze—Wash 9/87.

once have worked for the Soviet security services). Nudel, Slepak and Meiman "remain under the observation" of the MFA.

(3) Changes in emigration regulations are likely which will relax the veto power of relatives of prospective emigrants over emigration applications.

(4) The Commission created in the Presidium of the Supreme Soviet to review denials of exit permits, which has already overruled some denials by local offices, can be expected to overrule other such decisions as well. Over time there may be some relaxation in the Soviet approach to the problem of secrecy.

(5) The practices which we have labeled "abuse of psychiatry" have been ended.

(6) The criminal-code provisions dealing with violations of the religious-control laws and with defamation of the Soviet Union are likely to be repealed and persons heretofore convicted under these laws are likely to benefit from an amnesty. On the other hand, the clause which makes "anti-Soviet agitation and propaganda" a crime will remain in place and persons convicted thereunder (including writers of poems and songs) are likely to remain in prison.

97. Memorandum From the President's Special Assistant for National Security Affairs (Rodman) to the President's Assistant for National Security Affairs (Carlucci)¹

Washington, September 25, 1987

SUBJECT

A Moscow Conference on Human Rights?

Since 1973, the human rights focus of the Helsinki process has been a powerful political force putting the Soviets on the defensive and, more important, reminding the world that the root cause of tension is the fundamental difference between the democracy of the West and the Leninist dictatorship of the East. Under Gorbachev's predecessors, the Soviets were always on the defensive, shied away from discussions, and sought to deny the legitimacy of the subject. Under the new leader-

¹ Source: Reagan Library, Lisa R. Jameson Files, USSR: Human Rights/General 05/22/1985-10/31/1987. Confidential. Sent for information. Ermarth, Bemis, and Rostow concurred. A stamped notation on the document reads: "Nat'l Sec Advisor has seen."

ship, the Soviets have cleverly gone on the offensive—embracing the issue, alleging “political prisoners” and social deprivations in the West, thus seeking to neutralize the issue by turning it in directions irrelevant or opposite to its original meaning.

A centerpiece of the new approach is the Soviet proposal of November 1986² to host a conference on “humanitarian cooperation” in Moscow, as part of the CSCE follow-up process.

State’s initial reaction last year was that we really didn’t like the idea, but we “shouldn’t close the door;” it was bad tactics to “just say no,” and in any case we should see what concessions we might extract from them in the process. More recently, the United States has begun to spell out in CSCE what concessions we want. Whether we realize it or not, it looks to me like we are now in the opening phases of a negotiation over this question.

Our terms seem quite stiff, and even in the exile and dissident community there is some sentiment that such concessions by the Soviets might be significant enough to warrant giving them their conference:

—First, the conditions of the conference itself in Moscow must be totally free. Exiles must be granted visas to come back and attend; dissidents must be allowed access; Western reporters must be allowed to roam free, etc.

—Longer-term Soviet commitments must include, first and foremost, release of political prisoners.

—Emigration must be freed up.

—Radio jamming must cease.

This list is meant to be “not exhaustive,” but the items we have specified to the Soviets are essentially those above.

My concern is that these terms are not as difficult for Gorbachev to meet as they may seem:

—It’s no big deal for him to let troublemakers run around for two weeks during the conference. The Soviet system will still be intact when they all go home.

—Gorbachev is already letting many political prisoners out, as part of his policy of coopting the intelligentsia and lightening the hand of the KGB somewhat on the populace. He can do more of this, in accordance with his own strategy. The Soviets are already talking of repealing one (though not all) of the statutes used to prosecute dissidents.

—Emigration he can do also, whenever he decides the payoff is worth it, in terms of either U.S.–Soviet relations, entree into the Middle East, or now this.

² See footnote 5, Document 87.

—Radio jamming, even of RFE/RL,³ does not seem like the most vital thing in the world for them.

Most likely, the Soviets will eventually agree to do *some* of these things, perhaps amounting to *substantially* if not completely meeting our demands. In a predictable negotiating environment, the West then will predictably find it hard—even impossible—to say no.

My main problem is that the Soviets will indeed pay a high price for such a conference—*because it's worth it to them*. I can't emphasize this enough. The payoff will be intangible, but real enough for them to value it highly. It confers an extraordinary legitimacy on the Soviet system. As some of Shcharanskiy's friends expressed it to him, it's like everyone inviting the Nazis to host an international conference on race relations in Berlin in 1937. And in return for a few concessions that (a) are inherently reversible and (b) do not go to the basic *structure* of their system in the first place. The Soviet system will remain what it has been; no one pretends otherwise. Yet the West will now be treating the land of the Gulag as an equal partner and worthy host for an international dialogue on political liberty! Nothing could more completely symbolize the collapse of 15 years of Western human rights policy.

To me, the very idea of endorsing such a conference on such a subject in such a place is obscene. And it would, as I say, represent a watershed Soviet success in neutralizing Western human rights policy once and for all, or throwing it into utter intellectual confusion.

Shcharanskiy, too, dislikes the idea, but when he was here, he told Fritz and me that he and his fellow dissidents were torn. They saw the Soviet propaganda gain, but they also valued the concrete concessions that might be extracted. For those in the trenches, it's a real dilemma. Shcharanskiy's uncharacteristic diffidence on the issue, however, may also reflect his assessment that more and more governments seemed to be moving in the direction of letting it take place (for a price), in contrast to last year when he had the sense that governments had no interest in actually having a conference. I told him that nothing was decided in the USG and that the views of people like himself would carry great weight.

I talked to Warren Zimmermann about it. He insists he will maintain total firmness on the terms we have laid down. He says he too is sensitive to the moral dilemma. I urged him not to do something that we'll all be ashamed of five years from now.

I am alerting you to this issue nonetheless, because I see us heading into something that could prove explosively controversial. Indeed we

³ Radio Free Europe/Radio Liberty.

are beginning to lose control of the issue. We are heading down a path with an all-too-predictable end point—and the cost to the West will be measurable by the degree of pleasure and triumph that the Soviet leadership will feel even at the cost to them of some concessions that they are (by hypothesis) willing to pay.⁴

⁴ In telegram 307674 to CSCE Vienna, October 2, the Department transmitted the conditions for a Moscow human rights summit and asked the Embassy to transmit those instructions to the Soviets in the form of a *démarche*. (Reagan Library, Lisa R. Jameson Files, USSR: Human Rights/General 05/22/1985–10/31/1987)

**98. Memorandum From the Deputy Secretary of State
(Whitehead) to the Legal Adviser of the Department of State
(Sofaer)¹**

Washington, September 29, 1987

I have been pressing Justice to get off the pot and let us go ahead and sign the Torture Protocol. It is embarrassing that the U.S., having initiated a tough international stand against torture, should now be unwilling to sign the agreement. Justice believes it raises all kinds of legal problems and Arnie Burns tells me Steve Trott² will now be in touch with you to confirm their views again. This has been going on for months. There are ways, I understand, to express our reservations with a statement at the time of signing that avoids future legal problems. I hope we can resolve the whole thing promptly.

John C. Whitehead³

¹ Source: Department of State, Correspondence of Deputy Secretary John Whitehead, 1982–1989, Lot 89D139, Memos To/From Bureaus—1987. No classification marking.

² Associate Attorney General Stephen S. Trott.

³ Whitehead initialed JW above his typed signature.

99. Information Memorandum From the Assistant Secretary of State for Human Rights and Humanitarian Affairs (Schifter) to Secretary of State Shultz¹

Washington, October 13, 1987

SUBJECT

Human Rights Developments in the Soviet Union

Summary. In the weeks ahead we shall have to define the irreducible minimum conditions to our agreeing that a Moscow Humanitarian Affairs Conference be held. Before we do so, we need to take inventory on Soviet progress and lack thereof in the field of human rights. What a review of developments in Soviet domestic affairs discloses is that the workings of the hitherto sacrosanct bureaucracy have now been opened for discussion and criticism, for most Soviet citizens a very exciting change. To be acceptable under these new conditions, however, all such discussion must take place within a framework of Marxist-Leninist doctrine. Those that dissent from the system continue to be harassed, but punishment is now more proportionate to the seriousness of the threat posed by these dissenters than was the case heretofore. *End Summary.*

Overview

The willingness of the Soviets during the last year or so to listen when we discuss human rights—and occasionally to respond meaningfully—their significantly more friendly demeanor, and the modest steps they have taken to improve their human rights record may very well have left the general American public with an unrealistically complacent view of the current state of Soviet human rights conditions. What is critically important now, after our human rights policy has registered some modest successes in the Soviet Union, is that we not leave the Soviets with the impression that they have gone far enough, that we will henceforth only mouth phrases about the need for further progress, but no longer mean it. In the process, we will also be able to ensure that the U.S. public, and Congress, have a realistic understanding of what the Soviets have (and have not) done.

The Soviets can no longer complain that the USG has ignored the progress they have made. Your recent public statements have acknowl-

¹ Source: Department of State, Central Foreign Policy File, P880038–2176. Drafted by Schifter. Copies were sent to Armacost, Solomon, Ridgway, Kampelman, Abramowitz, and Simons. A stamped notation on the memorandum indicates that Shultz saw it.

edged it.² Warren Zimmermann has expressed himself with great care in Vienna.³

It is conceivable that the dynamics of change in the Soviet Union will cause the process to continue. But as historians have noted, past liberalization efforts were halted and reversed not only under Khrushchev, but also under Alexander II and before that under Alexander I. In those eras, however, before “interdependence,” Russian authorities could act without reference to the concerns of outside powers. What is different now is that the Soviet Union understands it must be concerned about its world image and about relations with the West. It is because of that concern that we have an opportunity to influence the course of events in the Soviet Union. That is why we need to point both to the filled and the empty portion of the glass and try to make sure that the Western general public is aware of both. Our critical decision on the proposed Moscow Humanitarian Affairs Conference will have to be taken with these considerations in mind.

Last January I set forth for you some immediate, intermediate and long-range goals of our Soviet human rights policy.⁴ Full compliance with the provisions of the Helsinki Final Act, our long-range goal, remains well over the horizon. However, in the intervening months there has been significant progress in reaching our immediate goals and slight progress toward the intermediate goals:

A. Progress Toward Our Immediate Goals

- Perhaps as many as 30% of the known prisoners of conscience have been released. Additional releases have been promised. At the same time, we have been told that some of these prisoners, close to 100 of those known to us, will *not* be released. They are the people serving long prison sentences, some of them as recidivists, for “anti-Soviet agitation and propaganda.”

- A few of the separated-spouse, divided-family, and dual-national cases have been resolved this year. The pace is excruciatingly slow, but additional cases may be resolved in the months ahead.

- VOA is no longer jammed, but jamming of RFE/RL continues.

- Emigration has been stepped up to an annual rate just short of our minimum immediate goal of 10,000, but there is no present indication of an intent to go further.

² For a transcript of Shultz’s September 21 interview on “This Week With David Brinkley,” see Department of State, *Bulletin*, November 1987, pp. 21–23.

³ Telegram 11072 from CSCE Vienna, July 31, transmitted the text of a press conference, during which Zimmermann discussed negotiations regarding Soviet human rights issues. (Department of State, Central Foreign Policy File, D870613–0069)

⁴ See Document 88.

Progress Toward Our Intermediate Goals

- There has been a loosening of controls on expression in that dissent, speaking or writing within certain clearly defined limits, is no longer punished with imprisonment, although it is otherwise interfered with through harassment, detainment or confiscation.
- There has been talk of some limited changes regarding the practice of religion in the Soviet Union. There have also been hints that persons now imprisoned for religious activism may soon be released. But there is no evident intent to change the scheme of state control of religion.
- There has been some indication that abuses of psychiatry may be brought to an end.
- There has been no appreciable change in controls on the importation of foreign literature.
- There has been some relaxation in controls on foreign travel.
- Steps have been taken toward greater cultural freedom, but the emphasis appears on Russian culture as distinct from that of other ethnic groups.
- There is no present indication of any likely change in the 1986 Emigration Decree (requiring invitations from immediate relatives).
- There has been no change in the intrusive status of the secret police or any indication that the right to privacy will henceforth be respected.

The Limits of Change

The Soviets contend that such changes as have occurred recently in Soviet respect for human rights have occurred for purely domestic reasons. We have not tried to argue that point. In fact, some of the changes have indeed been the result of a new Soviet approach to the administration of its domestic affairs. But others have equally clearly been the response to foreign criticism. Generally speaking, the Soviets have taken steps (a) designed to make the Marxist-Leninist system function more efficiently, and (b) to accommodate some Western concerns, so long as such accommodation does not threaten the system.

The most exciting and for the average Soviet citizen most meaningful changes in Soviet society under Gorbachev come under the heading of Glasnost. Bureaucratic failings may now be freely discussed, both in individual speech and in the press. In fact, such discussion is encouraged, *but only if it takes place in the context of acceptance of the basic tenets of the Marxist-Leninist system.* Though limited in scope to the day-to-day issues of management of the Soviet administrative system and economy, *this new freedom allows for public discussion of almost all the problems of direct concern to the great majority of Soviet citizens.* It similarly

allows for discussion in books, theatrical plays and films of past failings, and thereby permits some rewriting of official history, although only within a Leninist framework.

Glasnost has not opened up for public discussion such basic policy issues as the war in Afghanistan, other aspects of Soviet foreign policy, the allocation of resources to the defense sector, weapons systems, the composition of the Politburo, or the state's basic commitment to Marxism-Leninism. But some change has taken place in the Government's treatment of those who in speaking up or writing act beyond the borders of the permissible. Responding to foreign criticism, the Soviet authorities seem to have recognized that they overreacted in the past, that the punishment meted out against dissent was excessive if measured against the threat they posed. Dissidents whose activities are not deemed to pose a serious danger to the system need not be incarcerated but rather hindered in their work, so that they concentrate on what they are now doing and do not get the notion that they can go further. On the other hand, for dissidents who are deemed a threat, particularly those who advance minority ethnic aspirations, severe punishment remains the order of the day.

The best assurance that the line between the permissible and the impermissible will not be crossed remains the system's monolithic control of the media and of all other forms of communications through secret police monitoring of the telephones and mails and other methods of spying on the population.

Soviet officials say that when they use the term "demokratisatsia" in describing changes now under way in the Soviet Union they do not mean Western-style democratization. That is absolutely true. They mean by democratization an end to the "cult of personality," an end to excessive privileges and untouchability of the ruling class, and the notion that government officials ought to pay attention to public attitudes in making administrative decisions. They mean a return to Leninist purity, uncontaminated by Stalinist despotism and Brezhnevist sloth. But Lenin was no Western-style democrat and neither are his disciples in the present Soviet leadership.

100. Telegram From the Consulate in Germany to the Department of State¹

Frankfurt, November 17, 1987, 1446Z

18953. For the Secretary from Whitehead. Subject: My Visit to Moscow

1. (Secret—Entire Text).

2. I've had a very constructive 45 hours in Moscow with solid progress to report on both the human rights agenda for the summit and the Moscow Embassy problems.

3. Dick Schifter, Jack Matlock and I spent a total of five hours with Adamishin and an hour with Shevardnadze on human rights. Gary Matthews, Mike Joyce and I spent an hour with Bessmertnykh on Embassy Moscow. In between we squeezed in an emotional hour with some 40 or 50 refuseniks and separated families, visits to the Kremlin and Red Square, the impressionist paintings at the Pushkin Museum, and a magnificent performance of Giselle at the Bolshoi.

4. The Soviets announced settlement of another separated spouse case today. The third in a week, leaving only six on our list.

5. At the human rights meetings with Adamishin, we challenged them to make progress prior to the summit on our whole range of issues: 1) resolve the remaining cases of divided spouses, blocked marriages, dual nationals, and "special interest"; 2) resolve the remaining "old refuseniks" cases, the number of which is now down to about 6,000, and stop denying emigration on the basis of unreasonable allegations about access to state secrets and unreasonable vetoes by relatives; 3) stop intimidating emigration applicants, and accept applications only from those with close relatives already abroad; 4) give amnesty to all political and religious prisoners and amend their criminal code to remove provisions for such arrests and imprisonments; 5) regularize other areas, e.g., to allow religious classes and Hebrew language teachings, to stop censoring telephone calls, mail and packages. Adamishin said they would take these concerns under consideration. On Jewish emigration he said they have no quotas, but are not approving departures only for those with first-degree relatives. He also quoted an astonishingly low figure for applications for Israel now under consideration, and I told him this would be a problem. I also made the point that now that they have contacts with Israel, we welcome their bilateral discussion of Jewish emigration.

¹ Source: Department of State, Correspondence of Deputy Secretary John Whitehead, 1982–1989, Lot 89D139, Memoranda of Conversation—1987. Secret; Immediate; Nodis.

6. After setting out a number of things they would like to see us do unilaterally, they came forward with a quite remarkable list of proposals for future interaction, some of which we have proposed to them in the past without success. These included 1) set up periodic meetings between high-ranking government officials to discuss humanitarian questions; 2) exchange information on the laws of both countries as they affect human rights; 3) establish direct contacts between their Ministry of Internal Affairs and our Justice Department on operational emigration-immigration matters; 4) collaborate on the fight against drug addiction and alcoholism; 5) collaborate on the fight against terrorism at the operating level; 6) create a bilateral fund for humanitarian collaboration to finance mutual contact and exchange of information; 7) establish consultation among specialists in developing international standards for committing people to mental institutions; 8) establish yearly meetings between writers and publishers on human rights; and 9) establish meetings between legal specialists for developing international human rights standards.

7. So there is now a list of things that we want and things that they want, and another list of things we might do together, many of the latter list being things we want too. We will now reply in the next few days and will show you a draft of our reply before it goes.² It is important that our demands be asserted in a way that does not put them in the position of always acquiescing to our demands but rather permits them to appear to be initiating steps in accordance with their own interests. To the extent that we are willing to do this, I believe we can make substantive progress. They say they don't want to keep anyone in the Soviet Union who wants to leave and that they don't want to imprison anyone for political or religious reasons but that we have to help them get there. There was some sense on my delegation that the Foreign Ministry may be pushing in the right directions against resistance from other agencies, and trying to use us in pre-summit circumstances to increase its internal leverage. We shall see.

8. It is too early to know what the summit can accomplish on human rights. But the indications now are that at least we can have some good progress to report.

[Omitted here is discussion unrelated to human rights.]

12. All in all it was a good visit and a good trip. All the embassies and my staff handled the complications very effectively. I'll be back about 6:00 p.m. tonight.

Ratray

² In telegram 364415 to Moscow, November 21, the Department transmitted its response to Adamishin's proposals. (Department of State, Central Foreign Policy File, D870961–0032)

101. Memorandum From Lisa Jameson of the National Security Council Staff to Fritz W. Ermarth and Dolores Wilson of the National Security Council Staff¹

Washington, November 18, 1987

SUBJECT

Key Issues Glossary

Key Issues: Human Rights

General:

—When it comes to human rights, the Soviets are like a man who beats his wife. He suddenly stops beating her and wants to be accepted as one of the boys, as though it didn't matter that he beat her in the first place. The Soviets make a few human rights concessions and expect the West to accept them as morally equivalent and democratic. We welcome whatever concessions they make, but, at the same time, we state clearly that this is not enough: there must be structural, institutional changes in the Soviet system that will prevent—or, at least, put the brakes on—an arbitrary reversion to the more stringent repression of individual liberties that has always characterized the regime.

—There is evidence that the pendulum may in fact be swinging back toward more repressive policies. Gorbachev's chief politburo antagonists—Second Secretary Ligachev and KGB Chairman Chebrikov—took advantage of his absence from Moscow last August² to declare that glasnost (openness) was going too fast and too far. This month, Gorbachev threw Moscow Party chief Yel'tsin to the wolves.³ The removal of Yel'tsin, the man in the leadership most closely identified with more liberal policies, signals Gorbachev's accommodation with the opposition to limit the rate of reform. And although it had elements of duality, Gorbachev's major speech on November 2nd⁴ reflected a decidedly conservative tilt.

¹ Source: Reagan Library, Lisa R. Jameson Files, Moscow Human Rights Conference 01/06/1987–09/17/1988. Secret.

² In telegram 208 from Moscow, September 3, the Embassy reported on a variety of Soviet domestic developments, including Gorbachev's vacation to Hungary. (Department of State, Central Foreign Policy File, D870767–0603)

³ In telegram 492 from Moscow, November 12, the Embassy reported on the removal of Yeltsin from his position of Moscow City Party First Secretary. (Department of State, Central Foreign Policy File, D870932–0385)

⁴ In telegram 431 from Moscow, November 2, the Embassy provided an analysis of the domestic elements of Gorbachev's speech. (Department of State, Central Foreign Policy File, D870901–0609)

—Until recently, the Soviets tried to deflect criticism of their human rights abuses by denying that abuses existed, or by charging Western “interference in their domestic affairs.” That the Soviets have now accepted human rights as a regular part of our bilateral agenda is a victory for your unwavering commitment to human rights concerns. In this respect, the Soviets have made a conscious compromise, realizing they will not be able to engage the U.S. on other subjects if they attempt to avoid discussion on human rights.

—Nevertheless, the Soviets are trying to impose their human rights agenda on us. They have made an eight-part proposal to Undersecretary [*Deputy Secretary*] Whitehead⁵ that includes items we do not classify under human rights—fighting terrorism and alcoholism, for example. They’ve also been focusing attention on alleged U.S. human rights abuses, casting almost all of them in economic terms: homelessness, unemployment, absence of free medical care. In this manner, the Soviets attempt to veer the discussion away from the genuine human rights abuses of which they have been most guilty. We have to make sure the focus stays on target.

—The Soviets want the U.S. to seal its approval of their so-called democratization by agreeing to their holding a human rights conference in Moscow. They are pushing this idea in the CSCE meeting in Vienna, attempting to divide the U.S. and our allies on the issue. There are quite a few people who think that immediate concessions on Moscow’s part might justify our acquiescing on the human rights conference, but we do not agree. You should not permit a government that does not respect Godgiven individual liberties and does not live up to its international commitments to host a conference in the name of human rights.

—Among our many human rights concerns with regard to the USSR are the following:

a. Emigration: The Soviets are trying to use increased emigration as a bargaining chip with us. It is true that this year they have allowed more people to emigrate in one month than in all of 1986, but the rate still falls far short of the banner years under Brezhnev. Projecting current figures, as many as 9,000 to 10,000 Jews will emigrate in 1987; but more than 50,000 emigrated in 1979! There are still an estimated two million Jews in the USSR, and we surmise that if even 10 percent wanted to leave, an additional 200,000 applications would result. We have no guarantees other than Soviet statements that the Kremlin will allow a free and steady flow of emigrants. A new Soviet law, passed last year, actually limits rather than facilitates emigration, for it restricts qualifying family relationships.

⁵ See Document 100.

b. Divided spouses/blocked marriages: The State Department still lists six divided spouse cases and four blocked marriages. Instead of resolving all of these cases—some which involve years and years of separation—the Soviets have been letting spouses go one by one, like pieces of penny candy. Dr. Galina Vileshina, a neurologist in Florida, has been separated from her husband for eight and a half years.

c. Prisoners of conscience: No one knows exactly how many prisoners of conscience are held in Soviet prisons and labor camps. Estimates range from a low of 400 to a high of 4,000. Even one would be too many. As late as two years ago, Gorbachev publicly stated that there were no political prisoners in the USSR. Many of the prisoners are believers who were sentenced for teaching religion to their children—a crime under current Soviet law. Many are dissidents who tried to circulate letters and petitions, peacefully demonstrate against government policies, or publish unofficial political or literary works. Once in the Gulag, prisoners are treated brutally, are often kept in solitary confinement, are denied visits from their families, and are threatened with additional sentences without trial.

About 150 prisoners of conscience were released over the past year and a half. Again, numbers can indicate a trend toward improvement, but we still have no evidence that there are legal safeguards to protect citizens from arbitrary arrest and punishment in the future.

d. Psychiatric abuse: The Soviets are still committing sane people—religious, nationalist, and political dissenters—to mental hospitals. They are still administering drugs that can affect mental health and personality. The Soviets say they are doing something to correct the situation, and have even proposed a cooperative program to identity standards for committing people to psychiatric institutions. The main problem remains unsolved: the Soviet Minister of Health, Dr. Chazov, used to be responsible for the psychiatric establishment. He apparently will not remove the persons directly responsible for system psychiatric abuse.

102. Information Memorandum From the Assistant Secretary of State for European and Eurasian Affairs (Ridgway) to Secretary of State Shultz¹

Washington, undated

SUBJECT

Human Rights Between Summits: Some Thoughts

1. Secret/Sensitive—Entire text.

Summary

2. Soviet human rights policy and practice is in a fluid, in some ways paradoxical state. Overall Soviet human rights performance has improved over last year, yet progress seems to have hit a plateau and in some areas even rolled back. Soviet officials are demonstrating an unprecedented willingness to discuss the full range of human rights with us in bilateral meetings. Yet they may become victims of their own success: Western expectations raised by Soviet actions and promises to date are so high it will be hard to meet them.

3. This paper outlines where we have come so far in our human rights dialogue with the Soviet leadership and suggests a strategy for maximizing our gains in this inter-summit period.

Background

4. Since the Reykjavik summit,² the Soviet Union has made undeniable strides in the area of human rights. Early this year, the Soviets:

—Increased the Jewish emigration rate, which now has reached a plateau of 700–900 per month, and significantly increased the emigration rates for Armenians and ethnic Germans;

—Permitted greater general freedom of movement in allowing more Soviet citizens to travel to the West as tourists and more former Soviet citizens to return to the Soviet Union for a visit;

—Released more than 250 political prisoners;

¹ Source: Department of State, Correspondence of Deputy Secretary John Whitehead, 1982–1989, Lot 89D139, Memos To/From Bureaus—1987. Secret; Immediate. Drafted by Grossman and Lang on December 19 and cleared in EUR/SOV/SOVI, EUR/SOV, EUR/RPM, and EUR. A stamped notation, dated December 1987, on the memorandum indicates that Whitehead saw it. In the top margin, Whitehead wrote, “Roz: This is an *excellent* memo. I’d like to stay involved in the US–USSR human rights area and am ready to be helpful whenever you see the opportunity. J.”

² Reference is to the Reagan-Gorbachev summit in Reykjavik in October 1986, which is covered in *Foreign Relations*, 1981–1988, vol. V, Soviet Union, March 1985–October 1986.

- Showed some tolerance of political dissent, including demonstrations by environmentalists, historical preservationists, Jewish refuseniks and Russian, Latvian and Crimean nationalists;

- Permitted increased freedom of expression in official media, including mention of formerly taboo societal problems and inclusion of articles and broadcasts from Western sources;

- Ceased jamming BBC and Voice of America broadcasts;

- Tolerated the formation of thousands of informal and unofficial literary, cultural and political discussion groups;

- Sharply reduced the number of arrests and convictions on political and religious grounds.

5. In general, however, the Soviets have failed to give permanency to the steps they have taken by making appropriate changes in their laws or procedures. They have repeatedly promised institutional reforms, such as changes in the criminal code or in the way "State Security" refusals are handled. But what they have delivered is relatively little: An end to the use of "internal exile" as a punishment, the transfer of "special psychiatric hospitals" from the Ministry of the Interior to the Ministry of Health, and, in the last few weeks, a slightly more flexible attitude toward the requirement that applicants for emigration have their relatives' permission.

6. Indeed, the Soviets almost appear to be engaged in a program of experimentation to test the parameters of reform. In some cases the Soviet leadership seems to have defined the limits of these freedoms by cracking down when they advance too far. The Soviets have slowed their progress, or even retreated from previous gains, in the following areas:

- They have failed to release the remaining political and religious prisoners, known to be in the hundreds and estimated to be in the thousands;

- This fall they harshly repressed demonstrations similar to those tolerated in the summer, arresting and beating demonstrators and in one case detaining a Western news correspondent;

- They have recently stepped up harassment of leaders of informal groups.

7. To forestall further retreats and to ensure that the change is long-lasting, we have urged the Soviets in bilateral meetings and in the Vienna CSCE follow-up meeting to institutionalize their human rights progress. We specifically have urged the following steps:

- A significant increase in emigration, involving a repeal of the requirement of all applicants to receive permission of all relatives, and a liberalization and codification of the laws and regulations governing refusals on grounds of secrecy;

- Release of all remaining political and religious prisoners, including those in psychiatric institutions, and repeal of the political and religious criminal code articles on which many of them were convicted;

- Resolution of all remaining cases on the U.S. Government's representation list;

- Continued unjamming of foreign radio broadcasts;

- Expanded freedoms for religious believers.

8. These suggested reforms were intended to end the most egregious of Soviet violations, without requiring fundamental change to the Soviet system. In this connection, many of the suggestions are based on Soviet trends and promises.

U.S.-Soviet Human Rights Dialogue

9. As Soviet progress on human rights has tapered off, Soviet authorities ironically have demonstrated greater willingness to discuss these issues. As recently as last year, the issue of human rights had to be disguised before it would rate Soviet consideration. For the December summit meeting, the Soviets freely agreed to include human rights on the agenda.³ During the past year, the Soviets have also agreed to consider human rights in the Bilateral Review Commission, in periodic case review sessions in Moscow, and in preparatory sessions before all high-level meetings between U.S. and Soviet officials. In such meetings, the Soviets have recently demonstrated an unprecedented willingness to discuss principles, laws, and practices as well as reviewing in detail specific cases from lists we provide. On the other hand, they have also stepped up their human rights counterpunches, expressing sharp criticism of social and economic conditions in the United States, and they continue to be interested in a CSCE humanitarian conference to be held in Moscow.

10. During his meetings with President Reagan and in public statements, Gorbachev was visibly testy on the subject of human rights, stressing that the U.S. is not the "prosecutor" and the Soviet Union is not the "accused." Despite such proclamations, Soviet officials in the working groups engaged in extensive review of the Soviet human rights situation, including many individual cases. Like Gorbachev, they attempted to offset our criticism of their system with attacks on ours.

Increased Expectations

11. Soviet statements and actions on human rights over the past year have created expectations in the West that may now prove difficult

³ Reference is to the Reagan-Gorbachev summit in Washington December 8–10, 1987. For memoranda of conversation of the meetings, see *Foreign Relations*, 1981–1988, vol. VI, Soviet Union, October 1986–January 1989, Documents 108–110.

to fulfill. Non-governmental organizations have carefully documented Soviet statements on proposed reform, such as emigration and criminal code changes, and now expect these changes to be implemented. If progress levels off, as it seems to have already, let alone if there is a retreat, then pressure from these constituents to push the Soviets will increase. Indeed, representatives of several human rights organizations have already indicated that they are disappointed with summit results on human rights.

12. We now face a situation where we can discuss human rights with the Soviets at all levels but where real progress is once again elusive. We need a strategy that allows us to pocket the Soviet willingness to look into cases of interest to us while at the same time taking advantage of their unprecedented willingness to contemplate institutional reforms that would have lasting significance.

Strategy Leading Up to the Next Summit

A. Resist Soviet Attempts to Sidetrack or Trivialize Our Human Rights Dialogue.

13. Not only have the Soviets stepped up their attempts to counter-attack, citing alleged U.S. human rights violations, but they have been doing their homework more diligently. During the human rights working group sessions at the summit, they came prepared with voluminous materials on these subjects, and they used them for hours of discussion on, among other things, the plight of the unemployed and homeless in the United States. Several hours were also devoted to the Soviet recital of resolved cases from many different lists.

14. There is no escaping the fact that the human rights dialogue with the Soviet Union, if it is to take place at all, will have to be a two-way street. We should nevertheless concentrate our time and energy at high-level meetings on principles related to civil and political liberties and to emigration. Discussions on the number of square meters in a Soviet apartment or the number of persons who enter the U.S. each year from Mexico should be referred to talks between U.S. and Soviet experts on such subjects, which can be arranged. They are not appropriate to meetings surrounding a summit.

B. Continue to Press on Institutionalization of Reforms.

15. Institutional changes should be our first concern, because they affect large numbers of persons, many of whose names are completely unknown in the West, and because they will help ensure that any progress made will be more difficult to reverse. While the Soviets are now willing to discuss and to resolve individual cases, we should not sacrifice discussion of procedural and legal reform in our effort to bring these cases to the Soviets' attention.

16. When we ask for procedural reforms, we will be starting from a strong position. The Soviets have been promising us these reforms for several months, even though what they have delivered has been disappointing. They have told us on several occasions that they are considering changes in laws that have been used frequently against political and religious dissidents. They have also said on several occasions that they are considering modifications in the way they deal with “state security” refusals. We therefore have solid grounds to press for action.

C. Coordinate Fora.

17. The recent willingness on the part of the Soviets to discuss human rights has left us with several fora in which to air our concerns. We regularly review human rights issues in the Bilateral Review Commission, in periodic case review meetings held between our diplomats in Moscow and their Soviet counterparts, at the CSCE meeting in Vienna, and in all high-level meetings between U.S. and Soviet officials. We should take advantage of all these frequent opportunities for human rights review, but we should coordinate to ensure that we are conveying the same signals and priorities across the board.

D. Make Case Review More Systematic.

18. In a departure from past practice, the Soviets have demonstrated a willingness to review carefully all lists we provide them and to respond with status updates. Although the information they provide is frequently out-of-date or simply false, this process does prove useful and has contributed to significant progress on all of our representation lists.

19. We must be careful, however, to control the lists so as not to undermine our own credibility or wear out the new-found Soviet receptivity to them. The increase in dialogue has led to a proliferation of lists that has confused both us and the Soviets. We should keep the number of lists to a minimum, keep them at a manageable size, be sure they are accurate, and establish as our priority those cases which are of particular interest to the U.S. Government.

20. If we should decide to present lists as a statement, such as lists of all known refuseniks or all political prisoners, we should make clear to the Soviets that we do not expect a read-out on each case but are simply seeking the resolution of the entire category.

E. Respond to Soviet Proposals on Cooperation but Make it Clear These Activities are no Substitute for Concrete Progress.

21. During Deputy Secretary Whitehead’s visit to Moscow, Soviet officials proposed a number of areas for potential cooperation in the

area of human rights.⁴ Many of the proposals reflect initiatives, such as periodic human rights review, we have already undertaken. Others, such as proposals to exchange laws and to engage in in-depth discussion about emigration/immigration questions, would cover new ground and should be pursued. Still others are either not desirable, such as the creation of a humanitarian cooperation fund, or should be arranged through private channels, such as meetings between writers and legal specialists.

22. We should pursue some of these proposals, because their implementation may serve to dissolve concentrations of opposition to reform in the Soviet bureaucracy. In agreeing to them, however, we should avoid the following pitfalls:

—Creating the perception among the allies that we are cutting a separate deal on human rights. We must emphasize to the allies and the Soviets that we see such bilateral cooperation as establishing a firmer foundation for multilateral work, rather than eliminating the need for that work.

—Producing more documents, such as declarations by writers and lawyers, when in fact it is improved implementation that we seek.

F. Use Public Diplomacy to Dispel False Impressions.

23. We have already heard disappointment from some representatives of human rights organizations with the results of the summit.⁵ As evidence of what they perceive as the diminished role of human rights in the U.S.–Soviet relationship, they cite the scant mention of the issue both in the President's remarks and in the final communiqué,⁶ and statements by Gorbachev which seem to reflect a hardening of the Soviet position.⁷ We should dispel this notion by making the following points:

—Human rights was at the top of our agenda for the summit.

—We conducted more than 12 hours of talks with the Soviets on human rights issues, including productive case review.

—The brief reference to human rights in the joint statement reflects fundamental differences in how we and the Soviets view our human rights obligations.

⁴ See Document 100.

⁵ See Morris B. Abram, "Gorbachev Can't Defy Human-Rights Tide," *Wall Street Journal*, December 16, 1987, p. 26.

⁶ For text of Reagan's remarks, see *Public Papers: Reagan, 1987*, Book II, pp. 1486, 1491–1497.

⁷ See Document 99.

—Nevertheless, it is the first time human rights has been acknowledged to form a part of the U.S.–Soviet dialogue in such an authoritative way.

—Our resolve to advance human rights certainly has not diminished.

—On the contrary, we have stressed to the Soviets that human rights issues form an integral part of the bilateral relationship. They will not go away.

103. Information Memorandum From the Assistant Secretary of State for Human Rights and Humanitarian Affairs (Schifter) to Secretary of State Shultz¹

Washington, January 29, 1988

SUBJECT

Soviet Emigration Practices

SUMMARY. We have received confirmation that as of January 1, 1988 Soviet emigration rules have once again been tightened. This latest step by the Soviets contradicts Shevardnadze's statements to you and the statements of other Soviet officials in the Summit Working Group on Human Rights. It is embarrassing to us in light of the President's hopeful public comments on Soviet emigration after the Summit. *END SUMMARY.*

Under the emigration decree announced in November 1986,² the most severe restriction, in terms of the numbers affected, is the provision that an applicant for an exit permit must produce an invitation from a spouse, parent, child, or sibling living abroad. This provision, which disqualifies the great majority of potential applicants, was rigidly applied to new applicants (as distinct from Refuseniks) in the early months of 1987. We raised objections to it then. Thereafter, on the occasion of their visit to Moscow, Dobrynin indicated to Abram and

¹ Source: Department of State, Correspondence File—Ambassador Richard Schifter CHRON and Subject Files, 1984–1991, Lot 94D411, R. Schifter's Monthly Chron—1988 January. Confidential. Drafted by Schifter. Copies were sent to Whitehead, Kampelman, Ridgway, Parris, Abramowitz, and Zimmermann. There is no indication that Shultz saw the memorandum.

² See footnote 3, Document 88.

Bronfman³ that this provision was designed to hamper the emigration of Russians, Ukrainians, etc., but that it would be interpreted “flexibly” in dealing with certain other groups. A few months later the word appeared to have gotten down to the lower echelons and we began to notice that persons sponsored by more distant relatives were indeed allowed to leave the Soviet Union. The “flexible interpretation” benefited all three emigrating groups, Armenians, Germans and Jews.

You will recall that Foreign Minister Shevardnadze⁴ told you that the only applications for exit permits that will be denied will be those of persons who possess secret information. That is also what we were told in our December 8 and 9, 1987, Human Rights Working Group sessions by Soviet Foreign Ministry officials. Only later did we find out that a Communist Party Central Committee staffer who had been in the Gorbachev party at the Summit had warned some of his U.S. interlocutors that there would be a drop in emigration after January 1, 1988. (This means that the Foreign Ministry officials deliberately misled us or were uninformed. I think it was the latter.)

As it is, there has been no discernible drop in emigration as yet. However, the flow of new applications is being reduced by not accepting those filed by persons not sponsored by first-degree relatives and even returning some applications which had been filed earlier.

We can't be sure why the Soviets have once again tightened their emigration rules. It is worthy of note, however, that in early 1987 the number of Jews applying for exit permits was low, which may have caused the Soviet authorities to loosen the restrictions. Toward the end of 1987 there was a sudden-surge of new applications, which may have alarmed the Soviets, causing them to turn off the tap once again.

Comment: This development is both substantively troublesome and embarrassing. It is embarrassing because the President announced after the Summit that he was hopeful regarding future developments concerning emigration from the Soviet Union. As he put it: “There were assurances of future, more substantial movement, which we hope to see become reality.”⁵ Far from being realized, the movement has so far been in the wrong direction.

We cannot be certain what the impact of this policy change will be on the present pattern of Jewish emigration, which appears to be at the rate of 10,000 annually. There are three possibilities. First, it is

³ See footnote 3, Document 92.

⁴ In an April 21, 1987, information memorandum to Shultz, Ridgway and Schifter described a list of human rights emigration cases presented to Shultz by Shevardnadze. (Department of State, Central Foreign Policy File, P870099-1746)

⁵ For the full text of Reagan's December 10 address, see *Public Papers: Reagan, 1987*, Book II, pp. 1501-1504.

conceivable that there is a sufficient stream of eligible emigrants so that the present rate can be maintained while keeping the restriction in place. More likely, the present rate cannot be maintained once the present backlog is exhausted with the restriction in effect, leading (a) to a drop in the rate of emigration, or (b) once again to a relaxation in the rule. We obviously will want to press for the latter.

104. Letter From Acting Secretary of State Whitehead to the Deputy Attorney General (Burns)¹

Washington, March 4, 1988

Dear Arnie:

I was very pleased that our meeting on February 17 concerning the Torture Convention was so productive.² I understand that members of our staffs have now ironed out the last details on the package of reservations, understandings and declarations, a copy of which is enclosed.³

At our February 17 meeting, you requested that we consult with the Senate prior to signing the Convention. Representatives from our two Departments met last Friday with staff members of the Senate Foreign Relations Committee to inform them that we planned to go ahead with signature in the very near future and to brief them on our package of reservations, understandings and declarations.

You also requested that the State Department pledge to resist unjust attempts by foreign governments to prosecute U.S. officials for torture. It goes without saying that the State Department will do everything in its power to protect U.S. officials from unjust prosecutions by foreign states. My Department would be happy to include language in the Senate transmittal document stating that the U.S. Government would

¹ Source: Department of State, Correspondence File—Ambassador Richard Schifter CHRON and Subject Files, 1984–1991, Lot 94D411, Projects—Torture Convention 1988. No classification marking. Drafted by Bodansky on March 1 and cleared in L/HRR. Shultz was in Syria to discuss a Middle East peace initiative.

² In a February 16 briefing memorandum to Whitehead, Sofaer, Schifter, and Williamson provided briefing material for the February 17 meeting with Burns. (Department of State, Correspondence File—Ambassador Richard Schifter CHRON and Subject Files, 1984–1991, Lot 94D411, Chron Correspondence w/Dep't Officials 1988 [Outside HA] January-February)

³ Undated, attached but not printed.

strongly resist attempts by foreign states to use the Torture Convention to bring unjustified prosecutions against U.S. citizens.

We believe that this resolves the remaining issues between our two Departments. Unless we hear otherwise from you, we plan to go ahead with signature of the Convention this month.⁴ If you would like to conduct further Senate consultations before signature, please let me know as soon as possible, so that we can complete these consultations by the end of March. For your information, at the time of signature we will state that the United States reserves the right to communicate, upon ratification, such reservations, understandings and declarations as are deemed necessary. This will put other nations on notice that we plan to submit reservations, understandings and declarations at the time of ratification, without appearing to preempt the Senate's role in the ratification process. As you requested, we will consult with you about the Senate transmittal documents before referring the Convention to the Senate for advice and consent.

Thank you for your help and cooperation in this matter.

Sincerely,

John C. Whitehead⁵

⁴ The United States signed the convention on April 18.

⁵ Whitehead initialed JW above his typed signature.

105. Telegram From the Mission to the United Nations to the Department of State¹

Geneva, March 12, 1988, 1115Z

2846. Subject: 44th Session of UN Human Rights Commission: Cuban Issue: A Major Victory for the U.S. Ref: (A) Havana 1371 (Notal), (B) Caracas 2490 (Notal).²

1. Confidential—Entire text.

2. This is HRC—

3. The U.S. on March 10 joined in the consensus adoption of draft decision sponsored by Colombia, Peru, Mexico, and Argentina which accepted a Cuban invitation to the Chairman of the UNHRC (Sene of Senegal) and five others (geographically distributed) to come to Cuba to examine the situation of human rights in that country. (Text in para 10 below).

4. USDel joined in the adoption of this text only after USDel received assurances from Sene that he would announce to the Commission following the adoption of the decision his interpretation to the effect that the visit would be carried out in UN terms—the group will have free access. It will seek and receive information from all sources, it will submit a report to the 45th Session of the UNHRC, and the investigation will be carried out according to standard UN rules and procedures. The Secretary also provided a financial implications statement—the UN will pay for the trip, not Cuba.

5. Only following Sene's statement did Ambassador Valladares announce to the UNHRC that given USDel's understanding that the investigation of the human rights situation in Cuba would be carried out in UN terms, there was no further need to take action on the U.S. text³ and it was withdrawn.

¹ Source: Department of State, Subject Files, Human Rights Files, 1988, Lot 90D46, PREL—UNHRC #12 Cuba 1988. Confidential; Immediate. Sent Immediate for information to USUN New York, USIA the U.S. Interests Section in Havana, Libreville, Banjul, Bogota, Bonn, Brasilia, Brussels, Buenos Aires, Caracas, Colombo, Dakar, Dublin, Islamabad, Lome, London, Manila, Oslo, Paris, Rome, San José, Tokyo, Addis Ababa, Algiers, Beijing, Belgrade, Berlin, Dhaka, Kigali, Lima, Sofia, Gaborone, Lisbon, Madrid, Lagos, Moscow, Baghdad, and Port of Spain.

² In telegram 1371 from Havana, March 10, the U.S. Interests Section reported that Castro had consented to an International Committee of the Red Cross visit, not "investigation," to Cuba, but he later relented. (Department of State, Central Foreign Policy File, D880209–0099) In telegram 2490 from Caracas, March 10, the Embassy congratulated U.S. negotiators on their coordination of the Cuban issue at the UNHRC. (Department of State, Central Foreign Policy File, D880211–0741)

³ In telegram 36465 to multiple recipients, February 6, the Department transmitted the draft text of the U.S. resolution on Cuba. (Department of State, Central Foreign Policy File, D880102–0469)

6. USDel is extremely pleased with the outcome as are the other members of the Western Group. The Cubans have paid a high price to evade the adoption of a U.S. resolution on Cuba, the acceptance of a UN investigative team and the placement of Cuba's human rights situation on the agenda at the 45th Session of the UNHRC. The U.S. resolution had been torn down to a minimum—in real terms, we have gotten much more than we ever expected possible. Cuba has, in practical terms, been placed in the same boat as Afghanistan, Iran, Chile, and El Salvador, with rapporteurs carrying out a full investigation of the human rights situation. This puts us at least one to two years ahead of what our resolution would have eventually accomplished. The Cuban attempt to co-opt the issue by extending an invitation to the HRC on Cuban terms has been turned against them. The invitation has been accepted, but on UN terms. The GOC will undoubtedly seek to sabotage this investigation at every turn as they have already tried (see para 11); the fact is Cuba has suffered a major loss.

7. While Cuba was not prepared to have its invitation altered to meet UN terms (Sene's announcement came as a surprise to the Cuban Delegation), the positions of some delegations became more fluid as a result of Cuba's "conciliatory" invitation. To have pushed to a vote on our text would have required our overcoming several possible procedural votes. In the end, we are almost certain that a vote on our text would have resulted in its adoption, but some of the procedural votes would have been risky.

8. We want to get across to addressees that it was only the forceful efforts of all involved, particularly our embassies, that prompted the Cuban invitation—something that as little as two weeks ago Castro said he would never contemplate. What has been created in effect is a group of six UNHRC Special Rapporteurs—something that was worth giving up our text for. USDel is extremely grateful for the efforts of all.

9. Much work lies ahead to ensure that at next year's UNHRC, Sene's report will be the basis of a resolution which accurately reflects the human rights situation in Cuba. It goes without saying that the Cubans will pull out all the stops to secure the opposite result.

10. Begin text of Colombian draft decision (informal English translation):

Taking into account the invitation of the Cuban Government, the Human Rights Commission decides:

A. To accept this invitation for the Chairman and five members of the Commission, named after regional consultations, to visit Cuba with the goal of observing the situation regarding matters of human rights.

B. That the President of the Commission, jointly with the other five members of the mission, draw up a report which will be presented

for the consideration of the Commission, which will decide the form in which this (information) will be examined. End text.

11. At what was to be the routine closure of the Commission on March 11, Cuba's four puppets, Mexico, Colombia, Peru, and Argentina, tied up proceedings for four hours trying to alter technically the agreement of the previous day. In the end they lost, and by so doing put some frosting on the cake prepared the previous day.

12. Once again, our apologies to all for our incessant requests for lobbying, and our profound thanks for the way those requests were carried out.

Petrone

106. Memorandum From the Counselor of the Department of State (Kampelman) to Secretary of State Shultz¹

Washington, March 30, 1988

SUBJECT

The Moscow Human Rights Conference

The Soviets want a human rights conference in Moscow. Under the right conditions, this would be in our interest. Dick Schifter and Warren Zimmermann agree. I have also talked to Roz. This is the time for us to explore such an outcome, particularly since there may be a sourness developing as a result of a Soviet perception that we are not helping them get out of Afghanistan in a dignified manner.

Sakharov indicated two requirements:² the release of political prisoners and Soviet withdrawal from Afghanistan. I believe we will need three additional criteria met before we can agree to a Moscow conference.

¹ Source: Department of State, Correspondence of Deputy Secretary John Whitehead, 1982–1989, Lot 89D139, Memos To/From Bureaus—1988. Secret. A stamped notation, on the memorandum indicates that Whitehead saw it on March 31. In the upper-right hand margin, Whitehead wrote: "Max: As I think about this some more, I think I'm in favor of it, though cautiously so, at least for the meeting you suggest with Vorontsov. JW."

² Telegram 4019 from Shultz's delegation in Moscow, February 22, summarized a February 21 conversation between Shultz and Sakharov, during which they discussed the conditions for a Moscow Human Rights Summit. (Department of State, Central Foreign Policy File, D880148–0163)

1. Afghanistan has not been introduced as a criteria in the Vienna context. I suggest that for now we proceed on the assumption that the withdrawal is taking place.³

2. The release of all political and religious prisoners, including the 15 or so "hard cases." We estimate about 300, the Soviets say under 100.

3. We will need a resolution of our bilateral cases, under 100.

4. A "significant" rise in emigration. It is now running at the rate of 9,000–10,000 a year. Our present thinking is to ask for an immediate rise in the monthly numbers so as to give a 1988 end-of-year total of 15,000.⁴

5. We need significant movement on the denials of exit visas on spurious security grounds. They should be asked as a test of their bona fides to move promptly on all cases in which the applicant has not done any secret work for ten years or more.

We have also told the Soviets we need such institutional reforms as freedom of religion, reform of the criminal code, and removal of abuses barring emigration. Rather than insisting on immediate performance, we could tell them that we remain committed to these criteria, and—if they are not met by the time of a Moscow conference—we would have to discuss them at the conference.

We also need to know that a Moscow Conference would take place in the conditions of openness and access which have characterized previous CSCE meetings. The Soviets have provided general assurances; Warren would have to tie them down to specifics with his counterpart in Vienna.⁵

The Madrid forum established a pattern under which a human rights experts meeting and a separate meeting on human contacts (family reunification, etc.) would take place between the end of Madrid and the beginning of the Vienna meeting three years later. We can agree to have a third such meeting. The French would like to have a human rights meeting in 1989; the Danes would like to host a human contact session, and that could also take place in 1989. Each of these would probably last four to six weeks. We could then have a Moscow conference in 1990 designed to review implementation and take inventory as to where the Helsinki Final Act stands with respect to these two broad issues. The fact that it is an additional meeting to follow

³ In the left-hand margin, Whitehead wrote: "I'd continue to include this as a condition. If they're leaving, it's no problem for them. If not, it's a problem for us."

⁴ In the left-hand margin, Whitehead wrote, "Should we indicate we're only interested in Jewish emigration?"

⁵ In the left-hand margin, Whitehead wrote, "The specifics here are important. It's easier to tell this to right wingers if they can see the Soviets will really have to open up for the meetings."

the other two means there is a standard of how to hold meetings to which the Soviets will be asked to conform. The next big follow-up meeting will then take place in Helsinki in 1991, three years after Vienna.

Holding a Moscow meeting, once our conditions are met, should, as Sakharov suggested, assist Soviet human rights activists. I'm not suggesting that we "reward" the Soviets by holding the conference. It is in our interests if we are able to use it as a lever for better human rights performance. Many human rights groups in the U.S. now support the idea. On the other hand, Mrs. Thatcher is now opposed, although her representatives have suggested that the fulfillment of our conditions may turn her around. In any event, you will see that I am proposing that we explore this question with the Soviets and not make any commitments until after we obtain Alliance consensus.

CONCLUSION

I would like to propose, subject to your agreement, that I be authorized to sit down with Vorontsov either in Geneva before our April Moscow trip, or at the beginning of the Moscow talks, to have a free-wheeling ad referendum discussion and exploration of U.S.–Soviet relations in which the above agenda would be a major item. This is a good follow-up to your talk with Shevardnadze. Vorontsov does have a supervisory role over the Soviet delegation in Vienna. He and I could then use the occasion to chat about some other issues between us as well, including arms. If this does make sense to you, we could send a message from you to Shevardnadze suggesting such a meeting.

I will be seeing you on Thursday. We can briefly talk about it then.⁶

⁶ March 31. No record of this meeting has been found.

107. Telegram From the Department of State to the Embassy in the Soviet Union¹

Washington, April 2, 1988, 1423Z

104022. Subject: US/USSR March 24–25 Roundtable on Human Rights Issues. Reftels: A) State 84473, B) Moscow 7191, C) Moscow 6933, D) Moscow 4525, E) State 69066.²

1. Summary: On March 24/25, U.S. and Soviet Government officials, joined by legal and medical experts held a roundtable discussion in Washington on various human rights topics of mutual interest. Future meetings were agreed on in principle and several possible topics for further discussion were identified. End summary.

2. HA Assistant Secretary Schifter led the U.S. delegation, which included non-governmental U.S. experts Hon. Frank Kaufman, senior U.S. District Court Judge; Dr. Loren H. Roth, Western Psychiatric Institute, Pittsburgh, PA; Dr. Roger Peele, Director of St. Elizabeth's Hospital, Washington, DC; Attorney Charles Ruff, former U.S. Attorney; Attorney Paul Kaminar, Washington Legal Foundation; Attorney Paul M. Smith; and Attorney Craig Baab. Deputy Foreign Minister Adamishin formerly headed the Soviet side, but, except for one brief appearance did not participate in the meetings. Other Soviet participants were Veniamin F. Yakovlev, Director of the Institute of Legislation, USSR Ministry of Justice; Vasilii A. Vlasikhin, specialist in American Constitutional Law and Criminal Justice, USA–Canada Institute; Dr. Genadiy N. Milekhin, Serbskiy Institute. Soviet Embassy Minister-Counselor Sergey Chetverikov and Counselor Bulay also participated.

3. These meetings arose in response to the eight-point proposal for bilateral cooperation put forth by Deputy Foreign Minister Adamishin

¹ Source: Department of State, Subject Files—Human Rights Files, 1988, Lot 90D46, PREL—Human Rights 1988. Confidential. Drafted by Lerner; cleared in HA, HA/HR, and EUR/RPM; approved by Parris. Sent for information to Leningrad, Vienna for CSCE Delegation, and all NATO capitals.

² In telegram 4525 from Moscow, February 26, the Embassy reported on February 21–22 human rights talks in Moscow. (Department of State, Central Foreign Policy File, D880167–0011) In telegram 69066 to Moscow, March 5, the Department transmitted a Soviet draft statement regarding the human rights roundtable. (Department of State, Central Foreign Policy File, D880190–0615) In telegram 6933 from Moscow, March 17, the Embassy conveyed a Soviet counter-proposal for the human rights roundtable. (Department of State, Central Foreign Policy File, D880232–0266) In telegram 84473 to Moscow, March 18, the Department transmitted its concerns about Soviet requests for the human rights roundtable. (Department of State, Central Foreign Policy File, D880233–0637) In telegram 7191 from Moscow, March 18, the Embassy reported it had conveyed the Department's concerns to the Soviets. (Department of State, Central Foreign Policy File, D880235–0790)

last November (reftel D).³ Generally exhibiting a spirit of cooperation, both U.S. and Soviet experts explained laws and implementation of laws in each of our two countries regarding involuntary psychiatric commitment; the interrelationship of domestic and international law concerning human rights; capital punishment; and freedom of conscience.

4. Interesting trends and patterns in this first meeting were:

—The Soviet approach was initially combative, focusing on U.S. failure to ratify the International Human Rights Covenants. As the meeting progressed, however, rapport was established between the two sides, particularly with Yakovlev. Yakovlev went quite a distance in conceding human rights problems in the Soviet Union and indicating Soviet interest in effecting basic changes. At the conclusion of the meetings, he indicated that he had been somewhat apprehensive and was pleasantly surprised at how well things had gone. He expressed his strong interest in continuing the dialogue.

—Generally, Adamishin noted that there are three channels for discussions of humanitarian issues between the U.S. and Soviet Union: 1) between the MFA and the State Department, 2) between lawmakers (e.g. Congressman Hoyer's upcoming trip to Moscow), and 3) between experts such as were attending the current roundtable meeting. Adamishin expressed hope that, as part of Perestroika, expert-to-expert meetings could go on without needing continual shepherding by Ministries, but not totally beyond governmental control. He also suggested that a non-governmental source of financing be established to support symposia between experts, a sort of bilateral human rights fund.

—Yakovlev and Milekhin were the only two genuine experts brought by the Soviets; Vlasikhin, as noted below, served as polemicist, and employing his knowledge of the U.S. and of English to advance arguments which in toto were a thinly disguised lure in the direction of moral equivalence thinking. Yakovlev was thoughtful and well-prepared; he may very well be an important person in such studies of Soviet legal and judicial reform as may be underway. Milekhin seemed, disingenuously or not, surprised that U.S. professionals would have considered that Soviet psychiatrists would have abused their profession; but this wore off, or was abandoned, during the two days, and he appears to be interested in further dialogue.

—Despite the ups-and-downs of the preparatory period; the unpromising exchanges embassy went through over whether meeting would take place; what agenda would be; and so on, the round table discussions quickly came to the point. No lingering or footdragging

³ See Document 100.

came from the Soviet side, once here; and this may be instructive for future planning of such meetings.

PSYCHIATRY

5. The discussion of psychiatric commitments centered around (1) balancing the need to protect society from dangerously insane persons and the need to protect the individual's rights, and (2) the interplay between legal and medical issues in the treatment of psychiatric patients. The U.S. side presented an overview of the types of psychiatric treatment given in the U.S., how many psychiatric patients are treated against their will, the differences between civil commitments and criminal commitments, etc. The Soviets focused on their concept of alleged safeguards against abuse of psychiatry, such as the role of the procurator, who functions as quote an Ombudsman unquote in the Soviet legal system to ensure compliance with the law. Yakovlev conceded that laws regarding psychiatric commitment had not always been followed in the past. The position of chief psychiatrist was created to deal with organizational questions, local party officials have been told to deal with all complaints, and local Soviets are required to help place mental patients back into society. A discussion of technical aspects of appointing a guardian ensued.

6. In response to questions about the mistreatment of mental patients, as described by Anatoly Koryagin and Viktor Davydov, in special psychiatric hospitals, Dr. Milekhin simply dismissed the notion that psychiatry could be abused for political purposes. He maintained that incorrect diagnoses must be examined individually, and cannot be clinically discussed in general terms. Later, Milekhin defended the existence of special psychiatric hospitals from which a patient cannot escape as necessary in order to protect society and hospital personnel from dangerously sick people who do not themselves know they require treatment. The Soviets also described the procedure for judicial review of emergency commitment which, according to Milekhin, was recently codified. Though the issue of Soviet abuse of psychiatry was not pressed on Milekhin in the course of the formal meetings, it was forcefully brought to his attention in private conversations with Assistant Secretary Schifter and with Ellen Mercer of the American Psychiatric Association. At the end of the meeting, Milekhin asked an HA officer somewhat plaintively whether Americans really believe that Soviet psychiatrists have been guilty of misdeeds. He was assured that we did.

7. An invitation was extended by Dr. Milekhin to U.S. psychiatrists to visit the Serbskiy Institute and lecture to Soviet psychiatrists, and the Soviet psychiatrists were invited to reciprocate the visit here. During Milekhin's first day in Washington the American Psychiatric Association (APA) received him at its offices here and arranged for visits to St. Elizabeth's Hospital and the George Washington University Hospital

Psychiatric Ward. Suggested topics for a series of future symposia on psychiatry include judicial review of involuntary psychiatric commitment and treatment, both civil and criminal; legal protections for psychiatric patients; and the insanity defense.

Relationship of Domestic and International Laws on Human Rights

8. The discussions on relations between domestic and international laws on human rights began with the Soviet Union enumerating the human rights conventions to which it is a party, such as the International Covenant on Economic and Social Rights; the Covenant on Civil and Political Rights; the Universal Declaration of Human Rights; and the Helsinki Final Act. They then went on to describe how “glasnost” has led to changes in the legal and economic spheres and greater democratization in the political sphere.

9. A/S Schifter brought this discussion back from the theoretical to the practical by pointing out that laws are not self-enforcing, and that implementation is vital. Vlasikhin (whose overall role was provocative, defensive, and out of sync with the other Soviets) responded with a presentation on several topics including: the importance of having an independent judiciary; U.S. non-ratification of human rights covenants, such as the Genocide Convention;⁴ the Fourteenth Amendment of the U.S. Constitution; the non-enforceable nature of international law; President Reagan quote packing the bench with conservatives unquote; restrictions on demonstrations in the U.S., alleged violation of attorney/client privilege by lawyers; infiltration of the Committee to Aid El Salvador by the FBI as a restriction on freedom of expression, and the increasing threat to privacy in the U.S. posed by computers. The U.S. side pointed out that the openness of our system, as demonstrated by the Freedom of Information Act, ensured that such problems would come to light, and be dealt with. We noted that any reform in the Soviet Union comes about after internal policy changes, not public scrutiny and discussion. We also questioned the extent to which principles found in the international accords are adhered to in the Soviet Union.

10. Assistant Secretary Schifter suggested that future discussions focus on trying to clarify the terms of what was agreed to in the Helsinki Final Act. All 35 member states would ultimately need to be involved in formally defining the terms, but the U.S. and USSR could bilaterally start that debate. Yakovlev did not pick up on this suggestion, but noted that it was useful to discuss real mechanisms of implementation and of actual experiences with problems.

⁴ See Document 72 and footnote 6 thereto.

11. The March 25 morning session opened with A/S Schifter's suggestion that polemics be put aside, and discussions center on areas which Gorbachev identified as needing change under quote Perestroika unquote. An independent judiciary would be a worthwhile subject of discussion, while free elections were too far from the Soviet reality to be a worthwhile topic.

Capital Punishment

12. The discussion of capital punishment elucidated the circumstances in both countries under which such punishment could be imposed. Vlasikhin told us that a debate is under way in the Soviet Union over limiting capital punishment, and whether or not to abolish it altogether for economic crimes. Both sides agreed that the death penalty for first degree murder would probably remain in place in both countries, due to public outrage at particularly savage crimes. The Soviets said they would find it useful to examine U.S. experience in establishing standards for capital punishment, and the role of the jury in meting out the death penalty. The Soviets are considering instituting an augmented collegium of people's assessors in cases involving capital offenses, rather than the usual two people's assessors. Philosophical discussion of the deterrent and punitive aspects of capital punishment took place, generally reflecting differences between the benefits and drawbacks of a pluralist, federalist system as opposed to a centralist system.

13. Yakovlev said that the parties involved in revising the Criminal Code are the Ministry of Justice; his Institute of Law, a research institute under the procurator system known by the acronym PP (Sic: with a name so long he could not remember it),⁵ the Legal Departments of the Presidium of the Supreme Soviet, the Commission of Legislative Projects in the Supreme Soviet, and various working groups of scholars. The five-year plan for revising the Criminal Code covers 38 items which are grouped into eight sections comprising three major groupings: A) development of democracy, self-management, and rights and freedoms of citizens, B) economic management and the national economy, and C) social questions. Some of the specific changes being considered are: decriminalization of homosexuality; decriminalization of drug use; replacement of forced labor with detention in colonies or settlements; instituting jury trials; restricting the number of crimes punishable by imprisonment; abolition of Article 190-1; allowing pre-trial meetings with attorneys; etc.

14. We, in turn, suggested discussing limits on the power of police authorities; requirements for issuance of arrest and search warrants;

⁵ Not further identified.

interception of mail; wiretaps; and electronic surveillance. We indicated that we would be prepared to discuss the implementation of restraints on the FBI in carrying out investigations, wiretaps, etc. Vlasikhin said there was a suggestion afloat in the Soviet Union to have warrants approved by judges instead of the procurator (who serves as the prosecutor) and agreed to recommend this topic to Moscow. However, Yakovlev was not as eager to pursue it, and preferred to have further discussions on the legal procedure for imposing the death penalty, and the appeals process. Another suggested topic which came up was the mental competency of a defendant to stand trial.

Freedom of Conscience

15. The last session (March 25 afternoon) covered freedom of conscience. The U.S. side gave detailed explanations of the laws protecting religious freedom, including the rights of atheists, and the separation of church and state. The Soviet side gave a historical perspective of the close ties between church and state under the Tsars, and what they viewed as the resultant strong opposition of the Bolsheviks to the Orthodox Church and to all existing religious faiths. As Yakovlev put it: We substituted a new religion for the others. The U.S. side brought up the repression of the Ukrainian Catholic Church, the imprisonment of Lithuanian Catholic priests, requirements for registering religious groups, limitations on teaching religion to children, and offered to send Bibles to the Soviet Union to alleviate the shortage (see below). The Soviets mentioned that 435 new religious associations and groups had been formed in the last few years. They enumerated the numbers of churches of different denominations, mosques, and synagogues in existence, and pointed to the return of cathedrals and monasteries to the church as church property. They explained that separation of church and state in the USSR did not allow for the teaching of religion in state schools, and that any religious instruction outside of the family would be considered a school, and would be prohibited as contrary to the Soviet Constitution. They also said a new edition of the Bible would be issued before June 13 in honor of the millenium of Christianity, but that the limited numbers would not satisfy the demand, that Burlatskiy's⁶ Commission had asked that the antiquated law on religion in the USSR be brought up to date, and that the revisions in that law were being actively drafted now. Some proposed changes would give a religious organization the rights of a legal person, and also give religious associations the opportunity to participate in charity, the conservation of historical and cultural monuments, and other expanded rights. In response to a U.S. comment, the Soviets admitted that reli-

⁶ Fyodor Burlatsky, Chairman of the Soviet Human Rights Commission.

gious associations were sometimes arbitrarily denied the right to register, or to engage in practices such as ringing church bells, because of quote local abuse unquote of administrative authority. They expressed a hope that the state would ensure that legally given rights were not impinged in future. In response to a comment by A/S Schifter that the arbitrariness of local authorities seemed to get worse the further one got from Moscow, the Soviets quoted the saying that God is in heaven, and the Tsar is far away.

16. The U.S. side pointed out that there seemed to be de facto toleration of religious instruction, and asked whether that could be codified by amending Articles 142 and 227 of the RSFSR Code.⁷ A/S Schifter suggested as a future roundtable topic Article 18 of the Universal Declaration of Human Rights, which dealt with freedom of thought, conscience and religion in teaching, practice, worship and observance. The Soviets spoke of the need for reform of Soviet law to bring more quote equality unquote between believers and non-believers. None of the specific questions asked by the U.S. side were answered with clarity.

Possible Future Topics

17. In the wrap up, Adamishin's wish to see further contact between both sides' Ministries of Health and psychiatrists was reiterated by Milekhin. Assistant Secretary Schifter clarified the difference between health and legal aspects of psychiatric issues and insisted they be treated separately. The following legal topics for further discussion were suggested:

- Procedural aspects of capital punishment;
- Legal regulation of freedom of expression;
- Rights of the individual in criminal proceedings;
- Legal mechanisms for implementation of principles, and clarifying our understanding of the terms of the Helsinki Accord;
- The role of an independent judiciary; and
- Limitations on the role of the police;
- As to psychiatric issues agreement was reached to proceed with commitments to psychiatric hospitals;
- Insanity as a defense in criminal proceedings, and competency to stand trial;
- The health aspects of psychiatry.

18. While no firm date was set for the next round of talks, and no specific discussion topics were actually agreed upon. It was agreed

⁷ Article 142 delineated penalties for violating laws concerning the separation of church and state. Article 227 concerned religious activities that induced citizens to refuse social duties.

that plans will be developed promptly for further sessions. We will be providing by septel⁸ our thinking for Embassy to convey to MFA proposing a possible human rights roundtable discussion along the above lines linked to upcoming April Ministerial in Moscow. Our initial thoughts are leaning toward a 2–3 day session beginning on Monday, April 18, or Tuesday, April 19 in advance of Ministerial.⁹ Septel follows.

Armacost

⁸ In telegram 102918 to Moscow, April 1, the Department transmitted its proposal for a human rights roundtable. (Department of State, Central Foreign Policy File, D880282–0158)

⁹ In an April 26 information memorandum to Shultz, Schifter summarized human rights talks that took place in Moscow, April 18–22. (Department of State, Secretary Subject and Country Files—MemCons on US–USSR Relations, 1981–1990, Lot 93D188, Moscow–4/88—Shultz–Shevardnadze)

108. Information Memorandum From the Assistant Secretary of State for Human Rights and Humanitarian Affairs (Schifter) to Secretary of State Shultz¹

Washington, May 24, 1988

SUBJECT

A Breakthrough on Soviet Jewish Emigration?

SUMMARY. Responding to our urgings, the Soviets seem to have decided late in 1986 or early in 1987 to let most Refuseniks leave the country. Their emigration was spread out over about a year and, except for about 2,000 persons known to us who are still denied exit permits as well as any of whom we may never have heard, most of them (about 11,500) have now left. With regard to new applicants, the Soviets initially tried to discourage such filings, and succeeded. Less than 700 new applicants left in 1987. However, since the middle of February 1988 the Soviets have been processing new applications in larger

¹ Source: Department of State, Correspondence File—Ambassador Richard Schifter CHRON and Subject Files, 1984–1991, Lot 94D411, R. Schifter’s Monthly Chron—May 1988. Confidential. Copied to Simmon, Abramowitz, Moore, and Murphy. There is no indication Shultz saw the memorandum.

numbers and with few restrictions, so that the months ahead may see further increases in Jewish emigration from the USSR. The Soviets can, of course, turn the valve off again at any time they desire. *END SUMMARY.*

Background

Sufficient time has now elapsed since the change in Soviet Jewish emigration policy in 1986 to be able to interpret the statistics, define the new policy on the basis of the statistical evidence, and analyze the possibilities as to future trends.

Clearly responding to U.S. urgings (it would not otherwise have been a high-priority issue) the Soviets adopted in 1986 a new emigration decree, to take effect on January 1, 1987. Early in 1987 emigration figures for Americans, Germans and Jews did, in fact, tilt sharply upward and have since then continued at a level substantially above that of the years 1982–1986.

Close examination of the Jewish emigration issue reveals that the Soviets adopted a two-track policy in early 1987: one governing Refuseniks and another governing new applicants.

The Refuseniks

The list of Refuseniks which you arranged to transmit to the Soviets in 1986 (furnished to us by the National Conference on Soviet Jewry)² contained the names of about 11,000 persons. The Soviets have told us since then that there were, in fact, about 17,500 Jewish Refuseniks. When approached by the Soviet authorities in 1987, about 4,000 indicated that they no longer wanted to depart. (This number presumably also includes those who had died in the interim.) Of the remaining 13,500, about 85% were granted exit permits while 15% were turned down once again.

Rather than allowing the newly approved ex-Refuseniks to leave promptly, their departure was spread out over a period of more than a year. That was accomplished by rationing the issuance of exit permits to about 800 per month. By now, except for a few stragglers, the *approved* ex-Refuseniks have left the Soviet Union.

About 2,000 persons known to us remain in Refusenik status, more than 80% of them on the ground that they (or their close relatives) are in possession of secret information, the remainder because a member of the family has been unable to obtain parental permission to emigrate. In addition to those known to us there may also be a number of “low-profile” Refuseniks of whose identity we are unaware.

² Not found.

Almost all of the security denials involve persons who quit their jobs so long ago that their information cannot reasonably be presumed to be secret. Furthermore, the requirement of parental concurrence in emigration (of adults!) simply does not make good sense. It would follow logically that both of these grounds for denying permission to emigrate seem to have been resorted to not just for the sake of the remaining Refuseniks, but to control and possibly suppress the emigration impulse of those who have not heretofore applied for emigration.

In recent months we have been told to expect new legislation on the subject of security denials and parental consent which will ameliorate the situation of the remaining Refuseniks. This, too, suggests that there is a relationship between this remaining Refusenik group and the Soviet Union's concern about the rules under which future applicants will be processed.

We have urged our Soviet interlocutors not to wait for the approval of new rules, but to keep processing the remaining Refusenik cases. Specifically, we have urged them to subject them to thorough review in the chronological order in which they left their security-sensitive work, starting with those longest removed from such work. The Soviets have agreed to do that.

The New Applicants

The 1986 decision to let the bulk of the Refuseniks go was not accompanied by a decision to open up Jewish emigration generally. A new requirement, sponsorship by first-degree relatives living abroad, to be applied to first-time applicants but not to Refuseniks, was to disqualify the vast majority of potential exit permit applicants. Other requirements, such as the need to obtain the consent of all siblings remaining in the Soviet Union, were designed to add to the hurdles which new applicants would have to overcome. Moreover, after the new emigration decree took effect at the beginning of 1987, many new would-be applicants were told by Soviet emigration offices that these offices were too busy and that the applicants should come back a few months later.

This policy of discouragement was indeed successful. The number of new applicants during the first half of 1987 was quite low. Of the about 3,000 Jews who were allowed to leave the Soviet Union in the first half of 1987, about 50, less the two percent, were new applicants. As our complaints about Soviet policy continued to be voiced, the Soviets relaxed their restrictions on new applicants slightly during the middle of 1987. Though no official announcement was made to that effect, the first-degree relative requirement was no longer applied rigidly. New applications then began to rise, with the result that during the second half of 1987, out of 5,000 Jewish emigrants, about 600 or, 12%, were first-time applicants.

Then came January 1, 1988 and a new clamp-down on first-time applicants.³ While the remaining Refusenik cases continued to be processed without reference to the provisions of the 1986 emigration decree, the restrictions provided for in that decree were once again fully applied to anyone filing a new application. Some new applicants whose papers had been accepted toward the end of 1987 had them returned.

As soon as we were convinced that the Soviets had once again resorted to a harsh policy of restrictions and were applying it in all cities from which we had news, we protested strongly. Two weeks after we had delivered our protest, around the middle of February, the Soviets once again relaxed their restrictions, assuring us that the restrictive policy had been reimposed "through bureaucratic oversight." They also told us, for the first time, that the first-degree relative requirement would be waived for all applicants for exit permits to Israel and that this waiver would remain in effect for all of 1988. We promptly passed this information to the interested organizations and soon thereafter the number of applications began to rise significantly.

Chances are that the reimposition of the restrictive policy on January 1, 1988, which remained in effect for about seven weeks, was more than a bureaucratic error. It is likely that when Jewish emigration was again authorized in 1986, it was decided to open the gates for most Refuseniks, but to prevent an avalanche of new applications. When few new applications were filed, the Soviets may have decided to loosen the restrictions somewhat. Then, when the number of applications began to climb, the Interior Ministry decided to clamp down again. After we had protested, the Foreign Ministry must have interceded and the leadership, as a further accommodation to us, may have decided to reverse the Interior Ministry.

Thus, for the last 90 days prospective Jewish emigrants have come forward with the knowledge that the first-degree relative requirement does not stand in their way. The only legal restrictions in effect are, as in the case of Refuseniks, knowledge of secrets and the parental consent requirement. *We need to note that a clearcut, open and known policy as to the treatment of new applicants has thus been in effect only since about February 17, 1988.*

Even with this policy in effect, there is one other potential control on the number of exit permits issued: processing delay. We have already had reports that long lines are now forming in front of local offices handling emigration applications. (One such office, I was told,

³ See Document 103.

accepts applications for exit permits only on Wednesdays. A line of applicants begins to form Monday night.)

Thus, since last February the principal question has been at what pace the Soviets will be prepared to process new applications. At first it appeared that monthly Jewish emigration totals had moved up to 1,000. We have now been told that in April 1,400 exit permits were issued. Moreover, in that month about 2,800 new applications were accepted for processing. The months immediately ahead may thus reflect a further turn-up in monthly departures. Just how far the monthly figures will go depends on how many applications are accepted each month and how fast they are processed. The rate of emigration thus reflects a policy decision taken probably at a high level in the Soviet hierarchy. The question before us is whether the Soviets have decided to allow a breakthrough to a substantially higher level of emigration than the 800–1,000 per month figure allowed so far, whether they will stick close to the present emigration level, or whether they will, as is also possible, cause the emigration totals to go down again.

Just how many likely applicants there are we do not really know. The estimate which is often used is 400,000, which would be about 20 percent of the Soviet Jewish population. The Soviets say this estimate is far too high. Whatever the number may be, it is clear that the rate at which the Soviets will allow applications to be processed will continue to depend on the interest the United States takes in this issue.

Note: A problem still on the horizon, which may lead to complications in the future, is the continuing effort of the Israeli government to see to it that all recipients of Israeli emigration invitations do in fact travel to Israel. The waiver by the Soviets of the first-degree relative requirement applies only to Jews who receive invitations from Israel. You will receive a full memorandum from RP on this issue.⁴

⁴ Possible reference to Document 110.

109. Memorandum of Conversation¹

Moscow, May 29, 1988, 3:26–4:37 p.m.

SUBJECT

The President's First One-on-One Meeting With General Secretary Gorbachev
(U)

PARTICIPANTS

U.S.

The President

Thomas W. Simons, Jr., Deputy Assistant Secretary of State for European Affairs

Rudolf V. Perina, Director for European and Soviet Affairs, NSC Staff

Dimitri Zarechnak (Interpreter)

USSR

General Secretary Mikhail S. Gorbachev

Viktor M. Sukhodrev, Acting Department Director

Vadim I. Kuznetsov, Section Chief, MFA

Pavel Palazhchenko (Interpreter)

[Omitted here is discussion unrelated to human rights.]

The President said he wished to digress for a minute and hand Gorbachev a list, as he had done on previous occasions. The United States was a country to which people came from all over the world, and many of them maintained an interest in the countries they had come from. All the cases on the list had been brought to his personal attention, by relatives and friends, and he wanted to mention two specifically. (S)

The first was that of Yuriy Zieman. He was a writer. His children were in America, and he was seriously ill, and wished to come to America for medical treatment. *The President* said he had wanted to visit him. Zieman's children wanted to do something for him, if not to cure him, at least to ease his illness. (S)

The President continued that he would not go through the whole list; there were a dozen or so. But for some reason he felt a particularly affinity to one man on the list, Abe Stolar. He was an American, whose parents had come to America in the time of the czars. He had been born on the very same day as the President, in the state of Illinois, so they had been born not many miles apart. When Stolar was young, he and his parents returned to Russia, and his son had eventually married a young lady in Russia. Now they had all decided they wanted to return to the land where Stolar was born, the United States, and the

¹ Source: Reagan Library, Executive Secretariat, NSC: System Files, 8890497. Secret. The meeting took place in St. Catherine Hall at the Kremlin.

Soviet government gave permission to all but the daughter-in-law. So they all decided to stay behind until they could leave together. As Stolar put it, he wanted to die where he was born, and the President thought the Soviet authorities should allow the whole family to leave. He hoped he would not die on same day as Stolar, even though they were born on the same day. (S)

Gorbachev responded that as always when the President presented specific humanitarian problems to him, especially concerning departures, these would be given careful attention. There was no obstacle to departure from the Soviet Union but one—possession of state secrets—and that was natural, since all countries wished to protect such secrets. But basically the Soviets did not keep people against their will. (S)

Gorbachev went on to say that on the eve of his departure, in his statements in the U.S., in Washington, in Helsinki, the President had spoken about raising human rights in Moscow. *Gorbachev* said with a smile that he felt it was incumbent upon him to respond, since otherwise, people might feel the President had him (*Gorbachev*) in a corner, and that more pressure should be put on him. He wanted to say that they in the Soviet leadership were ready to work with the U.S., with the Administration and with the Congress, on an ongoing basis, for solutions to humanitarian problems. He was saying that because he was convinced of it, and because it was quite clear that both in the Administration and in the Congress there were people who did not have a clear idea of what the human rights situation really was in the Soviet Union.

Gorbachev went on to say that the Soviets had many comments to make about the U.S. human rights situation; about problems of political rights, the rights of blacks and colored people, social and economic rights, the treatment of anti-war protesters and movements. They got many facts from the U.S. press. Probably they still did not know everything well. But they were ready to listen to what the U.S. side had to say. They were ready to have a conversation with the U.S. Congress. *Gorbachev* said he was calling for a seminar, on a continuous basis, involving officials, legislators and academics of the two sides, to discuss what was happening in the two countries. (S)

It was not just a question of cases, *Gorbachev* continued, but of generalizations with which the Soviets disagreed; the U.S. probably heard some things it disagreed with on the Soviet side, too. But these things should be discussed. The Soviets were open to that kind of discussion. (S)

The President said he knew what *Gorbachev* was saying. Some of it was true, as it was anyplace, because the U.S. was a big and varied country. It had many races, and one race, the blacks, had once been

slaves. They were then freed, and discriminating against them was now illegal, but all the individual prejudices could not be immediately overcome. Some people in our country had brought them with them when they immigrated. But there was one difference: the U.S. had passed laws, and under the law no one could use prejudice to keep someone from getting a job, finding housing, getting an education, and the like. That would be against the law, and that person would be punished under the law, not because of his race or religion. (S)

Gorbachev responded that there were many declarations and many provisions in the U.S. Constitution and U.S. laws. The problem was to look at how they were implemented in real life. If one looked at figures on unemployment of Blacks and Hispanics, on per capita income of Whites and Blacks, on access to education and health, there were big differences. In the Soviet Union, living standards were lower, even much lower than in the United States, but there was nothing like such large contrasts among groups of people in the country when it came to pay and the like. (S)²

The President responded that when slavery was lifted from the Blacks they started at a much lower level than others, and even the civil rights laws could not guarantee them equality when it came to jobs and schools, and the like. But when you considered that they had started lower, under the economic expansion of the past six years, wages and employment among Blacks were rising faster than for Whites. In other words, they were catching up. (S)

Gorbachev said he had not been inventing figures. He was citing facts from the American Congress. He did not want to teach lessons to the United States President on how to run America. He just wanted to note that the President had ideas about the Soviets, and the Soviets had ideas about the United States. Recently, the Soviets had become much more self-critical, but the U.S. had not. Once the Soviets had begun to be self-critical, it seemed that the U.S. spoke more about civil and ethical rights. Of course, the President was completing his term as President. *Gorbachev* said he thought the President's successors would be more self-critical than he was. Maybe everything was not "alright" (*Gorbachev* used the English word) in the United States, as the President's Administration seemed to think. He wanted only to say that he was suggesting an ongoing seminar between legislators and others to examine the issues and compare notes. (S)³

The President said he thought that was a wonderful idea. One goal of the session should be to work out misunderstandings. (S)

² In the left-hand margin of this paragraph, an unknown hand wrote "HR."

³ In the left-hand margin of this paragraph, an unknown hand wrote "HR."

The President continued that he wished to take up another topic that had been a kind of personal dream of his. He had been reluctant to raise it with Gorbachev, but he was going to do it now anyway. He wanted no hint that anything had been negotiated, where we had insisted on something the Soviets had to do. If word got out that this was even being discussed, the President would deny he had said anything about it. (S)⁴

The President went on that he was suggesting this because they were friends, and Gorbachev could do something of benefit not only to him but to the image of his country worldwide. The Soviet Union had a church—in a recent speech Gorbachev had liberalized some of its rules—the Orthodox Church. *The President* asked Gorbachev what if he ruled that religious freedom was part of the people's rights, that people of any religion—whether Islam with its mosque, the Jewish faith, Protestants or the Ukrainian church—could go to the church of their choice. (S)⁵

The President said that in the United States, under our Constitution, there was complete separation of church and state from each other. People had endured a long sea voyage to a primitive land to worship as they pleased. So what the President had suggested could go a long way to solving the Soviet emigration problem. Potential emigrants often wanted to go because of their limited ability to worship the God they believed in. (S)⁶

Gorbachev said that the Soviets judged the problem of religion in the Soviet Union as not a serious one. There were not big problems with freedom of worship. He, himself, had been baptized, but was not now a believer, and that reflected a certain evolution of Soviet society. There was a difference of approach to that problem. The Soviets said that all were free to believe or not to believe in God. That was a person's freedom. The U.S. side was actively for freedom, but why did it then happen that non-believers in the U.S. sometimes felt suppressed. He asked why non-believers did not have the same rights as believers. *The President* said they did. He had a son who was an atheist, though he called himself an agnostic. (S)⁷

Gorbachev asked again why atheists were criticized in the United States. This meant a certain infringement of their freedom. It meant there was a limitation on their freedom. He read the U.S. press. There should be free choice to believe or not to believe in God. (S)

⁴ In the left-hand margin of this paragraph, an unknown hand wrote "Relig."

⁵ In the left-hand margin of this paragraph, an unknown hand wrote "Rel."

⁶ In the left-hand margin of this paragraph, an unknown hand wrote "Rel."

⁷ In the left-hand margin of this paragraph, an unknown hand wrote "MG."

The President said that was also true for people in the United States. Religion could not be taught in a public school. When we said freedom, that meant the government had nothing to do with it. There were people who spent considerable money to build and maintain schools that were religious. He had heard Gorbachev had recently lifted restrictions on such contributions. There were people volunteering to restore churches. In our country the government could not prevent that, but could not help it either. Tax money could not be spent to help churches. It was true there were private schools, with the same courses as public schools but with religious education besides, because people were willing to pay to create and support them. But in public schools supported by taxes you could not even say a prayer. (S)

Gorbachev said that after the Revolution there had been excesses in that sphere. As in any revolution there had been certain excesses, and not only in that sphere but in others as well. But today the trend was precisely in the direction the President had mentioned. There had been some conflicts between the authorities and religious activists, but only when they were anti-Soviet, and there had been fewer such conflicts recently, and he was sure they would disappear. And when they spoke of perestroika, that meant change, a democratic expansion of democratic procedures, of rights, of making them real; and that referred to religion, too. (S)

The President invited Gorbachev to look at religious rights under our Constitution. There were some people—not many, but some—who were against war. They were allowed to declare themselves conscientious objectors, when they could prove that it was a matter of faith with them not to take up arms even to defend their country. They could be put in uniform doing non-violent jobs—they could not escape from service—but they could not be made to kill against their religion. In every war there were a few such people, and sometimes they performed heroic deeds in the service of others. They could refuse to bear arms. (S)

If Gorbachev could see his way clear to do what the President had asked, continued *the President*, he felt very strongly that he would be a hero, and that much of the feeling against his country would disappear like water in hot sun. If there was anyone in the room who said he had given such advice, he would say that person was lying, that he had never said it. This was not something to be negotiated, something someone should be told to do. (S)⁸

The President said he had a letter from the widow of a young World War II soldier. He was lying in a shell hole at midnight, awaiting an

⁸ An unknown hand circled this paragraph.

order to attack. He had never been a believer, because he had been told God did not exist. But as he looked up at the stars he voiced a prayer hoping that, if he died in battle, God would accept him. That piece of paper was found on the body of a young Russian soldier who was killed in that battle. (S)

Gorbachev responded that he still felt the President did not have the full picture concerning freedom of religion in the Soviet Union. The Soviet Union had not only many nationalities and ethnic groups, but many religious denominations—Orthodox, Catholic, Muslim, various denominations of Protestants, like the Baptists—and they practiced their religion on a very large scale. The President would meet the Patriarch, would go to one of the monasteries. If the President asked him, the Patriarch would tell him about the situation concerning religion in their country. (S)

Gorbachev said he would like to make one more suggestion. It was true that they did not have much time to do much that was new. But they should try to work not just for the present but also for the future. Perhaps the President would give thought to opening up even greater cooperation in space between the two countries. If that came out of this meeting as a common desire, that would be a good result. The two countries had good capabilities and doing something jointly would be a very big thing. It was very difficult for one country to operate in space. As he had already said to the *Washington Post*, now the Soviets would like the U.S. to begin cooperation on a joint mission to Mars. He understood this would be a long-term project; it meant lots of work and could not be accomplished overnight. But it was important to begin, and cooperation would be very useful. (S)

The President said that the U.S. program had been set back by the Challenger tragedy. But he had asked his people to look into the General Secretary's suggestion. Space was in the direction of heaven, but not as close to heaven as some other things they had been discussing. *Gorbachev* said it was at least closer to heaven. (S)

The President noted that there was a young man giving him the signal that the wives of the two leaders were waiting. *Gorbachev* said he understood. *Gorbachev* said he wished to give the President his proposal for joint statement language on Mars. (Its English text read:)

"The two sides noted that preparation and implementation of a manned mission to Mars would be a major and promising bilateral Soviet-American program, which at subsequent stages could become international. It was agreed that experts from both countries would begin joint consideration of various aspects of such a program." (S)

Gorbachev said he was very pleased with this first discussion. It confirmed that the two leaders were still on very friendly terms. He hoped this meant they were truly beginning to build trust between the

two countries. He had told Secretary Shultz—who must have conveyed it to the President—that they were just beginning to be on good terms with the Administration, and along came an election. But he still wanted movement; there was still time to accomplish many things. (S)

The President said he agreed. He knew it was not protocol, but between the two of them they were Mikhail and Ron. *Gorbachev* said he had noticed they were on a first-name basis since the Washington meeting. (S)

The President concluded that there was one thing he had long yearned to do for his atheist son. He wanted to serve his son the perfect gourmet dinner, to have him enjoy the meal, and then to ask him if he believed there was a cook. *The President* said he wondered how his son would answer. As the meeting ended, *Gorbachev* said that the only answer possible was “yes.” (S)⁹

⁹ An unknown hand circled this paragraph.

110. Action Memorandum From the Acting Director of the Bureau of Refugee Programs Department of State, (Funseth); the Acting Assistant Secretary of State for European and Eurasian Affairs (Thomas); the Legal Adviser of the Department of State (Sofaer); the Assistant Secretary of State for Near Eastern Affairs (Murphy); and the Assistant Secretary of State for Human Rights and Humanitarian Affairs (Schifter) to Secretary of State Shultz¹

Washington, July 5, 1988

SUBJECT

“Direct Flights” of Soviet Jewish Emigrants

ISSUE FOR DECISION

Whether to discuss with the Soviets and/or Austrians ways to preserve the ability of Soviet Jews to come to the United States.

¹ Source: Department of State, Correspondence File—Ambassador Richard Schifter CHRON and Subject Files, 1984–1991, Lot 94D411, R. Schifter’s Monthly Chron–July 1988. Confidential. Drafted by Burgess and cleared in RP/RAP, L/HRR, EUR/SOV, NEA/IAI, and L. A stamped notation on the memorandum indicates Shultz saw it.

ESSENTIAL FACTORS

As indicated in HA's Information Memorandum of June 22, 1988 (Tab A),² the Israeli Cabinet has now formally decided to pursue "direct flights" for Soviet Jews as a means of eliminating the high numbers of potential immigrants who currently "drop out" in Vienna en route to Israel. In December 1987 you authorized discussion of this problem within the Department and with the Department of Justice and the INS, as appropriate (Tab B),³ once it was confirmed that direct flights would actually take place. The Israeli Cabinet decision has not yet been implemented, but it would be prudent for us to assume that it will be. Accordingly, this memorandum presents our recommendations.

Soviet law limits eligibility for emigration to persons who are sponsored by "first-degree" relatives (spouse, parent, child or sibling) living abroad. Those with such a sponsor may be granted exit permission for the country of the sponsor. This "first-degree-relative" requirement has been waived for ethnic Germans emigrating to W. Germany, Armenians emigrating to the U.S., and Jews emigrating to Israel. Thus, a Soviet Jew may receive an exit permit if sponsored by an Israeli cousin, but not if sponsored by a U.S. cousin. That is why most Soviet Jews qualify only for emigration to Israel.

Under the Israeli plan, Jewish emigrants who have "vyzovs" (invitations) from Israel would be able to obtain Israeli immigrant visas only if they proceed to Romania. We expect that Israel, in order to implement this plan, will instruct the Dutch to cease issuing visas to Soviet Jews in Moscow, thus leaving Romania as the only feasible location for Soviet Jews to obtain Israeli immigration visas. As a practical matter, it is extremely unlikely that Romania will permit such persons to "drop out" and travel to any destination but Israel.

The Dutch, who represent Israel's interests in Moscow, currently issue Israeli immigration visas for those Soviet Jews who transit Vienna. Although Israel will soon open a consular affairs office in the USSR, it appears that the Dutch may continue to issue some Israeli visas after that date (i.e., the Soviets may not allow Israeli consular officials in Moscow to issue visas). To date, the Dutch have not received formal instructions reflecting the Israeli Cabinet's decision. When they do receive such instructions, they will have to decide whether to comply or to stop issuing Israeli visas entirely.

At present, Soviet Jews who have Israeli immigrant visas travel to Austria on an Austrian transit visa. Unless Austria changes its policies, these people will not qualify for Austrian transit visas if they do not

² Tab A is attached but not printed.

³ Tab B, dated December 7, 1987, is attached but not printed.

have an Israeli immigrant visa. The absence of an Israeli visa will thus eliminate the option for Soviet Jews to travel to Vienna and onward to the United States. Even if Jewish emigrants do possess Austrian transit visas, we do not know if the Soviet authorities would permit them to depart for Vienna if they have Soviet exit documentation for Israel but no Israeli visa.

Under present U.S. law, persons are “firmly resettled” once they arrive in a country that permits them to remain there on some sort of permanent basis. (See current U.S. refugee regulations at Tab C.)⁴ This test is easily met in the case of Soviet Jews arriving in Israel, because the Israeli “law of return” automatically grants any recognized Jew the right to remain there.

The Justice Department has proposed changes to the asylum regulations (Tab D)⁵ which, if adopted, could at some future date be extended to apply to refugees. If the options recommended below are not approved or are not effective, we may at that time consider recommending that the changes in the asylum regulations be extended to the refugee regulations (see Tab E).⁶ [Contrary to the suggestion in a recent Evans and Novak column,⁷ the changes proposed for the asylum regulations were principally motivated by the situation of refugees other than Soviet Jews.]⁸

Given these circumstances, preservation of the ability of Soviet Jews to come to the United States may depend upon a change in Soviet or Austrian visa policies. All Bureaus therefore recommend the following options:

OPTIONS

1. *Try to persuade the Soviets to allow Soviet Jews to emigrate to the U.S. if sponsored by someone other than a first-degree relative.*

The Soviets allow this kind of flexibility for Jews who receive “vyzovs” from Israel, and for Armenians going to the U.S. and ethnic Germans going to West Germany. We should ask the Soviets to extend the waiver of the “first-degree relative” requirement to Jews sponsored by persons in the United States who are not first-degree relatives.

2. *Ask the Soviets to allow those with a Soviet exit permit for Israel to leave the country without an Israeli visa.*

⁴ Tab C, undated, is attached but not printed.

⁵ Tab D, dated April 6, 1988, and August 28, 1987, is attached but not printed.

⁶ Tab E, undated, is attached but not printed.

⁷ Details are available in Rowland Evans and Robert Novak, “Opening the U.S. Door to Soviet Jews,” *Washington Post*, June 27, 1988, p. A15.

⁸ Brackets in the original.

The Soviets currently insist that immigrant visas obtained by applicants match their exit permit designations. They may be willing to alter this practice, but it is likely they would insist on some sort of U.S. documentation for such emigrants, comparable to what we now provide Armenian emigrants.

3. *Ask the Austrians to continue issuing transit visas in the foregoing cases.*

The Austrians may be willing to change their policy and issue transit visas to Soviet Jews who do not have Israeli immigrant visas, on the understanding that these persons would be admissible to the United States. The Austrians may insist that we issue some sort of U.S. documentation first.

RECOMMENDATIONS

1. That we urge the Soviets to accept U.S. invitations for Soviet Jews from sponsors who are not first-degree relatives. (Favored by all Bureaus).⁹

2. That we urge the Soviets to allow Jews who have exit permits for Israel to leave even without an Israeli visa. (Favored by all Bureaus).¹⁰

3. That we ask the Austrians to issue transit visas to Soviet Jews who are not in possession of Israeli immigrant visas. (Favored by all Bureaus).¹¹

⁹ Shultz marked the disapprove option on July 8.

¹⁰ Shultz marked the disapprove option on July 8.

¹¹ Shultz marked the disapprove option on July 8. In the margin below option 3, Shultz's staff added another option: "4. GPS stated 'that we urge the Soviets to ease all people who wish to depart, Jews and non-Jews and ask Austrians to ease all bureaucratic obstacles to freedom of movement and choice.' Actions taken #4, Secto 14020, 7/8/88, M. Haines." Telegram 14020 from Shultz's delegation in Bangkok is in the Department of State, Central Foreign Policy File, N880005–0326.

111. Information Memorandum From the Assistant Secretary of State for Human Rights and Humanitarian Affairs (Schifter) to Secretary of State Shultz¹

Washington, July 27, 1988

SUBJECT

Our July Human Rights Discussions in Moscow

Summary. The following are brief accounts of our recent discussions with the Soviets on six issues: the rule of law; psychiatric practices and abuses; legal code revisions; the President's list; our list of political and religious prisoners; and emigration issues. *End Summary.*

1. *Rule of Law*

When we first suggested to the Soviets that we make the rule of law a major topic in our human rights dialogue, we knew, of course, that this was a subject to which General Secretary Gorbachev was paying a great deal of attention. What we had not anticipated is that it would become one of the major concerns of Soviet reformers. But Thesis Eight of the Ten Central Committee Theses for the Nineteenth Party Conference (Tab A)² made the rule of law one of the major reform goals and the Conference adopted a resolution which underlined the importance of legal reform as one of the goals of Perestroika (Tab B).³

This was the background against which our July 11–13 meetings took place in Moscow. Solicitor General Charles Fried, Assistant Attorney General (Criminal Division) Edward Dennis, and former Deputy Attorney General, now Judge Lowell Jensen had traveled to Moscow to participate in discussions with the Soviets on the rule of law. There were about 20 Soviet participants in our meetings. In addition to Deputy Foreign Minister Adamishin and his staff, they included representatives of the Soviet Ministry of Justice, the Institute of State and Law (the country's principal legal think tank), the Chief Procurator's (prosecutor's) office, law schools, the bar, and the bench (including the Chairman of the Supreme Court of the Russian Soviet Republic, and the Vice Chairman of the Supreme Court of the Soviet Union). Some of the participants were "old thinkers," but they kept fairly quiet. On the

¹ Source: Department of State, Central Foreign Policy File, P880109–1397. Confidential. Drafted by Schifter. Copies were sent to Kampelman, Ridgway, and Abramowitz. A stamped notation on the memorandum indicates Shultz saw it.

² Not found.

³ Not found.

Soviet side the discussions were dominated by “new thinking” and many thoughtful questions were posed to our side.

In our talks we moved rapidly from generalities to specifics. For example, on the subject of an independent judiciary, we were asked questions about the advantages and disadvantages of lifetime tenure for judges. There was interest in our discussion of the jury system, particularly as to the nature of the relationship between a judge and a jury. We discussed the respective roles of the court, the prosecution, and the defense in the preliminary investigation of a criminal case. (In the Soviet Union the courts are not at all involved until a case goes to trial, with warrants issued by the prosecutor rather than a judge. Defense counsel does not enter the case until after the investigation has been completed and the defendant has been charged.) We also discussed the power of U.S. courts to declare laws unconstitutional and executive acts unlawful.

Some of the Soviet participants indicated that they were now participating in the groups charged with responsibility for revising Soviet legal procedures. The questions which they were asking related to issues which they are actively considering. The American experience was, therefore, of great interest to them. Once our meetings were over, a number of Soviet participants told me that they found the discussions most useful as they had picked up information on our legal system of which they had not been previously aware.

The American participants, in turn, found the entire experience most interesting and indicated to me that they would be prepared to participate actively in further work with the Soviets. Judge Jensen has told me that he would be prepared to travel to Washington for the next set of meetings.

The way matters were left was that the Soviets would propose an agenda for a meeting in Washington early in the fall. They urged that highly specific topics be selected, that both sides prepare papers on each subject and exchange them prior to the meeting. The American side agreed.

We have now established a relationship between the top professional level of the Department of Justice and the key players in the Soviet Union in the legal reform effort. I hope that before this Administration leaves office, we shall have institutionalized this relationship.

2. *Psychiatry*

The Soviets have heretofore agreed, in principle, to a visit by American psychiatrists to the Soviet Union to discuss questions of forensic psychiatry and to visit psychiatric institutions and examine present and former patients. Though we have not formally labeled it as such, it would be an inspection visit to check whether the Soviets have indeed

abandoned the practices which have heretofore been characterized as abuse of psychiatry. Responding to an invitation from the Soviets, we submitted the outlines of a proposal which would involve our Department and the MFA as well as the Department of Health and Human Services and the Soviet Ministry of Health. The Soviets took our proposal and told us they will get back to us on it soon.

On our side, the government agency to be involved at the professional end of this effort will be the National Institute of Mental Health (a part of HHS). It will work closely with the leadership of the American Psychiatric Association.

I have every reason to think that the Soviet MFA is working on this issue in good faith. I suspect it has the support of the Communist Party Central Committee staff. But it is clear that the Soviet psychiatric leadership is literally being dragged along. The Soviet psychiatric leaders are making a concerted effort to outflank the MFA and us. They are doing this through Dr. Chazov, the Soviet Minister of Health and 1984 winner of the Nobel Peace Prize (for his leadership in "Physicians Against Nuclear War"). Chazov has gotten in touch with Dr. Lown of the Harvard Medical School, his co-Nobel laureate. Lown has been in touch with a psychiatrist, also at the Harvard Medical School, by the name of Lester Grinspoon.

Grinspoon started earlier this year to put together a group of psychiatrists who would visit the Soviet Union, but after hearing about our undertaking got in touch with me. I told him that as an American citizen he was free to do whatever he wanted to in accepting or not accepting a Soviet invitation to visit the Soviet Union for the purpose of examining psychiatric institutions. I added, however, that if the Soviets have really brought psychiatric abuse to an end, it would be better all around for that fact to be acknowledged by a group whose objectivity was beyond question, which would include past critics of Soviet behavior, rather than a group of psychiatrists who have heretofore been silent on Soviet abuse and have been involved with the Soviets in "peace" organizations, suggesting a political bias. So far, Grinspoon has agreed with this analysis and has not accepted the repeated invitations from the Soviet psychiatric profession.

The nervousness of the Soviet psychiatrists can easily be understood. What the reform has done, as far as I can tell, is get persons out of psychiatric hospitals who have been committed for political or religious activities. As far as we can tell, there have been no new commitments for political or religious reasons during the last 18 months or so. A law has been enacted which makes psychiatrists criminally liable if they wrongfully commit a person to a psychiatric institution. The Special Psychiatric Hospitals have been transferred from the Ministry of the Interior to the Ministry of Health. Some judicial review of

psychiatric commitments is now contemplated. But—and this is another one of the compromises which Gorbachev seems continuously be forced to agree to—the past abusers of psychiatry are still in place. It won't be easy for American psychiatrists to agree to what in Argentina is called the “*punto final*,” pardoning past transgression. But the APA officials with whom I have discussed this matter tell me that if they are convinced that the Soviet Union has turned over a new leaf, they are going to work with whoever is in charge in the Soviet Union, in the hope that they can get past the old crew to work with younger people who are untainted.

At this point we cannot be sure that the DOS/HHS-sponsored visit will take place as contemplated. It will depend on whether the MFA can trump Dr. Chazov.⁴

3. *Code Revision*

We have been told that Soviet changes in certain practices are to be institutionalized by changes in the legal codes. The code provisions which make dissenting political advocacy and unauthorized religious activity crimes are to be repealed or significantly modified. The law on religion is to be amended so as to take care of many of the concerns which we have expressed in the past. The emigration law is to be amended so as to allow the children of parents who refuse their consent to emigration to litigate this issue in the courts. The revised law is also to specify criteria for the denial of exit permits on security grounds. The Central Committee meeting which starts next Friday⁵ is supposed to set a timetable for adoption of these new laws.

4. *The President's List*

When turning to lists, it has become our custom to start with the 18 imprisonment and emigration cases on the President's list.⁶ By the time of my Moscow discussion, eight of these cases had been resolved, leaving a balance of ten. My Soviet interlocutors indicated that four of the remaining cases were likely to be resolved in the near future, all of them imprisonment cases. They were those of Father Svarinskas, Lukyanenko, Rusak, and Gayauskas. Since I left Moscow, one of the cases, that of Father Svarinskas, has in fact been resolved. We have thus reached the halfway mark of resolved cases on the President's list.

⁴ In telegram 25164 from Moscow, October 28, the Embassy reported that it had not yet received approval from the Soviets for a psychiatric abuse advance team visit. (Department of State, Central Foreign Policy File, D880959–0757)

⁵ August 5.

⁶ See Document 109.

5. *Our Prisoner List*

We received a detailed response to our list of political and religious prisoners. The Soviet answer acknowledges the present status as prisoners of some of the people on our list, tells us that others have been released, and tells us further that some of the names on our list are unknown to them. We are now in the process of analyzing this response.

6. *Emigration*

We discussed our U.S. Rep list and our Refusenik cases. Recent progress on these lists is quite limited.

As to new applicants for exit permits, the Soviets told us that during the first half of 1988 about 36,000 exit permits were granted, including 16,000 to the FRG, 8,000 to the United States, 8,000 Israel, and 4,000 to other countries. For the first time in over half a year I was not given exact figures regarding the backlog of applications as of the first of the month of cases ready for processing. Instead I was given "incomplete estimates." I construe this to mean that the number of applications for exit permits has increased so sharply that the Soviets are afraid to admit it.

One new development, which became clear only after my departure from the Soviet Union, is Soviet willingness to open up emigration for Pentecostals. Ethnically, most Soviet Pentecostals are either Russian or German. German Pentecostals leave under the German emigration program. Russian Pentecostals leave on exit permits for Israel as if they were Jews. In this manner the Soviets avoid setting a precedent for unlimited emigration of ethnic Russians. During the month of July about 25 percent of the ostensibly Jewish emigrants arriving in Vienna have been, in fact, Pentecostals. There is every reason to think, therefore, that Pentecostals have become the fourth group authorized to emigrate from the Soviet Union.

At the same time, it looks to me as if the figures of ethnic Jews leaving the Soviet Union in July is down from the June figure. We have to see whether this is an aberration or a new trend.

[7.] *Division at the Top*

On each of the foregoing human rights issues, the evidence of a division of opinion within Soviet government circles is clear. The fact that such a split exists was freely admitted by Deputy Foreign Minister Adamishin in a recent informal conversation with me. I told him that a favorable resolution of the remaining imprisonment cases was clearly within announced present Soviet policy and could make a great contribution to further improvement in our bilateral relations. His response was: "All you ever worry about is our relations with you. We also have to worry about our relations within our own country."

112. Message From British Prime Minister Thatcher to President Reagan¹

London, October 20, 1988, 10:20 a.m.

Please pass following message to President Reagan from Prime Minister Thatcher.

Dear Ron,

We face a very important decision on how to deal with the Soviet proposal for a CSCE Human Rights meeting in Moscow. Our consistent pressure for an improvement in human rights in the Soviet Union is achieving results, thanks in particular to the way in which you took the argument to the heart of the Soviet system during your own visit to Moscow.² We need to keep up our pressure: not polemically, but persistently to ensure that the improvement is sustained.

I worry that the suggestion that we should now agree to a human rights meeting in Moscow will be taken by the Soviet leadership as a sign that we think that the Russians have done enough and will be used by them for propaganda purposes. Moreover, our support and advocacy has hitherto sustained those individuals in the Soviet Union who have shown such courage in campaigning for human rights in their own country. All their hopes and faith will crumble if they think we have been hoodwinked into agreeing to a Moscow Human Rights Conference. There is still a very long way to go before the Soviet Union truly accepts that human rights are God-given and cannot be taken away by the state. A year ago, the United States Government set out the sort of human rights criteria it would expect the Soviet Union to meet.³ What I propose now is that we should aim to agree clear, specific criteria which would have to be met, and be seen to be met, if the West was to consider attending a conference in Moscow. If the two of us can do this we should be able to persuade our other allies to rally to that position. Without such clear criteria, the Soviet Union would have every opportunity to backslide on their commitments, and we who have been so true to our commitment would be thought to have forsaken it.

I am asking Geoffrey Howe to be in touch separately with George Shultz⁴ about the details of the criteria we should seek to establish. I

¹ Source: Reagan Library, Lisa R. Jameson Files, Moscow Human Rights Conference 10/12/1988–11/01/1988. Secret; Immediate. Printed from a copy transmitted by cable from the Cabinet Office in London to the White House.

² Reference is to the Reagan-Gorbachev summit in May 1988. See Document 109.

³ See footnote 4, Document 97.

⁴ Not found.

hope you can agree that we should work together in this way. We have come this far, we can't falter now.⁵

Warm regards

Margaret

⁵ No response from Reagan has been found but see Document 113.

113. Message From President Reagan to British Prime Minister Thatcher¹

Washington, January 2, 1989, 0245Z

Please deliver the following message from President Reagan to Prime Minister Thatcher. Subject: Moscow Human Rights Conference.

Begin text

Dear Margaret:

Because your own judgement in matters relating to East-West issues is so sound, and because I know how closely you have followed events in Vienna, I especially valued your letter of December 21² on the Moscow Human Rights Conference.

Given all that has occurred over the past several months, I believe the time has come to respond positively to the Soviet request to host a Human Rights Conference in 1991. True, we have not gotten all we wanted from the Soviets, but we have made substantial gains beyond what you or I could have expected even a year ago. Much progress has been registered in resolving political and religious cases. Emigration rates are up. Jamming has ceased. The institutionalization of reform has been promised to the world by Gorbachev.

I believe we must now look to how we can best preserve and extend our advances, and it seems to me that this means we should

¹ Source: Reagan Library, Executive Secretariat, NSC: System Files, 8900100–8900115. Confidential; Immediate. Printed from a copy that was sent from the White House Situation Room.

² In telegram 418636 to London, December 30, the Department transmitted the text of Thatcher's December 21 letter, which acknowledged progress on Soviet human rights, but cautioned against Soviet backsliding. (Department of State, Central Foreign Policy File, [no film number])

agree now to a Moscow conference in 1991 as part of a package of CSCE follow-on meetings. Like you, I am determined to keep the faith with those who have fought so courageously for human rights in the Soviet Union, and to do what we can to prevent Soviet backsliding. This means we are prepared to monitor carefully implementation of actual human rights reforms, including those Gorbachev has promised for 1989. I also believe we have established a process that will maintain continuous pressure on the Soviets and encourage further progress. It goes without saying that if there is major backsliding or a significant reversal of present trends, we and other allies as well would wish to review our participation in Moscow in 1991.

Given this situation, I hope you can join with us in accepting a Moscow conference. It would be our current plan to signal our acceptance on Tuesday, January 3.³ I would welcome your further views before we take this step.⁴

Sincerely,

Ron

End Text.

³ The White House made the announcement on January 4. For text of the statement, see *Public Papers: Reagan*, 1988, Book II, pp. 1680–1681.

⁴ In a January 2 message to Reagan sent via telegram, Thatcher reiterated her “grave doubts” about a Moscow human rights conference and urged Reagan to stress the need for further progress on Soviet human rights at the CSCE follow-up meeting in Vienna. (Reagan Library, Lisa R. Jameson Files, Moscow Human Rights Conference 11/07/1988–12/02/1988)

Law of the Sea

114. Memorandum From the Acting Under Secretary of Defense for Policy (Kramer) to Secretary of Defense Weinberger¹

Washington, February 12, 1981

SUBJECT

Law of the Sea Negotiations

(C) The Tenth and potentially final session of the Third United Nations Conference on the Law of the Sea will convene in New York in March. Since a reorganization of the various law of the sea offices in the Department of Defense in 1978, the Department has been represented in law of the sea matters by Vice Admiral Shannon D. Cramer, Jr., U.S. Navy (retired), who has reporting responsibilities both to the Secretary of Defense and the Chairman, Joint Chiefs of Staff. The most recent Conference session, held in Geneva last summer, produced a Draft Convention on the Law of the Sea (Informal Text).² I anticipate a senior-level interagency review of this draft treaty text in the near future.³

(C) The Department of Defense consistently has taken the position that a comprehensive, acceptable and widely supported Law of the Sea Convention is in the best interests of the United States from a national security standpoint. The Department therefore has supported the negotiating objectives of Ambassador Elliot Richardson, former Head of the U.S. Delegation, and of his successor, Ambassador George Aldrich, acting Delegation Head. The Draft Convention contains important provisions to advance Department of Defense interests in the preservation of critical navigation and overflight rights.

—The Draft Convention would set internationally agreed limits upon heretofore expansive unilateral maritime claims of coastal states, by restricting them to a 12-nautical mile territorial sea, a 24-nautical mile contiguous zone, and a 200-nautical mile resource-oriented exclusive economic zone.

—The text provides for “transit passage” through and over the approximately 116 international straits which would be overlapped by

¹ Source: Reagan Library, Guhin, Michael A.: Files, LOS (Law of the Sea) Background (4). Secret.

² In telegram 267139 to Naples, October 5, 1980, the Department summarized the draft convention. (Department of State, Central Foreign Policy File, D800477-0162)

³ See Document 118.

12-mile territorial seas, and archipelagic passage through and over internationally agreed sealanes in the waters of archipelagic states established in accordance with the Convention provisions. These transit rights could not be impeded, hampered or suspended by the archipelagic or straits states. Overflight rights over archipelagic sea lanes and territorial waters in straits do not exist in customary law, but would be conferred by the Draft Convention.

—Military vessels and aircraft would be exempted from the pollution provisions of the Convention.

—Military activities would, at the option of each state party to the Convention, be exempted from compulsory dispute settlement procedures. The United States would claim this exemption.

—Disclosure of information contrary to national security requirements would be precluded.

—The specific international legal regime established by the Convention for the International Seabed Authority would be limited to the development of seabed mineral resources.

(C) Despite some textual ambiguities, which the State Department has undertaken to clarify through interpretive statements supported by the most important members of the international maritime community,⁴ Vice Admiral Cramer and I believe that the Draft Convention, representing a “package deal” of compromises, is in the best interests of the United States with regard to strategic navigation and over-flight needs. On the other hand, representatives of the deep seabed mining industry have expressed opposition to the mining provisions of the Draft Convention as presently drafted. Industry representatives maintain that “assured access” to mining sites is not available under the current text, and that technology transfer requirements which would be imposed under the Convention are economically onerous and unacceptable. In addition, negotiations have yet to obtain provisions satisfactory to industry to protect investment and mining projects undertaken during the period before the treaty enters into force.

(C) From a Department of Defense standpoint, the provisions of the Draft Convention which affect our national security interests are the best that can be obtained through the process of negotiation and compromise. Protracted negotiations at this stage are considered likely to pose a significant hazard to the gains which have been achieved. In addition, the absence of the Law of the Sea Convention would leave the international community in a state of uncertainty as to the scope and effect of unilateral coastal state claims. We have, however, been

⁴ Several of these interpretive statements are scheduled for publication in *Foreign Relations, 1977–1980*, vol. XXV, Global Issues; United Nations Issues.

faced with a problem of outward “creeping jurisdiction” and would expect to face more and more expansive claims. Accordingly, I recommend that you approve having Vice Admiral Cramer provide Department of Defense support within the Delegation for the early conclusion of negotiations along the lines of the current Draft Convention in order to preserve its national security benefits.

(U) I have shown this to Fred Ikle, who agrees.⁵

Franklin D. Kramer

⁵ In a February 13 memorandum to Ikle, Kramer proposed a strategy that would order the negotiators to delay the completion of the conference. There is no indication of approval or disapproval of the strategy. (Reagan Library, Guhin, Michael A.: Files, LOS (Law of the Sea) Background (4)) In telegram 156168 to Moscow, June 15, the Department reported that Harlow had been designated as a Defense representative. (Department of State, Central Foreign Policy File, D810280-0896)

115. Memorandum From the Director of Marine Science and Technology Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State (Wulf) to the Assistant Secretary of State-Designate for Oceans and International Environmental and Scientific Affairs (Malone)¹

Washington, February 13, 1981

SUBJECT

Draft Review Paper for the Tenth Session of the Third UN Conference on the Law of the Sea

An interagency group is preparing a review paper² for the Tenth Session of the Third UN Conference on Law of the Sea (LOS) scheduled to convene in New York on March 9 for six weeks. The LOS Conference, with some 150 countries participating, has been underway since 1973,

¹ Source: Reagan Library, Bandow Files, Bandow Paper for the Tenth Session of the Conference on the Law of the Sea, Feb 13, 1981. Secret. Drafted by Wulf. Sent through Busby.

² A draft of this paper is attached but not printed.

preceded by five years of preparatory meetings. Stemming from dissatisfaction with the provisions on seabed mining, the options under consideration are:

a) to scuttle the Conference based on the conclusion that the Draft Treaty is unacceptable and cannot be made acceptable;

b) to continue negotiating along existing paths and, if successful, conclude substantive negotiations at the New York session. (Subsequently, a comprehensive review would be undertaken to decide whether to sign the Treaty. If we do sign, another review would be undertaken—after the Preparatory Commission finishes its work—as part of the decision-making process on whether to ratify.); or

c) to continue negotiating along existing paths but, regardless of the outcome of the March session, insist that there be a further substantive negotiating session to provide an opportunity to seek further changes. (A review would be undertaken following the March session to identify further changes needed in the text.)

A meeting of principals to discuss the USG position for the New York session is presently contemplated for February 26 or 27.³

Currently, no agency publicly advocates scuttling the Conference (option a). Supporters of an additional negotiating session (option c) argue that since time is insufficient prior to the New York session for the new Administration to undertake a comprehensive review, a further negotiating session is necessary to ensure that the new Administration will have options other than accepting or rejecting the entire treaty. It is unclear, however, what changes would be sought in the Draft Convention which are not included already in our negotiating instructions for New York.

Supporters of concluding the negotiations in March (option b), if negotiations proceed on schedule and we achieve the positions set forth in our instructions, argue that a further negotiating session is not likely to result in further improvement in the seabed mining provisions, but is more likely to result in erosion of the non-seabed texts which are generally considered closed. All agree that the non-seabed texts protect and advance U.S. interests, particularly those pertaining to freedom of navigation and overflight for military and commercial vessels and aircraft.

Since the review paper identifies, and our New York instructions⁴ contain, necessary changes to the seabed texts upon which all agencies agree, supporters of option (b) are concerned that advocates of another session will use that opportunity to seek changes so fundamental as

³ See Document 118.

⁴ Not further identified.

to be tantamount to scuttling the Conference. While the objectives of keeping options open is desirable, it should not be pursued if the costs are to sacrifice the remainder of the treaty, especially since those who would undertake the review at the working level are likely to be the same people who now assert that there is inadequate time for a comprehensive review.

Based upon statements made by working level agency representatives at interagency meetings and upon obvious agency interests, the following lineup can be surmised:

Supporting option (b)—Defense, Commerce,⁵ Energy, Transportation, EPA, and within the Department, Ambassador Aldrich and the Legal Advisor's Office.

Supporting option (c)—Treasury, OMB, and possibly Interior, and within the Department, EB.

OES has taken a broader view of U.S. LOS interests than EB and some of the economic agencies that have confined their attention almost exclusively to seabed mining. Consequently, OES has traditionally supported development of a LOS Treaty. While we have not been called upon to state an explicit position, I have generally supported option (b).

The attached draft of the Review Paper is being revised but the revision, which does not significantly alter the substantive issues, will not be available until early next week.

⁵ Malone circled the word "Commerce" and wrote "who will handle" in the right-hand margin.

116. Letter From Secretary of the Interior Watt to Secretary of State Haig¹

Washington, February 18, 1981

Dear Mr. Haig:

As you know, one of President Reagan's top initiatives is the enhancement and assurance of United States access to strategic and critical minerals.² Your own knowledge and expertise in the field is recognized particularly in light of your recent testimony before the House of Representatives Mines and Mining Subcommittee on "Resource War: Minerals Held Hostage."³ As I have expressed to you, I share your deep concern.

In the international sphere, one of the most potentially devastating threats to secure access to strategic minerals is the present status of the Law of the Sea Treaty negotiations. It is my firm conviction, based on information brought to my attention by Members of Congress, as well as representatives of academia, industry and labor, that if the existing negotiating text is not markedly changed, the U.S. deep seabed mining industry will collapse for want of a secure investment climate. Given the hundreds of millions of dollars involved in these projects such a climate is critical.

While I have serious reservations regarding much of the current draft convention text, including technology transfer, production limitations and site selection, I am most immediately concerned with the apparent disregard, by the U.S. delegation, of the grandfather instructions adopted by the Congress and the reciprocating State negotiations.⁴ I would urge you to order an immediate review of the orientation of the U.S. delegation.

¹ Source: Department of State, Law of the Sea—Third UN Conference, 1968–1983, Lot 85D357, LOS—Deep Seabed Mining 1981. No classification marking.

² See Robert D. Hershey, "U.S. Weighs Subsidizing of Strategic Minerals," *New York Times*, June 13, 1981.

³ In a September 1980 meeting before the Mines and Mining Subcommittee of the House Committee on the Interior, Haig stated that "the Soviet Union may gain control of as much as 70 percent of the world's supply of critical minerals for which there is no substitute." (Kevin P. Phillips, "Crisis in Strategic Minerals," *Sarasota Herald-Tribune*, November 17, 1980, p. 4)

⁴ Documents regarding the grandfather instructions and the reciprocating state negotiations are scheduled for publication in *Foreign Relations, 1977–1980*, vol. XXV, Global Issues; United Nations Issues.

If I may be of assistance in this important endeavor, it would be my great pleasure to provide whatever technical expertise would be of aid to you.⁵

Sincerely,

James Watt

⁵ In a March 30 letter to Watt, Haig wrote, "Our Deep Seabed Hard Mineral Resources Act encourages us to negotiate provisions which will give our seabed miners assured and nondiscriminatory access to minerals and security of tenure if they have begun exploration or commercial recovery under the Act. The policy review we have undertaken will determine how best to meet these objectives. Consultations with like-minded states of Western Europe and Japan were initiated last summer and shall continue with a view toward establishing an interim reciprocating states regime, as foreseen in the Act, pending the successful conclusion of a Law of the Sea Treaty." (Department of State, Assistant Secretary Files—Elliott Abrams Subject and CHRON Files, 1981–1987, Lot 89D184, Law of the Sea)

117. Briefing Memorandum From the Deputy Special Representative of the President for the Law of the Sea Conference (Aldrich) to the Deputy Secretary of State (Clark)¹

Washington, February 20, 1981

SUBJECT

Law of the Sea

I. Background

A. Origins. The Third United Nations Conference on the Law of the Sea starts its Tenth Session on March 9. The Conference had its origins in two separate initiatives in the late 1960's. One was a joint U.S.-Soviet initiative to preserve freedoms of navigation, overflight, and maneuver from continually expanding coastal state claims of jurisdiction, and the other was a developing country initiative for the inter-

¹ Source: Reagan Library, Guhin Files, LOS (Law of the Sea) Background (1). Confidential. Drafted by Aldrich. Cleared by Taft, Verville, Cohen, and Wulf. Taft initialed for all.

nationalization of the oceans and seabed beyond whatever limits might be placed on coastal state jurisdiction.

B. *The Threat to Navigation.* Following the failure of the Second U.N. Conference in 1960 to agree on a six-mile territorial sea limit² and refusal of most developing coastal states to become Parties to the 1958 Geneva Conventions dealing with fisheries, the continental shelf, and the territorial sea,³ it became clear that a majority of states would soon claim 12-mile territorial seas, and it seemed likely that some claims would continue to expand toward the 200-mile limits already asserted by Ecuador and Peru. Expansion of territorial seas from three to twelve miles would mean that 116 straits with a high seas corridor would become overlapped by territorial seas, in which the customary right was merely one of “innocent passage”—on the surface only for submarines—and with no right of overflight. Among the straits thus affected would be Gibraltar, Bab el Mandeb, Hormuz, and Malacca.

C. *The “Package Deal” Solution.* In these circumstances, the major maritime powers realized that the best way to preserve their military and commercial rights would be to seek agreement to the necessary rights as part of a “package deal”—a treaty establishing comprehensively the law of the oceans, with enough benefits in it for coastal and straits states so that they would be induced to become Parties to it and accept its limitations on the reach of their jurisdiction.

D. *Internationalization Pressures.* At the same time the developing countries were beginning to press for the internationalization and demilitarization of ocean space, and particularly of the seabed under the high seas. The demilitarization pressures were contained by the adoption in 1971 of the Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Seabed. The internationalization pressures led to a 1970 U.N. General Assembly resolution declaring the seabeds the “common heritage of mankind,” to the establishment in that year of a U.N. Seabeds Committee and ultimately to the Third U.N. Conference on the Law of the Sea.⁴

II. *Status of the Negotiations*

A. *Non-Seabeds.* We have largely succeeded at the Conference in our efforts to negotiate good provisions protecting our non-seabeds interests, including free transit rights through, over, and under straits, and the maintenance of high seas freedoms of navigation, maneuver,

² See *Foreign Relations*, 1958–1960, vol. II, United Nations and General International Matters, Document 428.

³ See *Foreign Relations*, 1958–1960, vol. II, United Nations and General International Matters, Document 372.

⁴ Reference is to UN General Assembly Resolution 2749, Dec. 12, 1970.

and overflight in 200-mile economic zones, as well as resource jurisdiction, pollution control, scientific research, and dispute settlement.

B. *Seabeds*. The seabeds negotiations have proved extremely difficult and have not yet resulted in an acceptable text, although we have achieved significant improvements in that text during the past three years. We have continued to insist that, regardless of the value of the non-seabeds provisions, we could not ratify a treaty that failed to provide the United States and its nationals assured access to seabed resources on reasonable terms and conditions and, therefore, that we would continue to negotiate as long as necessary to produce a ratifiable result.

C. *Risk of Retaliation*. There are some risks in our deliberate approach. Although the Conference has thus far worked largely by consensus, voting remains possible. If the Conference should decide that the United States is the stumbling block to the successful completion of the negotiations, retaliation against our navigation and other non-seabeds interests could be quick and disastrous.

D. *Deferral of Negotiations of the Detailed Seabed Regime*. Since 1978 we have pursued a strategy aimed at simplifying the seabeds text as much as possible and making it acceptable in the sense that, when properly implemented by rules and regulations, it provides assured access.⁵ The detailed rules and regulations on the seabeds regime would then be negotiated after the Treaty is opened for signature in a Preparatory Commission that would meet essentially full time for several years. This strategy, if successful, would protect the non-seabeds provisions against retaliation, would increase our leverage in the detailed seabeds negotiations, and would defer until the Preparatory Commission finishes its work (probably 1984 or 1985) any final decision on the acceptability of the resulting seabed regime and the submission of the Treaty to the Senate. Even if it proves impossible to negotiate a satisfactory, detailed seabed regime, the non-seabeds provisions in the Treaty would greatly strengthen our legal position under customary international law.

E. *Seabed Minerals and Exclusive Rights*. Seabed minerals are of long-term strategic importance, although no one can be certain how long it will be before their recovery and processing will be economical. The richest known concentrations are in the Pacific between Hawaii and Mexico in water nearly three miles deep. Manganese nodules contain nickel, cobalt, manganese, and copper, and represent a major potential

⁵ Documents regarding the Carter administration's seabeds strategy are scheduled for publication in *Foreign Relations, 1977-1980*. vol. XXV, Global Issues; United Nations Issues.

resource of the first three metals. A seabed miner requires an exclusive right to an appropriate mine site before he can make the major investment required (at least \$1 billion). Since no single state can give such an exclusive right, the only apparent alternative to a satisfactory regime in the LOS Treaty would be a mini-treaty among all states interested in mining. Such a mini-treaty would be considerably more extensive and confrontational than the reciprocal regime we have begun to work out pursuant to our recent seabed mining law, but a mini-treaty could be built on that foundation in the event of failure of the LOS Conference. The industry enthusiastically supports the reciprocal regime idea. However, a mini-treaty would doubtless be challenged—perhaps harassed—by the Third World and probably the Soviets. Whether investment would occur under such conditions seems questionable.

F. *Industry and Congressional Attitudes.* The companies investing in seabed mining technology and exploration are vocally negative about the results of the negotiations to date. While they appreciate the need for a treaty regime, their R and D money is drying up, and they see their very existence threatened by the prolonged period of uncertainty stretching ahead of them. One of our top priorities at the coming session is a special set of protections for pioneer investors designed to give them greater certainty of rights. The American companies involved (U.S. Steel, Lockheed, Kennecott, and SEDCO are the leaders) probably hope ultimately for a Government insurance program to cover the remaining risks and to permit them to compete with subsidized Japanese, German, and French firms. There is considerable Congressional skepticism and concern about the seabed regime in part caused by the industry. Moreover, concentration of the negotiations in recent years on seabeds issues has tended to cause the importance of the non-seabeds issues to slip from Congressional and public view.

**118. Memorandum From the Executive Secretary of the
Department of State (Bremer) to Multiple Recipients¹**

Washington, March 4, 1981

SUBJECT

Summary of Discussion of Senior Interagency Group Meeting on Law of the Sea

The Senior Interagency Group meeting on March 2 decided that, in light of the fact that the Administration has not had an opportunity to fully consider the Law of the Sea, we should try to ensure that informal negotiations are not concluded at the forthcoming Tenth Session of the Conference (March 9–April 17).² Studies should begin immediately to bring new personnel in the interested Departments and Agencies up to date, and a thorough review of the Draft Convention, particularly the deep seabed mining provisions, should be made by the Interagency Group on the Law of the Sea. The review should be concluded in time to permit the Administration to determine its position toward the negotiations and issue instructions to the Delegation in advance of the next session of the Conference.

The Group also decided that the Delegation should make clear to other delegations that the review will cover all matters of concern to the Administration and that no issue is necessarily excluded from it so that there can be no question about our continuing good faith in the negotiations as we seek further improvements in the seabed texts at this session. At the same time, the Group recognized that we must keep in mind the need to prevent retaliatory changes in the non-seabeds texts, and we should avoid public statements implying that this review is likely to result in rejection of the Draft Convention and statements stressing the value to the United States of the non-seabeds provisions.

L. Paul Bremer, III

¹ Source: Reagan Library, Meese Files, Law of the Sea—Convention. Confidential. Sent to the Department of Defense, Office of the Secretary; the Joint Chiefs of Staff; the National Security Council; the Department of the Treasury, Office of the Secretary; the Department of Interior, Office of the Secretary; the Department of Commerce, Office of the Secretary; the Department of Energy, Office of the Secretary; the Department of Transportation, Office of the Secretary; the Central Intelligence Agency; the Environmental Protection Agency, Office of Administrator; the Office of Management and Budget, Office of Director.

² No record of this meeting has been found.

119. Briefing Memorandum From the Special Representative of the President for the Law of the Sea Conference (Malone) to Secretary of State Haig¹

Washington, March 12, 1981

SUBJECT

Status of the Law of the Sea Negotiations

A Senior Interagency Group on the Law of the Sea decided on March 2² that *the United States should undertake to insure that the Law of the Sea negotiations were not concluded* at the session now underway in New York, and that a thorough review be carried out of all the provisions of the draft convention, particularly the deep seabed mining provisions. This review would enable the Administration to determine its posture with respect to U.S. participation in the negotiations. The SIG also decided that the U.S. delegation should make clear to other delegations that *the U.S. had not decided for or against the Convention* but that there was no question “about our continuing good faith in the negotiations as we seek further improvements in the seabed text in this session.”

Over the past weekend, consultations were held among Deputy Secretary Clark, Under Secretary Kennedy, Assistant Secretary Abrams and myself with respect to the leadership of the delegation. Consultations were held with the White House as well,³ and on Saturday, *the President appointed me as his Special Representative⁴* for the Law of the Sea Conference and as head of the delegation to the current negotiating session. At the same time, the President *accepted the resignation of George Aldrich⁵* who had been acting as the Special Representative. As soon as the

¹ Source: Department of State, Central Foreign Policy File, P810073–0126. Confidential. Drafted by Marshall. Copies were sent to Buckley, Clark, and Abrams. A stamped notation on the memorandum indicates Haig saw it.

² See Document 118.

³ No record has been found.

⁴ March 8.

⁵ A March 13 set of talking points entitled “Sudden Decision on Aldrich” reads: “Aldrich was a participant in the interagency review leading to this decision and it was our original thinking that he might work out. During the ensuing week it became clear that we should have our own man in as the head of the delegation; that Aldrich might not be amenable to carrying out instructions; and that we should move to make the change immediately rather than after this session had gotten underway. On Saturday, (March 7) the matter was brought to my attention. I decided to have Judge Clark ask Aldrich for his resignation immediately. This action was announced by the White House (by Ed Meese for the President) the same morning.” (Department of State, Director’s Correspondence File—Policy Planning Director, 1981–1988, Lot 89D149, PW Mar. 11–20, 1981)

decision regarding my appointment had been taken, we took immediate steps to advise relevant Congressmen, NATO embassies, and key LOS delegations in New York.⁶

During the course of the weekend, the makeup of the delegation was changed. Eight individuals were removed (including former Chairman Aldrich) and three new people were added. Before the delegation list was finalized, the *New York Times* obtained an advance copy and published the story highlighting the fact that Aldrich and a number of his associates had been fired.⁷ Some of these people mentioned in the *Times* story were, in fact, kept on the delegation, although *two, who had been closely associated with the former chairman, were removed*.⁸ *Elliot Richardson remains on the delegation as an expert* (he is chairman of the LOS Public Advisory Committee).

I met with the delegation on Monday, March 9 and advised them of our position that *we were undertaking a thorough review of the convention and would not take a position for or against the draft treaty pending the outcome of the review*.⁹ I further pointed out that we were prepared to pursue an appropriate program of work during the Conference session but would not be able to agree to conclude anything.

I attended the opening plenary (devoted to eulogies for the late President of the Conference), and conferred with Secretary General Waldheim and our allies.¹⁰

I also talked with a number of the key Representatives at the conference to advise them of U.S. intentions. On an interim basis, I have directed that Bernard Oxman act as Chairman of the Delegation, when I am not in New York.

Yesterday I chaired a Law of the Sea IG which included representatives from all the concerned agencies primarily devoted to the position the United States should take with respect to *the selection of a new Conference President*.¹¹ There are three candidates for this position, only

⁶ In telegram 59011 to New York, March 7, the Department transmitted to USUN a list of the new delegation members. (Department of State, Central Foreign Policy File, D810109-0150)

⁷ See Bernard Gwertzman, "President Replaces Top U.S. Diplomats at Law of Sea Talks," *New York Times*, March 9, 1981.

⁸ Reference is to George Taft and Alan James.

⁹ No record of this meeting has been found.

¹⁰ In telegram 742 from New York, USUN reported on the opening of the conference and stated that debate had been postponed until a new conference president could be elected. The previous president, Amerasinghe, died on December 4, 1980. (Department of State, Central Foreign Policy File, D810113-1029)

¹¹ An undated memorandum for the record that contains a summary of the March 11 meeting is in the National Archives, RG 218, Jones Papers, Box 32, 546—Law of the Sea 18 Mar 81-11 May 82.

two of which appear to be realistic possibilities. One is *Tommy Koh*, the *representative from Singapore* who has had a long connection with the treaty, and, in that respect, maintains views not necessarily consistent with U.S. interest. On the other hand, as you know, we are closely aligned with Singapore and have strong relations with that Government which could be useful in dealing with Koh as Chairman of the Conference. *The other candidate is Christopher Pinto from Sri Lanka*. Pinto has a reputation of being an absolutely fair and impartial individual and in this regard would treat US views in an unbiased fashion; however, philosophically, he is *unequivocally marxist*. Rather than supporting either of the candidates, the *United States could stay out of the decision-making*. After a thorough evaluation of the various options, there *was a consensus*, without any real dissent, *that the United States should support Tommy Koh* by advising the other members of the Western coordinating group (FRG, France, UK and Japan) that we would have no objection to their already-announced support of Tommy Koh. We would also advise Koh privately of our decision and the Singapore Embassy as well.

Today, the Interagency Group will consider the work program which has been proposed by the delegation in New York and distributed at the IG yesterday.¹² I have also *asked for views as to how our fundamental review of the treaty can be best carried out*. I intend to see that this activity is pursued immediately and vigorously to permit the United States to determine the best overall posture regarding the draft convention at the earliest possible time.

¹² A March 12 memorandum from Marshall to Lopez described the IG meeting as “devoted to deciding on a program of work for the conference which would not result in developments prejudicial to our treaty review.” (Department of State, Law of the Sea, 1981–1991, Lot 94D4, LOS—Interagency Meeting March 1981)

120. Memorandum From the Chairman of the Joint Chiefs of Staff (Jones) to Secretary of Defense Weinberger¹

Washington, March 20, 1981

SUBJECT

Law of the Sea Negotiations (U)

1. (C) The Administration, through the head of the US delegation to the Law of the Sea Conference, has announced that it intends to review the entire text of the Draft Convention on the Law of the Sea (Informal Text) (DCIT), particularly the deep seabed mining provisions.

2. (S) The Department of Defense has a vital interest in the Law of the Sea treaty. The Navy recently conducted a comprehensive legal and operational analysis of the DCIT.² That analysis, which was reviewed by all Navy major fleet commanders, reaffirmed the established³ JCS position on the draft treaty. The Joint Chiefs of Staff support the draft treaty from a national security standpoint, if it is accompanied by interpretive statements clarifying certain articles and if those statements are supported by a significant portion of the world community, including the major maritime powers.

3. (U) The trend in customary international law is to restrict free transit of the oceans by expansion of the territorial sea from 3 to 12 nautical miles. This expansion of the territorial sea closes 116 straits to navigation except in innocent passage, which does not include submerged transit or overflight. The draft treaty would preserve the right of submerged transit and overflight through these key straits by a new regime called transit passage. A similar new regime also preserves navigational and overflight rights through archipelagoes, another area in which there is a trend in customary international law toward restriction of free passage.

4. (C) The position of the Joint Chiefs of Staff on the draft treaty rests on the fact that it would preserve navigational freedoms that would probably otherwise be lost.⁴ The treaty would also slow the

¹ Source: Washington National Records Center, OSD Files: FRC 330-83-0103, 801.2 (January-May 81) 1981. Secret. A stamped notation reads, "Office of the Secretary of Defense 24 Mar 1981."

² An undated paper titled "Presignature Legal Analysis, Navy (PLAN)" is in the Reagan Library, Guhin, Michael A.: Files, LOS (Law of the Sea) Background (5).

³ JCSM-441-77, 25 November 1977, "Interpretive Statement and Interagency Agreement To Support National Security Objectives in Law of the Sea Negotiations (U)." [Footnote is in the original.]

⁴ Weinberger underlined the phrase "would probably otherwise be lost."

proliferation of maritime claims and provide a legal foundation and a widely agreed standard against which maritime claims can be measured.

5. (S) The Law of the Sea negotiations have been marked by a series of delicately balanced compromises in which no nation has achieved all that it has sought. At the start of the present negotiating session, it was widely accepted that negotiations had been concluded with respect to the navigational articles covering matters of critical importance to US national security interests. Although those articles are not ideal, and a final JCS position cannot be taken until negotiations are completed, the Joint Chiefs of Staff believe that the navigational articles protect US national security interests. The Joint Chiefs of Staff further consider that the navigational articles in the present text of the draft are the best that can be achieved under the circumstances. The Joint Chiefs of Staff recognize that those aspects of the treaty dealing with seabed mining remain unresolved. However, the United States should not seek to reopen those navigational and other non-seabed articles of the draft treaty that have heretofore been considered resolved, and we should strongly resist any efforts by other nations to reopen those articles.

6. (U) The Joint Chiefs of Staff recommend that you forward a memorandum, substantially like that in the Appendix,⁵ to the President.⁶

For the Joint Chiefs of Staff:

David C. Jones
General, USAF

⁵ Attached but not printed is JCSM-441-77, dated November 25, 1977, entitled "Interpretive Statement and Interagency Agreement To Support National Security Objectives in the Law of the Sea Negotiations."

⁶ In an April 27 memorandum to Jones, Weinberger wrote: "In view of the conclusion of the latest session of the Law of the Sea Conference and DoD participation in the ongoing Administration review of the Draft Convention, I would prefer to defer judgment on sending a memorandum to the President until we see the outcome of that review." (National Archives, RG 218, Jones Papers, Box 32, 546—Law of the Sea 18 Mar 18–11 May 82)

121. Telegram From the Department of State to All Diplomatic Posts¹

Washington, March 23, 1981, 2004Z

73189. USUN for LOS Del. Subject: U.S. Position on Law of the Sea (LOS).

1. (U) Summary. The Department is aware of recent expressions of concern from various foreign governments² as well as overseas press and public opinion regarding U.S. intentions toward continued participation in the U.N. Conference on the Law of the Sea currently in session in New York. In order to reassure foreign governments and deal with public opinion, the Secretary has requested that the following background material on the U.S. decision be provided. End summary.

2. (C) On March 2, a Senior Interagency Group on the Law of the Sea took the following decisions: (A) a thorough review of all aspects of the LOS draft Convention, particularly the deep seabed mining provisions, should be undertaken; (B) pending the completion of the review, the United States delegation to the LOS Convention should undertake to ensure that negotiations not be concluded during the 9 March–17 April session of the conference; and (C) the delegation should make clear to other delegations that the review will cover all matters of concern to the administration, that no issue is necessarily excluded from it, and that there can be no question about our continuing good faith in the negotiations.

3. (C) Following an interagency group meeting on March 12, the US Delegation was authorized to go forward with a work program in Committees 2 and 3³ on an ad hoc, informal basis and in the drafting committee strictly within the mandate of that committee.

4. (LOU) The administration's decision to review the draft convention was based on concerns of industry, Congress, and the administration itself.

(A) On the industry side, concerns had been raised regarding the protection of mining investments made prior to the coming into force

¹ Source: Department of State, Central Foreign Policy File, D810136–0860. Confidential; Immediate. Sent Immediate for information to USUN New York. Drafted by Douglas; cleared by Marshall, Abrams, Bremer, Wolfowitz, and Taylor; and approved by Haig.

² In a March 11 memorandum to multiple recipients, Wilkinson forwarded the summary of a conversation between Malone and CG–5 representatives at which critical views of the U.S. review were presented. (Department of State, Law of the Sea—Third UN Conference, 1970–1983, Lot 87D452, LOS Output)

³ See footnote 11, Document 119.

of the treaty;⁴ assured access to strategic seabed minerals, and; the obligatory transfer of mining technology.

(B) In Congress, there was substantial widespread opposition.⁵ The Department was convinced that if the draft convention were submitted to the Senate in its present form, it would not gain ratification. Moreover it was unlikely that the House of Representatives would pass enabling legislation necessary to implement the treaty.

5. (U) Should occasion arise, US Missions should actively seek to emphasize the administration's determination to conduct a full and impartial review. The administration has not prejudged the outcome of its interagency review. Our view is that it is only reasonable for a new administration to need some time to understand the complex LOS issues and relate them to its own objectives. It is important that the new administration have a full grasp of the LOS issues as well as absolute confidence in the LOS delegation in order to preserve international confidence in our intentions, to prevent the unravelling of the draft convention effort, and to maintain our credibility with Congress. In this regard, it is also important that a new administration place its own people in key management positions. Consequently, a decision was reached on March 7 to replace the then Acting Special Representative of the President with President Reagan's own choice for his special representative.⁶ On March 7, the President appointed James L. Malone as his special representative to the Law of the Sea Conference and as Chairman of the US Delegation to the current negotiation session.

6. (C) US Mission sensitivity to local concerns on LOS issues could help in minimizing pressures on Department and adverse press opinion while the administration's review is underway.⁷

Haig

⁴ In a February 27 letter to Weinberger, Ely described industry concerns about the treaty. (Washington National Records Center, OSD Files: FRC 330–83–0103, Box 47, 801.2 [January-May 81] 1981)

⁵ See Don Oberdorfer, "Sea Law Treaty Being Blocked At White House," *Washington Post*, March 4, 1981, p. A1.

⁶ See Document 119.

⁷ In telegram 3139 from Caracas, March 26, the Embassy reported on Venezuela's concerns with the U.S. review. (Department of State, Central Foreign Policy File, D810143–0941)

122. Memorandum From the United States Delegation to the Third United Nations Conference on the Law of the Sea to Multiple Recipients¹

New York, April 13, 1981

SUBJECT

United States Law of the Sea Policy Review

As you are aware, the Reagan Administration has decided to conduct a comprehensive review of U.S. interests in the oceans and the extent to which they are, or may be, protected by a Law of the Sea Treaty. Among those interests are those of our industrialized country allies, and the Administration wishes to be particularly sensitive in its review process to your views. In particular, the advantage of solidarity among the industrialized countries within and outside of formal multi-lateral negotiating forums is a matter of considerable importance to this Administration. Accordingly, it is our intention that the delegations to whom this memo is addressed be as fully incorporated as possible into our review process at all stages.

The purpose of this memorandum is to provide background on the methodology of our review process and to share with you the interests and objectives we have identified.

Methodology

The review will be carried out in several phases, of which only the first is now under way.

Phase 1. Identification of those United States and allied interests that are significantly affected by the Law of the Sea, and the establishment of our objectives;

Phase 2. Evaluation of the extent to which the Draft Convention accommodates U.S. and allied interests and objectives;

Phase 3. Determination of the nature of the amendments that would be essential to conform the treaty to U.S. and allied interests and objectives;

Phase 4. Assessment of the negotiability of a treaty that would be consonant with U.S. and allied interests and objectives;

Phase 5. Analysis of the no-treaty alternative in light of U.S. and allied interests and objectives;

¹ Source: Department of State, Law of the Sea—Third UN Conference, 1970–1983, Lot 87D452, LOS Output. Confidential. Sent to the heads of delegations of the United Kingdom, France, the Federal Republic of Germany, and Japan.

Phase 6. Determination of actions required to promote and protect U.S. and allied interests and objectives in the no-treaty scenario;

Phase 7. Assessment of the manageability of the no-treaty alternative in terms of U.S. and allied interests and objectives;

Phase 8. Comparative analysis of the treaty and no-treaty options;

Phase 9. Decision on whether to proceed with the treaty or no-treaty alternative; and

Phase 10. Decision on strategy to implement decisions.

We believe it is essential that in the prosecution of the policy review, the foregoing elements be treated as entirely discrete. In the past, the identification of U.S. and allied interests and objectives has been confused with opinions concerning negotiability. Perhaps this has been the product of a strong presumption in favor of the treaty approach. Such a presumption does not exist in this review. In the course of the review, it may be desirable to treat several of these phases together in a single paper. This has not yet been determined.

U.S. and Allied Objectives

A general catalog of U.S. and allied objectives under four main headings has been prepared: Security Objectives, Economic Objectives, Foreign Policy Objectives and Scientific Research and Marine Environment Objectives. The catalog is not necessarily complete and merely reflects the conventual [*conventional?*] wisdom of all previous administrations dating back to 1960, when the prospect of a new treaty on the law of the sea was first given consideration.

It is not likely that these objectives will undergo significant change in the course of the policy review process. The purpose of the review is to determine relative priorities of these objectives and the extent to which they will or can be accommodated in a comprehensive law of the sea convention. Additionally, the policy review process will study carefully the alternative measures which may be taken if the convention is found to be unsatisfactory, or if a judgment is made that it cannot be improved so as fully to protect our priorities. The following is a listing of the objectives we have identified to date.

Security Objectives

- free or “unimpeded” transit of international straits;
- free or “unimpeded” transit of archipelagoes, and flexibility to deploy fleets and carry out naval operations in substantial portions of those areas;
- an innocent passage regime that is clear and objective and circumscribes coastal State jurisdiction relating to the passage of foreign flag vessels, so as to prevent unreasonable interference;

- freedom of navigation in the 200-mile zones;
- freedom of access to, and navigation within and around, ice-covered areas, certain enclosed and semi-enclosed seas, and island areas;
- immunity of warships;
- avoidance of zones of peace, non-nuclear zones, security zones, and requirements for the notification or authorization of warship passage;
- overflight rights largely analogous to navigation rights (outside territorial seas);
- flexibility to carry out communications and surveillance activities;
- freedom to lay and maintain pipelines and cables outside territorial waters;
- free, guaranteed, or assured nondiscriminatory access to deep seabed minerals;
- ability to develop hydrocarbon resources of the continental shelf without interference or hindrance; and
- containment and discouragement of efforts to recognize or aid hostile “national liberation groups”;

Economic

- freedom of commercial navigation (as noted above) outside territorial waters and an acceptable innocent passage regime and pollution control regime;
- development of hydrocarbons of the continental shelf;
- development of deep ocean minerals, in accordance with market economics;
- domestic development of fisheries that are subject to Coastal State jurisdiction, and protection of the distant-water tuna fleet;
- development of ocean energy resources in relation to our global needs; and
- development of ocean technologies (subject to security interests).

Foreign Policy

- protection of our interests in the composition, organization, and procedures of the Law of the Sea Conference;
- establishment of international disputes settlement fora in which our interests are accorded fair and equitable treatment, and by which state sovereignty is not compromised;
- establishment of resource-related institutions that conform with the material realities of the international economy, including the real interests of producers and consumers;

- maintenance or improvement of the effectiveness of the environmentally-oriented international institutions, such as IMCO;

- promotion of the health of the international economy, assuring significant benefit for the economic welfare of industrialized country interests;

- protection of the Western Alliance through the Law of the Sea;

- achievement and maintenance of a position of advantage of the Western Alliance *vis-à-vis* the Warsaw Pact in the Law of the Sea;

- protection of the interests of the Western industrialized nations and encouragement of realism in the North-South dialogue, as it relates to the Law of the Sea;

- containment and discouragement of “national liberation groups” in the Law of the Sea context (in accordance with our security interests, as noted above);

Scientific Research and Environmental

- freedom of marine scientific research outside the territorial sea;

- protection of the marine environment, subject to essential navigation interests; and

- protection of marine mammals.

The Administration is anxious to ensure that this policy review process is fair and impartial and does not reflect any predisposition toward priorities or methods of achieving the priority objectives. Possible decisions could range from a decision to maintain the *status quo* and conclude the draft convention as quickly as possible to a decision based on a diametrically opposed view.

During the course of the review we will consult widely with the industrialized countries as well as the developing countries, with leading members of the American Congress, with our public advisors and with members of affected industry groups. This will be a thorough and painstaking process and will take considerable time. The probability that this process will be completed and final decisions taken prior to the fall of 1981 is very low.

Certain main undercurrents of thinking in the Reagan Administration should be emphasized because they will bear directly on the policy review process. These considerations lie in the following broad areas:

A. Is the treaty the best way to secure the freedoms of the seas upon which maritime powers depend for their national security, their collective security and their transportation requirements? We will weigh the question of whether customary international law is a superior or inferior vehicle for protecting those freedoms. In that connection, we will also want to examine closely whether there has been any change in our military requirements during the past decade in respect of how

we use the oceans, and whether it would be necessary even under the convention as drafted to take unilateral or multilateral measures to ensure that freedom of the seas would not be eroded by our agreement to the provisions of the draft convention.

B. We will wish to study carefully the extent to which multilateral conferences in the last decade and international organizations created pursuant to multilateral treaties reflect a realistic understanding of the economic and political strength of the United States and its allies. This Administration has observed a drift in UN Conferences and negotiations toward the collective assertion of political and economic power by the developing countries. It is important to determine whether this drift has been in our collective best interest and whether, if it is not, it can be redirected.

C. The basic tenets of the North/South dialogue which have been advanced by the developing countries may not be consistent with the economic well-being of the industrialized and (possibly even most) developing countries. There is a widespread view that more economic benefit to more countries will accrue under a system which encourages productivity and economic efficiency than under a system of forced wealth transfer. We will want to evaluate this view carefully since the Draft Convention on the Law of the Sea is a major step in the direction being pursued by the developing countries in the North/South dialogue.

D. We have a heightened appreciation of the vulnerability of the industrialized countries to the control of critical natural resources by others. We intend to review with care the extent to which deepsea mining can provide a secure, uninterrupted supply of certain critical raw materials. We are also deeply concerned with the potentially vast and still unknown resources to be found beneath the surface of the seabed. We will want to examine carefully whether such resources should be subject to any international regulatory system pending both their identification and a better understanding of their value to our economies.

E. We will examine carefully the extent to which the economic interests within 200 miles of any nation's coast can be fully protected in the absence of a comprehensive convention.

F. We will pay particular attention in our review to the question of whether the problems addressed in the text of the treaty can be also solved through a series of bilateral and multilateral undertakings ranging from navigational questions to fishing, deepsea mining, scientific research and pollution control. This inquiry will be in addition to the question of whether many of these interests can be accommodated under customary international law.

While we wish to emphasize that our review does not proceed from a predisposition regarding the treaty, it should also be clear that

there is considerable scepticism in the Reagan Administration about the fundamental underlying assumptions upon which the present Draft Convention is premised and about the extent to which such underlying assumptions, if found to be erroneous, should continue to guide our foreign policy in the oceans.

We will value your views and suggestions on a continuing basis during the course of this review, and we will have a special interest in adjusting our decisions so as to enhance the prospects of solidarity within this group of industrialized countries.

123. Report of the United States Delegation to the Tenth Session of the Third United Nations Conference on the Law of the Sea¹

Washington, undated

March 9–April 24, 1981

ADDITIONAL COMMENTS ON REACTIONS TO THE U.S. REVIEW

The overall reaction was cautious, although some developing country representatives—like Venezuela—are evidencing very deep anger.

The Soviet Union clearly sought to capitalize on the situation. It was an excellent opportunity since the Soviet comments were relatively restrained, and while the Soviet Union threatened us with voting in private, her public posture was one of continuing support for consensus.

The reaction among US allies was mixed. France was highly enthusiastic in private, although its public positions were quite ambiguous, and her delegates have warned us that she will stop short of overt confrontation with developing countries. The German delegation in general sees our review as an opportunity to obtain improvements in the text, and its Economics Ministry's enthusiasm for our review is evident to the entire Conference. At the other end of the spectrum, Australia and New Zealand have openly defended the existing pack-

¹ Source: Reagan Library, Bandow Files, Report of the U.S. Delegation to the Tenth Session to the Third U.N. Conference to the LOS, March 9–April 24, 1981. Confidential. The document is a classified supplement to an unclassified report of the U.S. Delegation. (Ibid.) Attached but not printed is a "Drafting Committee Report: January 12–March 2, 1981."

age, Australia stating that she has vital national interests at stake in the treaty which the US action is undermining.

The UK tried to be supportive, but within the context of existing instructions that favored the early completion of the treaty based on the current text.² Japan was also ambiguous, although it is significant that she received instructions from Tokyo to support us on the procedural question of limiting the summer session to three or four weeks.

Apparently seeking to discourage the view that the legitimacy of Second and Third Committee texts can be maintained with or without a Convention, some delegations have begun to make statements denying that there is a consensus on some of the Second Committee texts relating to navigation and military uses of the sea.³ Although in much more mild and diplomatic form, one finds a similar theme in the opening statement by Secretary General Waldheim that one cannot expect the stabilization in the law of the sea represented by the current texts to be maintained if there is no Convention.⁴

The main underlying question preoccupying the delegates is, and will remain, whether to go ahead and vote through a Convention without U.S. support. The factors affecting this decision will include:

1. Foreign perceptions regarding the negotiability of any new U.S. proposals, and the credibility of an Administration commitment to support ratification of a treaty that accommodates its proposals;
2. Whether the Soviet Union and a significant number of Western States are willing to join the developing countries in such action; not only in terms of voting, but in terms of ratification;
3. The effect, if any, of such action by a large number of countries on bilateral relations between the US and any one of those countries.

COMMITTEE TWO

The meetings of Committee Two reflected a strong desire to put pressure on the U.S. not to propose changes in texts under the Committee's mandate. This pressure was reflected in three ways.

1. Interventions by developing countries led by the Philippines, and stage-managed by Peru, to require prior authorization and notification for warships in the territorial sea, coastal State control of all installations and structures on the continental shelf, and similar kinds of

² Not further identified.

³ Documents regarding the Second Committee and Third Committee texts are scheduled for publication in *Foreign Relations, 1977-1980*, vol. XXV, Global Issues; United Nations Issues.

⁴ In telegram 822 from New York, March 17, USUN reported that Waldheim expressed that "any disappointments or delays we are facing will soon be overcome." (Department of State, Central Foreign Policy File, D810124-1128)

suggestions aimed at restricting military activities. These interventions were stronger than in previous sessions.

2. Interventions by other maritime powers and the Eastern Bloc to the general effect that the fundamental elements of the Committee Two package had been negotiated and should not be reopened.

3. The summary by Chairman Aguilar to the effect that there existed in the Committee a practical consensus along the basic lines of the Committee Two package.⁵

Of particular note was the effort by Cape Verde, supported by a substantial number of delegations, for the establishment of a small working group to deal with the warship issue, and also the strength of the attack mounted by Amb. Arias-Schreiber of Peru. This attack was met head on with equal ferocity by the USSR, which took on Peru on both procedural and substantive grounds.

On the delimitation issue, it was clear that no solution could be achieved at this session, despite strong efforts by President Koh to pressure a solution. The lack of political will on the part of the negotiators was laid in part on the nature of this particular session in the light of the ongoing U.S. review process. Neither side wished to proceed until such time as the U.S. was in a position to participate actively.

The Committee was held together, once again, by the strong and able leadership of Amb. Aguilar. Interventions in plenary on the record following his report were lengthy, followed the same lines as in Committee debates, and constituted a clear indication that many coastal State delegations were ready and willing to do battle on a number of military-related issues should the text be reopened.⁶ Peru stated that there was no consensus on certain contentious provisions such as Article 21.⁷ The U.S. stated that our views regarding navigation rights, including those of warships, and other uses of the sea related to international peace and security were well known, and that we reserved our position regarding any effort to alter these rights under customary or conventional law.

INFORMAL PLENARY

Participation

The most sensitive political question raised by the negotiations on participation is the proposal of the Arabs, at least formally endorsed

⁵ In telegram 914 from New York, March 25, USUN reported that Aguilar broached the topic of voting on issues that could no longer be "completed, improved, or perfected." (Department of State, Central Foreign Policy File, D810139-0761)

⁶ See footnote 5, above.

⁷ Article 21 refers to laws and regulations of the coastal State regarding innocent passage.

by the Group of 77, that liberation movements recognized by the UN (in effect the PLO) be permitted to sign and become party to the Convention. We have received private hints that the Group of 77 might in the end drop this position if it were agreed that the PLO, which is an observer at the LOS Conference and other UN organs, would be permitted to retain its observer status at any organs set up by the LOS Conference, and if—as in the case of the recent Convention on the Law of War—the PLO were permitted to sign the Final Act of the Conference, perhaps on a separate page. The US delegation did not indicate whether it could accept such a result.

Dispute Settlement

During the tenth session, the Chairman of the Drafting Committee, Ambassador Beesley (Canada), asked his associate Armad deMestral (Canada) to explore the possibility of convening a small group which could do some advance work in order to facilitate the task of the Language Group and the Drafting Committee when dealing with the dispute settlement parts of the Convention. Messrs. Caflisch (Switzerland) and Allott (U.K.) prepared extensive lists of drafting changes required in the French and English texts, respectively. Professor Sohn (U.S.) was asked to join these exploratory talks.

It proved difficult to reach agreement on the composition of a working group on this subject and on the method of its creation. A preliminary exploration of the problems involved in coordinating the text resulted immediately in extensive debates on the character of the changes proposed (whether they were drafting or substantive). Consequently, it was quickly agreed that the task was more difficult than the proponents of this approach anticipated, and that no shortcuts are possible. The only solution would be to allot sufficient time for the discussion of dispute settlement texts at the next meeting of the Committee.

124. Briefing Memorandum From the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs (Malone) to Secretary of State Haig¹

Washington, July 2, 1981

SUBJECT

Law of the Sea Consultations in Bonn and Moscow, the LOS Review, and Future Steps

This report summarizes my recent consultations on the Law of the Sea Conference with representatives from the FRG, U.K., France, Japan, and the U.S.S.R. As a result of these discussions, I believe these nations will support U.S. efforts to avoid finalization of the treaty text at the Conference in August and to use that session for consultations. It also summarizes the status of the LOS review and steps contemplated for the future.

Coordinating Group Consultations (June 18–19, Bonn)

The Coordinating Group (U.S., FRG, U.K., France, Japan) *supported the need to keep open all U.S. options*, and endorsed the U.S. view that no dramatic moves should be made in Geneva.² The consultations evidenced *reduced anxiety concerning the U.S. position* and its possible effect on the Conference. Agreement regarding strategy was achieved notwithstanding differing preferences regarding the ultimate outcome. *Japan and the U.K. continue to favor adoption of the Draft Convention* with minor modifications. *France prefers a convention, but only a “good” one* and reserves the right to seek any amendments necessary to improve the result for French and allied national interests. *The FRG seeks fundamental renegotiation of the seabed mining regime* but made it clear that *they preferred renegotiation to withdrawal* even if renegotiation becomes a very lengthy process.

Group of Five (June 22–25, Moscow)

At the Group of Five (U.S., U.K., France, Japan, U.S.S.R.) preceded by bilaterals with the Soviet Union, the U.K., France, and Japan were, for the most part, silent or supportive of the U.S., reducing the meeting to what was essentially a U.S.–U.S.S.R. bilateral.

¹ Source: Department of State, Central Foreign Policy File, P810116–0474. Secret. Drafted by Kronmiller on June 29; sent through Clark. A stamped notation on the memorandum indicates Haig saw it.

² The Tenth Session resumed in Geneva on August 3.

The U.S.S.R. delegation, *while protesting the difficulty which the U.S. policy review caused* for it in Moscow and risks it perceived at the Conference, was obviously *prepared to cooperate closely with the U.S. and others* in the Group of Five, avoid making problems, use its influence to calm the Group of 77 and to stay in very close touch.

The U.S.S.R. delegation repeatedly sought specific U.S. proposals to make it easier to take a decision to go along with a U.S. effort to revise the convention and *hoped that the U.S. list of changes would be short*. The U.S.S.R. offered bilaterals with the U.S. for weekend of August 1.³

The U.S.S.R. repeatedly expressed gratitude for the new U.S. willingness to cooperate closely with them in the LOS Conference and agreed that if we and the U.S.S.R. cooperate closely most Conference risks can be managed effectively.

Status of the LOS Review

Our papers on the *structure of the review and U.S. interests and objectives have been given* to the Congress, the LOS Advisory Committee and our closest allies for reactions.⁴ A working group has since drafted analyses of the Draft Convention in light of our interests and objectives and *by July 15 will compile tentative views on essential changes* to the Convention.⁵ From this we will draft delegation instructions for SIG approval and submission to the White House by July 21, to permit us to issue *cleared instructions by August 1*. (Schedule attached.)⁶

Substantial changes to the seabed mining text to meet U.S. needs are likely. The situation regarding navigation is less certain, although problems with pertinent provisions of the Draft Convention have been defined. I anticipate, nevertheless, that there will be little difficulty in preparing instructions for the Geneva session.

³ In telegram 194970 to Moscow, July 24, the Department reported that Bessmertnykh presented Stoessel with a paper "on July 21 which he said represented the Soviet response to the U.S. proposals made during recent consultations on LOS." The paper stressed that the U.S. position threatened to undermine "the prospects of successful completion of the work of the conference and creates a real threat of a break down through the U.S. fault of the process of settlement of the pressing problems of the Law of the Sea on the basis of a single 'package' of compromise decisions, which it became possible to work out as a result of joint efforts of the USA, the USSR, and other countries in the course of difficult talks over many years." (Department of State, Central Foreign Policy File, D810345-1070)

⁴ A June 5 memorandum from Kronmiller to the Interagency Group on the Law of the Sea forwarded an undated paper entitled "Law of the Sea: United States Interests." (Reagan Library, Bandow Files, [LOS: U.S.Interests-6/5])

⁵ See Document 125.

⁶ Attached but not printed.

Other Future Steps

Other future steps include consultations with Ambassador Tommy Koh (Conference President), on behalf of the Coordinating Group of Five, to obtain his agreement to establish a high level leadership group at the Conference with emphasis upon allowing the U.S. to explore its concerns without the need to negotiate. This group would a) serve as the discussion forums for U.S. concerns, b) ensure “crisis management” to avoid a runaway Conference, c) preempt the working time of the main LOS Conference Committees where there would be a risk that desirable Treaty texts would unravel and d) prevent moves toward negotiation of amendments to the texts or efforts to adopt the texts.

125. Memorandum From the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs (Malone) to the Executive Secretary of the Department of State (Bremer)¹

Washington, July 11, 1981

SUBJECT

The July 8 IG Meeting on Law of the Sea

Ted Kronmiller chaired a meeting of the Law of the Sea IG on July 8. The object was to establish initial guidelines for the preparation of instructions for the UNCLOS Session beginning August 2.²

Agreement was reached on the following general points:

—The Delegation should preserve the widest possible range of options from which the President may choose at the conclusion of the policy review this fall. This means that formalization of the current text or adoption of amendments to it running counter to U.S. interests should be prevented and that the Delegation should not commit or appear to commit the good faith of the United States.

—The Delegation should obtain the most accurate and complete assessment possible of the negotiability of changes in the current text.

¹ Source: Department of State, Central Foreign Policy File, P810105–2187. Secret. Drafted by Meyer and cleared by Kronmiller.

² See footnote 2, Document 124.

A list of such changes was floated in the IG. The list largely tracked earlier testimony by myself before Congress.³

The group discussed the advisability of authorizing the Delegation to offer, if appropriate, a “positive alternative” (free market model) seabed mining regime that would substitute entirely for the current text. The JCS representative expressed personal doubts about the wisdom of this approach, while Mr. Kronmiller defended it. There was no dissent, expressed as an agency position, to the notion of providing the proposed authority.

Finally, there was discussion of the question of how to handle the non-seabeds texts (navigation, coastal State rights, marine scientific research, etc.). The pros and cons of asking for leaving the texts unchanged, were analyzed. It was agreed that, generally, these issues should be avoided in the Conference proceedings in Geneva, though relatively discrete matters might be discussed informally in small groups. The reasoning was that the political traffic might bear no more than the detailed discussion of U.S. concerns regarding seabeds. The risks of damage to non-seabeds interests from a U.S. initiative regarding them in the formal Conference process was regarded as excessive.

A first draft of instructions to the Delegation is being prepared based on the meeting, and should be ready for circulation by COB Friday, July 10.⁴

³ Malone testified before the House Merchant Marine and Fisheries Committee on April 28, 1981. For the text of his statement, see Department of State, *Bulletin*, July 1981, pp. 48–51.

⁴ See Document 126.

126. Action Memorandum From the Special Representative of the President for the Law of the Sea (Malone) to Secretary of State Haig¹

Washington, July 22, 1981

SUBJECT

Instructions for the U.S. Delegation to the Resumed Tenth Session of the Third U.N. Conference on the Law of the Sea, August 1981

Attached are *instructions* to the United States Delegation to the resumed Tenth Session of the U.N. Conference on the Law of the Sea (UNCLOS III), which begins August 3 in Geneva. The delegation is instructed to seek three goals:

—*Preserve the fullest possible range of options for pursuing U.S. Law of the Sea objectives.* These options will be forwarded to the President for decision in the fall following the completion of the policy review. The option to continue negotiations in UNCLOS III, as well as a number of non-UNCLOS options will be presented.

—*Obtain the most accurate and complete assessment possible of the negotiability of improvements in the current text.* The improvements contemplated are listed in section III of the instructions. They include an extensive list of potential improvements in the *seabed mining provisions*, which *should be the primary focus of the delegation's work in Geneva*. Potential improvements in other portions of the text, with the exception of the *navigation provisions*, are to be discussed informally. The delegation will indicate that, though they are still being reviewed, *no significant substantive problems have been identified in the navigation provisions.*²

—*Seek to induce a climate in the Conference that will allow us to achieve maximum improvement in the text should the President decide to continue negotiations in UNCLOS III.*

These instructions have been cleared by the NSC Interagency Group on the Law of the Sea, and contain no disagreed language. There are therefore no options presented for your decision.

¹ Source: Reagan Library, Guhin, Michael A.: Files, LOS (Law of the Sea) Third Conference (2). Secret. Drafted by Meyer on July 20 and sent through Clark. A stamped notation on the memorandum indicates Haig saw it. The original is incorrectly dated June 22. Haig wrote in the upper right-hand margin "Public approach—preempt—OK."

² Haig placed three checkmarks to the right of this sentence.

RECOMMENDATION:

That you approve the attached instructions.³

Attachment

Draft Paper Prepared in the Department of State⁴

Washington, undated

INSTRUCTIONS FOR THE U.S. DELEGATION TO THE RESUMED
TENTH SESSION OF THE THIRD U.N. CONFERENCE ON THE
LAW OF THE SEA (UNCLOS III) AUGUST 1981

I. Background

The Senior Interagency Group on Law of the Sea decided on March 2, 1981⁵ to conduct a policy review that would identify U.S. objectives in the Law of the Sea (informal text) of September, 1980 to determine its compatibility with those objectives, and elaborate options for the achievement of those objectives. The U.S. Delegation to the Tenth Session of the Third U.N. Conference on the Law of the Sea, which took place in New York in March and April 1981,⁶ was instructed to prevent conclusion of negotiations until the review was completed. Negotiations were not concluded, but a resumed Tenth Session was scheduled for Geneva in August 1981.

Several tasks mandated by the Senior Interagency Group have been largely accomplished. U.S. objectives have been identified, and the Draft Convention is being measured against them. Information concerning the negotiability of desired changes in the text gained at August session will be incorporated into the analyses of the options for the President. The time-table for the review calls for the options to be presented for decision in the late fall.

II. Instructions for the August Session

The Delegation should seek to achieve the following at the Resumed Tenth Session:

³ There is no indication of approval or disapproval of the recommendation. Below this sentence, an unidentified hand wrote "discussed at meeting 7/27. Secretary has requested another paper by 7/30 setting priorities on objectives as well as a memo to the President on our approach."

⁴ Secret.

⁵ See Documnet 118.

⁶ See Document 123.

1. *Preserve the full range of options for pursuing U.S. Law of the Sea objectives.* The Delegation should prevent steps from being taken that would make an acceptable treaty on the Law of the Sea impossible to achieve. In particular, the Delegation should make every effort to avert formalization or other prejudicial changes in status of the Draft Convention. The delegation should oppose changes to the negotiating text that would unravel it, or other changes running counter to U.S. objectives. However, specific changes favorable to U.S. interests may be accepted by the Delegation if they do not adversely affect the delegation's overall ability to achieve changes fundamental to U.S. interests.

In order to preserve options outside the Conference context, the Delegation should not conduct itself in a manner that could be perceived as committing the U.S. to a comprehensive Law of the Sea treaty. The Delegation should continue to indicate that no decision for or against pursuing such a treaty has been made, but that the U.S. is committed to rule of law in international affairs.⁷

2. *Obtain the most accurate and complete assessment possible of the negotiability of improvements, described below, to provisions of the Draft Convention.* To that end, the Delegation is authorized to undertake detailed and intensive discussions with foreign delegations and the Conference leadership. The focus of this process should be on seabed mining provisions. The negotiability of changes that might be regarded as useful or necessary to the non-seabeds provisions may be discussed informally in discrete groups, and when the risk of damaging responses in those areas is minimal. In the case of navigation issues, which are most sensitive from a security standpoint, discussions, if any, should not go beyond the following points:

—the navigation provisions are still under review, and appear at this stage to be largely satisfactory.⁸

—(if necessary) We will consult with you bilaterally as the review progresses after the session.

3. *To the extent possible consistent with 1 and 2 above, seek to induce a climate which lends itself to achieving maximum improvement in the treaty text in further negotiations at the Conference, should we choose to engage in them.*⁹ The Delegation should therefore work with U.S. friends and allies and other key Conference participants. Improvements could include either amendment of current provisions or their replacement in whole or in part by entirely new alternatives.

⁷ In the right-hand margin next to this sentence, Haig wrote, "Too negative."

⁸ Haig placed a checkmark next to this sentence.

⁹ In the right-hand margin, Haig drew a line to this sentence and wrote, "Too negative."

III. Pursuant to point 2 above, the delegation should assess the negotiability of improvements in the current text as identified below:¹⁰

A. Committee One (seabeds)

a. Institutional issues:

—guarantee a permanent seat for the United States on the Council and eliminate any real or perceived imbalance¹¹ in representation between the United States and the Soviet Union. The latter objective could be secured by eliminating two designated Soviet Bloc seats on the Council. Both objectives could be reached under a suitable system of weighted voting.

—give the United States, alone or with one or two other like-minded states, the power to block all important operational decisions of the Authority¹² (including those of a discretionary nature), while reducing the power of other groups with opposing interests to block decisions we favor;

—subject to the foregoing points, increase the capacity of the decision-making system for adjusting to changed circumstances;

—strengthen institutional safeguards so that the Authority,¹³ especially the Council, Assembly, Legal and Technical Commission, and LOS Tribunal and Seabeds Disputes Chamber, cannot make decisions detrimental to United States interests,¹⁴ and can not unilaterally expand or abuse their powers.

—eliminate¹⁵ the power of the Review Conference to adopt amendments that may be brought into force for the United States without our consent;

—assure¹⁶ that an appropriate organ is specified for every function of the Authority;

—eliminate the possibility that liberation organizations can participate in treaty organs or obtain benefits from seabed mining revenues distributed to the Authority, while assuring that entities with compe-

¹⁰ Several of these improvements are aimed at different aspects of basic problems, and therefore overlap. [Footnote is in the original.]

¹¹ Haig drew a checkmark next to this sentence.

¹² Haig highlighted this phrase and wrote and underlined the word “*explain*” in the right-hand margin.

¹³ Haig highlighted this phrase.

¹⁴ Haig highlighted this phrase and wrote, “or anyone else’s—” below it.

¹⁵ Haig wrote the word “address” above “eliminate.”

¹⁶ Haig wrote the words “seek to” above “assure.”

tences such as the EC and entities emerging from the TTPI can participate as appropriate in treaty organs.¹⁷

—explore provisions for the application of appropriate fair labor and safety standards to seabed mining.¹⁸

b. Access issues:¹⁹

—guarantee that all bona fide applicants receive seabed mining contracts;²⁰

—allow penalties to be imposed on seabed miners only after a positive vote in the Council, which²¹ we alone or with one or two like-minded states, could block;

—eliminate provisions that discriminate among seabed miners, including anti-density and anti-monopoly provisions;

—obtain assurances that the equitable rights of pioneer operators who have made investments prior to entry into force of the Convention are fully protected, in conformity with Title II of P.L. 96–283;²²

—eliminate any implicit moratorium on non-nodule development;

—reduce the production charge on gross revenues from seabed mining to allow or increase profitability of seabed mining.

c. Commodity policy issues:

—eliminate production limitations on seabed mining, and explore, if appropriate, an anti-subsidy provision;

—add a provision declaring that the overriding goal of the Authority is to encourage the development of seabed mineral resources;

—constrain Authority participation in commodity agreements by unambiguously requiring the concurrence of all major consumers and producers, including the U.S., and limiting Authority representation to Enterprise production;

—assure that temporary compensation for developing country land-based producers of seabed minerals does not become a permanent subsidy.

d. Technology transfer:

¹⁷ Haig placed a checkmark next to this phrase.

¹⁸ Subject to inter-agency review prior to the August session. [Footnote is in the original]. Haig placed a checkmark next to this phrase.

¹⁹ Haig highlighted the phrase “Access issues.”

²⁰ Haig highlighted this phrase and wrote the word “strengthen” above the word “guarantee” and added an “s” to guarantee.

²¹ Haig highlighted the phrase “allow penalties to be imposed on seabed miners after a positive vote in the Council, which.”

²² Title II of P.L. 96–283 (The Deep Seabed Hard Mineral Resources Act) refers to “Transition to International Agreement.”

—eliminate mandatory transfer of technology to both the Enterprise and developing countries.

e. Parallel system issues:

—eliminate advantages of the Enterprise over private and state miners;

—increase the ability of industrialized countries to influence decisions and operations of the Enterprise;

—examine the feasibility of alternatives to the parallel system that do not include a supranational mining entity.

B. Committee II (fisheries, continental shelf, etc.)

—clarify fisheries provisions (particularly those relating to anadromous fish and tuna and the rights of land-locked and geographically disadvantaged States) to ensure conformity with U.S. policies, as reflected particularly in the Magnuson Fishery Conservation and Management Act;²³

—eliminate continental shelf revenue sharing;

—eliminate or clarify the requirement to remove completely abandoned shelf installations;

—clarify provisions relating to the delimitation of maritime boundaries between opposite and adjacent States to protect affected U.S. interests;

—clarify the role, powers, and composition of the Boundary Commission.

—establish clearly that the Antarctic continental shelf is not part of the “Area”.²⁴

C. Committee III (Marine science and pollution): Recognizing that the work of Committee III has been officially closed, the USDEL should not take the initiative to reopen formal discussions on marine scientific research, but should explore informally with other Delegations the negotiability of improvements to the text regarding marine scientific research in the economic zone, with emphasis on the following:

(a) Elimination of the requirement that clearance requests be submitted to the coastal State six months in advance;

²³ Public Law 94-265.

²⁴ “This issue should be explored only after consultations with other Antarctic Treaty Consultative parties and further interagency consideration.” [Footnote is in the original.]

(b) Elimination or sharp reduction in the requirements imposed on researchers in Article 249, especially paragraph 1(d) thereof;²⁵

(c) Limiting the right of and setting a time schedule for a coastal State to request supplementary information regarding a clearance request it has received; and

(d) Strengthening the implied consent provisions by assuring that lack of a coastal State response to a clearance request can be deemed equivalent to their consent for such research.

D. Dispute settlement:

—improve the process for selection of judges for the LOS Tribunal and Seabeds Dispute Chamber to better protect our interest in a fair dispute settlement process;

—adopt compulsory conciliation as a major method of dispute settlement;

—clarify the entire dispute settlement text through a major drafting exercise.²⁶

²⁵ Article 249, paragraphs 1(d) and 1(e) refer to duties researchers must carry out when undertaking marine research while in a State's Exclusive Economic Zone or on a coastal State's Continental Shelf.

²⁶ In a July 27 memorandum to Carlucci, Ikle summarized the instructions to the delegation. (Washington National Records Center, OSD Files: FRC 330–83–0103, Box 46, 801.2 [June–9 Nov] 1981)

127. Memorandum of Conversation¹

Washington, July 27, 1981, 5 p.m.

SUBJECT

Law of the Sea Conference

PARTICIPANTS

The Secretary
 The Deputy Secretary
 Under Secretary Stoessel
 Under Secretary Buckley
 Under Secretary Kennedy
 Assistant Secretary James Malone
 Director of Policy Planning—Paul Wolfowitz
 Legal Advisor (Designate) Davis Robinson
 Deputy Director PM Leslie H. Brown
 Executive Assistant Sherwod Goldberg
 Special Assistant to the Secretary L. Paul Bremer
 Eugene Douglas, Policy Planning Staff
 Otho E. Eskin, OES/LOS

The Secretary said the U.S. was in an extremely sensitive position in the law of the sea negotiations. He observed that the law of the sea had been raised with him by 26 chiefs of state and heads of government and the only one sympathetic to the U.S. position have been the West Germans and the Belgians and maybe the Soviets. He quoted the Soviet Foreign Minister as saying "For God's sake, be careful."²

The Secretary referred to his talks with leaders of the ASEAN states. Even China had complained.³ Everywhere, he said, we are in the dog house.

Assistant Secretary Malone expressed the view that in the last analysis the Soviets would take a middle ground.

Turning to the delegation instructions, the Secretary said that they were negative in character.

Mr. Malone replied that the presentation of the U.S. position would not be hard line but would instead be up beat. He said he would make it clear the U.S. wants to continue to be part of the negotiating process.

¹ Source: Library of Congress, Manuscript Division, Alexander Haig Papers, Department of State, Day File, July 27, 1981. Secret. Drafted by Eskin on July 31. The meeting took place in the Secretary's Conference Room at the Department of State.

² No record of this conversation has been found.

³ In telegram 821 from New York, March 17, USUN reported on Haig's talks with the Chinese. (Department of State, Central Foreign Policy File, D810124-1002)

The Secretary said we are approaching the negotiations with the aim of reaching agreement on a treaty but we have a serious problem. We do not want to have another SALT II. The President has insisted that there be a thorough review.

The Secretary asked about the State Department's assessment of the navigation provisions.

Mr. Malone replied that some problems have been identified, specifically there are some ambiguities in the regime in the Economic Zone. He noted that the Joint Chiefs agreed with that analysis.⁴

The Secretary asked what PM's assessment of the navigation provisions was. The Secretary asked whether the problem of clarifying the navigation texts would be aired at the August session of the Conference.

Mr. Malone said that the US would seek to concentrate on deep seabed issues at the Conference. He recognized the risk that if navigation issues were discussed, this could lead to unravelling the navigation text.

The Secretary asked what *Mr. Malone* would do if the rhetoric leads to a revolution in the conference.

Mr. Malone replied that in general other nations want the U.S. to be a party to the treaty and will probably try to cooperate, knowing that if a crisis is avoided the chance for a successful treaty will be improved. The Soviets want the treaty because of the navigation provisions and will probably be of assistance.

Turning to the notes prepared by *Mr. Malone* for the meeting outlining objectives,⁵ the Secretary observed that there seemed to be a contradiction. Exploring negotiating changes, preventing the treaty from unraveling and keeping the text from being formalized made sense. The Secretary asked about the objective of avoiding a commitment to negotiating a LOS treaty while continuing in the process.

Mr. Malone agreed that was the difficult part.

The Secretary observed that not only is the U.S. prepared to continue to take part in the process, the U.S. wants to take part. The Secretary directed that the U.S. delegation pull off before it causes a crisis at the Conference.

Mr. Malone agreed to that.

Turning to the specific instructions,⁶ the Secretary made a general observation that they seemed too negative. He said he would like to see the U.S. delegation proceed with good will.

⁴ See Document 120.

⁵ Not found.

⁶ See Document 126 and the attachment thereto.

Mr. Malone indicated that he would be flexible when he presented the U.S. position.

The Secretary stated that he was happy that no major substantive modification of the navigation texts will be sought. *Mr. Malone* pointed out that DOD's position on these provisions was not yet certain.

The Secretary said he found the third general objective too negative. The Secretary characterized the language in the draft treaty on permanent seats in the Council as "insane" and directed that the language of the delegation instructions not be softened.

On the instructions regarding the powers of the Authority, the Secretary urged that the delegation not state the U.S. position in those terms in the negotiations.

Mr. Malone said he would not present these points in the language of the instructions.

The Secretary stated that the language in the instructions on strengthening institutional safeguards was "dynamite."

The Secretary directed that the two paragraphs on powers of the review conference and specifications of organs for every function be preceded by "seek to."

The Secretary agreed to the instruction on participation of liberation organizations and said he understood that the question of fair labor and safety standards would be sorted out.

On the access issue, the Secretary expressed the view that it appeared the Delegation was attempting to revise the entire seabeds section. The Secretary asked whether *Mr. Malone* had experts who could judge the doability of these objectives.

Mr. Malone said there were three members of the delegation who had participated in the negotiations since the very beginning.

The Secretary asked whether they were comfortable with the instructions.

Mr. Malone said they were satisfied it was possible to explore the prospects for finding compromise solutions.

The Secretary asked what was behind the moratorium issue. *Mr. Malone* explained that it was a reaction to the passage of U.S. deep seabed mining legislation.

The Secretary asked about the problem associated with the anti-subsidy clause. *Mr. Malone* said the U.S. wants to avoid production limitations. He described the role of Canada and the involvement of Zambia, Zaire and Zimbabwe.⁷

⁷ In telegram 1041 from Kinshasa, January 29, the Embassy outlined Zairian concerns about the treaty and explained Zaire's alignment with Canada, Zambia, and Zimbabwe on the issue of deep seabed mining. (National Archives, RG 59, Central Foreign Policy File, D810042-1112)

The Secretary said he understood everyone was concerned with mandatory technology transfer. *Mr. Malone* indicated there were two aspects: forced sale of technology and transfer of technology which has security significance. This kind of provision would be intolerable in the context of the North-South dialogue. *Mr. Malone* expressed the view that it would be possible to eliminate the “Brazil clause.”⁸

The Secretary asked what the problem was with the provision on anadromous and migratory fish. *Mr. Malone* explained that the texts are not entirely consistent with the US position. The US wants tuna controlled through regional arrangements. The existing texts are ambiguous and the U.S. would like to eliminate coastal states control.

The Secretary asked about the Committee III text. *Mr. Malone* stated that there is agreement that in this area there is no issue of overriding concern.

The Secretary asked about the next session of the LOS Conference. *Mr. Malone* said he thought that the first week would be devoted to organization of work and the second week would be used to take up the substantive issues. He said he thought if the U.S. could get through the second week without major problems the delegation could get through the remainder of the session without a crisis.

The Secretary stressed that he wanted to be sure that he and the Deputy Secretary were not surprised by developments at the Conference and wanted to know if a crisis was developing. The Secretary asked for a daily dialogue.

The Secretary said the President is not fully abreast of the law of the sea situation. He stated it was necessary for Meese and the President to know what the delegation was doing.

Mr. Bremer said it seemed that the U.S. had already received warning signs; the Soviets seemed to have concluded that the U.S. was isolated.

Mr. Malone disagreed, saying he believed the Soviets would play a middle ground role because they want a treaty and they want the U.S. to be a party to the treaty. However, if the Soviets concluded the U.S. was isolated at the Conference, they might try to get some political mileage out of the situation.

Mr. Bremer said he thought the Soviets had made their position very clear. *Mr. Malone* said the Soviets had backed off some what and indicated they would cooperate in some areas.

⁸ The “Brazil clause” refers to access to privately-owned technology for any country that wishes to begin seabed mining.

The Secretary stated that the U.S. was zapping the treaty. He asked how the decisions were made on what issues were essential, what were nice, and what could be discarded. He said what was needed was a matrix; a priority listing of issues; what we have is a grab bag of agency issues.

Mr. Malone agreed to provide such a priority listing.⁹

The Secretary said that, in fact, some things are really not needed and it must be recognized that the LOS treaty cannot be perfect.

Mr. Malone noted that some elements of the present version of the LOS treaty are inconsistent with the philosophy of the Administration.

The Secretary observed that it would be hard for the President to walk away from the treaty which had been negotiated under three administrations.

Mr. Malone said the U.S. delegation objective will be to convince the other delegations that we are prepared to talk.

Mr. Douglas said the Conference would be a bomb. He urged that if it were possible, it would be desirable to avoid raising these issues prior to the Cancun meeting¹⁰ where some delegations will try to make trouble.

The Secretary stated that the President has not focused on the LOS issues. He went on to say that there was not a prayer of getting through all of the seabed issues in the proposed instructions without a disaster. That may be the right thing to do but not without the President's decision.

The Secretary stated that we must remember the cost if the U.S. scuttles the treaty.

The Secretary asked for a list of the most important issues; specifically, an in-house review on what are the bedrock issues; what we can throw away, what can be traded off and what other countries can be persuaded to carry the burden of negotiating some of these issues.¹¹

The Secretary asked also that *Mr. Malone* prepare a memorandum to the President telling him what was expected to happen in Geneva.¹²

⁹ In telegram 7651 from Geneva, July 28, USUN transmitted the priority analysis. (Department of State, Marine Law and Policy Division, Subject and Country Files, Law of the Sea, 1981-1982, Lot 92D622, Law of the Sea—Cables 4/81-12/82)

¹⁰ Reference is to the Cancun Summit on International Development Issues held in October 1981.

¹¹ See footnote 9, above.

¹² See Document 128.

128. Memorandum From Secretary of State Haig to President Reagan¹

Washington, July 31, 1981

SUBJECT

The Law of the Sea Conference

The next session of the Law of the Sea Conference begins in Geneva on Monday, August 3. The principal U.S. objectives are (a) to keep open the draft treaty pending your final decision on the U.S. approach to the treaty, (b) to buy time until other elements of our policy toward the developing countries can be announced and take hold, and (c) to assess carefully the negotiability of needed improvements.

On the basis of our analysis of the draft treaty text, it is clear that many of the key provisions dealing with the deep seabed mining regime are incompatible with basic policies and principles of the Administration and would present problems in the Congress which would render the treaty unratifiable.² In Geneva, the delegation will seek to prevent the Law of the Sea Conference from breaking up in a way prejudicial to U.S. interests or resulting in a major crisis which would bring the negotiations to a halt and subject the U.S. to strong criticism.

The U.S. delegation will seek to concentrate the work of the Conference on the area of principal concern to us: the provisions of the treaty dealing with the deep seabed. Although U.S. interests could be improved by changes in the navigation texts we should pursue these issues outside the Conference setting, in more manageable bilateral and limited multilateral contexts.

It is impossible to predict with certainty what the negotiating environment will be in Geneva. Our best estimate at this time is that many key countries in the negotiations want a Law of the Sea treaty and want the United States to be a party.

Still, there are risks which must be recognized. At a minimum we can expect sharp criticism of the U.S. Law of the Sea policy. Some delegates, chiefly in the so-called Group of 77 may well attempt to

¹ Source: Reagan Library, Executive Secretariat, NSC: Subject File, Law of the Sea (LOS) (1981) 3/30/81–12/7/81. Secret. Sent under an August 6 covering memorandum from Allen who wrote: "A key objective is to keep the process open pending your decision on the interagency review to be completed later this year. While we can expect some sharp criticism at the conference, our delegation has been clearly instructed on the need to avoid having the conference either break up or adopt an unsatisfactory treaty without us."

² An unknown hand underlined the phrase "would render the treaty unratifiable."

isolate the U.S. with the tactical objective of holding U.S. demands to a minimum. Once started however, the isolation tactic may not be controllable. Should a large number of delegates become persuaded that the United States stands alone and in opposition to the treaty and is not prepared to negotiate in good faith, then our ability to prevent a move to formalize the text would be substantially dependent on the assistance of our allies and the neutrality or aid of the USSR. In such a situation, it is by no means clear to what extent we can count on the support of certain key friends and allies who, in general, may be reluctant to oppose the majority of Third World nations. Clearly, the Soviets could exploit such a situation to our disadvantage and gain political favor with the developing countries. The Soviets have recently informed us that they will support the existing treaty text.

There is thus a risk that we might fail to control the process, and either an unsatisfactory treaty will be adopted or the Conference may break up, with the United States being held responsible. A collapse of the Conference could result³ in publicity critical of the United States and could sharply affect the character of other multilateral negotiations in which the United States is taking part. However, there is no risk-free way we can hold the treaty open, pending your final decision.

While it is not clear how our substantive interests in oceans law might be affected by formalization of the treaty without U.S. participation, it raises the risk that some states may retaliate in ways which might adversely affect certain navigational and other rights which we have claimed.

Although the U.S. delegation will attempt to manage the negotiations in a manner which takes account of the foregoing risks, the inherent uncertainties in the process raise the possibility that those navigational interests which we have thus far secured may be jeopardized through renegotiation or breakdown of the whole Conference.

³ An unknown hand underlined the phrases "thus a risk that we might fail to control," "unsatisfactory treaty will be," "break up, with the United States being held responsible," and "Conference could result."

129. Telegram From the Special Liaison Detachment Supporting the United States Delegation, Department of Defense, to the Special Security Office, Defense Intelligence Agency¹

Geneva, August 14, 1981, 1045Z

241. Subject: LOS Update.

1. (S) As you are aware, procedural arrangements were agreed to last week² that would permit the United States to present its concerns in a positive, non-confrontational forum. Pursuant to this arrangement, on 13 August, Ambassador Malone presented, in fairly direct and specific terms, a list of eight major objections to the seabed regime contained in the present LOS text.³ As expected, initial reaction has been strongly negative among G-77 members and others primarily because they are finally beginning to realize that the U.S. is seriously questioning the fundamental principles upon which the previously negotiated regime is based. Up until now there was some residual hope that the U.S. was only posturing for tactical purposes.

2. (S) Although the situation is volatile, I continue to believe that precipitous action such as a final vote on the text can be avoided at this session. As a precautionary measure we are in the process of identifying states that would be likely to support the U.S. under the rules of procedure which provide for a ten-day cooling-off period prior to any substantive vote (a minimum of 15 states would have to join us in a motion to delay a vote). In this regard, Ambassador Malone strongly concurs with Dr. Ikle's desire to obtain maximum support for a negative vote should the need arise.

3. (U) Mr. Koch's visit was mutually beneficial.⁴ Through discussions with conference leaders, including President of the Conference H.E. Tommy Koh, Ambassador Augilar (Chairman of Committee II),

¹ Source: National Archives, RG 218, Jones Papers, Box 32, 546—Law of the Sea 18 Mar 81—11 May 82. Secret; Eyes Only. Sent to Ikle, Koch, Austin, and the Joint Chiefs of Staff. In an August 17 transmittal memorandum Lueders wrote, "RADM Harlow, DOD LOS Rep, provides update on Treaty negotiations. Situation volatile but not out of control."

² See footnote 27, Document 126.

³ In telegram 8215 from Geneva, August 13, USUN summarized Malone's speech and provided an assessment of the reaction of other nations. (Department of State, Central Foreign Policy File, D810378-0618)

⁴ Department of Defense representative Noel Koch.

and Ambassador Paul Engo (Chairman of Committee I), Mr. Koch was able to get a fairly accurate feeling for the dynamics of the session. At the same time, by Mr. Koch's presence, conference leaders were given the signal that the Department of Defense is maintaining a high level interest in all national security aspects of the conference.

4. (C) If circumstances change, and it looks like we are headed for a "blowup" at this session, I will notify you immediately with damage control recommendations.

Harlow

130. Telegram From the Mission to the United Nations to the Department of State¹

Geneva, August 25, 1981, 1336Z

8569. For Secretary from Malone. Subject: LOS Conference Decision on Status of Text and Future Work. Ref: Geneva 8552.²

1. (Secret—entire text)

2. The LOS conference decided in plenary session yesterday on the status of the draft convention and future sessions of the conference. The full text was sent yesterday in Geneva's 8552. The purpose of this telegram is to analyze that conference decision.

3. As G-77 and Soviet perceptions of the US position became more clear during this session the desire to formalize the text became widespread. The original arrangement we made with Brazil to keep this session of the conference under control began to look uncertain for

¹ Source: Reagan Library, Bandow Files, [LOS: June-August 1981 Cables]. Secret; Immediate. Drafted by Ratiner; cleared by MacDonald; approved by Malone. Sent to Bandow and Guhin.

² In telegram 8552 from Geneva, August 24, USUN reported that the Collegium to the General Committee had recommended that the text of the draft convention be revised at the end of the Geneva session; that the revised text no longer be considered informal; that a final intersessional meeting be held in New York from January 18 until February 26, 1982; that a final decisionmaking session be held from March 8 until April 30, 1982, in New York; and that the convention be opened for signature in early September 1982. (Department of State, Central Foreign Policy File, D810396-0793)

awhile.³ By the middle of last week the Eastern European, Asians, Latin Americans and African groups had all taken decisions in favor of formalization. It was clear to us that these decisions were taken out of the desire to send a message to Washington rather than from a conviction that US concerns should be summarily dismissed.

4. In the face of these developments, we were able to arrange for a private dialogue last Sunday⁴ with many of the conference leaders to put our position in as favorable a light as possible and to urge that flexibility on their part would create a better atmosphere in Washington for continued active participation next year. As a result of these and other efforts it was possible on Monday⁵ to convert the conference decision reported in reftel 8852 into a document which is in full compliance with our instructions.⁶

5. The conference decision indicates that the text will have a higher status in the future and characterizes it as the “official draft convention” of the conference. Last minute negotiations yesterday with the conference leadership resulted in removing the words “formal text” and this change is widely known at the conference which improves the record from our point of view. The three conditions explaining the status of the text make clear beyond question at the conference that the text has no status different from the previous texts and cannot be used as a launching platform for submitting formal amendments.⁷ Moreover, this decision extends into the next session of the conference.

6. In order to further hold our feet to the fire, the conference decided that its final decision-making sessions would take place in New York for eight weeks beginning 8 March and the conference ordered the Secretary General of the United Nations to arrange for the signature of the final action in Caracas in early September 1982. It is our belief that if negotiations occur next year and we are active participants with a position which is widely perceived to be tough but reasonable, this

³ In telegram 7865 from Geneva, August 3, USUN outlined a proposal from Brazil wherein the “U.S. would agree now that at the end of this session the President of the Conference would issue a new treaty text incorporating the drafting committee’s changes. The new text would be labeled the ‘draft convention on the Law of the Sea’ and the words ‘informal text’ would be dropped from the title. On issuing the text the President would announce that this new text could be changed or amended only in accordance with the same rule of procedure applicable to earlier texts—the rule of consensus. The new text thus would remain informal. If the U.S. agrees now to this result, Brazil will undertake to ensure a quiet session giving ample time for full discussion of the U.S. areas of concern in an atmosphere free of rhetoric, threats of voting, or other G-77 induced crises.” (Department of State, Central Foreign Policy File, D810463–0846)

⁴ August 23.

⁵ August 24.

⁶ Draft instructions and Haig’s comments are in Document 126.

⁷ See footnote 3, above.

schedule could be postponed until 1983. This view has been privately conveyed to us by the coordinator of the Group of 77's Contact Group on Seabed Mining Issues.⁸

7. To the extent there is any perception that the text has a slightly higher status than before, this tends to reinforce the navigational provisions of the treaty in the event the conference ends without a successful result.

8. We will be paying particular attention this week to the working out of the work program for the next session of the conference to insure that we are not faced with difficult or artificial deadlines which could hamper our negotiating leverage if our final decision is to renegotiate the convention.

9. We have consulted with all of our Western allies who agree that the conference decision is an excellent result for fulfilling the collective wishes of the CG-5. Moreover, because the USSR completely mishandled the debate over this conference decision,⁹ the final atmosphere at the conference is that the US and the G-77 managed by working together to develop an approach for the future which left the USSR in a corner, totally isolated from the mainstream of the conference. The Soviet move in the debate was sufficiently mismanaged so that by the end of the day yesterday, they were forced publicly to concede that the Group of 77 did not want to formalize the draft convention despite the strong push of the Eastern European countries to do so. The Soviets persistent efforts to make propaganda points with the G-77 have conclusively backfired to their clear disadvantage.

10. The conference also decided not to extend this session into a fifth week. The session will end on Friday, August 28.

11. On balance, the entire US delegation is quite satisfied with the result.

Helman

⁸ Not further identified.

⁹ In telegram 8742 from Geneva, August 28, USUN reported that "Soviet position during the session has been unhelpful although in the end they were unable to do any actual damage. They apparently believed the G-77 would decide to turn its back on the U.S. at this session. As a result they publicly supported continued progress on outstanding issues and formalization of the text at this session. Privately they told us they would not create obstacles for the dialogue we sought and would not oppose us on substance. In the final negotiations over formalization of the text they found themselves isolated when the G-77 supported the compromise arrangement worked out with us." (Department of State, Central Foreign Policy File, D810405-0781)

131. Memorandum From the Under Secretary of Defense for Policy (Ikke) to the Deputy Secretary of Defense (Carlucci)¹

Washington, November 10, 1981

SUBJECT

Law of the Sea Review

1. (S) On 10 November 1981, a LOS IG adopted a draft Presidential Decision Memorandum (PDM) for formal circulation (Tab A).² It is my opinion that the draft PDM represents a fair evaluation of the issues. The paper characterizes the DOD view of the navigation/security provisions of the Draft Convention as being “acceptable.” Any deterioration of the present language of those provisions, however, would of course render them unacceptable to DOD. It should be noted that the position of the Department of the Navy, as expressed by SecNav (Tab B),³ is that these provisions are only “barely, minimally acceptable.” The position of the Air Force (Tab C),⁴ on the other hand, is much stronger in support of the treaty provisions. As a balance between these two viewpoints, the characterization adopted in the draft PDM was that the provisions are “acceptable,” without positive or negative qualifiers.

2. (S) Although the JCS have not taken a position yet, there appears to be no dispute within DOD that the seabed mining portion of the text is unacceptable and should be amended. The draft PDM takes this position.

3. (S) The draft PDM lays out two basic options: (1) walk-away or, (2) continue negotiations with a view to achieving substantial improvements to the seabed mining provisions. From a DOD standpoint, Option II is considered advantageous as it diminishes the likelihood that the navigational articles will be unravelled at the next negotiating session, and it offers an opportunity to obtain changes to the text that will assure U.S. access to strategic minerals. The Department of State has already taken a position in favor of Option II.⁵ It is anticipated that

¹ Source: Washington National Records Center, OSD Files: FRC 330–83–0103, 801.2 (10 Nov–1981). Secret. Merrill signed for Ikke. A stamped notation on the memorandum indicates Carlucci saw it on November 12.

² Attached but not printed.

³ Dated November 4, attached but not printed.

⁴ Dated November 9, attached but not printed.

⁵ In an October 19 information memorandum to Haig, Malone wrote, “I will not indicate any preference as to the options [in testimony before the House Merchant Marine and Fisheries Committee] but will note that the weight of the arguments tends to support Option 2—to resume active participation at the Conference with the later possibility of not signing the treaty if the final result does not measure up to our standards for evaluation.” (Department of State, Central Foreign Policy File, P820003–1328)

the other agencies will follow suit (with only the Department of Interior evidencing possible disagreement).

4. (S) The PDM will be staffed this week for JCS concurrence. As the paper is generally consistent with previous JCS positions, JCS concurrence and support of Option II is expected. Subject to JCS review and concurrence, I recommend that OSD concur in the draft PDM as fairly representing the issues and express its support for Option II. All agencies have been requested to transmit their positions to DOS by Tuesday, 17 November.

5. (U) Further general background is provided at Tab D.⁶

⁶ Attached but not printed. There is no indication of approval or disapproval of the recommendation. At the bottom of the page, an unknown hand wrote: "Handled orally in meeting. In general terms, Mr. Carlucci agreed to Option II—continuing participation in the LOS Conference. J [illegible] 11/13."

132. Memorandum From the Chief of the Geography Division, Office of Global Issues, Directorate of Intelligence, Central Intelligence Agency [name not declassified] to Director of Central Intelligence Casey and the Deputy Director of Central Intelligence (Inman)¹

Washington, November 25, 1981

SUBJECT

Senior Interdepartmental Group (SIG) Meeting on the Law of the Sea (LOS)
[portion marking not declassified]

1. *Action Requested:* None. This memorandum summarizes for your information the results of the SIG meeting chaired by James L. Buckley, Under Secretary of State for Security Assistance, Science and Technology, on 24 November at the Department of State. [portion marking not declassified]

2. *Background:* The meeting was convened to review proposed changes to the LOS Memorandum for the President, which was pre-

¹ Source: Central Intelligence Agency, National Intelligence Council, Job 83B00140R: Policy Files (1979–1982), Box 1, Folder 8: SIG meetings—II. Secret. [text not declassified].

pared by an Interdepartmental Group on Law of the Sea. The Memorandum presents the conclusions of an Interagency LOS Policy Review and policy options for future US negotiations at the Third United Nations Conference on LOS, which reconvenes in March 1982. [*portion marking not declassified*]

3. *Results of the SIG Meeting:* In regards to the Interior Department's proposed wording changes to the Memorandum,² Mr. Perry Pendley stated that his Department thinks that the Memorandum too optimistically presents the US's ability to improve the deepsea mining provisions of the LOS draft convention. He suggested more realistic wording and specific negotiating objectives in order to bring to an end "continual talking, but no results." Ambassador James L. Malone, Special Representative of the President to the LOS Conference, defended the Memorandum, citing the delicate negotiating situation and the need for cautious diplomacy if we are to achieve our objectives. He emphasized that an initial policy decision as to what should be the general US direction in these negotiations is essential at this time. If Option 2 (to continue the negotiations) is chosen, operational language with new provisions and tactics will then be formulated. There was little support for Interior's overall position and only some limited wording changes were agreed to. [*portion marking not declassified*]

Treasury Department's proposal to expand the interdepartmental process for reviewing future US LOS positions and treaty amendments was rejected.³ Accepted instead was a proposal to handle these matters in the NSC–SIG structure only, and to set a 1 February 1982 deadline for sending proposed negotiating instructions to the President. This would permit adequate time for intersessional meetings and the development of a new negotiating strategy for the March session of the LOS Conference. [*portion marking not declassified*]

[*name not declassified*]

² Not found.

³ Not found.

133. Memorandum From the Senior Inter-Departmental Group to President Reagan¹

Washington, December 11, 1981

Options For The Law Of The Sea

ISSUE FOR DECISION:

Should the United States seek to negotiate changes consistent with US law of the sea objectives at the Third United Nations Conference on the Law of the Sea or withdraw from the negotiations?

I. BACKGROUND

Since 1973, the Third United Nations Conference on the Law of the Sea has been negotiating a treaty which would establish a legal regime covering military and commercial navigation and overflight, deep seabed mineral resource development, the extent and nature of coastal State jurisdiction, fisheries conservation and management, marine scientific research, prevention and control of ocean pollution, continental shelf rights, and the peaceful settlement of disputes. The Conference was expected to conclude negotiations and to open a treaty for signature in 1981.

Serious questions had been raised in the US, however, concerning the adequacy of the Draft Convention, particularly with respect to the regime it would establish for deep seabed mineral resource development. The Republican Platform stated, "Multilateral negotiations have thus far insufficiently focused attention on US long-term security requirements. A pertinent example of this phenomenon is the Law of the Sea Conference, where negotiations have served to inhibit US exploitation of the seabed for its abundant mineral resources. Too much concern has been lavished on nations unable to carry out seabed mining, with insufficient attention paid to gaining early American access to it. A Republican Administration will conduct multilateral negotiations in a manner that reflects America's abilities and long-term interest in access to raw material and energy resources."²

¹ Source: Reagan Library, Guhin, Michael A.: Files, LOS (Law of the Sea) Review (3). Secret. There is no indication Reagan saw the memorandum. In a December 18 memorandum to Weinberger, Ikle indicated that the Senior Inter-Departmental Group's conclusions were forwarded to the NSC on December 11. (Washington National Records Center, OSD Files: FRC 330-84-0003, 801.2 [Jan-30 June] 1982)

² See the American Presidency Project, *Political Party Platforms*, "Republican Party Platform of 1980" (accessed online).

In March, the US initiated a comprehensive review of its law of the sea policy. The results of that review and an analysis of the available options for pursuing US interests in law of the sea are summarized in this memorandum. This memorandum does not address the issue whether the US should sign or ratify any proposed treaty.

The next session of the Law of the Sea Conference will begin in March, 1982. The Conference expects to complete work on the draft text and adopt the Law of the Sea Convention at that session.

II. *PRINCIPAL CONCLUSIONS OF THE INTERAGENCY REVIEW*

In the course of the policy review, US interests and objectives in the law of the sea have been examined. Against them, the Draft Convention and “no-treaty” alternatives have been weighed. In addition, the negotiability of improvements to the deep seabed mining regime has been assessed.

The basic conclusions of the Interdepartmental Group (IG) are that:

(1) The navigation and overflight provisions of the Draft Convention are acceptable; any deterioration in the language of these provisions would, however, render this portion of the draft treaty unacceptable. These provisions, while not ideal from the United States point of view, would be beneficial as they would provide a foundation for the exercise of important naval and air mobility interests in a non-confrontational manner. This assessment is, in part, predicated on the fact that the Draft Convention provides for navigation and overflight freedoms, including transit on, over, and under international straits overlapped by territorial seas and archipelagic waters. Without these provisions, the assertion of the freedoms guaranteed thereby would require a direct challenge to existing territorial sea claims of 107 states, including many of our allies. Unless international limitations are established, the proliferation of excessive maritime claims almost certainly will continue, thereby requiring costly levels of confrontation and certain political-military risks to conduct routine peacetime military operations. Ambiguities in the text regarding navigation and overflight rights can be protected with interpretive statements and appropriate exercise of our rights as we view them.³

The navigation provisions of the Draft Convention take on particular importance for US commercial navigation interests. A widely accepted treaty embodying the provisions of the current Draft Convention would provide a more stable, predictable regime of maritime jurisdiction and navigation rights that are essential to the smooth flow of maritime commerce.

³ See Document 120.

(2) The provisions of the treaty concerning marine scientific research, the continental shelf, ocean energy production, and marine environmental protection are generally consistent with US interests and objectives. With respect to fisheries, the Department of State believes that US interests would not be significantly affected one way or another by a treaty, except for salmon and tuna where the effect would be adverse. The Department of Commerce believes that, despite the treaty provisions on tuna and salmon which in the short term provide less protection for the US than our current legal positions, US fisheries interests would, in the long run, be better served under a treaty.

(3) Major elements of the Draft Convention deep seabed mining regime are clearly contrary to US interests and objectives.

(4) An effort to renegotiate the deep seabeds provisions of the Draft Convention presents the only realistic possibility of achieving a law of the sea treaty acceptable to the US. Returning to the Conference is the only strategy or approach that has been identified which could prevent deterioration of the navigational provisions while offering an opportunity to achieve an acceptable deep seabed mining regime under the treaty.

(5) The Conference is likely to open the Draft Convention for signature in 1982, even if the US objects, unless the Conference believes that by extending the deadline the US is likely to sign and ratify the treaty. Most Conference participants, including virtually all of our allies, are prepared to complete the Draft Convention with relatively little change. Sixty countries are required to bring the treaty into force and there are more than one hundred and twenty developing countries, many of whom have strong interests in bringing the treaty into force. In the event the treaty enters into force, it is impossible to assess with any degree of confidence exactly who the parties to it might be and, therefore, what effect entry into force would have on overall US interests if the US were not a party.

(6) At one extreme, if a comprehensive treaty enters into force and the United States is the only major nation which is not a party to the treaty, commercial-scale deep seabed mining under US licenses almost certainly would not occur on an unsubsidized basis because of serious international legal and political risks.

At the other extreme, in the unlikely event that the treaty did not enter into force for many of the nations interested in deep seabed mining (US, UK, France, FRG, Belgium, Japan, Netherlands, and Italy), the USSR, certain major developing countries, and other industrialized countries, and provided that the US could induce them to join in an alternative regime, investment in commercial-scale deep seabed mining under US and foreign licenses might occur under that regime.

A variety of cases lie between the two extremes outlined above. The IG cannot predict with a reasonable degree of confidence whether commercial-scale investment would occur under any such case. The various industrial consortia hold differing views on this subject.

The IG has reached the following additional conclusions with respect to negotiability:

(1) It would be extremely difficult to satisfy all US objectives listed in Part IV below with respect to the deep seabed mining regime. Nevertheless, there is an opportunity to seek and obtain substantial improvements to the Draft Convention's provisions on the deep seabed mining regime. Such improvements could increase US and Western allied influence in the decision-making process while, at the same time, they could neutralize the one-nation, one-vote Assembly and could eliminate, reduce, or mitigate the practical impacts of provisions which would otherwise result in the implementation of the principles of the "New International Economic Order" (NIEO). They could also provide an investment climate for US industrial development without subsidization. However, the improvements are unlikely to alter the fact that the treaty would still be replete with NIEO rhetoric which could still be employed by developing countries to promote their aims in other negotiations.

(2) Negotiations to improve the deep seabed provisions can be conducted with little risk of retaliation against non-seabed provisions important to the US.

III. OPTIONS FOR FUTURE US LAW OF THE SEA POLICY

The Interagency Group proposes two options for consideration:

Option I: *Withdraw from the Law of the Sea Conference prior to the next session*

Option II: *Continue participation in the Law of the Sea Conference to secure, through negotiations, the five objectives set forth in Part IV*

The Departments of Commerce, Defense, Energy, Labor, State, Transportation, and Treasury, and the Environmental Protection Agency, and the National Science Foundation, recommend Option II. The Department of Interior does not support Option II as presently drafted.

A. *Option I: Withdraw from the Law of the Sea Conference prior to the next session*

This option would represent a determination that the draft law of the sea treaty cannot be renegotiated in a manner that would satisfy US objectives.

Arguments In Favor of Option I:

—would demonstrate an American resolve not to participate in multilateral negotiations in which the terms of the draft agreement

(a) do not fairly reflect US political and economic interests and financial contributions or (b) contain NIEO principles which we find unacceptable and which developing countries could employ to promote their aims in other negotiations;

—because of the extreme character of this action, it might cause other countries, including US allies, to rethink their commitment to the treaty and eventually decide not to ratify the treaty;

—avoids the risk that US interests in deep seabed mining might be compromised further through continued negotiation and might increase the effectiveness of a US denunciation of objectionable provisions of the treaty;

—would appeal to those Americans who feel that US interests should not be subjected to majority votes by developing countries in international organizations.

Arguments Against Option I:

—would eliminate any realistic possibility of improving the Draft Convention and would not capitalize on our currently strong bargaining position;

—could lead to the unraveling of important navigational provisions to the detriment of US security interests and, therefore, could reduce US ability effectively to assert its minority view of navigation rights in the face of adverse coastal state claims;

—would isolate the US from most other countries on this issue and provoke substantial international controversy, including severe criticism from US allies and others for walking away from the negotiating table;

—would be viewed as a major departure from the traditional US practice of cooperating in efforts to reach multilateral solutions to foreign policy issues thereby reducing US credibility as a reliable participant in multilateral negotiations and possibly affecting other US foreign policy goals adversely;

—would virtually eliminate any possibility of a US flag deep seabed mining industry, unless the US could convince its allies and other key countries not to ratify the treaty and to join an alternative regime. Otherwise, investors likely would operate under a foreign flag pursuant to the treaty, unless fully indemnified by the government against risk;

—could result in US allies being unable to pursue and implement a reciprocating states agreement with the US since they would stay in the LOS negotiations and the US would be seeking a permanent, alternative regime rather than a transitional regime consistent with a law of the sea treaty;

—would offer the Soviets an opportunity to criticize the US in international fora for using “high-handed” tactics;

—would be opposed by those Americans who do not believe the US should walk out of negotiations and who favor multilateral solutions to major world problems and an international rule of law.

B. Option II: Continue participation in the Law of the Sea Conference to secure, through negotiations, the five objectives set forth in Part IV

This option would commit the US to make a full effort to achieve improvements in the deep seabeds provisions of the Draft Convention sufficient to produce a treaty that could be signed and ultimately ratified by the US. Detailed instructions for achieving these objectives, including US positions on and proposed amendments to specific treaty provisions will be developed for review by the Senior Interdepartmental Group which includes all the relevant agencies. Any agency differences will be forwarded no later than February 1 for decision by the President.

To implement this option, it would be essential that the US state its commitment to the multilateral treaty process. The US would have to indicate that, if the renegotiated text meets its objectives, the US Executive Branch would promote ratification. This commitment would not prejudice the decision on whether to sign and ratify the final treaty text. That would depend on a later decision on whether it meets US objectives. If this option is selected, the US negotiating strategy would be designed to minimize the risk that retaliatory measures would be taken involving attempts to amend provisions of the treaty which are favorable to US national security needs, while at the same time pursuing strategies and tactical decisions which could result in a success under Option II. Improvements consistent with US objectives in other areas also may be sought if opportunities arise and if they could be achieved without risking the unravelling of military navigation and other important interests.

This approach carries no assurance that further negotiations would satisfy US objectives. In the event that the US was successful in achieving its objectives and decided to ratify the law of the sea treaty, this would entail an appropriation by the US upon entry into force of at least \$300 million for financing the Enterprise and an annual appropriation by the US of \$5–10 million for the administrative expenses of the Authority until it became self-financing. Whether ratified or not, costs which are not now quantifiable would be incurred.

Arguments in Favor of Option II:

—presents the only realistic possibility of achieving a law of the sea treaty that would be acceptable to the US or capable of obtaining the Senate's advice and consent. Returning to the Conference is the only strategy or approach that has been identified which could reduce

the risk of deterioration of the navigation provisions while offering an opportunity to achieve an acceptable deep seabed mining regime;

- would take maximum advantage of the negotiating leverage now available to the US because of the review, would establish an optimum posture for achieving an acceptable treaty, and could attract allied support;

- would be less likely than Option I to result in an unravelling of the navigation provisions;

- would give the US greater credibility in any attempt to persuade its allies not to participate in a treaty, if the final text is unacceptable;

- would avoid the controversy and potential adverse effects on other foreign policy areas which would be associated with withdrawal from the Conference;

- would mean that, if after further negotiations in which the US participates, the US decides not to sign or ratify the treaty and the treaty enters into force, the treaty is still likely to be improved and would benefit American companies which may decide to operate under the flag of a treaty party;

- offers an opportunity to repair the very risky investment climate.

Arguments Against Option II:

- may still result in a treaty which the US could not sign or ratify;

- involves returning to the negotiations and perhaps gaining concessions, though inadequate, which likely would increase the political pressure, both foreign and domestic, upon the US to sign the treaty and, if the US acceded, to accept similar regimes in the future;

- would require US acquiescence in a negotiation involving (1) the supervision and regulation by an international organization of the development of deep seabed minerals; and (2) the creation of an international entity (the Enterprise) to mine deep seabed resources in competition with private or State entities.

IV. US OBJECTIVES UNDER OPTION II

If Option II is selected, the US negotiating effort will be designed to establish a deep seabed mining regime which satisfies the following objectives. The US delegation is to regard the fulfillment of these objectives as mandatory. Satisfying these objectives would among other things, minimize the impact of NIEO principles which could create adverse precedents for other negotiations. Our objectives would be a treaty which:

- First, will not deter the development of any deep seabed mineral resources to meet national and world demand.

- Second, will assure national access to deep seabed mineral resources by current and future qualified entities so as to enhance US

security of supply, so as to avoid monopolization of deep seabed mineral resources by the operating arm of the International Authority, the Enterprise, and so as to promote economic development of the resources.

—Third, will reserve for the US a decision-making role in the deep seabed institution which fairly reflects the relative weight of US political and economic interests and financial contributions, and effectively protects them.

—Fourth, will not allow for amendments to enter into force without the approval of the US, including advice and consent of the US Senate, and will not set other undesirable precedents for international organizations.

—Fifth, will be such as to make it likely to receive the advice and consent of the Senate if the President decides to support ratification. (To this end, the treaty would not contain provisions that would create serious political and commercial difficulties, including provisions for the mandatory transfer of private technology, and participation by and funding for national liberation movements.)

134. Memorandum From the Director of the Office of Policy Development, Executive Office of the President (Gray) to the Counsellor to the President (Meese)¹

Washington, December 21, 1981

SUBJECT

Law of the Sea Review

The Office of Policy Development favors United States withdrawal from the Law of the Sea negotiations.

Our most serious problems come with the International Regime which it would create to strictly regulate seabed mining.

Doug Bandow of the OPD staff has represented us through months of review of this issue.² On the basis of his analysis, we do not believe

¹ Source: Reagan Library, Bandow Files, [LOS: December 1981]. Unclassified. The classified attachments to this document have not been found.

² In an unsigned December 11 memorandum to Anderson and Gray, Bandow wrote: "I believe that withdrawal is the best option, but it would obviously take a real fight, and I don't know what your time commitments and priorities are." (Reagan Library, Meese Files, Law of the Sea)

that developing countries are prepared to make the concessions necessary to make the treaty acceptable.

Going back into negotiations and gaining concessions—however inadequate they may be—will lead to a major increase in political pressure on the United States to sign. Going back also would substantially decrease the likelihood that any of our allies will join the U.S. in refusing to sign the treaty.

Going back does offer a better chance of preventing retaliation against the navigational articles in the treaty, which we find minimally acceptable, and it provides an opportunity to cause some problems and delays. *However, we do not believe that either of these concerns outweighs the huge potential cost of being forced into signing a seriously flawed treaty.*

To return to the negotiations would place the U.S. in the position of leading a rather small band of countries against what will almost certainly be a large majority advocating the “responsible” alternative of returning.

We know of no U.S. agency advocating outright signature of the treaty.

Certainly, returning to the conference is the easiest in the short run. Where, however, will that leave the U.S. in the end?

We believe that among the range of very hard choices, the best choice is to make the hard choice now—to withdraw.

135. Memorandum of Conversation¹

Washington, December 21, 1981

SUBJECT

Law of the Sea

PARTICIPANTS

Edwin Meese III
Edwin Gray
William Niskanen
Adm. Bud Nance
Richard Darman
Martin Anderson
James Jenkins
Kenneth Cribb
Dennis Blair

James L. Malone
Theodore Kronmiller

¹ Source: Reagan Library, Guhin Files, 12/19/1981–12/22/1981. Secret; Sensitive; Eyes Only. The meeting took place at the White House.

Ambassador Malone briefed Ed Meese, Dick Darman, Marty Anderson, and Bud Nance, among others, concerning the status of the Law of the Sea. (See briefing outline.)² Following the formal presentation, there was an exchange, as reflected below.

Meese—What are the chances of obtaining all U.S. objectives?

Malone—There is a reasonable chance of obtaining considerable improvements, but I can't guarantee that we can get absolutely everything.

Anderson—What is the chance of removing the one-nation, one-vote and mandatory technology transfer provisions?

Malone—On a scale of 10, 6 for changing the decision-making formula to remove the difficulties presented by the one-nation, one-vote provisions.³ The U.S. could get a guaranteed seat on the Council.

Darman—The point is U.S. influence.

Meese—Would the U.S. have a veto?

Malone—The chances are quite slight.

Anderson—Zero?

Malone—Close to that. Concerning technology transfer, however, there is a very good chance of deleting its mandatory character.⁴ We may return to "best efforts". The indications are that we have a 50% chance of succeeding in this area.

Meese—What happens if we withdraw and everyone else signs?

Malone—It is possible that, with real political clout brought to bear at the highest levels, we could probably get some of the allies out. However, they would be loathe to leave the Conference. Even the FRG would be reluctant. It might be better if we negotiated until the navigation provisions were firmly in place and then backed away from ratification.

Meese—Is it true that the new organization (ISA) would have its own ability to raise funds?⁵

Malone—Yes, from royalties or other forms of payments by the companies carrying out mining.

Meese—Doesn't the organization have its own Assembly, Secretariat, etc?⁶

Malone—Yes.

² Not found.

³ See footnote 2, Document 114.

⁴ See footnote 8, Document 127.

⁵ See footnote 3, above.

⁶ See footnote 3, above.

Meese—Could the Authority enforce its own regulations?

Malone—Yes, through sanctions.

Darman—States would be bound to use their own legal systems to enforce, as well.

Meese—If the U.S. did not become a party, would it be bound?

Darman—No, unless a U.S. court judged that the treaty was international law.

Malone—Some of the text's provisions codify existing law and we would be bound to them. Some of the text does not and we would not be bound to that.

Darman—This would be a judgment call.

Meese—Suppose we are outside the treaty and U.S. miners work the same area as do other miners authorized by the organization.

Malone—If we are alone, it is doubtful that our companies will proceed in that manner.

Darman—Uncertainty will prevent prudent investors from moving ahead under such circumstances.

Malone—Because of financial and legal uncertainties, this is a hypothetical that does not exist.

Anderson—What we have is a "wet global negotiation". The issue is whether the U.S. gets involved in an agreement which is inimical to our own best interests. I am appalled that we are still in this process. Why not set down clear conditions on what we are prepared to discuss, as we did in the global negotiations context?⁷ Such conditions would include no transfer of technology and no concession of our rights. If we go in and there is no prospect of change, we face in a year or two greater difficulties to get out. We may get stuck. The odds are so small that we can achieve a satisfactory result, why bother discussing it?

Malone—I can't promise a satisfactory result. I give it a 50% chance.

Darman—"I think that surely the odds must be much lower." "I am in complete sympathy with Marty," but feel that we need two tracks, including one which protects us if we do not ratify. This would mean a satisfactory reciprocating States regime, with more countries out of the treaty and fewer major countries in it. If the allies think that all our bets are on the treaty, it will reduce the odds for going down the other track.

Malone—We may participate until some of the treaty is in more certain shape and decide not to ratify, or string the negotiations out

⁷ Reference is to the October 1981 summit in Cancun. See "Reagan Issues Conditions For Global Negotiations," *The Herald-Journal* (Spartanburg), October 23, 1981, p. 1.

over more time. But the risk is of another administration making the final decision.

Darman—If we are tough and the negotiations are strung out, there is an effective moratorium. That is in their interests, not ours. It is very likely that the negotiations will get strung out, so it is important to work a second track.

Malone—Reciprocating States are moving along well. The single remaining significant problem is the French “cap”. If we get over that hurdle politically (by decision of Cheysson and Mitterrand)⁸ we can get the negotiations concluded by the first part of January. Of course, these negotiations are a focal point of Group of 77 attention. The 77 fear reciprocating States.

Darman—Reciprocating States improves our negotiating leverage.

Malone—I agree, if we get it in place, we will have unity among the mining states.

Darman—(Explains reciprocating States to Meese.)

Malone—Of course we have to recognize that the LDC’s fear might give them the incentive to put the LOS treaty in place. That is the view of some. I believe that if we indicate that we will return to the Conference, reciprocating States will give us greater leverage.

Darman—It appears that the Administration is still driven by navigation worries. This is legitimate, but the main reason for a similar view in the past has been the assumption that no State Department or President would be willing to do what we have done with Libya.⁹ So we should now be driven less by navigation considerations in this Administration.

Malone—There is more interest in the Pentagon in seabed mining than before.¹⁰ Access to strategic minerals is regarded as very important. There is less “paranoia” over navigation rights. The treaty only gives us a “marginal edge” and we will still have to assert our rights under it. This we are willing to do.

Meese—Doesn’t this treaty require that we surrender our national sovereignty?

Malone—Yes.

Anderson—Some things should not be negotiable.

⁸ In telegram 8356 from Geneva, August 18, USUN reported that the “French system also will not grant new entrants priority based on chronology of filing.” (Department of State, Central Foreign Policy File, D810387–0628)

⁹ In May 1981, the United States expelled 27 Libyan diplomats. On August 19, 1981, U.S. military aircraft shot down two Libyan fighter jets that had fired on them over the Mediterranean Sea.

¹⁰ See footnote 4, Document 121.

Meese—When does the Conference begin?

Malone—March, but we need intersessionals.

Meese—I am perplexed. Suppose the world goes ahead without us. Assume we are alone.

Darman—In that case, we are “in terrible trouble”. There will be no U.S. investment—no U.S. mining.

Malone—I agree. At \$1½ billion per site, our companies will not mine under our flag, if we are alone.

Darman—But they may mine under foreign flags under the treaty.

Malone—If enough of our allies and some key developing countries will join us, we can probably fashion a workable alternative regime.

Meese—Is it possible to get our allies out?

Malone—Possibly and we can get changes, but I cannot guarantee enough changes to satisfy us.

Darman—If we can’t persuade ourselves and our allies that we have a viable alternative, the LDCs have tremendous leverage.

Malone—I feel strongly that reciprocating States gives us leverage, but we must get important mining countries and LDCs on the outside.

Anderson—If we indicate that we are returning to the Conference, we are losing leverage. We will help ourselves if we indicate that we may not re-enter.

Darman—They will threaten to hurt us on navigation and we must be tough in that regard. We must say that we have many ways to protect our navigation interests.

Nance—Ships are one thing, planes are another. We have problems asserting our overflight rights.

Darman—In Libya, we fired.

Meese—“How did we ever get into this son-of-a-bitch anyway?”

Darman—We were principally driven by navigation concerns and our going-in position on seabeds was a free market model.

Malone—Then we began the concessions.

Meese—I am very much concerned that we are getting ourselves into a position that we have gone into to negotiate and then find that we have to pull out—or we have to sign. “There is no way the U.S. will ever gain from an organization that can, in effect, raise its own army.”

Malone—If we pull out now, our allies will not come along without major clout.

Anderson—We seem to be sliding toward an agreement being signed. I don’t like that. Why would they be more agreeable to going out with us after we have committed to the negotiations?

Malone—If we make the effort for improvements and fail, the argument is that they will then be willing to go with us—but they are not willing now.

Anderson—I don't accept that.

Malone—The allies want to stay in.

Darman—We don't have time for the U.S. to pull out with its allies. We need not option 1 or 2, but a strategy to preserve both options. We must develop tactics that will allow us to go either way. This would mean getting the allies, at least the FRG and one other. We should map out steps for an alternative, if no progress is achieved, and push on the other track. This is not an either/or proposition.

_____ ¹¹—I agree. There is no great cost to negotiating, unless we are forced to sign. We must have very clear instructions on non-negotiable items, like mandatory technology transfer. We must open other parts of the treaty to obtain negotiating leverage. We must have public arrangements with our allies to provide for an alternative regime, so that we have a viable option.

Meese—I see no way to go forward without discussing this with the President himself¹² and obtaining at least an interim decision. This must be discussed in a decision-making body.

Malone—There has only been a SIG so far. The NSC which was scheduled, now looks unlikely.

Anderson—I think there are so many economic, social, and philosophical issues that a full Cabinet meeting is necessary.

Darman—I agree. Historically, when we have gone to the NSC, the decision has been in favor of the Conference. On the economic side, alternatives have been preferred.

Meese—Maybe we do need a Cabinet meeting. It should be as early as possible in January.¹³ We need guidance quickly.

Darman—My idea requires great preparation.

Malone—We can modify the options.

Darman—. . . including the two-track approach. . .

Meese—I see four options:

—withdraw with our allies

—withdraw without our allies

—negotiate with the intent of preserving our options and then pulling out

—negotiate and then not sign

¹¹ The name of this speaker is not listed in the transcript.

¹² No record of this conversation has been found.

¹³ See Document 138.

We should add alternative strategies and develop reciprocating States. We need a 3-to-4 page summary memo for the Cabinet.¹⁴

Anderson—We need a summary of key issues and background.

Meese—Ken Cribb will handle this.

NOTE: After the meeting it was decided to submit the paper by January 10 for a Cabinet meeting in mid-January.

¹⁴ See the attachment to Document 136.

136. Memorandum From the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs (Malone) to the President's Assistant for National Security Affairs (Clark)¹

Washington, undated

SUBJECT

Law of the Sea

It is essential that we have a decision on the law of the sea at the earliest possible date. We have reached the point when further delays will undercut seriously our ability to implement any presidential decision. Although the next session of the LOS Conference does not begin until March 8, it is crucial that we have time to begin to lay the ground work for whatever strategy is chosen. The Conference resumes work in the drafting committee on January 18. Formal intersessional negotiations which would be crucial to a renegotiation effort are scheduled to begin on February 24. Informal contacts with conference leaders would have to be made before then.

We have submitted an options paper to the NSC (attached at Tab 1)² As you know, the NSC meeting originally scheduled to decide on

¹ Source: Reagan Library, Guhin, Michael A.: Files, LOS (Law of the Sea) Negotiations (1). Secret; Eyes Only. Drafted by Eskin on January 6. In the upper right-hand margin, Clark wrote: "Bud: let's discuss WPC."

² Not attached. Presumably a reference to Document 133.

LOS policy was not held.³ Secretary Haig has indicated that he wants the issue decided at an NSC meeting. Because of the Secretary's schedule, this could not occur prior to the week of January 18.

As I told you, during my meeting at the White House on December 2,⁴ Ed Meese indicated he wanted the issue considered at a full Cabinet meeting. He also asked for an additional paper.

Attached (Tab 2) is a draft paper we have prepared in response to Ed Meese's request. It has not been circulated to other agencies but is now being cleared within the State Department. We have been requested by S/S to submit a paper for distribution to the NSC by noon Friday, January 8.

The paper attempts to set out the four options Ed Meese requested. We have split one of the Meese options into two and added a sixth option (included as option 4) which we believe best reflects the State Department and interagency views. All these options have been considered at one time or another by the IG. We have tried to reflect what we believe would be the general view within the IG on these approaches.

If you agree, we will submit this paper, subject to whatever changes you wish made and whatever changes are agreed to in the State clearance process.

Attachment

Paper Prepared in the Department of State⁵

Washington, undated

SUBJECT

LOS Conference Strategies

Issue for Decision

Whether to adopt strategies based on the assumption that the US will fail to achieve its objectives at the Law of the Sea Conference.

Background

After a year of inter-agency review, all departments and agencies, including senior White House staff, have reviewed US interests, objec-

³ An undated draft action memorandum from Nance to the President provided briefing material for a yet-to-be scheduled NSC meeting. (Reagan Library, Guhin, Michael A.: Files, 2/17/1981 [1])

⁴ See Document 135.

⁵ Secret.

tives and options at the Law of the Sea Conference. The IG has forwarded an option paper to the White House, which sets forth two principal options for Presidential decision.⁶ The first is to withdraw from the Conference and attempt to put in place an alternative regime to the one being negotiated at the Law of the Sea Conference. The second option is to continue to negotiate as effectively as possible with a view toward improving the Law of the Sea treaty so as to make it acceptable to the Administration and the Senate. All agencies have agreed that the second option best protects US interests. The Department of Interior believes however, that the second option should contain a clearly delineated bottom line.

There is, however, a view held by some that it is impossible for the US to achieve an acceptable treaty at the Law of the Sea Conference and that particular attention should be paid to contingency strategies.⁷ The purpose of this paper is to address those strategies and to ensure that senior decision makers have an opportunity to consider them in connection with the decision memorandum which was prepared by the interagency group.

All agencies would agree that strategies need to be prepared if the US fails to improve the treaty sufficiently to sign and seek ratification. The precise issue addressed by this paper is whether one could conclude *now* that the result of further negotiation at the Law of the Sea Conference has a high risk of failure and consequently whether to adopt and implement immediately strategies to deal with that contingency.

Strategies on the Assumption that US Efforts Will Not Adequately Improve the Deep Seabed Mining Provisions of the Law of the Sea Treaty.

1. Immediate withdrawal from the Conference with our allies.

Commentary:

a. While no effort has been made at the highest levels to seek allied withdrawal from the Conference, at this stage, all of our senior experts and experienced observers believe this to be impossible. Our allies have other law of the sea interests to protect and are concerned with their relationships with developing countries. As a result, they will simply not walk out.

b. If our allies could somehow be convinced to withdraw from the Conference with us, the next step would be to try to set up an alternative regime for seabed mining. However, the highest probability is that

⁶ See Document 133.

⁷ See Document 134.

most of the rest of the world, including many Western countries, will proceed to set up a comprehensive law of the sea treaty and an international organization to regulate seabed mining. Mining rights would be in serious legal doubt and mining would be unlikely to occur until there was either a negotiated settlement between the two competing regimes or final international adjudication. Our chances of winning an international adjudication are highly problematical.

c. Walking away now would leave the Soviets at the table with the Third World, giving them a windfall opportunity to influence the Conference in ways adverse to national security and economic interests.

2. Immediate withdrawal without our allies.

Commentary:

a. This action would almost certainly produce in 1982 an adopted treaty more or less in its present form. We would then have to persuade our allies *not* to sign it. This might be easier to do than getting them to withdraw from the Conference since, if we reject the treaty, the financial burdens normally carried by the U.S. would have to be carried by our allies. They might be reluctant to assume this burden. Nevertheless, the other criticisms of strategy 1 still pertain and seabed mining might not occur.

3. Negotiate with the intention of preserving our ideological positions on NIEO issues and then pulling out.

Commentary:

a. This approach would involve taking a public posture that lays out our maximum ideological position. It would be designed to force the conference to agree on a system that is consistent with US principles. Such an approach would be perceived by most countries as a US decision not to engage in serious negotiation. The conference would undoubtedly conclude we are seeking to have our position rejected so as to give us a viable excuse for walking out. In practice this approach would be the equivalent of the second strategy and is, therefore, subject to the same criticism.

b. This strategy would foreclose the option of improving the treaty.

4. Negotiate with the intention of preserving our option not to sign and participate in the treaty.

Commentary:

a. This approach would involve a maximum effort to negotiate a treaty that meets US interests and minimizes objectionable NIEO principles. It would be designed to preserve non-deep seabeds provisions that we support. It would probably result in important improvements to the treaty, but they could still fall short of acceptability to the

US. Without a significant change in present views, this is the only approach our allies appear to be prepared to support.

b. This approach assumes that the US will decide later whether to sign the resulting treaty. If we do not sign, a strategy could then be attempted to discourage our allies from signing and to establish an alternative regime. (See strategy 6).

c. This approach will enable us to conclude with our allies the interim reciprocal regime which we have been negotiating. They have made it clear that they would not sign such an agreement if the US withdraws from the negotiation.

5. Negotiate with the intention not to sign.

Commentary:

a. This strategy could result in modest improvements to the treaty. It is, however, subject to the criticism, should such a decision become known in advance, of placing the US in a position of negotiating in bad faith. No one believes that this decision could be taken without the risk of it leaking or becoming obvious to other negotiators, and it therefore could greatly impair the stature and respect of the Reagan Administration as perceived by other nations.

6. Negotiate at the Law of the Sea Conference in a serious effort to make significant improvements to the treaty, while at the same time negotiating with our allies to produce a reciprocating states regime or mini-treaty, which could serve as an alternative, if our efforts at the Conference failed to produce an adequate result.

Commentary:

a. The first stage of this strategy is being pursued right now through the reciprocal regime negotiations. It has been made clear to us by our allies that the US must be a *bona fide* participant at the Law of the Sea Conference and must be seriously and reasonably attempting to repair the law of the sea treaty (i.e., that the US pursue Option II as described in the decision memorandum).⁸ Moreover, our allies have stressed that they are only willing to participate in a reciprocating states regime that is interim to a law of the sea treaty.

b. It is also open to question whether, if the Law of the Sea Conference ultimately fails from our perspective, an elaborated reciprocal regime or mini-treaty would adequately protect our deep seabed mining interests. Most developing countries, the Eastern bloc and many Western countries are still likely to create an International Seabed

⁸ See Document 133.

Authority with regulatory power over deep seabed resources. This strategy is therefore subject to the same criticism as preceding strategies.

Conclusion

It may not be possible to protect fully US interests with any of these strategies. Strategies 4 and 6 offer the best opportunities to satisfy US interests. They are essentially similar but have been presented separately for the purpose of highlighting analysis of our ability to establish an alternative regime.

If our sole or primary interest is to avoid US participation in a treaty which accelerates or enhances international acceptance of NIEO concepts and we do not place importance on the viability of our future capacity to mine deep seabed resources under the US flag, and if we are not seriously concerned with world opinion, then most of these strategies will work. Strategy 5, however, would subject the US to the legitimate criticism of negotiating in bad faith, would undoubtedly become known, and should therefore be rejected.

Strategies 4 or 6 appear to be prerequisite to implementing any of the other strategies. The other strategies will be equally available after the next session of the Law of the Sea Conference and could be addressed at that time. In any case, none of them except for unilateral withdrawal could be implemented in the time remaining before the Law of the Sea Conference begins in early March.

137. Briefing Memorandum From Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs (Malone) to Secretary of State Haig¹

Washington, January 20, 1982

SUBJECT

January 21, 1982 National Security Council Meeting on Law of the Sea

A meeting of the National Security Council will be convened January 21, 1982 to consider future U.S. participation in the Law of the Sea Conference. The following results should be sought at that meeting:

1. A decision to *continue to negotiate* at the Law of the Sea Conference.

2. *Avoidance of any decision to require us to put forward in public an intransigent hardline position.* (This would be construed by the developing countries as identical to a decision to withdraw from the Conference and would be treated as such.)

3. *Avoidance of a decision which impairs our ability to engage in ad referendum consultations* with other countries between now and the time final detailed instructions are prepared and cleared within the government.

4. *Avoidance of any decision which would have as its underlying premise the assumption that the U.S. can (without first trying to repair the LOS treaty) successfully transform any reciprocating states agreement into a permanent alternative regime for seabed mining* which would fully protect our long range interest in access to deepsea minerals.

Agency Views

The Departments of Commerce, Defense, Energy, Labor, State, Transportation, and Treasury, the Environmental Protection Agency, and the National Science Foundation recommend continued participation in the negotiations to fulfill these objectives. They recognize that, while there is an opportunity to obtain substantial improvements, it will be extremely difficult to satisfy all of the objectives. Fulfillment of these objectives would be considered mandatory by the US delegation in negotiations.

¹ Source: Department of State, Central Foreign Policy File, P880121-0781. Secret; Sensitive. Cleared in IO, NEA, PM, INR, AF/I, ARA, S/P, L, EA/RA, EB, EUR/RPE, P, T, and E. "MAM" initialed for all parties clearing the memorandum. A stamped notation on the memorandum indicates Haig saw it.

The Department of the Interior supports returning to the negotiation but wishes to instruct the delegation to deliver our “bottom-line” position to the Conference in the form of an ultimatum.² (see contingency talking points, Attachment A)³

Jim Watt, Marty Anderson, Dick Darman and Ed Meese may all believe that we can withdraw now from the Conference and construct an alternative regime that would be adequate if the law of the sea treaty fails. Attachment B, LOS Conference Strategies, is a response to their concerns.⁴ I believe it is important that you read that paper in preparation for this meeting.

*The following issues may arise at the meeting:*⁵

—Should the U.S. withdraw from the Law of the Sea Conference immediately, or continue to negotiate reserving until later its decision whether the results of further negotiations are satisfactory?

—If the U.S. continues to negotiate, should U.S. negotiators put forward a maximum set of demands and indicate no flexibility—a tactic which produces a climate at the Conference which would ultimately encourage us to withdraw?

—If the U.S. continues to negotiate, how should the delegation handle urgent consultations during the balance of January and February while instructions are being developed and cleared in the inter-agency process?⁶

Strategy for the Meeting

The attached talking points provide you with a comprehensive opening statement designed to meet the contentious issues likely to be raised and set forth the Department’s perspective. *I recommend that you cover all of those points at the outset and seek to achieve a decision on the basis outlined in those points. Additional contingency talking points are provided for use if more detailed discussions ensue.*

As we have agreed, there is no justification for pursuing Option I at this time. Withdrawal from the Conference can be accomplished after the U.S. makes one last effort to improve the treaty to meet its needs. Accordingly, *if the NSC seems to be moving toward an Option I decision*, every effort available should be made to *avoid a final decision*

² Haig wrote “No way!” in the right-hand margin.

³ Attached but not printed. See footnote 5 below.

⁴ Attached printed in an attachment to Document 136.

⁵ Talking points for each of these issues are contained at Attachment A. The talking points for the first issue are labelled “Opening Statement.” [Footnote is in the original.]

⁶ Haig wrote “ad ref” to the right of this paragraph.

pending further informal discussions with the President and senior White House staff.

If the group presses on precisely how we could change the treaty, under Option II, to protect our interests, you might refer them to our paper on the subject (at Tab D).⁷

⁷ Not attached. An undated paper entitled "Implementation of Option II" was sent to Nance under a December 17 covering memorandum from Bremer. (Reagan Library, Guhin, Michael A.: Files, 12/18/81 [1])

138. Minutes of a National Security Council Meeting¹

Washington, January 21, 1982, 3:30–4:05 p.m.

SUBJECT

Law of the Sea

PARTICIPANTS

The President

The Vice President

State

Secretary Alexander M. Haig, Jr.

Assistant Secretary James L. Malone

Treasury

Secretary Donald T. Regan

Defense

Secretary Caspar W. Weinberger

Deputy Secretary Frank C. Carlucci

Justice

Attorney General William French Smith

Interior

Secretary James G. Watt

Commerce

Secretary Malcolm H. Baldrige

Transportation

Mr. John M. Fowler

¹ Source: Reagan Library, Guhin, Michael A.: Files, LOS (Law of the Sea) Review (1). Secret. The meeting took place in the Cabinet Room at the White House.

Energy

Secretary James B. Edwards

DCI

Mr. William J. Casey

USUN

Ambassador Jeane J. Kirkpatrick

USTR

Ambassador William E. Brock

JCS

General David C. Jones

Lt General Paul F. Gorman

White House

Mr. Edwin Meese III, Counsellor to the President

Mr. James A. Baker III, Chief of Staff to the President

Mr. Michael K. Deaver, Deputy Chief of Staff to the President

Mr. William P. Clark, Assistant to the President for National Security Affairs

Mr. Martin Anderson, Assistant to the President for Policy Development

Mr. Richard G. Darman, Assistant to the President and Deputy to the Chief of Staff

Admiral James W. Nance, Deputy Assistant to the President for National Security Affairs

Mr. Robert C. McFarlane, Deputy Assistant to the President for National Security Affairs

Vice President's Office

Admiral Daniel J. Murphy, Chief of Staff

OMB

William J. Schneider, Jr., Associate Director

CEA

Mr. Murray L. Weidenbaum, Chairman

OPD

Mr. Doug Bandow

NSC

Ms. Janet Colson

Admiral John H. Poindexter

Mr. Michael A. Guhin

Mr. Raymond Tanter

Mr. Peter H. Dailey

Minutes of Meeting

Judge Clark introduced the subject and called on Secretary Haig to present the basic issues.

Secretary Haig noted that there was no question that the deep seabed provisions in the draft convention are unacceptable and that, if they are not repaired, we could not sign or ratify the convention. The issue today was whether to go ahead in the negotiations and, if so, what would be the modalities of our participation. There is bureaucratic consensus on returning to the Law of the Sea Conference and failure

to return would be a serious and self-defeating step. We might lose navigation provisions that are in our interests and, although not ideal, are acceptable. An erosion of them would be bad. We may also lose by getting no U.S. mining industry. No one will support us if we withdraw from the conference and pulling out would undercut our chances of getting an alternative regime.

The President said that he could not agree more that we should go back to the conference and negotiate. He noted that he had read the interagency study² and it is clear that some provisions of the draft convention are in our interest and good. But we need to make clear what is unacceptable and what is acceptable in the draft. We have to be clear on those points.

Secretary Weinberger added that the draft treaty has some value and we should not withdraw.

Attorney General Smith noted that we will need a very tough and strong negotiator.

Secretary Haig noted that we had one.³

Secretary Watt said he was delighted with the decision to go back to the negotiations, but wanted to clarify how we would negotiate. We need written instructions with clear, bottom-line positions now and then should walk out of the conference if it did not accept these positions. He said we expect to have problems only in the seabed regime area.

The President said he differed on one point. We do have a bottom line in terms of knowing where we stand and what we want, but we do not walk out. We sit and negotiate. If the other guy wishes, he can walk out.

Mr. Meese said that it is critical not to have a treaty come back here that is unacceptable. That would put the onus on the United States and the President for turning it down.

The President agreed.

Secretary Haig said we need to consult with our allies without any rigid instructions. We need to be firm, but we cannot demand. We are negotiating, not demanding as Jim Watt indicates we should do. We will do what the President wants but will do it in a way that can achieve our goals and bring success.

Mr. Anderson stated that we should work this out the same way Global Negotiations⁴ have been handled, by setting some conditions.

² See Document 133.

³ Reference presumably is to Malone or Ratiner.

⁴ See footnote 7, Document 135.

Secretary Haig responded that there would be no problem in working out more details and coming back with more detailed instructions after consultations with our allies.

Ambassador Kirkpatrick said we need to keep in mind that this is in a UN framework, where we are always playing against a stacked deck. The allies are not supportive now and will not be later. They will be willing to accept the treaty and we will be essentially alone. Unremitting pressure will be on us from the very beginning. We need to be clear that there is something worse than no treaty at all and that would be accepting the treaty basically as is.

Mr. Meese noted that we will have another shot or two at the matter, and that we should work on bottom lines now.

Mr. Malone reiterated that the deep seabed regime is not acceptable and we will let our allies know that. However, we need flexibility now in working out our strategy on how to get what we want in consultations with our allies. Then we would develop specific instructions and know more specifically what we can expect to achieve.

The President noted that you have to have some bottom lines—although that does not mean making them public—and some give in negotiating positions. But the main thing is to know what points are not acceptable. We do not like the seabed organization the way it is; we know that and we need to know the problems. There are a variety of ways of fixing it as long as we are clear on what the problems are.

Secretary Baldrige said that he liked *Mr. Malone's* approach. He added that the United States has been highly dependent on imports for several major minerals and that we should be leaders in the technology for these items.

Judge Clark noted that the NSC staff, working with *Mr. Malone*, would prepare a decision and statement for the President's consideration the next day.⁵

Secretary Haig added that this is a sensitive matter and that we need to hold off on an announcement until early the next week to be able to give advance notice to our allies and other key participants in the conference.

(Law of the Sea discussions concluded at this point.)

⁵ See Document 139.

139. Memorandum From the President's Assistant for National Security Affairs (Clark) to President Reagan¹

Washington, January 26, 1982

SUBJECT

Decision Directive and Public Statement on US Law of the Sea Policy

As directed at the January 21 NSC meeting on this subject,² we have prepared a decision directive (Tab A)³ and public statement (Tab B).⁴ These reflect your decisions and the agreement in that meeting. State concurs. Aram Bakshian concurs in the statement.

We should issue the directive and release the statement as early in the week of January 25 as possible. We will background the statement with Jim Malone, your Special Representative for Law of the Sea. Key capitals have been advised to expect a favorable announcement shortly.

RECOMMENDATION

That you approve and sign the National Security Decision Directive (Tab A) and approve release of the Presidential statement (Tab B).⁵

¹ Source: Reagan Library, Guhin, Michael A.: Files, 01/20/1982–01/22/1982. Secret. A stamped notation on the document reads: "The President has seen."

² See Document 138.

³ Tab A, not attached, is printed in Document 140.

⁴ Not attached. See *Public Papers: Reagan*, 1982, Book I, p. 92.

⁵ The President checked and initialed the approve option.

140. National Security Decision Directive 20¹

Washington, January 29, 1982

UNITED STATES LAW OF THE SEA POLICY

I have reviewed the interagency report on United States Law of the Sea issues,² along with the agencies' recommendations, and have decided that:

- The United States will continue to participate in the negotiations at the Law of the Sea Conference. (U)

- United States objectives in these negotiations will be a treaty that:

- (a) will not deter development of any deep seabed mineral resources to meet national and world demand; (U)

- (b) will assure national access to these resources by current and future qualified entities to enhance U.S. security of supply, to avoid monopolization of the resources by the operating arm of the International Authority and to promote the economic development of the resources; (U)

- (c) will give the United States a decision-making role in the deep seabed regime that fairly reflects and effectively protects its political and economic interests and financial contributions; (U)

- (d) will not allow for amendments to come into force without United States approval, including the advice and consent of the Senate; (U)

- (e) will not set other undesirable precedents for international organizations; and (U)

- (f) will be likely to receive the advice and consent of the Senate. (In this regard, the convention should not contain provisions creating serious political or commercial difficulties, including provisions for the mandatory transfer of private technology and participation by and funding for national liberation movements.) (U)

- Fulfillment of these objectives shall be considered mandatory in the negotiations. It is understood that the United States negotiating effort will be based on the guidelines set forth in the interagency review. (S)

- United States negotiating strategy will make clear what aspects of the current draft convention are unacceptable to the United States and will be designed to achieve those changes necessary to fulfill all

¹ Source: Department of State, Central Foreign Policy File, P820022–0979. Secret.

² See Document 133.

U.S. objectives and, pending that, to avoid a move by the conference to complete its work and open a convention for signature. (S)

Improvements consistent with United States interests in other areas shall be sought if opportunities arise and if this can be accomplished without risk to the military navigation and other important United States interests. (C)

The United States will continue active negotiations with other countries interested in deep seabed mining with a view to concluding a reciprocating states agreement as early as possible on recognition of deep seabed mining licenses. (U)

The United States will also continue to exercise its rights with respect to navigation and overflight against claims that the United States does not recognize in accordance with established procedures and review for that program. (C)

The Senior Interdepartmental Group, including all relevant agencies, shall develop detailed instructions for achieving the objectives set forth above after immediate consultation with key allies and, as appropriate, other major participants in the conference. Any agency differences shall be forwarded for my consideration by February 15, 1982.³ The Senior Interdepartmental Group shall also oversee the Law of the Sea negotiations. The Delegation will not accept an ad referendum draft convention pending my decision on a report to be submitted by the Senior Interdepartmental Group on its acceptability in terms of satisfying United States objectives. (C)

Ronald Reagan

³ Not found.

141. Memorandum From Dennis C. Blair of the National Security Council Staff to the President's Assistant for National Security Affairs (Clark)¹

Washington, February 13, 1982

SUBJECT

Presidential Letters on Law of the Sea

The State Department has forwarded for approval (Tab II) messages for the President to send to Prime Minister Thatcher and to the heads of government of Italy, France, Japan, Germany, Belgium and the Netherlands. The messages urge these prime ministers to support the U.S. position at the Law of the Sea (LOS) conference which will reconvene early next month. (C)

As you recall, the United States has decided that the deep seabed mining provisions of the present LOS treaty are inadequate, and we will be seeking to renegotiate them. The support of the other industrialized nations is essential. We understand that most of these governments will be making their decisions on whether or not to support us in the next week or two, so it is important for the President's message to arrive in the next few days. (C)

Mike Guhin worked closely with State in drafting these letters. I have cleared those to European leaders and Don Gregg has cleared the one to Suzuki.

Once you approve these messages, Mike Wheeler will sign the memo at Tab I to State directing them to send the messages to the relevant embassies for delivery.

RECOMMENDATION:

That you approve the messages from the President at Tab II.²

¹ Source: Reagan Library, Guhin, Michael A.: Files, LOS (Law of the Sea) Negotiations (1). Confidential. Sent for action.

² Clark checked the approve option. Draft telegrams are attached but not printed. Sent as telegram 42446 to Rome, Paris, Tokyo, Bonn, Brussels, The Hague, and London. February 17 (Department of State, Central Foreign Policy File D820086–0703), and as telegram 42475 to London, February 17. (Department of State, Central Foreign Policy File, D820086–0635) A memorandum from Wheeler to Bremer at Tab I was not found. Clark indicated after the recommendation that the memorandum to Bremer “needs change before I sign.”

142. Telegram From the Department of State to the Embassies in West Germany, France, the United Kingdom, Belgium, Italy, the Netherlands, and Japan¹

Washington, February 20, 1982, 0054Z

45435. Subject: Reciprocating States.

1. (Confidential—Entire text)

2. The following letter was delivered today to Under Secretary Buckley by UK Embassy officials.

Begin text.

The UK is anxious that there should be as many signatures as possible to the multilateral agreement and we would wish, if it is at all possible, that France should be an initial signatory.

If there is a prospect of France being a signatory there would be advantage in deferring signature until after the forthcoming session of UNLOSC (ie until early May).

We understand that the closing of the "window" for PEE applications (which is the significant element) can, under US law, be deferred until mid-May, but that the United States administration apprehend political difficulties in deferment. The assessment of those political difficulties is naturally a matter for judgment on the part of the United States authorities. We would, however, urge upon them the advantages of a delay which might bring in not only France but also one or more of the other like-minded states (Italy and Belgium).

We are aware of the argument that the conclusion of the reciprocating states agreement will give weight to the negotiating position of the industrialised countries in the forthcoming session of UNLOSC, particularly over PIP. However, the strength of this argument depends on the number of industrialised countries participating. If there is a deferment of signature, unity on PIP will be the greater, and therefore potential more impressive, because it may be expected that all the like-minded states will hold together on that issue and there will be no division to be exploited between those who have signed the agreements and those who have shown their unwillingness to do so. The latter would then have no cause to demonstrate that they have desisted because of concern over limitations.

In addition, the G77 appear to expect the agreements to be signed at this time and a deferment of signature would remove what the G77

¹ Source: Reagan Library, Guhin, Michael A.: Files, Reciprocating States/Seabed Mining. Confidential; Immediate. Printed from the copy that was received in the NSC Message Center.

would consider an affront. This can only assist the United States in its negotiations on part XI.

3. The following letter from ForMin Cheysson was delivered to Haig on February 16, 1982. Begin text.

Dear Al,

As you know, France cannot consider signing reciprocity agreements on international seabed exploration if such agreements lead to a monopoly of beds rich in polymetallic nodules by the industrialized countries and to a breakdown of the Conference on the Law of the Sea.

With this in mind, you stated that consortiums which had already engaged in exploration work would only apply for and obtain permits for limited areas.² Despite serious doubts, I agreed to take the risk of concluding the planned agreements, provided that France made it known in an Agreed Minute that it cannot consent to the monopoly of the nodule-rich seabeds and had been given the possibility, in the event of a monopoly, of denouncing the agreements without notice or on very short notice. On January 28, 1982, therefore, I wrote you that I concurred in the terms of a text that our negotiators had agreed on ad referendum, and I added that I did not contemplate any major changes therein.³

It became quite evident during the most recent negotiating session on February 13⁴ that some consortiums intend to apply for permits for areas clearly exceeding the 150,000 or even, in certain cases, the 200,000 square kilometers we had considered to be the maximum. The agreed minute has consequently been revised to allow the states to express their differing opinions. More important, a clause has been added at the request of your representative in order to specify that this agreed minute shall in no way affect or prejudice the rights and obligations of the parties pursuant to the agreement, to international law, or to their domestic law.

These changes clearly reveal our divergent views and will thus make it more difficult to defend our common interests at the Conference on the Law of the Sea. Furthermore, these changes lead me to believe that the requests from the consortiums will be of such magnitude that there will be a serious risk of monopoly and a consequent breakdown of the conference.

² Telegram 344245 to Paris, December 31, 1981, transmitted the text of Haig's letter to Cheysson. (Department of State, Central Foreign Policy File, D820002–0284)

³ Not found.

⁴ In telegram 39250 to Paris, February 13, the Embassy provided a summary of the negotiations. (Department of State, Central Foreign Policy File, D820080–0800)

Under these conditions, I would consider it preferable to postpone the conclusion of our negotiations to a later date when the consortiums will be better able to determine their requests and the governments better able to weigh the chances of success of the conference.

Cordially,

Signed: Clyde Cheysson

4. USG is assessing developments and guidance will follow.

Eagleburger

143. Action Memorandum From the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs (Malone) to Secretary of State Haig¹

Washington, March 5, 1982

SUBJECT

Reciprocating States Agreement

ISSUE

Should the US sign the Reciprocating States Agreement with the UK and the FRG at the earliest possible time or postpone signature until a date certain (e.g., mid-May)?

ESSENTIAL FACTORS

The Deep Seabed Hard Mineral Resources Act of 1980² authorizes the negotiation of agreements with other countries to permit mutual recognition of deep seabed mining licenses. In response to this legislation, the United States has been negotiating a Reciprocating States Agreement with the UK, FRG, France, Italy, Japan, Belgium and the Netherlands since August 1980. The Agreement would create an interim regime for deep seabed mining among the parties.

¹ Source: Department of State, Marine Law and Policy Division, Subject and Country Files, Law of the Sea, 1981–1982, Lot 92D622, 40.85 Seabed Mining Negotiations—March 1982. Confidential. Drafted by Eskin on March 3 and cleared in OES, EB, L, EUR, and EA. Sent through Eagleburger and Buckley. A stamped notation on the memorandum indicates Haig saw it.

² P.L. 96–283, approved June 28, 1980.

Agreement was reached on a text with France, the UK and the FRG in January 1982.³ At the last minute, France refused to sign because of failure to negotiate an agreed minute of interpretation which the French hoped would have the effect of limiting the size of mine site applications.

The negotiation of the Reciprocating States Agreement was carried out separately from the concurrent law of the sea negotiations. However, because of the inherent relationship of an interim regime to an eventual treaty and, particularly, the accident of close timing of the resumption of the LOS Conference on March 8, the conclusion of the Reciprocating States Agreement negotiations has now become an issue in the LOS negotiations.

*The President of the LOS Conference has strongly urged that the Reciprocating States Agreement not be signed prior to the conclusion of the LOS Conference. Many members of the G-77 have criticized the Agreement, arguing that signing it would be inconsistent with the President's commitment to work with other countries to achieve an acceptable treaty and would spoil the negotiating atmosphere at the Conference. France, out of concern for G-77 criticism of the Reciprocating States Agreement and in the hope that we will be more yielding in the future, wishes us to delay signing. The UK and the FRG have asked the US to delay signing so as to improve the atmosphere in the LOS Conference. The FRG has informed us that it would sign now, however, if the UK signed. The UK has not stated whether it would sign a reciprocating states agreement at this time. Its position was most recently communicated in a letter from Prime Minister Thatcher to President Reagan.*⁴

US strategy at the LOS Conference is to establish a strong coalition among the industrial nations to support the significant changes we are seeking to the seabeds provisions.

³ See Document 142.

⁴ In telegram 56062 to London, March 3, the Department transmitted the text of Thatcher's letter, in which she wrote: "We want to sign this agreement with you and the FRG. But signature in the week before the resumption of the Conference will make it more difficult to get the necessary delegations to negotiate on your concerns and so to obtain a generally acceptable international regime of the kind we both want." (Department of State, Central Foreign Policy File, D820114-0869) Reagan responded in a March 29 letter to Thatcher: "As you know, we have considered it important to conclude an interim Reciprocating States Agreement as soon as possible and regret that your country and the Federal Republic of Germany decided not to sign the agreement prior to the conclusion of the current Law of the Sea session in New York. The United States remains committed to the agreement as an interim measure, pending entry into force of a Law of the Sea treaty acceptable to our countries. We hope that your government, as well as other like-minded states, will enter into the arrangement in May, shortly after the close of this Law of the Sea session." (Reagan Library, Guhin, Michael A.: Files, 03/23/1982-03/24/1982)

The issue facing us now is *whether we try to persuade the FRG and the UK to sign at the earliest possible date (which would be some time during the LOS Conference) or wait until the Conference is over.*

Signature of the Agreement now with only the FRG and the UK might be perceived as a sign of disunity among the industrial nations as only three out of a potential eight countries would sign. This could weaken our leverage in the negotiations at the Conference. *If we sign the Agreement in the next few weeks, this will probably provoke strong reaction from the G-77 and others (including possibly France and Japan). I believe, however, that by delaying the internal processing of applications until after the end of the resumed LOS session, signing now will not significantly affect my ability to achieve the President's objectives in the Law of the Sea negotiations.* EB feels that the failure of the G-77 to make an important issue of reciprocating states during the intersessional is evidence that a reciprocating states arrangement will not cause great difficulty at the Conference.

If the US agreed to delay signature now, there is no guarantee that the G-77 as well as the FRG and the UK would not seek a further delay in May, particularly if a further session were scheduled in August.

On the other hand, indications that the US was considering postponement of signature of the Agreement now have provoked strong criticism from the US deep seabed mining industry, key elements in Congress and conservative groups. The mining industry feels that early signature would best promote the continued viability of the pioneer US mining industry and would establish the basic legal framework for an alternative mining regime which might later be expanded to include other parties. They believe that delay in signature may be interpreted at the LOS Conference as a signal of lack of US determination to protect our seabed mining interests and that the Agreement may never be signed if further concessions are made to the G-77. *The industry would not oppose a delay in processing applications.*

The Department of Commerce is scheduled to "close the window" on March 5 for receipt of applications by pioneer miners.⁵ By statute, Commerce has the mandate to decide on such timing. We have asked the UK, France and the FRG to coordinate the closure of their windows with us, but they may not be willing to do so without a guarantee that the US will give equal priority to their pre-enactment explorer applicants. L points out that *closing the window now, prior to signing an Agreement with, and designating as a reciprocating state, each State which has pre-enactment explorer applicants (i.e., the UK, the FRG*

⁵ An unknown hand wrote the phrase "this has been delayed at least until Monday" (March 8) to the right of this sentence.

and France) *could give rise to legal challenges* by US applicants when we later make such designations and seek to recognize the rights of pre-enactment explorers from reciprocating states. *It may be necessary to amend the Deep Seabed Hard Minerals Act* to remedy this problem. To avoid this problem with the UK and FRG, we have obtained agreement from Commerce to delay closing the US window, if you decide to sign the Agreement now. However, this would not affect the French and Commerce is unwilling to postpone closing until the end of the resumed session of the LOS Conference.

RECOMMENDATION

OES and EB⁶ recommend that the US make every effort to have the Agreement signed at the earliest possible date because they consider that this will demonstrate to the LOS Conference strong US resolve to pursue its seabed mining interests. We feel this will put us in the best posture to carry out the President's instructions at the LOS Conference. Signature now will be a tangible sign of solidarity among some of the industrial states, which will strengthen the US negotiating position in the LOS negotiations and avert sharp criticism from the Congress. Failure to sign will break our commitment to the seabed miners. If signature is at the earliest possible date, then OES and EB would recommend that processing the applications be postponed in order to mitigate legal problems, enhance our ability to bring the other countries in later and perhaps reduce G-77 criticism.

EUR and EA recommend that, in order to avoid damaging our chances for achieving the President's objectives in the LOS negotiations and to secure greater cooperation at the Conference from our major allies, the US accede to French, UK and FRG requests to postpone signature of the Reciprocating States Agreement until after the resumed session of the LOS Conference. These Bureaus recommend further that, if this option is chosen, the following steps be taken: a) seek a commitment from the UK and the FRG to sign the Reciprocating States Agreement during May after the session on a date certain (e.g., May 14, 1982); b) make a major effort to bring in the French, the Belgians and the Italians so they can sign on that date; c) make an effort to resolve the problems with the Japanese (who feel they are discriminated against in the Agreement as their national mining company cannot qualify as a preenactment explorer due to operation of the US law); and d) as a further *quid pro quo* for delaying, seek a strong commitment from the French and the UK to support the US in the LOS negotiations (the FRG already supports the US).

⁶ An unknown hand drew a carat between the words "EB" and "recommend" and wrote the phrase "and T [illegible]."

OPTIONS:

Option I—Seek to sign the Agreement with the UK and the FRG at the earliest possible date, but delay processing of applications until after the resumed session of the LOS Conference.⁷

Option II—Delay signing the Reciprocating States Agreement until after⁸ the LOS Conference.⁹

⁷ Haig initialed the approve option on March 6.

⁸ Haig underlined the word “after.”

⁹ There is no indication of approval or disapproval of Option II. At the bottom of the page, Eagleburger wrote: “AH: I fail to see why you cannot at least wait until *after* the Mitterrand visit, using that visit to try to persuade Cheysson of our position. If the French still say no, then go ahead thereafter. LSE.”

144. Telegram From the Mission to the United Nations to the Department of State¹

New York, March 13, 1982, 0248Z

611. Information Memorandum to the Secretary from Ambassador James L. Malone. Subject: LOS Weekly Report (March 8–March 12, 1982).

1. Secret—Entire text.

2. During the first week of the 11th session of the Law of the Sea Conference the U.S. delegation engaged in intensive negotiations with the other industrialized countries to produce a joint proposal on preparatory investment protection which is one of the outstanding issues at the conference. These negotiations were completed on Friday night and the proposal will be co-sponsored by Japan, UK, FRG and the U.S. France has elected to remain out for the time being. The U.S. delegation prepared in response to Group of 77 requests a book of amendments which would fully carry out the objectives outlined by the President in his January 29 statement,² NSDD 20,³ and our negotiating instructions.⁴

¹ Source: Department of State, Central Foreign Policy File, D820134–0895. Secret; Immediate.

² See footnote 4, Document 139.

³ See Document 140.

⁴ The instructions were submitted to Clark for his approval under a March 8 covering memorandum from Bremer. (Department of State, Central Foreign Policy File, P820047–0031)

This book of amendments was presented to the conference today. Limited reactions from the Group of 77 have been obtained. All agree the U.S. amendments will not be accepted in their totality. Many delegations want to find a way of working with the United States in a constructive manner. Some delegations notably Brazil, are attempting to obtain unified G77 opposition to the entire package, because of the Brazilian desire to force technology transfer to developing countries. We have no negotiating instructions to accommodate the Brazilians.

3. The general mood of the conference is tense with continued insistence on maintaining the conference timetable though this may largely be a negotiating ploy to keep our feet to the fire and to force us to reduce our demands at an early stage. In general, the conference has reacted favorably to the style of our presentations and many delegations have told us that this is making it easier to digest what is otherwise a very tough position for them to accept.

4. Our allies for the most part have been supportive. The USSR is obviously being careful not to overly incite the G77.

5. Next week we will hear G77 reactions to our book of amendments. There will probably be a short period of upset within the conference while leadership attempts to find a suitable negotiating forum in which the G77 leaders and the industrialized countries can begin serious discussions on the issues raised by the U.S.

6. At this stage there is no reason to have anything more than guarded hope, but all things considered we are apparently off to a good start under very difficult circumstances.

Kirkpatrick

145. Evening Report to President Reagan¹

Washington, undated

LAW OF THE SEA CONFERENCE

GROUP OF 77 RESPONSE TO U.S. BOOK OF AMENDMENTS

G77 gave careful reply by De Soto (Peru) the Chairman of the Group of 77, to U.S. amendments package today specifying a number

¹ Source: Department of State, Marine Law and Policy Division, Subject and Country Files, Law of the Sea, 1982–1983, Lot 85D105, Law of the Sea—4. Secret. Drafted by the U.S. Law of the Sea Delegation and cleared by Marshall and Eskin on March 16. There is no indication Reagan saw this report.

of issues on which they felt U.S. amendments were contrary to the position of the G77. They were silent, however, on some issues of considerable importance to the U.S., including our proposed amendment to obtain blocking power on important Council decisions. The basic thrust of the G77 intervention was that the U.S. book of amendments cannot itself be the basis for negotiation on Part XI² but also making it clear that the G77 is not closing the door on further negotiation on the underlying issues which have been raised by the U.S. The G77 statement implied that if the U.S. proposals were supported by a group of states they might be viewed even more seriously. Indeed, a group of ten countries—Australia, Austria, Canada, Denmark, Iceland, Ireland, New Zealand, Netherlands, Norway and Sweden—have undertaken to provide compromise proposals to the United States amendments. They are using President Reagan's objectives as set forth in his statement of January 29 as the basis for their work. The Conference leadership in its search for an informal intermediary has given encouragement to this effort to develop compromise proposals as a vehicle for further negotiations. We will monitor and guide this effort to the extent possible.

Except for the USSR and China, the remaining speakers this morning were industrialized countries who gave strong support to the U.S. proposals—the FRG, Belgium (presently serving as President of the EC), and the UK. We anticipate similar expressions of support from Japan, France, and Italy who will speak this afternoon.

The USSR and China generally condemned the book of amendments as being non-negotiable, although the tone of their remarks was milder than their previous statements since the announcement of the U.S. LOS policy review.

By the end of today it should be obvious to the G77 that the U.S. has strong support from the major western industrialized countries and that therefore the G77 has very little choice but to find a way to commence active negotiation on the issues raised by the U.S.

² Part XI established an International Seabed Authority to permit mining and distribute royalties for activity that occurs outside any state's Exclusive Economic Zone.

146. Memorandum From Doug Bandow, Special Assistant to the President, Office of Policy Development, Executive Office of the President to Michael Uhlmann, Office of Policy Development, Executive Office of the President¹

Washington, March 18, 1982

RE

Leigh Ratiner

As you are aware, Ambassador James Malone, who is leading the delegation at UNCLOS, has recommended naming Leigh Ratiner as a Special Ambassador for the Conference. This proposal has run into significant opposition, and has diverted a significant amount of Jim's time from the Conference itself. For this reason, he called today and requested that we set up a meeting as soon as possible to resolve the issue, one way or another.²

Malone is a solid political appointee who shares the President's philosophy. However, Ratiner, an attorney and consultant for the State Department, who is serving as Malone's closest adviser, is another matter.

Ratiner is very able, manipulative, intelligent, and probably has about the best grasp of the issues and the players of anyone who has been involved in the LOS process. He has been involved in many previous negotiations, has served in government for awhile, and successfully represented the groups opposing U.S. signature of the UN Moon Treaty.

Unfortunately, it is unclear for what Ratiner is working. He has no clear ideology, no open personal agenda, no apparent loyalty to anyone or anything. It is not clear that he has any principled, or even pragmatic, objection to the current draft treaty. Instead, the negotiations simply appear to be a game to be "won."

He is also distrusted by some foreign delegations, some members of the U.S. delegation, a number of conservative Congressmen, and, in particular, the U.S. mining industry. There is some reason to believe that he may have helped thwart the reciprocating states negotiations, which probably could have been signed a few weeks ago, but which now will remain unsigned by the UK and FRG for the duration of the Conference.

¹ Source: Reagan Library, Meese Files, Law of the Sea. No classification marking.

² No record of a meeting has been found.

I am also very concerned that Leigh is now setting the stage for a request to loosen up the instructions—that is, to allow him flexibility in proposing concessions. If such a request comes, it should be rejected.

Because of Ratiner's reputation, and the intense political opposition to him by our political and industrial allies, I don't believe that his appointment as Special Ambassador would serve the President's political interest.³ Because of his lack of obvious commitment to the principles and interests of the Administration, I don't believe that it would serve the President's policy interest.

However, failure to bestow the rank upon him will likely lead him to leave the delegation (at least, that is his claim; he may be posturing, as he is a master of negotiation). Though contingency plans are in place in case he does leave, his departure would definitely affect the ability of the delegation to negotiate, if only in the short-term. It is unclear how costly this would be, since the developing countries have rejected our proposed amendments, and there is precious little room for us to compromise whoever is masterminding the negotiations.

In any case, it is imperative that we get this issue resolved as soon as possible. Malone has requested that the decision be made at the highest levels possible, and that he have an opportunity to discuss the pros and cons, which are, I believe, reasonable requests. He is willing to fly here today, tomorrow, or whenever he is needed; he is also willing to bring Ratiner along if that is desired.

I recommend that a meeting be scheduled with Ed Meese and Judge Clark, along with other interested parties, as soon as is possible.⁴

³ Ratiner did not receive the rank of Ambassador.

⁴ No record of a meeting has been found. An undated and unsigned document entitled "Sample of the Actions of Leigh Ratiner, LOS Delegation" outlined numerous grievances the NSC staff had with Ratiner and included the names of twelve individuals willing to discuss Ratiner's character. (Reagan Library, Guhin, Michael A.: Files, LOS (Law of the Sea) Follow-on Review)

147. Night Note to President Reagan¹

Washington, undated

LAW OF THE SEA CONFERENCE: STATUS REPORT

The United States' amendments fully reflecting your objectives have been widely read and analyzed.² The G-77 have rejected them as a basis for negotiating.

The President of the Conference has fostered a group of 11 non-G-77 countries to draw up compromise proposals.³ These proposals show some encouraging movement towards the U.S. position in some areas—guaranteed U.S. Council seat, technology transfer, and a system of awarding mining contracts—covered by our amendments but omit many of the key issues.

We have said these proposals cannot be considered as an exhaustive agenda of the issues for negotiation, and therefore do not form the basis for renegotiation of Part XI.

A key leader of the G-77⁴ has made the following points: (1) they are moving to formalize the treaty text in about ten days; (2) they believe they are better off adopting the convention even if the U.S. and its allies stay out since they will then at least have a convention, which will stifle deep seabed mining investment and the West will be forced to negotiate with the G-77 again in the future; (3) they regard this as preferable to reaching an accommodation with the U.S. now which would require major sacrifices of principles; (4) they had hoped the U.S. would allow its allies to negotiate reasonable amendments so as to enable a future U.S. administration to accede. Whether these points were made for tactical purposes or whether they fairly reflect the substantive position of the G-77 is not clear.

We are making every effort possible to get G-77 agreement to an agenda for negotiations which would include all of your objectives.

¹ Source: Department of State, Marine Law and Policy Division, Subject and Country Files, Law of the Sea, 1982–1983, Lot 85D105, Law of the Sea—4. Secret. Drafted by the U.S. Law of the Sea Delegation and approved by Malone on March 22. There is no indication Reagan saw this document.

² See Document 140.

³ In telegram 75114 to the Naval Station in Charleston, South Carolina, March 20, the Department reported that the U.S. amendments had been rejected and that 11 nations were drafting compromise proposals—Australia, Canada, New Zealand, Norway, Denmark, Sweden, Finland, Iceland, Ireland, Austria, and the Netherlands. (Department of State, Central Foreign Policy File, D820150–0261)

⁴ Not further identified.

Even with an acceptable agenda, achieving your six objectives will be extremely difficult.

The allies are still the key to our success at the conference. They are supporting our efforts to obtain an acceptable agenda. It is not clear, however, how long and how strongly they will continue to support us. The intensity of their support will be tested shortly.

In any event, it is likely negotiations will occur only in an eleventh hour brinkmanship atmosphere. In view of the dynamics of the situation, it is important that the U.S. be able to move quickly in response to any demonstrated flexibility of the G-77.

148. Night Note to President Reagan¹

Washington, undated

LAW OF THE SEA

The Secretary met today with Ambassador Malone, U.S. Representative to the Law of the Sea Conference. Ambassador Malone said the U.S. was attempting to resolve the immediate procedural problems by getting agreement to negotiate all issues of concern to the U.S. He indicated that developments in the last few days were somewhat encouraging and could lead to useful negotiations,² although the Group of 77 still insists that negotiations must end by April 30. There remains a risk that, if the negotiations deteriorate, important provisions in the draft treaty could be changed to the detriment of U.S. navigation and security interests. The Secretary directed that contingency plans be prepared in case the G-77 attempts to press the treaty to a vote before compromises are reached. The Secretary directed that all appropriate Department of State assets be used if necessary to persuade other nations to support the U.S. in these negotiations.

¹ Source: Department of State, Subject and Country Files, Law of the Sea, 1982-1983, Lot 85D105, Law of the Sea—4. Confidential. Drafted by Eskin on March 24; cleared by Malone and Salmon. There is no indication Reagan saw this report.

² In telegram 765 from New York, March 27, USUN reported: "General mood of Conference leadership is now becoming optimistic. This attitude, however, may be founded on an assumption that when the crunch comes the U.S. will moderate its demands somewhat. If we were to dash these hopes right now it would create a climate at the Conference for going ahead rapidly without serious negotiations with the U.S." (Department of State, Central Foreign Policy File, D820164-0024)

149. Memorandum From Secretary of State Haig to President Reagan¹

Washington, April 5, 1982

SUBJECT

Law of the Sea Conference Mid-session Assessment

On Saturday² I met with the chairman and senior members³ of our delegation to the Law of the Sea Conference. On the basis of their report and recommendations I would like to give you my thoughts on where we now stand.

It appears that in the next two weeks, it may be possible to make considerably more progress toward meeting your objectives announced on January 29 than we had thought previously.

While the developing countries are being very cautious, there are now many indications of their willingness to make a number of changes to the Treaty which move toward meeting your objectives. These changes would include new provisions concerning the powers of the one-nation one-vote Assembly, technology transfer, the contract approval system, grandfather rights for existing investors and a guaranteed U.S. seat on the Council. We are somewhat less encouraged but still hopeful concerning prospects for negotiating acceptable solutions to the problems of the adoption of amendments to the Treaty by the Review Conference.

In two areas, however, the situation presently appears to be unpromising:

—complete elimination of production ceilings on Seabed material production from the Treaty, and;

—achievement of a voting system on the Council of the International Seabed Authority which would allow the U.S. and a few of our Western allies to affirmatively impose certain decisions.

¹ Source: Department of State, Central Foreign Policy File, P820058–0937. Secret. There is no indication Reagan saw this memorandum, but a typed note at the top of the memorandum reads: “Original sent WH via special courier, 4/5 11 am.”

² April 3.

³ In an April 5 memorandum to Meese, Randolph wrote that “Ratiner, Chief Negotiator on Law of the Sea delegation, brought Malone, Chief of delegation, down to Washington, D.C. on Saturday and had a meeting with Secretary Haig wherein they requested Haig’s approval for major changes to the delegation’s negotiating instructions. Dave Stang alleges these changes would put the ocean mining industry completely out of business. Haig has tentatively approved these changes.” (Reagan Library, Meese Files, Law of the Sea)

These two areas are not specifically mentioned in your January 29 decision but have been included in the delegation's instructions, as have certain other lesser matters, which I believe may not be needed to achieve your stated objectives.

Accordingly, I have decided to convene a SIG meeting on Monday April 5⁴ to review the delegation Chairman's written report and assessment of prospects for achieving your objectives. If any serious agency differences arise out of that meeting affecting your fundamental objectives you will need to make decisions soon. The Conference is at a turning point and if we do not demonstrate some flexibility in the above mentioned areas, the developing countries, the Socialist countries and many of our Western allies seem likely to adopt the present Treaty and open it for signature in September in Caracas.

⁴ See Document 150.

150. Memorandum From Michael A. Guhin of the National Security Council Staff to the President's Assistant for National Security Affairs (Clark)¹

Washington, April 6, 1982

SUBJECT

SIG Meeting on Law of the Sea Negotiations

Buckley chaired the SIG meeting yesterday evening on the Law of the Sea negotiations. State noted that we are at a critical stage. If we do not show some flexibility today² in our proposals, the conference will adopt a convention without us and without several improvements that now seem possible. (Haig's assessment before the SIG meeting is at Tab I.)³ *All interested agencies, except Interior and OPD, agreed that:*

- We should not insist on eliminating the production ceiling but should try to relax it.

¹ Source: Reagan Library, Meese Files, Law of the Sea. Secret. Sent for information.

² An unknown hand added a carat and wrote "today" between "flexibility" and "in."

³ Attached, printed in Document 149.

- We should not insist on affirmative voting power but should enhance our blocking power under the convention.

- We should not spend much leverage now on the terms and conditions for financing the international mining entity but should seek to work these out in the preparation of the rules and regulations that would follow the conference work on the convention.

- These areas were covered in the delegation's instructions but are not key to the President's objectives, which are still mandatory.

All agencies justifiably disagreed with State's proposal that we accept the current provisions on benefit sharing for liberation movements; State agreed that we need to change them.

OPD and Interior expressed concern about the aggregate effect of these changes and what they see as the slippery slope ahead. They did not, however, support letting the conference go ahead without us and without any real improvements in the treaty, and that is basically the choice. I do not believe these concerns warrant an NSC meeting on the matter.

State's report on the SIG should be here later.⁴ You may wish to draw on the above in briefing the President.

⁴ A summary of conclusions from an April 5 meeting was sent to Senior Interagency Group No. 8 under an April 8 covering memorandum from Bremer. (Department of State, Marine Law and Policy Division, Subject and Country Files, Law of the Sea, 1982–1983, Lot 85D105, LOS–S/IG)

151. Evening Reading for President Reagan¹

Washington, undated

LAW OF THE SEA

The LOS Conference President announced today all amendments must be submitted by Tuesday, April 13. He stressed that the application of the Rules of Procedure should not present an obstacle to further

¹ Source: Department of State, Marine Law and Policy Division, Subject and Country Files, Law of the Sea, 1982–1983, Lot 85D105, Law of the Sea—4. Secret. Drafted by the U.S. Law of the Sea Delegation on April 7, cleared by Eskin and Salmon, and approved by Malone. There is no indication Reagan saw this report.

negotiations, nor should it prevent adoption of the Convention by consensus. We faced an emerging French-British initiative to submit separate national amendments or amendments sponsored by the CG-5 minus the U.S. Such amendments would fall far below the U.S. bottom-line and would place any negotiating effort with the G-77 in serious jeopardy. We have temporarily dissuaded French and British on the grounds that such a course could terminate prospects for U.S. participation in the Convention. It is clear, however, that each of our Allies will make a judgment next week when the window for formal amendments closes, and if they do not feel that promising negotiations are likely, they may publicly split with the U.S. Agreement has been reached that negotiations will begin on Thursday² afternoon on preparatory investment protection. Following conclusion of those negotiations, there will be a pause for the G-77 to consider how to proceed. The G-77 have not agreed to negotiation with the U.S. on any other issues, and indeed, have not been able to achieve a consensus on which issues can be negotiated. There are indications that there may be a two-thirds vote in favor of prior notification and authorization for warships. This news greatly concerned USSR (Kozyrev, Deputy Foreign Minister). U.S. suggested adoption of the Convention by consensus which could be done if the Soviets drop their objections to U.S. proposals. Kozyrev replied that, if U.S. can agree to a resolution of council composition and decisionmaking which does not disadvantage Soviets, they will assist or not object to improvements U.S. is seeking in all other areas.

² April 8.

152. Information Memorandum From the Acting Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs (Marshall) to Secretary of State Haig¹

Washington, April 13, 1982

SUBJECT

Law of the Sea: Latest Developments

The United States *will today submit a revised package of amendments to the LOS treaty*. The amendments, which reflect the SIG discussion of April 5,² will be *co-sponsored by the FRG, the UK, France, Japan, Italy and Belgium*. At Jim Malone's request, on April 9, Deputy Secretary Stoessel called in the ambassadors from the UK, France, Italy and Japan to ask that they co-sponsor the US amendments.³ In addition, the US will submit a draft resolution on protection of pioneer investors (PIP), co-sponsored by the FRG and the UK. France and Japan will submit separate PIP proposals.

The next 10 days will be set aside for negotiations on the amendments. This will take place in a small group with representatives from all interests groups under the direction of President Koh. On approximately April 21, the Conference will decide whether to begin formal voting. The delegation does not believe that Koh will issue a new text in the next few days.

Negotiations on PIP have been underway for several days and the delegation hopes to move rapidly to the remaining US issues. *The G-77 has not yet committed itself to negotiate any issues other than protection of pioneer investors but have not given any indication they will refuse to do so*.

There has been no change in the conference schedule which calls for completion of the negotiations on April 30. However, a key G-77 leader has raised informally with the US delegation the possibility of a summer session.⁴

¹ Source: Department of State, Central Foreign Policy File, P820059–1796. Confidential. Drafted by Eskin and cleared by Salmon. Sent through Buckley. Haig's initials appear at the top of the memorandum.

² See Document 150.

³ In telegram 97145 to USUN New York, April 10, the Department provided a summary of Stoessel's meeting. (Department of State, Central Foreign Policy File, D840712–0970)

⁴ Haig highlighted this paragraph.

153. Telegram From the Mission to the United Nations to the Department of State¹

New York, April 17, 1982, 0246Z

980. For S/S—Al Adams. Information Memorandum to the Secretary from Ambassador James L. Malone. Subject: LOS Weekly Report (April 12–April 16, 1982)

1. Confidential—Entire text.

2. The conference deadline for submission of formal amendments to the draft convention was April 13. The U.S. managed to obtain co-sponsorship for its amendments from the leading industrialized countries.² These amendments substantially exceed the bottom line agreed to at the SIG.³ They were perceived by the conference as a major reduction in U.S. demands but helped to signal that the U.S., while remaining very tough, may in fact be willing to participate in the adoption of the convention by consensus at this session of the conference.

3. Basic strategy of the G 77 remains as it has been for the past several weeks. They are not willing to discuss the U.S. amendments until they have reached a satisfactory agreement with us on PIP. They believe that if PIP is resolved to the satisfaction of our industry pressure on the USG will be substantially relieved and we will reduce our demands further on more ideological issues. All efforts by U.S. del to disabuse them of this idea are unavailing. PIP is likely to be resolved finally tomorrow night and the negotiating group will turn to Part XI amendments proposed by the U.S., the Group of 11, and the Group of 77. When the G 77 learn that U.S. demands in Part XI have not been further reduced as a result of satisfying us on PIP the conference will reach another critical point.

4. Soviet attitude has shifted markedly since introduction of U.S. amendments. While not abandoning their rhetoric in favor of the G 77, their plenary statement⁴ indicated that some U.S. amendments could

¹ Source: Department of State, Central Foreign Policy File, D820201–0549. Confidential.

² In telegram 931 from New York, April 14, USUN reported that Belgium, France, West Germany, Italy, Japan, and the United Kingdom had co-sponsored U.S. amendments to Part XI and the Preparatory Commission and that Belgium, West Germany, Italy, and the United Kingdom had co-sponsored U.S. amendments to the PIP resolution. (Department of State, Central Foreign Policy File, D820193–1001)

³ See Document 150.

⁴ In telegram 979 from New York, April 17, USUN reported on the plenary debate, including the Soviet statement. (Department of State, Central Foreign Policy File, D820201–0536)

be acceptable to them. In the KOH negotiating group their attitude on PIP has been generally constructive.

5. President Koh has told us that no matter what the G 77 do, it is his intention to produce new texts on the basis of discussion during the next few days. Based on his recent behavior, he probably will introduce the results of the PIP negotiations, the results of any Prep Comm negotiations, and the G 11 papers. The G 77 may challenge his right to do so but he has announced his willingness to let the issue be raised in plenary as a procedural matter.

6. The G 77 leadership claim that they would prefer face-to-face negotiations with the U.S. “at the appropriate time” and do not want Koh to produce texts not resulting from agreements reached in such negotiations. Their tactics in the PIP negotiations, however, have been to use up the available time for negotiations without reaching other issues of concern to the U.S. Koh has said that he will hold meetings until next Wednesday⁵ on all outstanding issues and formal amendments. On Thursday⁶ he and the collegium will produce their final “recommendations” and then will use those texts as the basis for the conference to decide, on April 23, whether all efforts to reach consensus have been exhausted. If the answer is negative negotiations could continue. For the moment there seems to be a determination to continue negotiations and make every effort to reach consensus. The chance that voting will begin therefore appears remote but the situation remains highly unpredictable.

7. Action requested:

No action is required at this time.

Kirkpatrick

⁵ April 21.

⁶ April 22.

154. Intelligence Memorandum Prepared in the Central Intelligence Agency¹

Washington, April 1982

Polymetallic Sulfides: Law of the Sea Implications [portion marking not declassified]

Key Judgments

The polymetallic sulfide deposits recently discovered along rifts in the sea floor of the eastern Pacific Ocean are a potentially large source of copper, zinc, silver, gold, platinum, and gallium and a less important source of other metals like iron, sulfur, and molybdenum. The current US policy interest in this discovery relates primarily to the attempt of some 150 nations at the Third UN Conference on the Law of the Sea (UNCLOS III) to forge a comprehensive treaty governing the exploitation of ocean resources lying in international waters: This week they will be discussing the moratorium on seabed mining that the United States objects to. [portion marking not declassified]

The present Draft Convention was largely developed before the polymetallic sulfide deposits were discovered and thus does not adequately treat their exploitation. The United States is seeking to revise the Convention to remove objectionable provisions concerning the mining of polymetallic nodules. Unless precise language is crafted for polymetallic sulfide mining, regulation would be left to unpredictable action by the International Seabed Authority established by the Convention, and exploitation of these resources would be hindered or delayed. [portion marking not declassified]

Cost estimates for polymetallic sulfide mining can be nothing more than guesses at this point because the technology for mining hard rock at depths of 2,000 to 3,000 meters is not yet developed. If current relative prices hold through the 1990s, only deposits with high gold, silver, and platinum content are likely to be of commercial interest and even these probably would not be mined before the turn of the century and thus are not likely to impact soon on world metal markets. [portion marking not declassified]

Early assays—and they are very preliminary—suggest that recovery of gold, silver, platinum, and gallium, even from only one or two

¹ Source: Department of State, Marine Law and Policy Division, Subject and Country Files, Law of the Sea, 1981–1982, Lot 92D622, 40.100 Polymetallic Sulfides (1982). Secret. This paper was prepared in the Office of Global Issues. A note on the title page reads: "Information available as of 20 April 1982 has been used in the preparation of this report." [less than 1 line not declassified]

polymetallic sulfide deposits rich in these metals, might disrupt one or more of their markets, lower prices, and adversely affect South Africa and the Soviet Union if the deposits are extensive. Markets for the other minerals mined would be much less affected. [*portion marking not declassified*]

Polymetallic sulfide mining would help those countries, including the United States, bordering the eastern Pacific. The West European countries and Japan are not as favorably situated with respect to known deposits, but might use their technological know-how in joint ventures with less developed nations. France, West Germany, and the United States appear to be the leaders in deep sea exploration and may be seen as possible leaders in mining polymetallic sulfide minerals. The United States has an advantage in hard-rock mining and deepwater dredging technologies that might be useful. [*portion marking not declassified*]

The Soviet Union would certainly want to keep its options open and may have an interest in mining polymetallic sulfide minerals. Wide publicity regarding these minerals may explain the increased Soviet interest in oceanographic research and mining technology and the more appreciative attitude the Soviets have toward the US position at UNCLOS III. [*portion marking not declassified*]

This week they gave their enterprises equal legal footing with their Western competitors by issuing a decree allowing them to make claims and initiate prospecting.² If UNCLOS III fails to produce a treaty, Moscow may join the West in a reciprocating-states agreement on seabed mining. [*portion marking not declassified*]

[Omitted here is background information regarding deep seabed mining.]

US Interests

Polymetallic sulfide deposits are of current interest primarily because of the role they might play in the present Law of the Sea debates. If the Conference does not craft a clear text on the mining of these metals, a Draft Convention could go into the lengthy ratification process without polymetallic sulfide mining rules and regulations. These would have to be added by amendment later, and mining could be delayed until their adoption. [*portion marking not declassified*]

The US lead in hard-rock mining and deepwater dredging technologies might afford it an important advantage in the exploitation of polymetallic sulfide minerals. But environmental considerations are

² In telegram 993 from New York, April 20, USUN transmitted the text of the Soviet statement. (Department of State, Central Foreign Policy File, D840753–0014)

likely to discourage any processing of these ores on the west coast, and transport to facilities in the interior may be costly. The latter are old and themselves environmentally troublesome. Metal markets have not been robust enough to warrant costly pollution control programs, and copper and zinc companies claim that they will close their smelters and refineries, shifting this processing to other countries, rather than retrofit them. If the more highly profitable ocean sulfide deposits are exploited, the copper and zinc extracted as a byproduct might help revitalize these US industries. Also, exploitation of polymetallic sulfide minerals could considerably reduce or eliminate US dependence on imports of many of the metals found in the deposits, including, in the case of platinum and vanadium, a potentially dangerous reliance on South Africa and the Soviet Union. *[portion marking not declassified]*

The United States and its allies could find the Soviet Union a well-prepared competitor in mining ocean sulfides. The Soviet Union is largely self-sufficient in the metals found in the polymetallic sulfide deposits. *[3½ lines not declassified]* Moreover, the USSR has also recently adopted a slightly more favorable attitude toward US objections concerning the current LOS Draft Convention. There are even indications that the USSR might not accede to the Convention unless the Western industrial countries and Japan do so. At this time Moscow's principal interest is probably to preserve its options with respect to any minerals that might be available from the seabed. *[portion marking not declassified]*

The Soviet decree on seabed mining issued this week allows its enterprises to stake claims to seabed mineral deposits lying in international waters; prospecting and mining will not be allowed until 1 January 1988. By this act, the Soviets are putting themselves on an equal footing with the industrial nations that have already adopted similar national legislation. Now, Soviet firms may establish property rights as Western firms may now do. If UNCLOS III fails to produce a treaty, Moscow might join the West in a reciprocating-states agreement. *[portion marking not declassified]*

155. Memorandum From the President's Assistant for National Security Affairs (Clark) to President Reagan¹

Washington, April 26, 1982

SUBJECT

Law of the Sea (LOS) Negotiations

Shortly after your briefing on the LOS negotiations,² the Conference took some new turns. The Conference President tried Thursday³ night to pressure us to accept four amendments, that fall way below our objectives, and withdraw all our others. Otherwise, he said all the pending amendments—including those that we oppose—will be brought to a vote and possibly the convention as well.

All agencies agreed that we cannot give in to this kind of pressure. The delegation also believes that we have a good chance of blocking undesirable changes to the navigation provisions.

We are entering the “eleventh hour” of the Conference a little earlier than expected. The Conference President appears to be looking for a way to “square the circle” or how to bring the Conference to a close with a number of amendments on the table. It is not clear how he will follow through; he has already shifted ground a bit when it became clear Friday⁴ morning that we and some others would not withdraw amendments.

Although we decided that we would not force the convention to a vote and risk changes to the provisions we like, that decision may be taken out of our hands now since we cannot, even as a tactical matter, withdraw all our amendments and appear to “cave in” completely. Our allies are wavering in their support, as we expected they would when the Conference gets tough.

¹ Source: Reagan Library, Guhin, Michael A.: Files, 04/23/1982–4/25/1982. Secret. Sent for information. Drafted by Guhin. A stamped notation on the document reads: “The President has seen.” Reagan initialed the memorandum in the upper right-hand corner.

² No such briefing has been found, but for a reference to an April 22 Law of the Sea briefing involving Guhin and Reagan, see Document 158. According to the President’s Daily Diary, Reagan met with Clark, Armstrong, Baker, Meese, Deaver, and Guhin on April 22 from 9:30 to 9:45 a.m. (Reagan Library, President’s Daily Diary)

³ April 22.

⁴ April 23.

156. Action Memorandum From the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs (Malone) to Secretary of State Haig¹

Washington, April 28, 1982

SUBJECT

Law of the Sea: Strategy for the Final Week of the Conference

ISSUES FOR DECISION

Should the US participate in consensus adoption of the Convention?

Should the US make a public statement on our view of the merits of the seabed mining articles of the Convention?

ESSENTIAL FACTORS

Intensive negotiations on outstanding issues will dominate the final days of the LOS Conference. Ultimately, *President Koh will recommend only those revisions in the text which he believes (a) will enhance prospects for US and allied participation in the Convention, and (b) will be acceptable to the Group of 77 and the Soviet Union.* Koh would like to bring the US into the treaty but he believes the full US position is too much for the Group of 77 to accept. *Accordingly, the US delegation does not expect to achieve satisfaction on most issues.*

It is not possible to predict, however, how close a final treaty will come to the US bottom-line. *The delegation will make every effort to improve the Convention in keeping with the President's objectives.* The continued US and allied potential to force a vote will encourage others to continue negotiations. It is likely that at the end of this week we will face a revised treaty produced at the last minute. *The new treaty will likely contain improvements and changes which will require analysis.* This situation requires us to make two decisions.

ANALYSIS OF OPTIONS

A. Should the US participate in consensus adoption of the Convention?

Three alternatives are available: (a) the US could join a consensus to adopt the Convention; (b) the US could decline either to join or oppose consensus adoption; and (c) the US could object to consensus adoption and insist on a vote.

¹ Source: Department of State, Central Foreign Policy File, P820071-1471. Drafted by Malone. Sent through Buckley. A stamped notation on the memorandum indicates Haig saw it.

Interim tactics aside, *the delegation sees no sufficient advantage to be gained by forcing the Convention to be adopted by a vote*. Voting would demonstrate the firmness of US views and convictions and would leave no inference of acceptance that would impact politically on the development of customary international law regarding seabed mining. On the other hand, *voting could create some possible danger to navigation, overflight, and other security aspects of the Convention*. It also would likely result in a public split with the allies, who probably would not vote against adoption of the Convention. This could have serious implications for the Reciprocating State Agreement.

Joining a consensus gives the wrong signal assuming the President's objectives have not been met. *Refusal to oppose consensus avoids risk to national security issues, preserves our ability to pursue other options, and preserves unity with our allies*. Avoiding a vote would keep the door open for a Reciprocating States Agreement.

B. *Should the US make a public statement of our views on the merits of the seabed mining aspects of the Convention?*

A public statement on the seabeds provisions would leave no inference that the US was accepting the seabed mining provisions with possible resulting impact on customary international laws. The delegation sees no disadvantages to making a public statement along these lines.

RECOMMENDATION

1. The US should not force a vote and should not object to adoption of the treaty.²

2. The US should make a statement for the record³ that US failure to oppose consensus should not be construed as approval of the seabed mining provisions of the treaty as to which we continue to have serious reservations and on which a decision must be taken at a later date.⁴

² Haig initialed the approve option on April 29.

³ In telegram 132685 to all diplomatic posts, May 15, the Department transmitted the text of Malone's April 30 statement. (Department of State, Central Foreign Policy File, D850202–0915) See footnote 3, Document 157.

⁴ Haig initialed the approve option on April 29.

157. Night Note to President Reagan¹

Washington, undated

LAW OF THE SEA

While we have not seen final text of LOS treaty being prepared by Conference President Koh, all indications are that it will fall far short of your six objectives announced January 29, 1982.² Negotiations are now effectively over and there is little chance of significant improvement. Despite U.S. efforts to use every possible opportunity to negotiate and despite willingness to show flexibility in achieving your objectives the G-77 has effectively refused to negotiate seriously on any of the issues of major concern to the U.S. affecting the deep seabed regime except protection for pioneer miners. Koh will seek to have the treaty adopted by consensus on Friday, April 30. Unless there are significant changes in the situation before April 30, the U.S. delegation will call for a vote at the final session and plans to vote against the adoption of the convention. It is probable that, despite the U.S. position, the Convention will be adopted by an overwhelming majority. The delegation, Under Secretary Buckley and Secretary Haig are seeking support from our allies to vote against the treaty, and failing that, to abstain and make a statement critical of the seabed mining provisions.³

¹ Source: Department of State, Marine Law and Policy Division, Subject and Country Files, Law of the Sea, 1982-1983, Lot 85D105, Law of the Sea—5. Secret. Drafted by Blumberg on April 29 and cleared by Horner and Salmon. There is no indication Reagan saw this report.

² Document 140.

³ In an April 30 memorandum to Reagan, Haig wrote: "Despite strong appeals to our allies to vote against the treaty, 130 countries voted in favor, 4 countries voted against (United States, Israel, Turkey, Venezuela), and 17 countries abstained (the entire Eastern bloc, United Kingdom, Federal Republic of Germany, Italy, Luxembourg, Netherlands, Belgium, Spain and Thailand). The United States delegation made a statement which outlined our good faith efforts to reach an acceptable treaty, described the shortcomings of the final text, and explained the deep convictions that supported a negative vote." (Department of State, Secretariat Memorandums—Secretary Alexander Haig Correspondence, 1981-1982, Lot 83D288, Evening Reading—April 1982) Malone's April 30 statement was transmitted in telegram 132685; see footnote 3, Document 156.

158. Memorandum From Michael A. Guhin of the National Security Council Staff to the President's Assistant for National Security Affairs (Clark)¹

Washington, May 5, 1982

SUBJECT

Law of the Sea Review

Now that the Law of the Sea (LOS) session is over, we need to review a number of follow-on issues promptly. The need for such a review was agreed at the Meese meeting on April 20² and noted in my April 22 LOS briefing for the President.³ The memo to the interested agencies at Tab I would direct that a review be submitted by June 16. State (Malone) concurs in it; the other major LOS players agree in substance.

RECOMMENDATIONS

That you or Bud inform Meese of the memo directing the study and that you sign the memo at Tab I.⁴

¹ Source: Reagan Library, Guhin, Michael A.: Files, 05/05/1982–05/06/1982. Secret. Sent for action.

² Not found. In an April 20 draft memorandum to Reagan, Clark made reference to an upcoming April 20 NSC meeting on the Law of the Sea involving Clark, Meese, and representatives from State, Defense, and Treasury. No record of the April 20 NSC meeting has been found.

³ See footnote 2, Document 155.

⁴ Clark checked the approve option.

Tab I**Memorandum From the President's Assistant for National Security Affairs (Clark) to Multiple Recipients⁵**

Washington, undated

SUBJECT

United States Law of the Sea Policy

In light of the conclusion of the Law of the Sea (LOS) session in New York, the LOS Interagency Group should promptly review the following:

- The convention adopted at the conference, particularly as it relates to United States interests and the objectives set forth in the President's January 29 statement and directive.

- Steps and positions the United States should now consider taking to best protect its Law of the Sea and other ocean interests. This should include, in particular, analysis of both near-term and longer-term approaches for the establishment of an alternative arrangement for deep seabed mining among like-minded states, as well as related questions on the positions of such key countries and others toward the LOS treaty.

- Considerations pertaining to (1) signing the Final Act at Caracas later this year, and (2) signing the convention and participating in the Preparatory Commission.

Analysis of alternative courses of action with their advantages and disadvantages should be included as appropriate. The review should be considered by the Senior Interagency Group and forwarded for the President's consideration by June 16, 1982.

FOR THE PRESIDENT:

William P. Clark

⁵ Secret. Sent to Haig, Regan, Weinberger, Smith, Watt, Baldrige, Donovan, Lewis, Edwards, Casey, Kirkpatrick, and Jones. Copied to Meese, Stockman, Baker, Deaver, Harper, Weidenbaum, Keyworth, Gorsuch, and Slaughter. Printed from an unsigned copy. A signed copy dated May 11 is in Department of State, Marine Law and Policy Division, Subject and Country Files, Law of the Sea, 1982-1983, Lot 85D105, Law of the Sea—5.

159. Memorandum From the President's Assistant for National Security Affairs (Clark) to President Reagan¹

Washington, undated

SUBJECT

Law of the Sea Negotiations

Secretary Haig has forwarded an initial assessment of the subject negotiations (Tab A). He notes that we lost nothing outside the seabed provisions; the treaty will be opened for signature in December after the drafting work; we are pressing for completion of a Reciprocating States Agreement for seabed mining; and a full report will be submitted soon. (I have asked the Interagency Group for a report on where we go from here to protect our ocean interests by mid-June.) Haig's memo also summarizes the vote on the treaty 130 for (including France and Japan), 4 against (US, Israel, Turkey and Venezuela), and 17 abstentions (including UK, FRG, Belgium, Italy, Netherlands, Spain, USSR, and other eastern countries).

Tab A**Memorandum From Secretary of State Haig to President Reagan²**

Washington, May 5, 1982

SUBJECT

Initial Assessment of the Law of the Sea Negotiations

The Eleventh Session of the Law of the Sea Conference ended on Friday, April 30.³ The US forced a vote on adoption of the text. The results were 130 in favor, four opposed (US, Israel, Turkey and Venezuela) and 17 abstentions (the Eastern European countries, except Romania, the UK, the FRG, Belgium, Italy, Luxembourg, the Netherlands, Spain and Thailand). Two allies, Japan and France, voted in favor of the treaty.

¹ Source: Reagan Library, Meese Files, Law of the Sea. Confidential. There is no indication Reagan saw the memorandum.

² Confidential. There is no indication Reagan saw the memorandum.

³ See footnote 3, Document 157.

With regard to the future of the Reciprocating States Agreement, the abstentions of the Netherlands, the FRG, Italy, Belgium as well as the USSR are a favorable sign. We will immediately press for completion of that Agreement. Japan is interested in seabed mining. With the US out and others abstaining, Japan may conclude that it should sign the Treaty, hoping that the Treaty will prevail over a Reciprocating States Agreement and that this will give Japan an advantage. The French may have a similar view as well as other interests in staying with the G-77. However, the French should not be counted out of an eventual Reciprocating States Agreement.

The US lost nothing outside of the seabed provisions; the navigation, overflight and other issues remain intact.

During July and August, there will be drafting sessions to complete the technical review. During September 20-23, a Plenary Session will approve the drafting work. The treaty will be open for signature in Caracas in early December.

A full report will be prepared for you with recommendations on what action should be taken on the treaty and what steps are necessary to protect US oceans interests.⁴

⁴ See Document 162.

160. Notes of an Interagency Group Meeting¹

Washington, May 25, 1982, 9:30 a.m.-noon

McManus: Three issues buried in the Draft Report to the President on LOS:²

- a) I.C.J. proceeding; (requested an L assessment)³
- b) Governments-sponsored risk insurance; and
- c) Overflight and transit right.

¹ Source: Department of State, Marine Law and Policy Division, Subject and Country Files, Law of the Sea, 1982-1983, Lot 85D105, LOS-S/IG. No classification marking.

² In a May 24 memorandum to Harper, Uhlmann forwarded a copy of a draft Presidential Decision Memorandum regarding Law of the Sea. (Reagan Library, Meese Files, Law of the Sea)

³ Not found.

Kronmiller: President's decision on LOS should not be made before 6/21/82—unilateral processing in absence of RSA—because of possible impact on RSA and the LOS Conference.

Guhin: The President needs to know DOC activities and RSA plans.

Colson: Report to the President should stress our strategy against being isolated (LOS not confined to deep seabed mining). An important question: How to make mini treaty or RSA work? It is really now only a "statutory animal". Should take into account our leadership, gamesmanship with the Soviet Union, and our relations with the Third World, in the event the alternative regime does not work, and an ICJ case is brought.

Holser: We should not take it for granted that 149 LDC's will sign and ratify the LOS treaty.

Kronmiller: The U.S. has power and influence in the world, and the president wants to assert leadership.

Keating: Allies expect U.S. to be decisive, citing BBC film showing Malone, Breaux,⁴ U.S. has tactical advantages now should drive a wedge between G-77 and the Allies. Contingency planning has been done.

Kronmiller: Reasons for Japan's vote for LOS Treaty:

- a) Cost to relations with U.S.—Zero;
- b) Cost to relations with G-77—plenty.

Verville: Japan's consideration might involve the question of where Japanese miners can get the best protection for mining—LOS or RSA?

Harlow: How to develop viable oceans policy for U.S. and allies? Focus should be placed on the development of a viable mining regime. There is need for a "juridical approach" as alluded to by Colson.

Kronmiller: Gave example of one such approach as reasonable uses of the high seas—missile testing range.

Guhin: Observed that there is a difference between T.K.'s example based on "safety sake,"⁵ and the problem of exclusivity in seabed mining.

Kronmiller: U.S. wants Allies out of LOS with us, because the alternative regime offers real stability at little cost.

Harlow: But RSA is not permanent feature!

Guhin: Why spend high-level leverage for a non-starter?

T.K.: Bring in EA and EUR. Determine how many will not sign without our leverage.

⁴ Representative John Breaux (D-LA).

⁵ Not further identified.

B.H. Stressed the need to present our Allies with a package in their interest.

Guhin: "When there is a way out on things, they'll take it".

Hoyle: Our national interest is not so different from theirs.

Keating: France budgeted \$250 million to explore seabed mining; Japan budgeted 320 million.

Holser: Wanted paper to show RSA weakness "Here is what needs to be improved."

Guhin: Agrees w/Holser on need for this in paper.

Holser: He saw little use for going to subsidiary meetings, e.g., Drafting Committee, Caracas.

Colson: U.S. has participated in many conferences without agreeing to their objectives. We should therefore attend the Caracas session and make interpretive statements, which could be cited as foundation paragraphs in diplomatic notes for the next 20 years.

Kronmiller: While agreeing with the upside of the Colson argument, points out the following downsides:

a) U.S. interpretive statements might draw more fire after announcement of no signature;

b) Sending confused signals to our Allies;

c) Domestically, if the President's Six points could not be accommodated, attend at Caracas could draw criticisms from Congress, etc.

Kronmiller: Development of customary international law; "its what large States *Do*, not what a gaggle of land-based producers do."

Holser: Has U.S. participated in any conference where it had committed itself not to be a party?

Colson: Not sure. However, it would be better if U.S. could say no for the record, than mere absence. Colson admonished the group to start planning and stop muddling through up-until UNCLOS IV.

Guhin: Important to explain to the President in the report what the Drafting Committee is, or what the Final Act is, and what will happen in Caracas.

Bernstein: Observed that in ILO Conferences, U.S. has participated even though no state expected U.S. to ratify (only 6 were adopted by the U.S., all relating to maritime affairs).⁶

Colson: Raised a policy question: When the American Law Institute incorporated the LOS Treaty as customary international law, what

⁶ Reference is in error. The United States ratified seven ILO Conferences from 1938 to 1948.

should U.S. policy be?⁷ He cited that the Institute has adopted a 12-mile territorial sea as customary international law in its Restatement of Foreign Relation Law. In the face of this, how would the U.S. maintain a 3-mile territorial sea?

Harlow: It is inappropriate to recognize a 12-mile territorial sea? He explained that U.S. acceptance of the 12-mile zone in the LOS Draft Convention was made only as a package deal in the negotiations.

Colson: Pointed out the risk of later extension to 200-mile territorial sea.

⁷ Reference is to a draft of *Restatement of the Law Third, The Foreign Relations Law of the United States*, published by the American Law Institute.

161. Notes of an Intergovernmental Meeting¹

Washington, May 25, 1982

Eskin The sign, no sign section will be dropped.²
When asked if any agency was in favor of signing the treaty, there was no response.

Cohen and defer the decision, since RSA is in a very delicate stage
Guhin and an early USG announcement may make the Allies reluctant to join US

 This week's Geneva meeting will be decisive on RSA³—
 we should get a feeling of who is coming w/US.

 It is probable from EBs point of view that Brits, FRG,
 Belgium and Italians will join us.

TK: it is a good idea to consult w/ our allies bedfore making
 a public announcement of our decision.

¹ Source: Department of State, Marine Law and Policy Division, Subject and Country Files, Law of the Sea, 1982–1983, Lot 85D105, LOS—S/IG. No classification marking. The minutes indicate it was an "Afternoon session."

² See the attachment to Document 162.

³ In telegram 152230 to multiple recipients, June 3, the Department summarized the May 26–27 Reciprocating States meeting in Geneva. (Reagan Library, Guhin, Michael A.: Files, LOS [Law of the Sea] Reciprocating States Agreement [4])

- Colson: timing of the announcement:
demonstrates leverage and leadership
if RSA fails, the US must know where it is going w/its oceans policy.
query whether we want to wait for Prep Com stage, when rules and regs will be developed which could be beneficial to our seabed interests. Our allies will probably be there and their interests are similar to ours in the seabed area.
- Guhin: the paper does not need a no sign-sign option—it should be a discussion of where we are, where we are going.
1. EB outline good, and a recommendation line at the end of the paper for the President which will just ask “approve”, “disapprove” on a no-sign option.
2. timing of the announcement—factors to consider—RSA and Allies.
3. participation in future conference proceedings describe what the steps are, what they mean, the pros and cons of each.
- Keating: need to get into thinking about an alternative regime in absence of LOS treaty.
contingency planning on this has been done.
- Kronmiller: Will it be bad faith to participate in drafting committee even after a Presidential decision has been made but not announced?
In NY we stupidly said on the record that a “no” vote re: adoption of the convention is not a “no” vote on whether or not we will sign.
- Verville: not a sign of bad faith to participate in drafting committee
“conference participants participate because they are part of the process.”
- Calengaert: President needs to know that the *timing* of the announcement is important.
confusing signals can come about if we announce and then continue to participate in all conference proceedings.
but isn’t it bad faith, to continue to participate after a decision has been made but not announced, and it leaks out.
. . . the delicacy of the RSA negotiations at this point.
we want to pressure the Allies to stay out.
- Kronmiller: can we get a surrogate?
- Verville: surrogates don’t work, its a bad concept.

Drucker: Drucker in agreement w/Verville. cites as example the Wood-Pinto papers (Milt drawing on his experience as part of drafting committee)⁴

The Brits come the closest to the US but they are not all that good. Ex: Art. 60 (3)⁵

The US interests are not the same as the UK interests. minor stuff is taken care of in drafting, but things do slide by, can't count on surrogates or Alan Beesley⁶ in the chair. (discussion took place on the procedures of drafting committee) there is no vote in informal plenary for drafting committee matters

/ At the language group level, the no objection rule exists

Attendance in Drafting committee:

Pro: protect US interests from adverse textual changes; rebut and repel changes
US chairs the english language group; Tom Clingam very important

Con: "bad faith" to participate since we all really know what the decision will be.

domestic political consequences

We will have a negative vote in September Plenary, so no need to be in drafting committee in July–Aug, since we can vote it down in Plenary.

We don't get any positives in drafting committee, only keep out the negatives; therefore Sept. Plenary should be sufficient (Alex Holser)

Harlow: We will have higher visibility if we attend Sept/Plenary than if we attend summer drafting.

⁴ In telegram 247 from New York, February 2, USUN mentioned Wood-Pinto proposals involving Annex III of the treaty. (Department of State, Central Foreign Policy File, D820056–0079)

⁵ Article 60 (3) of the treaty discusses the rules surrounding the construction of artificial islands.

⁶ John Alan Beesley, Canadian diplomat and chair of the conference drafting committee.

Options:

<u>GO TO ALL</u>	<u>GO TO NOTHING</u>	<u>GO TO DRAFTING</u>	<u>GO TO SEPT PLENARY BUT NOT DRAFTING</u>
L	OES DOI	L, DOD	DOI, DOD

(the group shifted on these categories, no consensus existed Kron-miller did not push the group to a decision)

Colson: Soviets will make the most of USG completely walking away from the Conference.

Colson suggests we can explain it away to the conservatives attendance in drafting committee by calling it a marginal exercise, to make marginal changes.

we are tryinig to score small political points against the UN by walking out and telling the UN it can stick-it

Harlow: (very surprisingly) interpretive statements are not of much import at this point.

We should have someone in Caracas to react to changes. read things into the record and orchestrate the interpretive statements

A complete walk-away is very dangerous.

(L AND DOD HAVE SAID THEY WILL RE-DRAFT THE NON-SEABEDS PORTION OF THE PRESIDENT'S PAPER

Discussion took place: re: what is and what is not customary international law. The ALI paper discussed.⁷

Bill Frye: FWPCA Coast Guard can police out to 200 miles to exert pollution regulations; economic costs associated w/ this activity.

TK: someone in OES is working on an expanded liability scheme to supplant the vessel source oil pollution section on the text dealing w/port, state, coastal enforcement.

Colson: Will State cease to send protest notes to other countries who claim LOS text material?

ex: Brits are soon to claim 12 miles—should State follow through and send protest note?⁸

⁷ Not further identified.

⁸ Not found.

ex: small Pacific island drafts an archipelagic legal regime identical to LOS—if we protest—it affects our bilateral relations w/that country.

Harlow: increase of exercise of rights program

Colson: USG in a position of challenging other govt of other countries who act consistently w/the treaty.

TK: we don't want USG legal theory on some functional LOS areas to be prejudicial to others ex: fisheries. END.

162. Memorandum From the Executive Secretary of the Department of State (Bremer) to the President's Assistant for National Security Affairs (Clark)¹

Washington, June 16, 1982

SUBJECT

Report to the President on Law of the Sea

In response to your memorandum of May 11,² we attach the SIG Report to the President on Law of the Sea. This paper, including pros and cons on issues for decision, was discussed and cleared in the SIG meeting June 15.³

On June 22 the SIG on Law of the Sea will reconvene to identify agency positions and prepare its recommendations to the President on the issues for decision.⁴

L. Paul Bremer, III

¹ Source: Department of State, Central Foreign Policy File, P820088–1814. Unclassified. Drafted by Malone, Eskin, and the Intergovernmental Group of June 15 and cleared by Salmon. “TM” signed for all parties. Copied to Dyke, Wheeler, Cormack, Robbins, Stanford, Vitale, Russell, Stanley, Habicht, Searby, Schneider, Anderson, Pickford, and Feldman.

² See the attachment to Document 158.

³ A June 17 summary of conclusions of this meeting is in the Reagan Library, Guhin, Michael A.: Files, LOS (Law of the Sea) Follow-On Review (3).

⁴ The meeting took place on June 24. See Document 163.

Attachment

Paper Prepared by the Interagency Group⁵

Washington, June 15, 1982

Interagency Report on The Law of The Sea

ISSUE

In the wake of the adoption of the Law of the Sea Convention on April 30, 1982 over US objection, how should the US pursue its oceans interests, particularly in navigation and overflight and seabed mining?

BACKGROUND

Results of the Conference

At the conclusion of its final session on April 30, the UN Conference on the Law of the Sea (LOS) adopted a comprehensive convention by a vote of 130 to 4 (US, Israel, Turkey, and Venezuela). Seventeen countries abstained, including the UK, FRG, Italy, Benelux, Thailand, and the Soviet bloc except Romania.

We did not achieve changes that satisfy any of the objectives for the deep seabed mining regime set forth in NSDD 20 of January 29.⁶ The text adopted by the Conference contains eight minor changes to the seabeds provisions, including an assurance of a permanent seat on the Council for the US (if the US ratified the Convention and continued to be the largest consumer of seabed minerals) but the text otherwise remains essentially the same as that reviewed earlier. The text did not include the many changes supported by the US, including those assuring adequate protections of workers' safety and labor standards.

Consequently the SIG assessment of December 1981⁷ remains the same. The navigation and overflight provisions of the Convention, although in part troublesome, are acceptable in their present form. Other non-seabeds provisions are, with certain limited exceptions, generally consistent with US interests. The deep seabed mining regime contains major elements contrary to US interests.

We were unable to effect significant improvements in the Convention because of unyielding resistance on the part of the Group of 77, which in effect refused to enter into serious negotiations on any of the

⁵ Secret. There is no indication Reagan saw the report.

⁶ See Document 140.

⁷ See Document 133.

major US concerns, lack of cooperation by the Soviet bloc, and the perception by many western countries and allies that their interests are well served by the overall text or something close to it even if the deep seabed mining provisions are deficient. Some US allies, however, worked closely with us (FRG, France, UK, Belgium and Italy). The effort of a group of eleven countries (including Canada, Australia, New Zealand, the Nordic countries and Switzerland) to develop compromise proposals and encourage genuine negotiations on some of the issues of concern to the US failed.

The negotiations at the session did produce a resolution on Preparatory Investment Protection (PIP), designed to allow pre-existing seabed miners to make a transition to the Treaty regime. Intended originally to give priorities for mine sites and production to the five existing pioneer consortia (two US-led, two with major US participation and one all-French), the resolution widened the field of pioneers beyond those five to include national entities from Japan, India, the USSR, as well as some developing country entrants if they are able to meet certain financial qualifications by January 1, 1985. The pioneer miners would still be subject to the provisions of the Convention that we were unable to change and, in this sense, PIP does not resolve any of our major problems with the Convention.

We were able at the Conference to block any significant adverse changes in the non-seabeds provisions of the Convention that serve US interests. Amendments to restrict the use of straits and require prior notification/authorization for warships to pass through territorial seas were defeated or withdrawn.

The following stages remain on the LOS schedule:

—Drafting Committee: In July and August the final text will be readied for submission to the Conference.

—Informal Plenary: In a brief three-day meeting in September the Drafting Committee changes will be approved and the Final Act will be prepared for signature.

—Caracas: In December, the Final Act will be signed by Conference participants authenticating the text of the Convention. At that Session, interpretative statements giving national views of the meaning of textual provisions will be made. The Convention will then be opened for signature.

—Preparatory Commission: After 50 countries have signed the Convention, the Preparatory Commission will meet (probably in 1983) to begin preparing the rules, regulations and procedures governing seabed mining as well as to administer PIP and prepare for the operations of the International Seabed Authority and the Law of the Sea Tribunal.

Prospects for Signature and Ratification

We anticipate that virtually all countries participating in the Conference, including our allies, will sign the Final Act as this is a legal certification of the accuracy of the text.

As for the substantive step of signing the Convention itself, we anticipate that the requisite 50 countries to establish the PrepCom will sign it shortly after it is opened for signature. The developing countries will sign early and in large numbers. Among our close friends, France, Japan, Canada, Australia, and New Zealand, together with the Nordic countries, are likely to be early signatories. The UK, FRG, Belgium and Italy may wait to sign until they can gauge better the degree of support for the Convention world wide. We expect the Soviet Union and eastern bloc countries to be among the early signatories.

With sixty ratifications necessary to bring the Convention into force and with over 120 developing countries, we expect the Convention eventually to enter into force. It is not possible to say how many countries will eventually ratify the Convention. Many nations which sign may await the outcome of the PrepCom to determine the viability of the seabed provisions. A US decision against signature, an effort to establish an alternative seabed regime, the uncertainty regarding rules and regulations to be prepared by the PrepCom, and the burdensome seabed regime may cause some important allied governments to hold off a decision on ratification which may, in turn, deter certain developing countries. Some developing countries may have difficulty ratifying the Convention for their own domestic, political reasons as well.

The advantages of the non-seabed provisions, a willingness to "grin and bear" the deep seabed mining regime, a concern not to sour relations with developing countries on this, and domestic pressures are key elements in the ratification calculus of our allies. In the absence of strong US diplomatic pressure, virtually all western countries are likely in time to join. Even with US pressure, many may participate in the Convention. Ultimate ratification by the Soviet Union is not clear if the US and its allies stay out, but it probably would accede if our allies did, thus isolating the US.

Navigation and Overflight

The US participation in the Third UN Conference on the Law of the Sea stemmed primarily from the US security interest in halting or slowing the extension of state claims to maritime jurisdiction. We were and remain particularly concerned about the breadth of the territorial sea, navigation and overflight through straits, the type of jurisdiction a coastal state could exercise in a 200-mile zone, and the archipelago concept whereby island states seek to include within their territory large maritime areas by drawing lines around their outermost islands.

The package deal in the navigation and overflight provisions in the LOS Convention, if properly interpreted, meets these concerns and is consistent with US interests. A significant element of the package deal was that we would recognize the 12-mile territorial sea (abandoning the 3-mile position) if freedom of navigation and overflight was assured within the some 115 straits worldwide which would then be overlapped by 12-mile territorial seas. Under historical rules of innocent passage through a territorial sea, overflight would be subject to the consent of the coastal state and submarines would be required to transit on the surface. Given the critical importance of straits, such restrictions would unacceptably reduce air mobility and subsurface flexibility and nondetectability. To avoid this, the LOS Treaty provides for the freedom of “transit passage” in, under, and over straits, while recognizing residual territorial sea rights in the straits state. Whether such a “package” approach will be followed by straits states and others remains to be seen.

Many states have already taken action extending jurisdiction to the 12-mile territorial sea, but not with regard to freedom of transit through straits or the right of innocent passage of warships through the territorial sea. Other states have asserted jurisdiction broader than would be authorized by the Convention. Many commentators, including the American Law Institute,⁸ regard the text in these areas as reflective of customary international law. Recently, the International Court of Justice regarded the 200-mile exclusive economic zone (which we do not presently claim or recognize) as having been established in international law.

If the Convention comes into force, even without us, our interests in insuring stability and limiting coastal state claims would be served in this respect. With or without a treaty in force, we will need to exercise our rights firmly as some coastal States will likely assert even more expansive claims. Except in some limited respects relating to the exclusive economic zone, it is unrealistic to expect that we could influence state practice to coalesce around anything other than the principles in the LOS Treaty. Accordingly, we have an interest in insuring that those navigation and overflight principles remain viable.

The US should not immediately announce its willingness to abide by all the jurisdictional elements of the text, particularly as they bear on navigation and overflight. Furthermore, as a matter of leverage, we should not formally give up our present position without attaining some benefits, particularly the benefit of seeing state practice develop toward navigation and overflight principles set out in the text. There-

⁸ See footnote 7, Document 160.

fore, we should not, as a formal matter, immediately recognize the 12-mile territorial sea, the 200-mile exclusive economic zone, the archipelagoes claimed by island States, or other special forms of coastal State jurisdiction bearing on navigation and overflight which we do not already recognize. In the long term, however, our navigation and overflight program should be designed to protect our rights and direct the practice of states toward our interpretation of the navigation and overflight principles of the text. The Department of Defense, in conjunction with State and Transportation, will conduct a review of how our positions and programs should evolve in this respect.⁹

Commercial navigation stands to benefit from the adoption of the Convention even though the US is not a party. However, the regime for commercial navigation will not be as predictable and stable without US participation in the Convention. This may lead to increased interference by coastal states with the movement of vessels, particularly tankers and other vessels carrying hazardous cargoes, primarily for reasons related to marine pollution. Although it is anticipated that such problems will generally have to be handled on a case-by-case, country-by-country basis, concerned departments will review this issue to identify potential problems and any preventive measures that can be taken.

Alternatives to the LOS Convention for Seabed Mining

Establishment of a US-flag seabed mining industry outside the Convention will probably require a viable alternative seabed arrangement. Achieving that may well require, at a minimum, that a few key allies (particularly the UK and FRG) not ratify the LOS Convention and take action consistent with the US approach. Even with a major US diplomatic effort it is unclear whether the US can achieve that result. If our allies ratify the Convention, and assuming continued US opposition to it, our choice will be whether and how to proceed unilaterally, depending on the costs and benefits at the time.

At present, the LOS Convention is the only comprehensive, though severely flawed, system purporting to cover all aspects of oceans activity. Seeking an alternative framework could be a lengthy process, requiring a sustained high-level effort to convince as many countries as possible—but most particularly some key allies—that (1) their seabed mining interests would be better served by not ratifying the Convention and by joining a different regime, and (2) their non-seabed mining

⁹ The Department of State cleared an undated background paper from the Department of Defense entitled "Navigation and Overflight Issues" on October 8. (Reagan Library, Guhin, Michael A.: Files, LOS [Law of the Sea] EEZ [Exclusive Economic Zone]) President Reagan's decision on navigation and overflight issues is printed in Document 192.

interests, which they consider to be generally well-served by the Convention, will not suffer significantly if they remain outside the Convention.

The alternative seabed regime we envision would cover all seabed minerals. It would include provisions on resolution of conflicting mine site claims, and allow each state to exercise control over its nationals without regulation by an international authority, significant revenue sharing, or technology transfer requirements.

Pursuant to NSDD 20, we have sought to negotiate a Reciprocating States Agreement (RSA) with the UK, FRG and France which would be interim to an acceptable LOS Convention or an alternative regime. Although a bilateral agreement with the UK may be possible, an RSA with the other major potential seabed mining nations is not achievable in the near term and not achievable at all unless these countries stay out of the LOS Convention. Although many of our allies also have problems with some of the seabed mining provisions in the Convention, they do not find them as onerous or objectionable as we do. They have insisted that any RSA they sign be interim to the Convention with little, if any, semblance to an alternative regime. It might be possible to negotiate a “pre-RSA” which calls for cooperation on seabed mining issues with the UK and the FRG. While such an agreement would not permit reciprocal recognition of mine sites, it would represent a sign of unity among the industrial allies.

The Commerce Department is under strong domestic pressure from certain elements in Congress and two of the four mining consortia to begin processing applications for seabed mining licenses, unilaterally if necessary. Commerce has repeatedly delayed the date for receiving and processing applications to accommodate our allies in the RSA discussions and has decided to begin processing on June 21. Unilateral processing of mining applications would not preclude subsequent conclusion of an RSA, but it will initiate a process which, in time, could make it more difficult to achieve.

If, in the end, we find ourselves isolated, we could consider seeking to create conditions for US companies to operate under US licenses, although other countries need not recognize such licenses. Unilateral action would place US miners in danger of having their sites legally and politically challenged by applicants and their sponsors under the LOS regime and therefore would make financing more difficult. Moreover, to the extent that opportunities arise for the G-77 countries to retaliate against the mining consortia by denying them contracts in other areas, seabed mining may be more costly. We would argue that our activities were justified under the doctrine of high seas freedoms. It would require that the US seek to resist all challenges—legal and political—to that right, including the likely efforts of the United Nations

and the International Court of Justice to deny that such a right exists under current international law. To encourage the large investments needed for profitable mining, it may also be necessary to provide government-sponsored "risk insurance" against legal and political challenges.

It is not clear that we could effectively meet the challenges if we are isolated. Even with risk insurance, some and perhaps all of the US miners may well decide to conduct seabed activities under foreign flag through the Convention, if those entities gain access and find the regime economically viable.

International Legal Implications

LOS Conference President Tommy Koh has said he would seek a General Assembly Resolution requesting an advisory opinion from the International Court of Justice (ICJ) on the legality of an RSA if such an agreement is adopted. The US could not prevent the Court from issuing such an opinion. Although the opinion would be advisory in nature and not binding on states, it would be widely regarded as an authoritative statement of international law.

In addition, there is the possibility that another state might seek to bring the US before the Court. In order to avoid the compulsory jurisdiction of the Court and a possible binding adverse judgment, the US would have to rely on the Connally Reservation¹⁰ to the US acceptance of the compulsory jurisdiction of the Court and assert that this is a matter "essentially within the jurisdiction of the United States". Such an assertion would likely be legally and politically controversial since others would argue that the question of the legality of activity on the high seas is a question of international law and is not essentially within the domestic jurisdiction of the US. Such an assertion could also result in the Court finding the Connally Reservation invalid either as asserted or in toto. The Court might either proceed to decide the case over our objection or decide that the US had not in fact acceded to the Court's compulsory jurisdiction.

Although the US can currently make credible legal arguments in support of its position on the merits of seabed mining outside of the Convention, widespread acceptance of the Convention and its entry into force would make the US case more difficult. The likely outcome of any proceeding is placed further in doubt in view of the composition of the 15-member ICJ, which has 9 members from developing and Communist states.

¹⁰ The Connally Reservation of 1946 amended the U.S. Charter to the United Nations to limit the jurisdiction of the International Court of Justice.

Fisheries, Continental Shelf, Marine Pollution and Marine Scientific Research

We had also been prepared to accept other provisions of the LOS Convention text relating to fisheries, the continental shelf, marine pollution and marine scientific research as part of the overall package. Recognizing that the Convention contains desirable elements, there were aspects which we do not like and which we only accepted in the negotiating context. At this stage, we do not believe that we need to take a formal position on these provisions of the Convention. Many of our non-seabeds interests are protected by the Convention even though the US does not sign it. To the extent they are not protected, we may be able to protect our interests through bilateral or regional approaches to the various issues rather than through the LOS Convention.

We are likely to find that in some instances, particularly in fisheries, we will want to continue to do things arguably not consistent with specific provisions of the LOS Convention. Specifically, we would want to maintain our requirement that foreign nations fishing off our coast provide us with commensurate economic benefits for US fishery interests. Further, we would want to maintain our positions on salmon and tuna to ensure the protection of these resources and our affected industries. We should seek to develop favorable conditions for conduct of US marine scientific research in foreign coastal waters, improving whenever possible on restrictive provisions of the Convention and being prepared to consider acceptance of coastal state jurisdiction over marine scientific research out to 200 miles in order to achieve this objective. The interested agencies will keep these and other related problems under review.

ISSUES FOR DECISION

There are five major issues: (1) whether the United States should sign the LOS Convention as adopted by the Conference; (2) when should that decision be made; (3) whether the United States should participate in the concluding phases of the LOS Conference or stay out; (4) should the United States sign the Final Act and participate in the Preparatory Commission; and (5) how should we deal with the possibility of improving the LOS Convention between now and the closing of the Conference in December.

Issue 1: Should the United States decide to sign the LOS Convention as adopted by the Conference?

A decision not to sign would (1) be consistent with the fact that the Convention does not meet any of the seabed objectives set forth in NSDD 20; (2) give us some chance of establishing an alternative seabed mining regime, even though that will be very difficult; (3) not

preclude our benefiting from some of the navigation provisions of the Convention, if the US is successful in influencing the practice of States in a direction consistent with the US interpretation of the text; and (4) be welcomed by those in Congress and industry who oppose the Convention.

The disadvantages of a decision not to sign are that if we are not successful in developing support for an alternative regime, the US (1) could find itself isolated in the law of the sea with few, if any, supporters; (2) would encounter substantial criticism and may possibly face an adverse International Court decision; (3) could well have no US-flag seabed mining industry; and (4) could face increased challenges to its exercise of navigation rights to the degree that the US acts inconsistently with the LOS seabed provisions. Staying outside the Treaty could also detract from our ability to benefit from provisions meeting our interests by maintaining they represent customary international law and would reduce US influence in the development of seabed mining rules and regulations (which may affect the availability of seabed minerals to world markets).

Issue 2: Should a decision on signing be made now or be deferred?

There is agreement that an early decision not to sign the Convention would be a clear signal that the Administration is adhering to the objectives embodied in NSDD 20; that countries already expect that the US will not sign; and that deferring decision would provoke some strong criticism from conservative and other elements opposed to the LOS Convention.

There is disagreement, however, on what effect an early decision and announcement will have on our efforts to conclude an RSA with our allies and eventually develop an alternative regime for deep seabed mining. Those favoring a decision not to sign now, and an announcement after consulting our allies on it, believe that this is the best way to counter pressures on our allies to accede to the LOS Convention and that it will not jeopardize our RSA efforts. Those favoring deferring a decision not to sign believe that our ability to wean our allies away from the Convention into an alternative regime will increase over time and that an early US decision and announcement will prematurely confront our allies with a choice in which they are more likely to embrace the Convention.

Issue 3: Should the US discontinue all further participation in the Law of the Sea Conference process or take part in the Drafting Committee and informal plenary and the Caracas Session?

The advantages of some participation are that it would (1) provide the most effective and possibly only means of assuring that no changes adverse to US interests were made in the navigation and other non-seabed text of the Treaty during the Drafting Committee and informal

plenary; (2) enable us to make interpretive statements on the text of the Treaty to counter adverse interpretive statements as a basis for legal arguments supporting US positions; (3) keep open the option of participating in or observing the process of developing rules and regulations, in which further precedents contrary to US interests could emerge; (4) suggest that the US remains committed to multilateral negotiations as a means of resolving international political, economic and legal issues; and (5) avoid the risk of incurring criticism for failure to protect US navigation interests.

On the other hand, refusal to participate in the Conference activities would clearly demonstrate US resolve not to associate itself with an agreement that contains elements inconsistent with important US principles and interests. Further, participation at any level by the US at these meetings would (1) be incorrectly seen by some as a weakening of our resolve not to accept the Convention; and (2) provoke criticism from conservative and other interests opposed to the Convention. Some question the value of interpretive statements to protect legal arguments.

There is again agency disagreement on what effects participation in these meetings would have on efforts to conclude an RSA and work toward an alternative seabed mining regime. Some believe that participation will impede achieving an RSA and make it more difficult for our allies to move toward alternative approaches. Others believe that not participating will highlight US differences with the Convention in a manner that could make it more difficult for our allies to join us in an RSA or, particularly, anything that smacks of an alternative regime.

Issue 4: Should the US sign the Final Act at Caracas and participate in the Preparatory Commission?

Signature of the Final Act authenticates the texts of the Treaty and resolutions adopted by the Conference; it is the normal diplomatic practice for states participating in a conference and does not prejudice a state's position regarding signature of the Treaty. Signature of the Final Act would allow the US to participate in the deliberations of the Preparatory Commission as a non-voting participant. On the other hand, signature might be misconstrued, particularly by domestic groups, as evidence of lack of resolve not to sign.

Participation in the Preparatory Commission, even in a non-voting capacity, could provide an opportunity to influence the drafting of the rules to govern seabed mining which will be applicable to US companies operating under foreign flag as well as foreign firms, thereby contributing to our ability to influence whether seabed minerals will be available to world markets. Of course the rules could not be inconsistent with the clearly unacceptable text even though some important problems could be mitigated. Participation would however, pose some of the same risks as those discussed in connection with participation in

the Drafting Committee and plenary. In particular, it could lead others to conclude that our policy toward the Convention is more than likely to change over the long-run.

Decision on this issue could be delayed until fall when we will have a better fix on our likely influence in LOS forums.

Issue 5: Should the United States encourage efforts to amend the text of the LOS Convention?

This is a false option.

Some other countries (e.g., France, New Zealand and Norway) have hinted that the LOS Convention may be amended in a few areas favorable to the US. Some individuals outside government have argued that US efforts now should concentrate on getting such changes. All agencies, however, believe that there is no chance of achieving US objectives, and that encouraging such activity could undercut our RSA efforts. The President's Special Representative for the Law of the Sea Conference believes that there is no chance for improving the Convention in any way and that exploring such "indications" would damage the US ability to achieve alternative arrangements.

163. Minutes of a Senior Interagency Group No. 8 Meeting¹

Washington, June 24, 1982, 11:30 a.m.

PARTICIPANTS

See List Attached²

SUBJECT

SIG Meeting on Law of the Sea, June 24

SUMMARY OF CONCLUSIONS

The SIG convened to discuss agency views and recommendations on the issues presented in the Report to the President on Law of the Sea.³ Chairman Buckley introduced a draft summary. The paper was discussed line by line. A number of clarifications were agreed to, particularly with regard to Issue 5. It was the chairman's view, supported

¹ Source: Reagan Library, Guhin, Michael A.: Files, LOS (Law of the Sea) Follow-On Review (4). Secret. Prepared on June 25.

² Attached but not printed.

³ See the attachment to Document 162.

by USUN and others, that both courtesy and tactics require some acknowledgement of the urgings of other governments, notwithstanding the SIG's negative assessment of their eventual usefulness to U.S. objectives. Interior and others expressed reservations that in case such offers yielded only partial results when measured against the President's six objectives, the U.S. would suffer in meeting its objectives through an alternative seabed arrangement. All participating agencies agreed the U.S. should strengthen high-level efforts to persuade key allies to remain outside the LOS convention and to participate with us in alternative seabed mining arrangements.

Responsibility for revising the paper was assigned to Mr. Guhin of the NSC and Mr. Salmon of State, with others invited to participate as well. Mr. Guhin announced that an NSC meeting on Law of the Sea was being considered for Tuesday, June 29.⁴

ACTION REQUIREMENTS

1. A drafting group was assigned to revise the paper according to the guidance developed in the SIG meeting.

2. The SIG undertook to circulate the revised paper for final inter-agency clearance. This was to be done the day of the SIG, with agency clearances requested the following day in time for the final paper to be conveyed to the White House by COB Friday, June 25.⁵

⁴ See Document 165.

⁵ See Document 164.

**164. Memorandum From the Executive Secretary of the
Department of State (Bremer) to the President's Assistant for
National Security Affairs (Clark)¹**

Washington, June 25, 1982

SUBJECT

Report to the President on Law of the Sea

Pursuant to the Department's memorandum no. 8216885 of June 16,² we attach a revised Report to the President on Law of the Sea expressing the issues for decision with agency views. The attachment was reviewed in the SIG meeting of June 24³ and cleared with the participating agencies. It is forwarded for consideration in the NSC meeting scheduled for June 29.⁴

L. Paul Bremer, III

Attachment

Paper Prepared by the Senior Interagency Group No. 8⁵

Washington, June 25, 1982

**Interagency Report on The Law of the Sea: Agency
Recommendations**

The SIG met on June 24 and reports the following agency views and recommendations on the issues presented in its report on the Law of the Sea of June 15. CIA has made no recommendation on the issues, but believes that the report, from an intelligence perspective, adequately describes the options facing the U.S. in the aftermath of the LOS negotiations. All interested agencies agree the U.S. should greatly strengthen efforts at the highest levels to persuade key allies to remain

¹ Source: Department of State, Central Foreign Policy File, P820094-1453. Unclassified. Drafted by Eskin and cleared by Salmon and Tompkins. Copied to Dyke, Wheeler, Cormack, Robbins, Stanford, Vitale, Russell, Stanley, Habicht, Searby, Johnson, Schneider, Anderson, Pickford, and Feldman.

² See Document 162.

³ See Document 163.

⁴ See Document 165.

⁵ Secret. There is no indication Reagan saw the report.

outside the LOS Convention and to participate with us in alternative seabed mining arrangements.

Issue 1: Should the United States decide to sign the LOS Convention as adopted by the Conference?

All interested agencies recommend against signing the LOS Convention as it fails to meet all of the objectives set by the President.

Issue 2: Should a decision on signing be made now or be deferred?

All interested agencies except Transportation recommend that the decision be taken as soon as possible and that it be publicly announced in advance of the LOS drafting session (July 12) and after appropriate consultation with our allies. Transportation recommends that the decision be deferred until we know better whether such action will drive our allies closer to the LOS Convention.

Issue 3: Should the U.S. discontinue all further participation in the Law of the Sea Conference process or take part in the Drafting Committee and informal plenary and the Caracas Session?

Interior, Labor and OMB oppose any further U.S. participation in the LOS Conference process. They believe that any benefits achievable are outweighed by the costs inherent in such participation; the Conference process has done little to respond to U.S. concerns in the seabed mining part of the Convention; we should not lend credibility to the process by continued participation; and any participation will be seen by some as a weakening of U.S. resolve not to accept the LOS Convention.

Defense, Treasury, Commerce, State and Justice, assuming a prior Presidential statement that the U.S. will not sign the Convention adopted by the Conference, favor continued participation in the process. They believe that participation in the Drafting Committee and the closing session in December is an effective means of (1) ensuring that no “technical” drafting changes, adverse to U.S. navigation and overflight, fisheries, and other non-seabed mining interests are included in the final text; (2) countering adverse interpretive statements that may be made at the closing session; and (3) they believe that the Presidential statement will counteract misinterpretation of U.S. participation. This participation would be at the expert technical level.

Transportation and USUN believe we should participate in the process whether or not there is a Presidential statement.

Issue 4: Should the U.S. sign the Final Act at Caracas and participate in the Preparatory Commission?

DOD, Interior, Energy, Justice, Labor, and OMB recommend against signing the Final Act and participating in the Preparatory Commission. They believe that little if any advantage is to be gained by such action and that it could be misinterpreted by some as a weakening of U.S. resolve not to accept the LOS Convention.

Treasury, Commerce, Transportation, State and USUN recommend that this decision be deferred until a time closer to the Caracas session when we will be in a better position to judge the best course of action.

Issue 5: Should the United States encourage efforts to amend the text of the LOS Convention?

Treasury, Interior, Energy, OMB, Justice and Labor oppose U.S. steps to encourage efforts to amend the text. They believe that such efforts will fall short of U.S. objectives, could be misread by some as a U.S. willingness to sign a slightly altered Convention now or in the future, and could detract from our efforts to get an alternative seabed mining arrangement.

Defense recommends that the U.S. take a neutral position, neither encouraging or discouraging such initiatives.

Commerce believes the U.S. should, under certain circumstances, encourage efforts to amend the text in a manner that would not compromise U.S. objectives. It may be that there is "no chance of achieving U.S. objectives", but we should be prepared to exploit the possibility, however slim, that the Convention could be changed to accommodate our interests in fostering the development of deep seabed resources by US-flag consortia. By all current indications, Commerce believes, the U.S. now stands in the worst conceivable position with respect to its previously identified interests in the deep seabeds: the Convention as adopted does not meet our objectives; and a viable alternative regime acceptable to U.S. mining interests appears unachievable.

Given the current disinclination of other potential seabed mining states to join in an RSA, as well as their assertion that U.S. seabed interests can still be met in the treaty, State and USUN believe that we need better knowledge of the facts in order to determine what approach will secure maximum support for U.S. seabed objectives before deciding this issue.

Transportation supports both the Commerce and State positions, believing these views to be mutually complementary.

165. Minutes of a National Security Council Meeting¹

Washington, June 29, 1982, 11 a.m.–noon

SUBJECT

Law of the Sea

PARTICIPANTS

The President

The Vice President

State

Deputy Secretary Walter J. Stoessel

Under Secretary James L. Buckley

Treasury

Secretary Donald T. Regan

Mr. Marc E. Leland

OSD

Deputy Secretary Frank C. Carlucci

Dr. Fred C. Ikle

Justice

Attorney General William French Smith

Interior

Secretary James G. Watt

Commerce

Secretary Malcolm Baldrige

Labor

Secretary Raymond J. Donovan

Transportation

Secretary Andrews L. Lewis, Jr.

Energy

Deputy Secretary W. Kenneth Davis

CIA

Mr. William J. Casey

OMB

Mr. William Schneider

USUN

Mr. Kenneth Adelman

JSC

General John W. Vessey, Jr.

¹ Source: Reagan Library, Executive Secretariat, NSC: Meeting File, NSC 00054 29 June 1982 (1). Secret. Sent to Poindexter under a July 13 covering memorandum from Guhin. The meeting took place in the Cabinet Room at the White House.

CEA
Mr. Murray Weidenbaum

OPD
Mr. Ed Harper

LOS Representative
Mr. James Malone

White House
Mr. Edwin Meese III
Judge William P. Clark
Mr. Richard G. Darman
Adm John M. Poindexter

NSC
Mr. Michael Guhin
Col Michael Wheeler

MINUTES OF MEETING

Mr. Clark outlined the areas of consensus—on not signing the LOS convention and on trying to get some allies to come along with us—and the issues for consideration:

1. Should we decide not to sign the convention now or later?
2. Should we participate in the remaining conference process?
3. Should we encourage improving the convention?

He asked State for its assessment of the chances for getting some alternative deep seabed mining arrangement outside the convention.

Deputy Secretary Stoessel noted that the chances do not look good. The FRG is waivering; the UK is uncertain but might go along; Japan and France are negative. He said we should make an effort to see if key allies will come along with us, and we should also make a last effort with allies to see if improvement in the convention is possible.

Mr. Casey asked about the views of industry, particularly the deep seabed mining consortia.

Mr. Malone noted that some are very interested in and want an alternative to the LOS convention.

Mr. Meese said that we need to take a more aggressive posture, use whatever leverage possible toward an alternative arrangement, and get there first outside the convention. The more aggressive we are, the more others may reconsider their interests in the convention. We should not accept mining under the convention as inevitable but try to shape the future.

Secretary Watt supported that.

Mr. Clark noted that the first issue concerns whether to make the decision now or later on signing the convention.

Secretary Lewis said that the convention has some value and provisions of interest to us, and we should be in the rest of the process

rather than have it go ahead without us. He added that we should try to improve the present convention and that a decision against signing now could hinder or impact adversely on that process.

Deputy Secretary Stoessel said that we should say soon that we do not plan to sign and certainly before the Drafting Committee in July. This would not preclude a further effort to improve the convention.

Secretary Lewis said he agreed on timing.

The President summarized the consensus that we should make the decision now on not signing the convention but not release a statement until we consult with our allies.

Mr. Clark turned to the issue of whether the US should participate in the remaining conference process.

Deputy Secretary Stoessel said that we should continue to participate but at the expert level.

Mr. Adelman supported participation in the Drafting Committee.

Deputy Secretary Carlucci said we should take part.

Secretary Watt opposed any participation in the process.

Secretary Donovan also opposed any participation on grounds that it would be unproductive and send a wrong signal.

Attorney General Smith supported State on participation, but added that it all relates to where we are on an alternative arrangement: if we are to participate, we should make clear our fundamental position against the deep seabed mining parts of the convention.

Secretary Baldrige said that a statement against signing will avoid any misreading of our intention. The benefit of participation may not be big, but we should be there to protect our interests in non-seabed provisions, including our important interests in not having the convention interpreted or changed in a way that would conflict with our law on fisheries. We have nothing to lose by participation.

Secretary Lewis concurred with State.

Mr. Schneider said that some would see participation as undermining our rejection of the convention.

Mr. Meese asked whether participation could be limited to the non-seabed portions of the convention and whether we could make that clear. He said that we will not get improvements in the convention anywhere near meeting the President's six objectives.

Mr. Malone said that such participation would be possible and would be essentially in a defensive posture on the non-seabed portions. This would avoid giving any wrong signals.

Deputy Secretary Davis said we should decide now on signing and then participate in the process. Of the areas to protect, oil rights are also important.

Secretary Regan said we should keep technical people there.

Mr. Casey agreed.

Mr. Harper supported *Mr. Meese* on how to avoid giving a wrong signal while still being able to monitor the situation.

Mr. Casey asked what US seabed miners will do.

Secretary Baldrige said that most US deep seabed miners will probably go under a foreign flag if the convention comes into force with key countries.

Secretary Lewis supported that view.

Mr. Weidenbaum said that others may get confused signals as that was what he was getting.

Mr. Meese supported participating in the process in a defensive mode but not in the deep seabed mining area.

Secretary Watt agreed and also said that we should not seek improvements in the convention.

Mr. Buckley confirmed that there will be no license to seek changes at the upcoming conference meetings.

General Vessey said we should participate.

The President asked about the implications of our refusal to sign on deep seabed mining and whether we could then go ahead outside the convention.

Mr. Meese said we would not be bound by the convention but it may become customary international law.

Mr. Darman agreed that the risk is that the convention will become customary international law in this sense as well and, if so, that would be enforceable in a US court. We have no practical choice of going it alone; we need a treaty or another group.

Mr. Malone said there are problems to getting an alternative regime but that is our only hope.

Attorney General Smith clarified that if we have not agreed, then US citizens are not bound in except in narrow circumstances.

Secretary Watt said mining firms would be very reluctant to go ahead outside the convention if it became customary international law.

Attorney General Smith agreed that would create uncertainty and such firms would be cautious.

The President summarized the consensus—that we should not sign the convention but should continue participation at a technical level to protect our interests in a defensive posture—and asked at what point we talk about seabed mining with our allies.

Mr. Meese said that there would be no participation in the seabed mining area at all and that he believes the regime will fall on its own weight. He outlined the agreed approach.

Deputy Secretary Stoessel supported seeking to improve the convention.

Mr. Meese disagreed and said that we should not hold out a false hope of improvements or signing if we got them since there is no chance of getting changes meeting the six objectives. We would send mixed signals by seeking or encouraging changes.

Mr. Malone said the chances for changes are slight and we should not prejudice chances for an alternative arrangement.

The President noted we should try to persuade our allies to join us.

Mr. Malone said we could ask our allies about improvements and then see, and do that at one round at the highest level.

Secretary Watt disagreed.

Mr. Buckley said the FRG, Canada, Australia, New Zealand and Norway believe changes can be made and, as a courtesy, we should at least go back to them to see if they can show us that. The gesture will improve our capacity to show them the problems in the convention and the bases for a Reciprocating States Agreement.

Mr. Meese questioned whether this thinking got us where we are in the first place. He said it will not change one item and any hope for us is not with the convention but in getting our allies to join with us in an alternative arrangement. We need to cut the convention idea off right now. Our allies will respect us.

Mr. Adelman said we have two agreed tracks: expert level participation in the process and political approaches toward an alternative arrangement.

Deputy Secretary Carlucci supported *Mr. Meese*.

The President said that *Mr. Adelman* stated it accurately—we should try to convince others to join us in not signing. If that fails, others will go without us.

Mr. Clark introduced the issue on signing the Final Act and participation in the Preparatory Commission.

Secretary Watt said we will need to persuade our allies not to sign the convention as their tendency will be to sign.

Mr. Meese said that the Final Act is a technical question and we can sign it without prejudicing anything.

The meeting ended at noon.

166. Memorandum From the Deputy Ambassador to the United Nations (Adelman) to the Counsellor to the President (Meese)¹

Washington, June 29, 1982

RE

Law of the Sea Treaty Follow-Up

As we discussed after the NSC meeting,² the LOS follow-up should consist of a) high-level political Presidential emissary; and b) a strong, clear Presidential statement of principle.

A. Presidential Emissary

This should be a former Cabinet officer of high stature who can speak to Heads of Governments, and not LOS experts. The former do not know much about the LOS Treaty and do not like what they know. The latter (experts) are hopeless; they have been negotiating this thing for ten years and cannot be reached.

The emissary should be direct from President Reagan (photo beforehand in the paper is necessary) who will discuss only the *alternatives to LOS Treaty* and *not* improvements therein.

Finally, the emissary should concentrate on countries which abstained on the UN vote over LOS or voted no, such as Britain, Italy, Belgium, Germany, Thailand, Turkey, Venezuela.

B. Presidential Statement

The Administration was clobbered on the infant formula controversy,³ even though we had the legal *and* health arguments in our favor. We must not take tremendous heat on LOS for nothing. Our statement must be simple, clear, and of principle.

This can do considerable good, since we have a strong case and are not alone. The countries voting "no" or abstaining in the UN vote are small in number (21) but big in power. They consist of 60% of the world's GNP and 64% of contributions to the UN.

Points to be made in the statement:⁴

¹ Source: Reagan Library, Meese Files, Law of the Sea. No classification marking.

² See Document 165. No record of a discussion after the NSC meeting has been found.

³ Reference is to a 1981 vote regarding a proposed UN code outlawing the promotion of infant formula.

⁴ For text of the July 9 statement, see *Public Papers: Reagan, 1982*, Book II, pp. 911–912.

1. The US is not against the LOS Treaty. We are simply but strongly against the sea-bed mining provisions of it, and thus cannot sign.

2. We are against *these* provisions primarily because they go *against economic development*. The Treaty has a bias against production (by production limits and up to 70% tax rate on net receipts). They discourage the creation of new wealth, which we support more than the distribution of existing wealth.

3. These provisions *dampen creativity and ingenuity*. The mandatory transfer of technology goes against our Constitutional guarantees of patents and protection of scientific discovery. Those who invent and create must instantly share the fruits of their labors with those who do not.

4. The LOS Treaty amendment procedure is *blatantly unconstitutional*. The Treaty can be amended in 20 (or 25) years without any further Senate ratification. In essence, we would be signing away Senate prerogatives by signing this treaty.

5. The Treaty manifests the infuriating and unnecessary *politicization of international organizations*. For it provides income to the PLO and SWAPO and other so-called liberation movements. The PLO, SWAPO, et al. are not experts at deep-sea mining, nor should they reap the benefits thereof.

6. The “common heritage of mankind” in this Treaty has the *exact opposite meaning* given that phrase by its founder, John Locke. He believes that potential wealth (deer, fish, or minerals) were owned by everyone *until* an individual mixed his labor with that non-owned entity, at which time it became his private property. (See *Second Treatise of Government*.)⁵

7. Some businesses are pleased with the Treaty and others are not. The President made his decision in spite of some businesses who wanted him to sign. The Administration is *not doing this for commercial reasons* in support of *big business* but for *principled reasons* in support of free enterprise, initiative, and risk-taking.

8. Those saddest with the decision will be, not parts of mankind who will benefit from US and others exploration and exploitation in the future, but that small part who has made this negotiation a career.

The easiest way to kill the entire project would be to mandate that no-one who was in the negotiating process can be employed by the Enterprise or the Authority. This *massive, international bureaucracy* in sea-bed mining stands in direct contrast with other parts of the Treaty

⁵ Reference is to *Two Treatises of Government* by John Locke.

on navigational rights, overflight, pollution, etc. which have no gigantic machinery.

This brings us back to the start. We have to reject the entire LOS Treaty although we object only to its sea-bed mining parts.⁶

⁶ At the bottom of the page, Adelman wrote: "Ed—I'll be happy to help draft, but this should be the guts. Ken."

167. Action Memorandum From the Assistant Secretary of State for Economic and Business Affairs (Hormats) to the Acting Secretary of State (Stoessel)¹

Washington, July 2, 1982

SUBJECT

British Concern Over Impending U.S. Announcement not to Sign Law of the Sea Treaty

We just received an urgent phone call from Rodric Braithwaite, Commercial Minister at the British Embassy. The British have heard that the President is expected to announce soon that the U.S. will not sign the Law of the Sea (LOS) Treaty as adopted in New York in April. He told me in strong language that if, in addition to our many outstanding problems, the U.S. were to do so before *real* consultations had been held, "the fat will be in the fire." When we asked whether the cause for British concern was the expected lack of consultations or the decision itself not to sign, Braithwaite gave an unclear answer, but again emphasized the necessity for consultation, as, he claimed, Secretary Haig had agreed with the British State Secretary in May.²

Our understanding is that the President's announcement has been drafted in the White House and is scheduled to be released as early

¹ Source: Department of State, Marine Law and Policy Division, Subject and Country Files, Law of the Sea, 1982–1983, Lot 85D105, Law of the Sea—6. Confidential. Drafted by Calingaert and cleared in EB, EUR, and OES/Malone.

² In telegram 143558 to London, May 26, the Department transmitted a letter from Haig to Pym, which stressed, "It is more important than ever before that our governments continue to work closely together in the next few weeks in charting our future course of action on oceans matters. Our representatives should consult before any final decisions regarding the treaty are taken, so that our shared interests can be fully taken into account." (Department of State, Central Foreign Policy File, D820273–1031)

as Tuesday.³ On the same day we are scheduled to host a meeting of the CG–5 (UK, FRG, France and Japan), at which time we assume we would advise them of our decision and seek to lay the groundwork for the development of an alternative regime. We also understand, however, that we are in the process of cancelling the CG–5 meeting because we would be unable to consult (as opposed to inform) about our decision on the Treaty and we are not yet prepared to lay out our ideas on an alternative regime.⁴

We suggested to Braithwaite that since the matter is now in the White House's hands he might have his Ambassador get in touch with Judge Clark to pass on their message. The British will also speak to you.⁵

Recommendation:

That you call Judge Clark to urge that the President delay the announcement until we have had the opportunity to consult with our allies and digest the results of those consultations, i.e. presumably until the week of July 12. Talking points are attached.⁶

³ July 6.

⁴ In telegram 14347 from Bonn, July 3, the Embassy reported on West German reaction to the postponement of the July 6 RSA talks. (Department of State, Central Foreign Policy File, D820347–0554)

⁵ In telegram 187656 to London, July 7, the Department transmitted a British *dé-marche* requesting postponement of the U.S. announcement. (Department of State, Central Foreign Policy File, D820352–0324)

⁶ Attached but not printed. There is no indication of approval or disapproval of the recommendation. Following the recommendation, an unknown hand wrote: "Handled by Bremer-Clark memo." In a July 3 memorandum to Clark, Bremer wrote: "The Department of State recommends that, if agreeable to the White House, there may be some international benefits in postponing the Presidential announcement on Law of the Sea by not longer than one week to enable us to inform the allies about the President's decision on LOS during the week of July 5." (Reagan Library, Guhin, Michael A.: Files, 07/01/1982–07/02/1982) President Reagan made his announcement on July 9. (*Public Papers: Reagan*, 1982, Book II, pp. 911–912)

168. National Security Decision Directive 43¹

Washington, July 9, 1982

UNITED STATES LAW OF THE SEA POLICY

I have reviewed the interagency report on Law of the Sea issues forwarded by the Department of State on June 16² and noted that while the navigation, overflight and most other provisions of the Law of the Sea Convention are acceptable and consistent with United States interests, the deep seabed mining part of that Convention does not meet any of the United States objectives set forth in NSDD 20 of January 29, 1982. (C)

Having considered the report and views and recommendations of the interested agencies, I have decided that:

- The United States will not sign the Convention as adopted by the Conference on April 30. (U)

- With respect to deep seabed mining, the United States will substantially increase its international efforts and focus them exclusively on the objectives of having our allies and, as appropriate, other countries not accept the deep seabed mining regime in—and thus not sign or ratify—the Convention and of establishing an alternative arrangement to that regime. (C)

- The United States will participate at the technical level in the remaining Conference process: namely, the Drafting Committee in July–August, the Informal Plenary in September, and the Caracas Session in December (including signing the Final Act). This participation will be limited to the non-seabed mining provisions of the Convention to protect U.S. interests and will not extend to the seabed mining part. (U)

- The United States will not participate in the Preparatory Commission. (U)

The Department of State, in coordination with the interested agencies and the NSC, OMB and OPD staffs, will prepare an action plan with specific steps and objectives for United States efforts to establish an alternative deep seabed mining arrangement outside the Convention.³ Near-term actions, including possible intervention at the highest levels, should be forwarded for consideration within two weeks. If longer-

¹ Source: Department of State, Central Foreign Policy File, P820120–0322. Confidential.

² See Document 162.

³ See the attachment to Document 171.

term actions are not included in the initial report, they should be forwarded by August 31. (C)

The Department of Defense, in conjunction with the Departments of State and Transportation and the NSC staff, will review the United States navigation and overflight program focusing on protecting United States rights and directing the practice of states toward the U.S. interpretation of the navigation and overflight provisions of the Law of the Sea Convention. This report and recommendations regarding the future nature, scope and procedures for the program should be submitted for consideration by July 30.⁴ (C)

Ronald Reagan

⁴ See footnote 9, Document 162.

169. Telegram From the Embassy in Belgium to the Department of State¹

Brussels, July 23, 1982, 1145Z

9924. From RSA Del for OES DAS Klonmiller, EB DAS Calingaert, L Robinson, Dept pass Commerce NOAA/GC. Geneva pass drafting committee Rep Asher. Subject: Reciprocating States Arrangements.

1. Confidential—Entire text.

2. Consultations were held July 21–22 among US, UK, FRG and French Reps to review draft agreement concerning interim arrangement relating to polymetallic nodules of the deep seabed.

3. Text of agreement, not including schedule and annexes, as developed during these negotiations, is contained in para 12 below. Full draft text will be brought to Washington July 23 by US Del member Mary McLeod. With exceptions noted below, there is virtual agreement on text on schedule and annexes and no controversial issues remain.

¹ Source: Reagan Library, Guhin, Michael A.: Files, LOS (Law of the Sea) Reciprocating States Agreement (4). Confidential; Immediate. Sent for information to Bonn. Sent to USUN Geneva, London, and Paris. Printed from a copy that was received in the NSC Message Center.

4. Except for para 8(1)(C) of Part I (see para 10 below), UK, France and FRG Del were close to ad referendum agreement on text of agreement. UK could probably agree to text as is or to any reasonable compromise acceptable to others. If solution to para four of agreement is found, FRG will probably agree to text essentially along lines contained para 12 below. France has reserved on several articles and may seek further changes, but except for para four of agreement, all French problems seem capable of quick resolution.

5. Main problem during negotiations—and only serious outstanding issue—has been French-FRG insistence on provision that no RSA could enter into force prior to beginning of January 1983. French-FRG aim has been to prevent US from negotiating RSA with another country (read UK) which would enter into force prior to December Caracas LOS meeting.² (During course of negotiations, French/FRG attempted to block us even from concluding RSA during next few months but gave that effort up in face of strong US and UK opposition.) In proposed text, France and FRG would agree to accept in a formal public document possibility of negotiating RSA with US between now and January 1, 1982. This, they have argued, keeps door for RSA open and does not close options for any party. French and FRG Dels repeatedly expressed concern that US might pressure them to conclude RSA in near term before they have completed their LOS review. This, they allege, could drive them into LOS Treaty. In return for postponing such pressure until 1983, they will agree to consult with us before announcing any decision on LOS as well as accepting publicly possibility of negotiating an RSA with US.

6. US Del expressed strong objection to this approach. US Reps attempted to delete provision, to move up date before which RSA could not enter into force (e.g. December 1982) or to make commitment reciprocal by requiring other parties to agree not to take any action on LOS Treaty during same period. All US efforts to delete or amend this provision met very strong opposition from French and FRG Reps. US Del agreed to submit text of paragraph four to Washington for review but did not agree to text even on ad referendum basis.

7. Comment. In US Del view, if US agrees to provision contained in para four of agreement (see below) or along these lines, it would be possible to conclude agreement quickly. All other outstanding issues can probably be resolved. On other hand, if US insists on deletion or significant change in para four, such as changing January 3 date, it

² The concluding sessions for the treaty were moved from Caracas to Montego Bay, Jamaica.

seems likely that FRG and France will refuse to sign. US Del recognizes that such provision would substantially reduce value of agreement. End comment.

8. French have so far reserved on para five of the agreement. French may also wish to add provisions requiring parties to implement results of private industry arbitration procedures. US Reps pointed out US difficulties with this approach and French may not insist. French and Germans have insisted on six months denunciation clause (para eleven of agreement). US asked for thirty day clause. We expect that this issue can be resolved if, and when, para four is settled.

9. Agreement contains no accession clause. French Rep pressed for limiting parties to US, FRG, UK and France. FRG, with US support, urged that potential parties include Italy, Belgium, Japan and Netherlands and, possibly, Canada. We expect France ultimately to agree to this view.

10. Para 8(1)(c) of Part I (application procedures) has not been agreed upon. US Del proposed that provision read that each party shall accept amendments to applications to which agreement applies only if amendments are filed between July 23 and October 15, 1982, consistent with US regulations. Other dels argued strongly that October 15 date was too early and later date should be substituted or deleted.

11. Group of Four will meet in Geneva on Monday, July 26 at 10:00 a.m. in attempt to reach agreement on a text which can be given to likeminded July 27.³ If agreement on text can be reached next week, all four countries will undertake to complete internal review and processing of agreement as expeditiously as possible, aiming toward signature by end of August at latest. It was clear that FRG and France, in particular, wish to avoid signing agreement too close to LOS September plenary.

12. Following is text of draft agreement.

Begin Text

The parties to this agreement:

—Having regard to investments made in exploration, research and other pioneer activities relating to the polymetallic nodules of the deep sea bed;

³ In telegram 7771 from Geneva, July 28, USUN reported on the July 27 negotiating session. (Department of State, Marine Law and Policy Division, Subject and Country Files, Law of the Sea, 1981–1982, Lot 92D622, 50.12–Background—Sept 2 Agreement) [C] In telegram 7733 from Geneva, July 27, USUN transmitted the text that the U.S., British, West German, and French delegations had agreed upon. (Department of State, Central Foreign Policy File, D820389–0709)[U]

—Noting the adoption by the Third Nations Conference on the Law of the Sea of a Convention on the Law of the Sea and of a resolution governing preparatory investment in pioneer activities relating to poly-metallic nodules prior to the entry into force of the Convention on the Law of the Sea, and the provision of that resolution concerning resolution of conflicts among pioneer operators;

—Recalling the interim character of legislation with respect to deep sea bed operations enacted by certain parties;

—Desiring to make appropriate provisions for avoiding overlaps in the areas claimed for future pioneer activities in the deep sea bed and to ensure that, during the interim period, such activities are carried out in an orderly and peaceful manner;

—Emphasizing that this arrangement is without prejudice to the decisions of the parties with respect to the Convention on the Law of the Sea adopted by the Third Nations Conference on the Law of the Sea;

—Desiring also to avoid any discrimination among parties in the implementation of this agreement;

—Desiring further to ensure that adequate areas containing poly-metallic nodules remain available for operations by other states and entities in conformity with international law;

Have agreed as follows:

1. The object of the present agreement is to facilitate the identification and resolution of conflicts which may arise from the filing and processing of applications for authorizations made by pre-enactment explorers (PEES) on or before 12 March 1982 under legislation in respect of deep sea bed operations enacted by any of the parties.

2. In the case of a conflict between the areas claimed in such applications, the parties shall afford the applicants adequate opportunity, and shall encourage them, to resolve such conflict in a timely manner by voluntary procedures.

3. The parties with whom the applications for authorizations have been made by PEES on or before 12 March 1982 shall follow the procedures set out in Part I of the schedule hereto in respect of applications to which this agreement applies.

4. The parties shall consult together:

(A) With a view to coordinating and reviewing implementation of this agreement;

(B) Before issuing any authorization under their respective laws relating to deep sea bed operations;

(C) In regard to consideration of any arrangement to facilitate mutual recognition of such authorisations, it being understood that any such arrangement shall not enter into force before January 1, 1983.

(D) Before entering into any other bilateral or any multilateral arrangement between themselves or any arrangement with other states, with respect to deep sea bed operations.

5. In the event that any two or more of the parties enter into an agreement for the mutual recognition of authorisations granted under their respective laws in respect of deep sea bed operations, the parties concerned shall when necessary apply the procedures and impose the requirements set out in Part II of the schedule hereto.

6. To the extent permissible under national law, a party shall maintain the confidentiality of the coordinates of application areas and other proprietary or confidential commercial information received in confidence from any other party in pursuance of cooperation under this agreement in accordance with the principles set out in Part III of the schedule hereto.

7. The parties shall settle any dispute arising from the interpretation or application of this agreement by appropriate means. The parties to the dispute shall consider the possibility of recourse to binding arbitration and, if they agree, shall have recourse to it.

8. The schedule hereto is an integral part of this agreement and Part IV thereof shall apply for the interpretation of this agreement.

9. This agreement may be amended by written agreement of all the parties.

10. This agreement shall enter into force upon signature.

11. Any party may denounce this agreement by notice on six months notice and by deposit to the government of the United States of America.

[12.] Done at Washington in the English, French and German languages, all three texts being equally authentic, in a single copy which shall be deposited in the Archives of the Government of the United States of America, which will transmit a duly certified copy to each of the other signatory governments.

End text.

13. Action requested. Please provide guidance in particular on para four issue. Such guidance should, if possible, be received at US Mission Geneva by opening of business July 26. USDel feels that final FRG-French position on para four is on table. We note French have now modified position to some degree and made some concessions. It is view of USDel that French will not move further on substance. Dept. should decide therefore, whether an agreement as set out above is worth written commitment not to have reciprocity agreement enter into force before January 3, 1983.

Price

170. Memorandum From the Under Secretary of State for Political Affairs (Eagleburger) to Secretary of State Shultz¹

Washington, August 5, 1982

SUBJECT

Law of the Sea

You have recently received a proposed “action plan” on Law of the Sea (LOS)² which calls for direct Presidential involvement in trying to get our allies to stay out of the LOS Convention. My own strong feeling is that the President should not spend his political capital on this issue at present for three reasons:

—There are too many other things on the plate (e.g., sanctions, steel, grain, arms control); neither our LOS interests nor our other interests will be helped by adding further to the existing load.

—We have not come up, even in our own minds, with a clear conception of what an “alternate regime” will look like. Ideally it would maintain all of those aspects of the LOS Convention which we do not oppose (e.g., navigation and overflight rights, fishing, continental shelf, territorial waters, pollution control, etc.), while writing new rules for deep seabed mining which would suit us. At this point, we have barely addressed the legal and political implications of such an effort, and to drive it with Presidential horsepower now seems premature at best.

—It won’t work anyway and it’s not worth the cost. Most of our allies have already said that they do not intend to oppose the LOS Convention. Several have voiced serious problems with some parts of it, but on balance believe that being a part of the international regime is preferable to being outside it. Besides disagreeing on substance, they disagree on procedures and feel that we did not consult adequately and showed unnecessary haste in announcing that we would not sign.

The action plan also recommends that we send a “special presidential envoy” to meet at high levels with allied governments. His objective would be to urge others to defer a decision on signing the Convention and to keep open the option of joining us in an “alternate regime” later. I think this is a good idea and, depending on how his instructions are written, the emissary could help in the consultation process and

¹ Source: Department of State, Marine Law and Policy Division, Subject and Country Files, Law of the Sea, 1982–1983, Lot 85D105, Law of the Sea—6. Confidential. There is no indication that Shultz saw the memorandum.

² In an undated memorandum to Shultz, Horner submitted a draft action plan. A stamped notation, dated August 3, indicates that Shultz saw it. (Reagan Library, Papers of George P. Shultz, Law of the Sea)

in formulating our future policy steps. I think Jim Buckley would be an ideal envoy. He has dealt with LOS since the early days of the Administration, he has outstanding political sense, and he knows the Europeans.

Lawrence S. Eagleburger³

³ Eagleburger initialed "LSE" above his typed signature.

**171. Memorandum From Secretary of State Shultz to
President Reagan¹**

Washington, August 10, 1982

SUBJECT

Law of the Sea

I am transmitting herewith the proposed action plan for US efforts to establish an alternative deep seabed mining regime, as decided upon by the designated Interagency Group (IG). I agree with the IG's recommended action plan except for the recommendation that you personally initiate contacts with other governments on the action plan.

I believe that you should not become involved at this initial stage because we want to reserve your intervention and capital for later stages in the LOS dialogue and for other major issues. I will urge our allies not to make premature commitments to sign the LOS Convention pending the arrival of a special U.S. emissary in early September.

I recommend that Under Secretary of State Jim Buckley be chosen as your emissary because of his familiarity with LOS issues and with the European leaders he would be calling upon, and because his rank will help underscore presidential interest in the issue.

¹ Source: Reagan Library, Papers of George P. Shultz, Law of the Sea. Confidential. There is no indication on the memorandum that Reagan saw it.

Attachment

Paper Prepared in the Department of State²

Washington, undated

Law of the Sea Policy Action Plan to Establish an Alternative Deep Seabed Mining Regime

NSDD 43 directs the Department of State, in coordination with the interested agencies and the NSC, OMB and OPD staff, to prepare an action plan to establish an alternative deep seabed mining arrangement outside the Law of the Sea Convention.³ Following are the recommendations on near-term actions to establish such an arrangement.

All concerned agencies recommend that we initiate this plan of action immediately.

Our short-term objectives would be to:

- dissuade our allies from making or announcing a decision to sign the LOS Convention or other action that would prejudice our ability to work out an alternative seabed mining arrangement and, most importantly, not to make any commitment to ratify the LOS treaty.
- engage in a dialogue with our allies and possibly other countries on the serious problems in the LOS seabed mining regime and, thus, the need for and benefit of an alternative regime; at the same time, elicit their concerns about protection outside of the LOS Convention of their other oceans interests.

Our longer-term objective is to convince our allies and other nations not to ratify the LOS treaty but, instead, to join us in an alternative regime.

If we are to achieve our objectives, the President must be involved in this effort. Head of government to head of government contacts are vital to initiate the action plan and may be necessary again as we implement it. A presidential communication to London, Bonn, Paris, Rome, Brussels, The Hague, and Tokyo should be made as soon as possible. This message would underscore the serious problems of the LOS treaty and forecast the arrival of an emissary.

A presidential envoy would be sent to foreign capitals in early September. He should be of high rank and be prepared to discuss these

² Confidential.

³ See Document 168.

matters with foreign officials of ministerial rank. The envoy would: be prepared with instructions and supporting materials appropriate to the political level contacts he will make; seek to obtain a political commitment from our allies to defer decisions on signing the LOS treaty while we explore means of satisfying our law of the sea interests outside of the LOS treaty; outline our problems with the LOS seabed mining regime and our proposals for an alternative deep seabed mining regime; emphasize that such a regime, if widely accepted by the seabed mining states, would create a viable legal and practical alternative; and sound out their concerns on non-seabeds LOS issues to enable us to focus clearly our subsequent contacts. After the emissary's initial visits, further consultations would include appropriate LOS experts.

The emissary should initially visit the Federal Republic of Germany, the United Kingdom, France, Japan, Belgium, Italy and the Netherlands. A second tier of countries might, subsequently, be approached by the same or another appropriate emissary.

By August 14 the preparatory work for the presidential communication and emissary visits will be completed. This would include:

- a draft communication from the President;
- instructions for the emissary with talking points; and
- background material appropriate for the political nature of the emissary's contacts. This paper will include an outline of an alternative regime and background to enable the emissary to sound out the concerns of the allies on non-seabed issues.

Within this period, suggestions on the emissary will be forwarded to the White House.

During the implementation of this action plan we must take advantage of the Secretary of State's and other cabinet officers' contacts with their foreign counterparts to press our LOS concerns. This effort should be coordinated carefully to ensure that cabinet officers are prepared properly and their contacts used to our fullest advantage.

172. Memorandum From William P. Barr, Office of Policy Development, Executive Office of the President to the Counsellor to the President (Meese) and the Assistant to the President for Policy Development, Executive Office of the President (Harper)¹

Washington, August 17, 1982

SUBJECT

Law of the Sea Strategy

The State Department is now recommending that we take a low profile/business-as-usual approach in our diplomatic efforts to wean our allies away from the LOS Treaty and into an alternative regime.² This recommendation directly conflicts with the views of all other interested agencies; arises from intensive maneuvering by pro-Treaty bureaucrats at State Department; and, if adopted, would result in utter failure.

Aggressive, High-Level Diplomatic Action Is Essential

It was the *consensus of the Interagency LOS Group* that, though it would be difficult, *we stood a fair chance of achieving an alternative regime if we made it a high priority and pursued it forcefully and at high level*. Political appointees in the State Department's bureau directly involved in LOS negotiations agreed with this assessment. The IG recommended that (1) the President directly contact allied leaders and (2) send a special Presidential envoy (such as Donald Rumsfeld) to start discussions about an alternative regime with the allies.

This approach is considered *essential for three reasons*:

1. It will make it *unambiguously clear to our allies that this is a high priority and of special importance to the President*.

2. It will *elevate the issue to the political level and out from the clutches of diplomatic bureaucracies that are hostile to the President's position*. The professionals in allied Foreign Ministries (and, to an extent, in our own State Department) either support the Treaty or want to remain in the Treaty process. As long as we continue dealing at the agency-to-agency level, our allies will continue to drift toward the Treaty. The head of the British delegation told his U.S. counterpart that as long as the Foreign Ministry controlled the issue, Britain would accept the Treaty, but that, if President Reagan intervened directly with Thatcher, he

¹ Source: Reagan Library, Meese Files, Law of the Sea. No classification marking.

² See Document 171.

expected that Britain would stay out.³ Businessmen in allied countries likewise tell us that their Foreign Ministries are trying to guide their government's policy inexorably toward the Treaty. We must act decisively and cut through this process.

3. It is the *best way to engage the allies in discussions leading to an alternative regime*. For weeks, State Department officials have been dealing with their counterparts and are getting nowhere. We must get the allies engaged in a planning process that leads to an alternative regime. We must get the hook in their mouth. A Presidential call and a visit by a special envoy are the best ways to get this started.

The State Department's Recommendation Is Without Merit

The State Department's recommendation to avoid high-level activity is based on three arguments: (1) that "too many other things are on the plate"; (2) that we should wait until we have fully developed an alternative; and (3) that "it won't work and it's not worth the cost". None of these arguments have merit.

1. The foreign policy plate is always full. This does not mean that we can stop forcefully pursuing important strategic interests. If we treat LOS as a low priority, as suggested by State, the President would become isolated from the rest of the world on this issue. This would not be politically good for the President nor strategically good for the nation. It is clear to me from direct observation that the bureaucrats who have been making the "full plate" argument within the State Department would like the U.S. to become isolated so that a future Administration will join the Treaty. We cannot let this happen. Constructing an alternative regime must become a high priority.

2. The argument that we should wait until we have every jot-and-tittle of the alternative worked out is totally off-the-mark. The fact is that we already have a good idea what kind of alternative regime we want. There is no need at this stage to fill all the gaps and set it into concrete. Just the opposite. The whole idea is to approach the allies with a flexible position so that they will become engaged in the development process itself. Once we get our allies in on the planning, we're half way there.

3. The assertion that "it won't work" is nonsense. It will be a challenge, but there is no evidence to support the contention that it would be futile. There is strong opposition to the Treaty in the private

³ In telegram 12826 from London, June 10, the Embassy reported: "Head of UK Del indicated that Thatcher might decide not to sign the treaty upon urging by Reagan. The UK has made no decision even at staff level to sign or not sign LOS Treaty and clearly wants to keep its options open although all Ministries but Industry are likely to recommend signature." (Department of State, Central Foreign Policy File, D820303-0548)

sector in allied countries. Our arguments are good, and there is every reason to believe they will be listened to by the responsible political leaders of allied countries.

One of our nation's greatest statesmen, Elihu Root, once said: "Every business is best managed by its friends; every undertaking is best prosecuted by those who have faith in it." The fact that the State Department is ready to concede defeat before the fight has been joined clearly demonstrates why the President and a special envoy must be involved in prosecuting this effort.

173. Telegram From the Department of State to All Diplomatic Posts¹

Washington, September 4, 1982, 0117Z

249893. Pass PAOs. Subject: LOS: Agreement on Polymetallic Nodules.

1. (U) On Sept. 2 the United States, the UK, France and the FRG signed an agreement concerning interim arrangements relating to polymetallic nodules of the deep seabed.² This agreement is intended to encourage the resolution of conflicts resulting from overlapping seabed mining claims. It requires consultation among the parties on a range of issues relating to seabed mining. The agreement does not provide for mutual recognition of deep seabed mining licenses.

2. (LOU) Signature of the agreement may provoke comments in the media or queries from most governments. Criticism may be made that this agreement is a "mini-treaty" devised by the United States to undermine the LOS Treaty. In reply to any such comments, posts should stress that agreement is not a "mini-treaty". Signature of this agreement is not intended to prejudice the position of the signatories on the LOS Treaty.

3. (LOU) The following statement has been agreed upon by the US, UK, France and the FRG. Begin text:

¹ Source: Department of State, Marine Law and Policy Division, Subject and Country Files, Law of the Sea, 1981-1982, Lot 92D622, 50.12—Background—Sept 2 Agreement. Limited Official Use; Priority. Drafted by Eskin; cleared in EB/MDM, L/OES, EUR, EA, ARA, NEA, AF, and DOC/NOAA/OME; and approved by Malone.

² The draft text was transmitted in telegram 9924 from Brussels, July 23. See Document 169.

—It has been recognised both within the Third United Nations Conference on the Law of the Sea and outside it that the elimination of overlapping of the areas where pioneer explorers conduct deep sea operations is a necessary prerequisite for further exploration for polymetallic nodules. The likelihood of such overlapping in areas of the deep seabed where explorers have been, and wish to continue, prospecting and exploring is a real one. France, the Federal Republic of Germany, the United Kingdom and the United States of America have (like some other countries) enacted interim laws in order to ensure that, pending the adoption of generally agreed arrangements, such operations are conducted in an orderly and peaceful manner. The resolution of overlapping is a necessary corollary of these laws. The main purpose of the agreement, which has just been signed, is to encourage explorers, who have applied to the parties under these laws, to resolve such overlapping by voluntary procedures. It also makes provision for exchanges of information on the procedures for examining such applications. The parties also agree to have further consultations on these matters. These limited arrangements are so framed as not to prejudice the position of any of the parties in relation to the convention. They do not prejudice the decision that France, the Federal Republic of Germany and the United Kingdom have yet to take with respect to participation in the Convention on the Law of the Sea—and they are compatible with the documents adopted by the Conference. End text.

4. Posts may draw upon the above in response to questions. If it is considered desirable, posts may take the initiative and inform most governments that agreement has been signed.

Shultz

174. Memorandum From Michael A. Guhin of the National Security Council Staff to the President's Assistant for National Security Affairs (Clark)¹

Washington, September 24, 1982

SUBJECT

LOS and Oceans Policy Review

This memo updates and expands on some of the considerations relevant to my recommendation to turn off Watt's effort to have oceans policy under the Cabinet Council on Natural Resources and Environment and to keep ocean policy in the LOS IG/SIG system.²

A Cabinet Council working group met this week and wants to move fast on some substantive issues. I support moving fast on these issues, but the Cabinet Council is still the wrong forum for that. First, the issues which it is addressing are not only international and LOS-related but also tie into other LOS and ocean policy matters that are being considered by State, Defense and the LOS IG system. Coordination is important among these issues and that is best done with one focal point, not two. Second, State is in fact the only agency qualified to do the papers and backup support for those issues which the Cabinet Council is considering, and this argues as well for its having lead agency role.

Interior moved into this oceans policy not only because it has wanted it for some time but also because of a vacuum at State. Malone has not been active in the interagency process since his nomination was withdrawn and has not moved to command any of these issues;³ his deputy does not have the wherewithal to command them under existing circumstances and may believe that Interior is closer to his views than State anyway (largely since Shultz was persuaded to go against the LOS IG and recommend that it not be treated as a special issue);⁴ and Buckley has been more or less in abeyance because of other priority issues and his role in this one is unclear.

¹ Source: Reagan Library, Guhin, Michael A.: Files, 9/24/1982-9/26/1982. Confidential. Sent for information. A stamped notation on the memorandum indicates Clark saw it.

² In a September 21 memorandum to Clark, Guhin expressed his concerns regarding the Cabinet Council on Natural Resources. (Ibid.)

³ In July 1982, Reagan withdrew Malone's nomination for Ambassador-at-Large for the Law of the Sea Conference. (Miller, "Nominee to Sea Parley Withdrawn by Reagan," *New York Times*, July 27, 1982, p. A10)

⁴ See Document 171.

If we wish to coordinate some initiatives most effectively, that could prove positive, I believe we ought to focus them in the LOS IG/SIG system, perhaps reinforced by reiterating your May directive for a review of oceans issues.⁵ If combined with a decision on the emissary and if Buckley assumed a clearer role, this could energize the system. If this course is not accepted, we may wish to consider forming a new LOS SIG (perhaps in conjunction with naming an emissary). Spreading these issues among two different systems is, in my view, the worst alternative.

⁵ See attachment, Document 158.

175. Memorandum From Michael A. Guhin of the National Security Council Staff to the President's Assistant for National Security Affairs (Clark)¹

Washington, September 25, 1982

SUBJECT

Law of the Sea and Oceans Policy Review

John Poindexter and I discussed this issue last evening in light of my previous memos² and agree that we need to do more than simply turn off Watt's effort to take over oceans policy under the Cabinet Council on Natural Resources and Environment. In effect, we need to:

- ensure that Shultz understands the high level interest in these issues and their important domestic political aspects;
- energize State in this area to fill the vacuum that has been left by Malone's failure to take charge of these issues; and
- reflect this by establishing a new Oceans Policy SIG with upgraded representation in State by having Dam chair it and Buckley chair the Working Group. This SIG would be responsible for all oceans policy and LOS-related matters, except purely domestic issues of development, regulation and other action within already established US

¹ Source: Reagan Library, Guhin, Michael A.: Files, 9/24/1982–9/26/1982. Confidential. Sent for action. A stamped notation on the memorandum indicates Clark saw it.

² See Document 174 and footnote 2 thereto.

territorial waters and continental shelf. In view of some of the failings of the past interagency process under State, and consistent with actions in other areas, I would suggest that we take on the executive secretary function.

To the above ends, talking points for a conversation with Shultz are at Tab A and points for discussing this with Meese are at Tab B. We should get this worked out with Shultz before he leaves tomorrow.

If this proves acceptable, I will prepare a decision memo for the President's signature promptly. It would preferably include the decision on having a high level outside emissary and who that emissary will be. Your points for Shultz include that topic.

RECOMMENDATION

That you talk with Shultz first and then Meese on this (points at Tabs A and B respectively).³

Tab A

Talking Points for Secretary of State Shultz⁴

Washington, undated

LOS and Oceans Policy Review

- As you know, we are still working on getting a high level outside emissary on Law of the Sea for talks in October with Thatcher, Mitterrand, Schmidt or his successor, Suzuki and possibly a few others.
- We are trying to get Don Rumsfeld lined up.
- I know you recommended Buckley for the mission and reduced Presidential involvement.
- But the fact is that these issues have major domestic political as well as international and foreign policy aspects, *and* the President wants a special emissary and wants to be involved. An emissary would, for example, carry a personal and substantive letter from the President.
- Now we face a situation where Jim Watt has written his Cabinet Council to take over a large number of oceans policy issues that are basically international and LOS-related. This could include some new and positive initiatives.

³ Clark wrote the phrase "did—let's move on it—WPC" next to the approve option.

⁴ Confidential.

- I directed the LOS SIG to review our ocean interests in May⁵ and how to protect them but, to be honest, State has not run with that ball. In fact, after working on the emissary State has been largely inactive on these aspects and Malone has not taken charge of them ever since his nomination fell through. This created a vacuum for Watt to move in with his longstanding interest.

- To protect and ensure the best coordination for oceans policy matters, and put State back as lead agency where it belongs, we need a facelifting of the system to reflect high level interest and energize the system.

- To this end, I suggest we try to establish a new Oceans Policy SIG that would consider all oceans and LOS-related matters except purely domestic issues and be chaired by Ken Dam. Given Malone's current situation and past performance, Buckley should probably chair the Working Group.

- To try to correct some of the past problems in the process, I would also suggest that we act as executive secretary to the group. (Mike Guhin of my staff follows this matter closely.)

- To be effective here I need your help on this, to give these matters higher level and priority attention and to energize the system.

- If you have no problems with that approach, I will proceed here on this at the same time as working out the emissary matter.

Tab B

Talking Points for the Counselor to the President (Meese)⁶

Washington, undated

LOS and Oceans Policy Review

- As you know, Jim Watt has proceeded to have his Cabinet Council take charge of a wide range of oceans policy issues.

- We need to move ahead on these issues, but the Cabinet Council is not the right forum.

- The issues are basically international and LOS-related, with the few exceptions of development and regulation within already established US territorial waters and continental shelf.

⁵ See Document 158.

⁶ Confidential.

- The issues have to be coordinated carefully with others in the navigation, overflight and other areas that are being dealt with in State, Defense and LOS channels.

- We need one system and focal point, not two. Moreover, State is recognized as the only agency capable of preparing the backup and analysis for those issues that Watt is addressing, and this argues for its having lead agency role.

- At the same time, I recognize that State did not run with the ball after my May directive that oceans policy issues be reviewed, except for its work on the emissary aspects (which, by the way, has been proceeding). In effect, Malone has not taken charge of these issues, and probably cannot do so given his current situation, and there has been a vacuum created by State into which Watt has moved.

- We are asking for more problems if we allow these issues to be disjointed and split up.

- Therefore, to give these matters even higher level focus and to energize the system, we should establish a new Oceans Policy SIG with responsibility for all ocean policy matters except those truly domestic issues within our territorial seas and continental shelf and chaired by Ken Dam. Buckley could chair the Working Group rather than the SIG level, and we would plan to be the executive secretary to avoid some of the past problems in the process.

- I have talked with Shultz and he now understands the importance of these issues and the President's personal interest and sees the need to put more steam behind these.

- We can expect some complaints from Watt, but he will clearly understand the logic of what we are doing and his people are still claiming they do not care who does the work.

- We need to get this moving now and could establish it at the same time that we get a high level outside emissary for LOS. Combined, these could get the ball rolling very effectively and produce some new initiatives fairly quickly.

176. National Security Decision Directive 58¹

Washington, September 30, 1982

UNITED STATES OCEANS POLICY AND LAW OF THE SEA (U)

Having reviewed the Interagency Group's proposed actions, as forwarded by the Secretary of State's memorandum of August 10,² for United States near-term efforts to have key allies not sign or ratify the Law of the Sea (LOS) Convention adopted by the UN Conference and to continue to lay the groundwork for an alternative deep seabed mining arrangement outside that Convention, I have decided that:

- the United States will promptly send a special Presidential emissary to key allied capitals for high level discussions;
- Donald Rumsfeld will be that emissary; and
- pending his visit, the Secretary of State will advise key allies as early as possible and urge them not to make any premature commitments to sign or ratify the LOS Convention. (C)

I have also decided that the Senior Interagency Group on LOS will now be the Senior Interagency Group on Oceans Policy and LOS. The SIG will continue to be comprised of the Secretary of State (Chairman); the Secretaries of the Treasury, Defense, the Interior, Commerce, Labor, Transportation, and Energy; the Attorney General; the Director of Central Intelligence; the United States Representative to the United Nations; the Chairman of the Joints Chiefs of Staff; the Administrator of the Environmental Protection Agency; the Director of the National Science Foundation; the Director of the Office of Management and Budget; the Assistant to the President for Policy Development; the Chairman of the Council of Economic Advisers; and the Assistant to the President for National Security Affairs. Representatives from other departments and agencies with responsibilities for specific matters to be considered will attend on invitation by the Chairman. (U)

The SIG will be responsible for all oceans policy matters and LOS or LOS-related international issues, except for purely domestic matters involving activities within the existing U.S. territorial sea and contiguous zone and activities related to resource development on the continental shelf as defined by law. The SIG will:

¹ Source: Reagan Library, Guhin, Michael A.: Files, LOS (Law of the Sea) SIG (Senior Interagency Group)/Ocean Policy. Confidential.

² See Document 171.

- develop, review, and prepare alternatives and recommendations on US oceans policy and LOS issues, including prompt consideration of an Exclusive Economic Zone and other possible initiatives;
- complete preparations for the emissary's visit promptly, including proposed letters from me to other Heads of State to be carried by the emissary;
- proceed with work on longer-terms actions as called for by NSDD 43;³
- coordinate efforts for other high-level U.S. contacts with key foreign governments on these matters; and
- establish subordinate interagency groups as necessary for the execution of its mandate.⁴ (C)

Ronald Reagan

³ See Document 168.

⁴ In a November 30 memorandum to Meese, Clark wrote that Watt's Cabinet Council working group had continued its review of oceans policy in spite of the NSDD and asked Meese to contact Watt directly. (Reagan Library, Guhin, Michael A.: Files, 11/25/1982-11/30/1982)

177. Memorandum From Secretary of State Shultz to President Reagan¹

Washington, October 6, 1982

SUBJECT

Don Rumsfeld's Law of the Sea Mission

I welcome the nomination of Don Rumsfeld as your personal emissary to our major Allies to discuss the Law of the Sea Convention.

Don's immediate and primary objective will be to persuade our Allies not to make a decision to sign the Law of the Sea Convention until we have an opportunity to develop and discuss with them an alternative regime. His trip will be an occasion for opening a dialogue

¹ Source: Reagan Library, Guhin, Michael A.: Files, 10/06/1982. Secret. There is no indication Reagan saw the memorandum.

with them on the need for an alternative regime; he will present outlines of possible alternatives; and he will lay the groundwork for convincing our Allies that their navigation and other non-seabeds interests can be protected outside the UN LOS Convention.

This is a major undertaking, one of the highest importance—and of great difficulty, given the drift of our Allies toward signature of the LOS Convention. In my judgment, Don's task will be made easier if he is able to talk about other subjects—this will increase the receptivity of his interlocutors to his message on Law of the Sea. Furthermore, Don's trip gives us a positive opportunity we should not lose to add some emphasis to policy views we have already expressed. Don is, after all, well known from his days at DOD and as our NATO Representative.² He will also be the first American political figure associated with the Administration to call on the new German Chancellor.

There are four themes that are appropriate to raise in all of the countries Don will visit:

GATT Ministerial. This is one of the key opportunities for the free world collectively to do something *positive* in the next few months. The Japanese seem prepared to cooperate in constructing a new work program; the Europeans tend to be defeatist, thinking it is impossible at this juncture to make progress on trade liberalization. Don could reinforce the efforts Bill Brock³ is making to persuade our trading partners that the economic difficulties we are all experiencing make it more, not less, important to have a positive result at the GATT Ministerial, and to get going thereafter on a program aiming at freer and fairer trade not only in goods, but in services and investment.

IMF Borrowing Facility. This is another positive initiative. All countries are concerned about the increasing strains in the international financial system brought about by excessive past borrowing and the increasing pressure which debt service is imposing on several large debtors. The United States has floated a proposal in the IMF for a special borrowing arrangement which could mobilize a pool of usable currencies more quickly and at less total cost than would be involved in an unjustifiably large IMF quota increase. Stressing your determination to move this proposal to rapid fruition as a means of reestablishing confidence in our ability to meet this problem constructively would add a useful financial dimension to Don's presentation and help show that we are moving to address each of their major concerns.

² Rumsfeld served as Ambassador to NATO, from 1973 until 1974, and as Secretary of Defense, from 1975 until 1977.

³ U.S. Trade Representative William Brock.

Non-Proliferation. I have expressed, in a letter sent to Foreign Ministers,⁴ our strong belief that suppliers should not engage in any significant new nuclear cooperation with non-nuclear weapon states that do not agree to accept full scope safeguards, particularly where there is evidence that a non-nuclear-weapon-state is seeking to develop nuclear explosives. We are acting on this principle by not permitting US companies to assist the Chasma⁵ project unless Pakistan accepts IAEA safeguards on all its nuclear activities. Don could reinforce our hope that our Allies will join us in requiring full scope safeguards before selling anything to Pakistan for the Chasma project.

Defense Budgets. All of our Allies could stand some additional friendly persuasion to devote more of their resources to defense, and Don, with his background at the Pentagon and NATO, has the credentials to talk authoritatively on this point. His prime targets should be Paris (the French for the first time in years are cutting back their defense spending); Bonn (where the new government may be more responsive than the old); and Tokyo (where the government could use some bolstering to continue at least at the pace of last year's progress).⁶

None of these are subjects on which we expect Don to "negotiate." These are, rather, issues where he can help simply by showing that the Administration's, and especially your interest is deep on these issues. I do not see his discussion of these matters as constituting a major part of his mission—Law of the Sea is and must be the primary subject. But I think adding these subjects will add credibility to Don's position as your personal representative, and increase the chances of his success in his primary mission.

⁴ Not found.

⁵ The Chashma Nuclear Power Complex in Pakistan.

⁶ In telegram 23118 from Tokyo, December 28, 1981, the Embassy reported on the Japanese defense budget for the 1982 fiscal year. (Department of State, Central Foreign Policy File, D810615-0929)

178. Memorandum From the President's Assistant for National Security Affairs (Clark) to President Reagan¹

Washington, October 7, 1982

SUBJECT

Rumsfeld's Mission on Law of the Sea (LOS)

Secretary Shultz recommends that Rumsfeld raise four other subjects—the GATT ministerial, the IMF borrowing facility, non-proliferation, and defense budgets—during his LOS mission (Tab B).² Shultz believes this will increase the receptivity of Rumsfeld's interlocutors to his LOS message.

Rumsfeld will be prepared to address non-LOS subjects if they are, as expected, raised by our allies. Adding subjects to his mandate or broadening the mission's agenda, however, would be another matter and raises serious questions. That could just as well dilute our LOS message and give our allies an opening to dilute it more by focusing on other items. A broadened agenda could also be perceived as a US gesture or "concession" of a kind that we have sought to avoid in the context of East-West and other economic issues. Finally, some of the issues raised by Shultz are troublesome with our allies and it is not clear how they or our LOS message would really benefit by Rumsfeld's raising them.

In light of the above, the proposed memorandum from you to Shultz at Tab A would inform him that we should not broaden the mission's agenda but stick with it as currently defined, with the specific issue being LOS and raised in the broader context of furthering common understandings with our allies in areas of mutual concern. Given the importance of the other issues raised by Shultz, the memo would also note that we should continue our efforts in those areas and consider possible further steps that may be desirable.

RECOMMENDATION

That you sign the memo to Shultz at Tab A.³

¹ Source: Reagan Library, Executive Secretariat, NSC: Subject File, Law of the Sea (10/6–10/19/82). Secret. Sent for action.

² Not attached, printed in Document 177.

³ Reagan checked and initialed the approve option.

Tab A

Letter From President Reagan to Secretary of State Shultz⁴

Washington, undated

SUBJECT

Rumsfeld's Mission on Law of the Sea (C)

I have reviewed and appreciate your memorandum of October 6 [7] on Don Rumsfeld's Law of the Sea mission to key allied capitals. (S)

The Law of the Sea message is, as you note, a major undertaking of the highest importance and considerable difficulty. In that light, I have concluded that the mandate and agenda for the mission should not be broadened to include other specific issues but should continue to focus on the specific issue of Law of the Sea, raised in the broad context of furthering common understanding of issues of mutual concern with our allies. Rumsfeld will, of course, be prepared to respond to other issues if raised by his interlocutors. (S)

Limiting this mission does not and should not detract from the importance and efforts we have associated with other high priority issues such as those mentioned in your memorandum. We should continue those efforts and, as appropriate, consider further steps and other missions or messages that may be desirable. (S)

Ron

⁴Secret. In the upper right-hand margin, an unknown hand wrote the phrase "handled orally."

179. Telegram From the Department of State to the Embassies in Japan, the United Kingdom, West Germany, France, Italy, Belgium, and the Netherlands¹

Washington, October 10, 1982, 0118Z

285983. For the Ambassador. Subj: Special Presidential Emissary.

1. Confidential—Entire text.

2. The President decided on September 30 to send a special Presidential Emissary to key allied capitals and designated Donald Rumsfeld as the emissary.² Specific purpose of mission is to underline United States concern about the Law of the Sea Treaty and to try to move our allies away from early commitments to sign or ratify that treaty (or in France's case to try to keep it from acting early on its stated intention to sign the treaty), in the context of our interest in furthering common understanding of issues of mutual concern in allied relationships. In each capital we propose that Rumsfeld meet with head of government, preferably one-on-one initially, and then with appropriate key ministers that have LOS concerns (e.g., Foreign, Defense, Economic). We expect to follow up on a separate occasion with experts discussions.

3. Ambassadors should deliver following message from President Reagan to heads of government. Greetings and signature for each capital in para 4 below. Modification to letter for Paris, proposed dates for visits and other info provided in paras 5–12 below. You will note that the letter invites discussion on subjects other than the law of the sea. You should advise orally at appropriate level that—questions relating to East-West trade and economic relationships were discussed by Foreign Ministers in New York and Rumsfeld would have nothing to add. Begin qte:

—The Law of the Sea Treaty adopted by the United Nations conference last April raises many fundamental concerns for the United States. In July, as you know, I concluded that signing that treaty will not serve the national interest.³

—I recognize that the treaty deals with a wide variety of areas and issues. Indeed, my July statement noted that most provisions of the treaty are consistent with the interests of the United States and other countries. Based on a review of significant interests, such as those with

¹ Source: Reagan Library, Guhin, Michael A.: Files, LOS (Law of the Sea) Rumsfeld Mission, Key Allies, October 1982–March 1983 (1). Confidential; Immediate; Exdis. Printed from a copy that was received in the NSC Message Center.

² See Document 176.

³ See Document 168.

respect to military and commercial navigation, I am confident that they can be fully protected without signing or ratifying the treaty.

—At the same time, I also believe that the deep seabed mining provisions of the treaty would be detrimental to the interests of a number of countries, including the United States and our close friends and allies. Development of deep seabed resources on an economic basis would be very difficult, if not impossible, to achieve under the treaty. In broader terms, the treaty would create precedents that are contrary to a range of important interests and that would adversely affect the positions of advanced countries in the future development of international institution-building generally.

—These problems are of deep concern to the United States and to me personally. I believe it is very important that we work together to have a clear understanding of the consequences of the Law of the Sea Treaty and to coordinate our efforts in a way that will serve our common interests.

—Finally, let me say that while law of the sea is the issue which has led me to propose Don's mission, I view it within the context of our broader relationship as allies faced with a number of problems. While each of them has its complexities, I believe deeply that we are capable now, as perhaps never before, of solving them and of demonstrating a degree of allied cohesion unparalleled in the past generation. For this reason, Don will be receptive to listening to other elements of our common agenda. Needless to say, I will value your thoughts greatly and very much look forward to receiving Don's report.

With warm personal regards,

End quote.

4. Appropriate greetings and signature of letter for each capital are as follows: Tokyo, Mr. Prime Minister/Ronald Reagan; London, Margaret/Ron; Bonn, Mr. Chancellor/Ronald Reagan; Paris, Francis/Ron; Italy, Giovanni/Ron; Brussels and Hague, Mr. Prime Minister/Ronald Reagan.

5. For Paris: The following revised paragraph should be substituted for paragraph beginning "These problems are— . . .": Begin quote These problems are of deep concern to the United States and to me personally. I understand that your government recently announced its intention to sign the Law of the Sea Treaty.⁴ Still, I believe it is very important that we work together to have a clear understanding of the consequences of the treaty and to coordinate our efforts in a way that

⁴ In telegram 33716 from Paris, October 1, the Embassy reported that France intended to sign the treaty. (Department of State, Central Foreign Policy File, D820508-0581)

will serve our common interests. End quote. Remaining parts of letter remain the same.

6. For all addressees except Paris: Ambassadors should urge host government not to make any commitments to sign or ratify the Law of the Sea Treaty pending emissary's visit.

[Omitted here are paragraphs 7–10 which discuss scheduling.]

11. For all addressees: We do not plan to announce Mr. Rumsfeld's mission. If asked by the press or by other countries, we plan to use the following guidance: Begin quote The President has asked Mr. Rumsfeld to visit certain countries as his personal emissary to further our interest in advancing common understanding of issues of mutual concern among allies. This will include the subject of law of the sea. End quote.

12. For all posts: Mr. Rumsfeld is currently President, Chief Executive Officer and Director of G.D. Searle and Company and Chairman of the Board of Rand Corporation. He is formerly a Member of Congress and has held a number of government positions including US Ambassador to NATO, Chief of Staff for the White House and Secretary of Defense.

13. Details of travel arrangements and person(s) accompanying Rumsfeld will be provided promptly upon confirmation of appointments proposed above.

Dam

180. Memorandum From the Special Presidential Envoy on the Law of the Sea Treaty (Rumsfeld) to President Reagan¹

Washington, October 28, 1982

SUBJECT

Meetings with Chancellor Kohl, Prime Minister Thatcher and President Mitterrand

Observations from meetings with Kohl, Thatcher and Mitterrand, as your emissary, are summarized below.

¹ Source: Reagan Library, Guhin, Michael A.: Files, LOS (Law of the Sea) Rumsfeld Mission, Key Allies, October 1982–March 1983 (7). Secret. There is no indication Reagan saw the memorandum.

Kohl stressed the following in an hour-plus meeting:

- The importance of the US-FRG relationship and his determination to do his part to improve it.
- His strong support for the dual-track INF approach. It will be helped by, but is not directly linked to, resolution of the pipeline issue.²
- His hopes for successful INF negotiations, but also his determination to deploy missiles if they do not succeed. He decided to hold national elections in the spring of 1983 so that the decision on missile deployment could come after them.
- Confidence in his political future, noting a recent favorable Gallup poll and a feeling among Germans that “they *would* buy a used car from Kohl.”
- The *critical need* to resolve the *pipeline* issue and the “*immensely favorable effect*” for the FRG of having it resolved at and announced as a result of his meetings with you on November 15.³ He is discussing this with Thatcher soon and has already done so with Mitterrand, who is “looking to that date as well.” (Kohl is placing great importance on his visit.)

The second half of the meeting was on Law of the Sea (LOS). Following presentation of your strong concerns and the problems in the LOS Treaty, Kohl said the list was impressive, and he would personally consider it carefully. He welcomed your desire to elevate this issue to the highest level and stressed his desire to stay in contact on it before the FRG decision in late November.

Kohl will be faced with different recommendations from key ministers. Foreign Minister Genscher favors the treaty; Economics Minister Lambsdorff and possibly the new Defense Minister Woerner will probably oppose signing it soon. Kohl indicated that the FRG need not be in any hurry to sign the treaty. (Both Genscher and Lambsdorff recalled that the FRG had long questioned the treaty, but the US always pushed for it in the past administrations.)

Thatcher also welcomed your elevating the LOS issues and was receptive to your concerns. She expressed serious concern about the seabed part—including her distaste for its supranational authority for seabed development, the damaging precedents in and “unworkability” of that machinery, and those principles of the New International Economic Order enshrined in the treaty.

² Kohl supported the construction of a Soviet-West German gas pipeline.

³ The memorandum of conversation of the Reagan-Kohl meeting is scheduled for publication in *Foreign Relations*, 1981–1988, vol. VII, Western Europe, 1981–1984.

She indicated, however, that some of her ministers may support the treaty on grounds that the advantages of other provisions, particularly those on navigation, outweigh the disadvantages of the seabed mining part. She was inclined to accept our argument that we already have the navigation rights as a matter of international law and practice.

Throughout the meeting, her respect, warmth and support for you were abundantly evident. She also had high praise for the way Kohl has started off.

Mitterrand has apparently given little attention to LOS even though his government has announced France will sign the treaty. He listened but did not offer much. He said he will review the matter in light of your concerns, but the French Government seems to have no major problems with the treaty. That is not surprising given their political perspectives and approach to developing countries and North/South issues.

The UK and FRG offer some hope, but the decisions will not be easy for Kohl or Thatcher. Besides the splits among their ministers, the FRG is concerned at the ministerial level that the UK will sign the treaty and leave the FRG little choice. It does not want to be outside with only the US. There may also be a tendency at ministerial and sub-Cabinet levels to see little or no cost in signing the treaty but deferring decision on ratification. We sought to disabuse them of that notion by underlining the costs and the misleading signals of signing.

To have any chance of persuading some key friends not to sign, the US needs to:

- *Keep their attention on this.* LOS needs to be on the agenda when you, Secretary Shultz, Judge Clark and others meet with heads of government and key ministers—particularly the Spadolini and Kohl visits, the NATO ministerial and the US-EC high-level consultations. (I did not see Spadolini because of the unexpected vote of confidence he faced on the proposed date for our meeting.) If LOS is not included in talking points for all such meetings, they will see LOS as a low priority for you, and there will be no chance of stopping the trend toward signing the treaty.

- *Reinvigorate and upgrade our efforts to develop an alternative seabed mining arrangement outside the treaty.* Some Allies have to be persuaded that there is an alternative to the treaty. It is our major hope.

- *Designate someone at a high level to take charge of the issue and oversee the necessary follow-up effectively.*

As for other actions, it would be useful for Secretary Weinberger to let his counterparts in key capitals know our Defense Department's views on navigation and overflight rights outside the treaty. Also, US embassies need to be used more effectively on LOS.

Additional notes on meetings are attached.⁴ You may find the notes on the talks with Kohl and Thatcher particularly interesting.

I look forward to carrying your LOS message to new Japanese⁵ and Dutch Prime Ministers⁶ and Prime Minister Martens of Belgium⁷ in November.

⁴ Attached but not printed.

⁵ See Document 186.

⁶ See Document 187.

⁷ In telegram 335711 to Tokyo, December 2, the Department stated, "At this time, we concur with Rumsfeld's assessments and we believe that no meetings need be scheduled for Rumsfeld with Martens or Fanfani for the following reasons," citing Martens' illness and Shultz's planned trip to Italy in December. (Reagan Library, Guhin, Michael A.: Files, LOS (Law of the Sea) Rumsfeld Mission, Key Allies, October 1982–March 1983)

181. Memorandum From the President's Assistant for National Security Affairs (Clark) to Secretary of State Shultz and the Representative to the United Nations (Kirkpatrick)¹

Washington, November 9, 1982

SUBJECT

Law of the Sea Resolution at the UN General Assembly (U)

A draft resolution on Law of the Sea (LOS), recently tabled at the UN General Assembly, contains objectionable provisions—including approval to finance the Preparatory Commission under the LOS treaty out of the regular UN budget.² (U)

Given the U.S. decisions not to sign the treaty and not to participate in the Preparatory Commission, because of a number of unacceptable elements in the seabed part, it is important that every effort be made in New York and in appropriate capitals to change or defeat that part of the resolution in a way that would not include any U.S. contributions

¹ Source: Department of State, Central Foreign Policy File, P820166–2288. Confidential.

² In telegram 3084 from New York, October 28, USUN outlined a draft resolution regarding the financing of the Preparatory Commission. (Department of State, Central Foreign Policy File, D820559–0648)

to financing the Preparatory Commission. Efforts should also be made to change or defeat other objectionable aspects. (C)

Your review of the options available to the United States, in the event the resolution passes with provision for financing the Preparatory Commission out of the regular UN budget, would be appreciated at the earliest possible date. (C)

FOR THE PRESIDENT:

William P. Clark³

³ Clark signed Bill Clark above his typed signature.

182. Minutes of a Senior Interagency Group Meeting¹

Washington, November 15, 1982, 10:30 a.m.

PARTICIPANTS

See List Attached²

SUBJECT

SIG Meeting on Oceans Policy and Law of the Sea, November 15

SUMMARY OF CONCLUSIONS

Under Secretary William Schneider opened the SIG meeting by citing NSDD 43 and NSDD 58 which outline the work entrusted to the SIG.³ The meeting would be devoted to reports on work in progress.

Ambassador Malone and Mr. Guhin reported on the Rumsfeld mission to Europe. In their view, Mr. Rumsfeld had operated with great effectiveness owing to his personal acquaintance with the leaders he saw, his political approach, and his forceful presentation. A second

¹ Source: Department of State, Marine Law and Policy Division, Subject and Country Files, Law of the Sea, 1982–1983, Lot 85D105, LOS—S/IG. Confidential. Drafted by Tompkins on November 15 and cleared by Schneider and Malone. Sent under a November 15 covering memorandum from Bremer to members of the Senior Interagency Group No. 32.

² Attached but not printed.

³ See Documents 168 and 176.

round of the mission was now underway. Since his visit to Japan depended on the formation of a new Japanese government, its scheduling was not yet fixed.

On the question of the Exclusive Economic Zone (EEZ), Ambassador Malone noted the formation of a working group jointly chaired by State and Interior. A draft analysis and presidential proclamation were being circulated for interagency comment.⁴ November 26 was set as the target date for completion of these papers.⁵

Ambassador Malone reviewed briefly the talks held November 11–12 with representatives of the UK, France, and the FRG concerning a reciprocal regime.⁶ He characterized the talks as positive but inconclusive owing to reluctance by the Europeans to make commitments in advance of national decisions on signing the LOS convention. Further talks and coaxing would be required. On the question of new future entrants to a reciprocal regime, U.S. and European views diverged; but the constraints inherent in U.S. law defined our position in favor of an open arrangement.

On preparations for the Montego Bay session, Ambassador Malone reported that the working group on interpretive statements had completed and was clearing a set of statements.⁷ He urged participating agencies to complete the clearance process as rapidly as possible and no later than Friday, November 19.

The Chairman raised the matter of Senator Kasten's objections to U.S. funding of the PrepComm. In the ensuing discussion it was noted that the U.S. share of the budget could reach \$5 million unless the U.S. withheld its contribution. The State Department is reviewing the legal and procedural options available to the U.S. delegation to the U.N. on this matter.

No further business was proposed, and the meeting adjourned at 11:10.

ACTION ASSIGNMENTS

1. Drafting and clearing of the EEZ papers will proceed with November 26 the target date for completion. The papers will then be transmitted to the NSC.

⁴ Not found.

⁵ See Document 195.

⁶ In an undated and unsigned information memorandum to Shultz, Malone summarized his November consultations regarding a reciprocal seabed mining agreement. (Reagan Library, Guhin, Michael A.: Files, LOS (Law of the Sea) Follow-on Review)

⁷ In an undated memorandum to the working group, Eskin submitted a final version of the Interpretative Statements package, dated December 1. (Reagan Library, Guhin, Michael A.: Files, LOS (Law of the Sea) Third Conference [3])

2. Clearance of the interpretive statements will proceed with a target date of November 19 for final agreement.

183. Memorandum From the Executive Secretary of the Department of State (Bremer) to the President's Assistant for National Security Affairs (Clark)¹

Washington, November 16, 1982

SUBJECT

Law of the Sea Resolution at the UN General Assembly: Financing of Preparatory Commission

You asked for our review of available options for dealing with a draft resolution on Law of the Sea (LOS) recently tabled at the UN General Assembly which requires financing the LOS Preparatory Commission (Prepcom) out of the regular UN budget.²

Our preferred option is to amend the resolution to require voluntary funding of the Prepcom by states signatory to the Convention. We are making intense efforts in New York and capitals with governments who might help us obtain such an amendment.³ In our démarches, we are emphasizing our strong view that it is wrong and wholly inappropriate to ask the UN to fund the costs of a separate treaty organization, especially since some UN members will not sign the LOS Convention or participate in the Prepcom. We are also stressing the danger that LOS proponents will seek a permanent UN–LOS bureaucracy in Jamaica, the host for the Prepcom, at great cost to the UN budget.

UN and LOS officials are also concerned about excessive spending for the Prepcom. They are bringing pressure on Jamaica to delete language from the draft resolution providing for additional UN services for the Prepcom and for a separate Secretariat in Jamaica. They want to limit costs by using existing resources wherever possible. The UN

¹ Source: Reagan Library, Guhin, Michael A.: Files, LOS (Law of the Sea) UN (United Nations)(1). Confidential. Drafted by Wilcox on November 15 and cleared in L, IO, and OES.

² See Document 181.

³ In telegram 313516 to multiple recipients, November 6, the Department instructed Embassies to lobby their host governments against the resolution. (Department of State, Central Foreign Policy File, D820576–0470)

LOS staff estimates that Jamaica's ambitious plans for the Prepcom could cost \$20 million, whereas if the resolution is revised to give the UN Secretariat more discretion over funding, Prepcom costs could be as little as \$1 million. In any case, costs of the Prepcom will be significant.

A second, fall-back option, proposed by the Netherlands, is to seek an amendment to the draft resolution that would authorize payment of Prepcom costs from the UN budget, but as a loan to the LOS Authority to be repaid when it is established. This device would support the principle which we are asserting that it is wrong to expect the UN to fund other treaty organizations. There is precedent for this.

There is a real possibility that efforts to amend the resolution to either require voluntary funding or a repayable loan by the UN for Prepcom costs will fail and that some kind of resolution will pass by which the UN budget will incur the costs of the Prepcom.

In this event, our past practice concerning resolutions with financial implications that are adopted against our wishes would be to vote against the resolution, express our strong objections, and continue to work to limit expenditures for the Prepcom, but take no further action.

In this unique situation we might want to consider departing from past practice. We could express our opposition more emphatically to this inappropriate use of UN funds by withholding from our contribution to the UN budget an amount proportionate to our share of the Prepcom costs. This would underscore the seriousness of our opposition to the LOS treaty and to the inappropriate use of UN funds for the Prepcom. (We are at a critical point now in attempting to persuade the UK, the FRG and other allies not to sign the treaty.)

Such withholding would have no tangible effect on Prepcom funding, since nations cannot earmark portions of their contributions. More importantly, withholding raises serious legal questions under Article 17 of the UN Charter which provides that "the expenses of the organization shall be borne by members as apportioned by the General Assembly." With the exception noted below, such a withholding would be a departure from our past practice of paying our share, even though the UN budget finances various activities we vote against, and insisting that other nations also do so. Our withholding would also undermine our traditional position against Soviet withholding from the UN peacekeeping budget (a position which the Soviets ignore however).⁴

⁴ Beginning in 1956, the Soviet Union began to withhold money for peacekeeping operations financed by the United Nations.

We would also have to consider U.S. domestic law, including the Anti-Impoundment Act, in weighing the option of withholding.⁵

Pursuant to legislation initiated and passed by the Congress, the U.S. has made one exception to the principle of collective responsibility and the practice of full payment of our share, despite an ICJ opinion that states members are obligated to pay their assessments.⁶ Under this legislation, we withhold small portions of our assessed share equal to a pro-rata share of UN budget support for the Committee on the Inalienable Rights of the Palestinian People and the Special Unit on Palestine in the Secretariat.⁷

We need not make a decision on the withholding option unless efforts to amend the LOS resolution fail. Ambassador Kirkpatrick does not believe it would be desirable or effective to threaten explicitly withholding as a means of negotiating language in the LOS resolution that would meet our objections, although she believes we should put others on notice that such funding by the UN of non UN activities causes us very serious problems and could force us to consider withholding in response. She also believes that further and careful legal analysis of this issue is needed, and that if we decide to pursue this option we should consult with the Congress before proceeding. In the meantime, we are exploring withholding in detail with our lawyers and USUN so that we can reach a prompt decision, if necessary, in the event our efforts to amend the LOS resolution fail. General Assembly consideration of the resolution may come late this week.

L Paul Bremer, III

⁵ The Congressional Budget and Impoundment Control Act of 1974 sets rules regarding executive branch requests for the rescinding of funds approved by Congress.

⁶ The International Court of Justice issued its opinion in 1961 in response to Soviet withholding from the peacekeeping budget.

⁷ Congress began withholding funds for the Committee on the Inalienable Rights of the Palestinian People in 1980.

184. Telegram From the Embassy in West Germany to the Department of State¹

Bonn, November 19, 1982, 1316Z

2043. Subj: Signing of the LOS Treaty: UK and FRG Perspectives.

1. Confidential—Entire text.

2. At a social event last night attended by Embassy's LOS Officer, subject of LOS was raised in discussion with Michael Wood, UK Embassy's Legal Adviser, and Dr. Fleischhauer, head of the legal section at the Foreign Office. Wood stated at one point that, based on his information, the UK would almost certainly not repeat not sign LOS treaty at Jamaica next month.² In response, Fleischhauer remarked that, while there was still no official position, this was also the case with the FRG, i.e., that it was now "virtually certain" that the FRG would not repeat not sign LOS treaty at Jamaica next month (Fleischhauer left open the possibility that it might, of course, sign at some point further in the future). As later discussion confirmed, those who heard Fleischhauer's remark were taken aback by his candor. (Comment: Fleischhauer's statement goes well beyond any information Foreign Office has thus far provided to Embassy's LOS officer on the state of play in FRG's deliberations on the treaty. End comment.) Wood later indicated, but without elaboration, that he thought the solidification in FRG's thinking had taken place only within the last day or two.

3. Embassy cannot, of course, confirm the validity of statements made by Wood and Fleischhauer. Wood, however, has been involved in LOS matters on the UK side (in New York and elsewhere) for many years and is believed by Embassy to be well-connected on this issue. Fleischhauer, who is extraordinarily well-respected as legal counsel at the Foreign Office and who has just been named the new legal counsel at the U.N., is known by Embassy to be heavily involved in LOS matters at a relatively high level within the FRG.

Woessner

¹ Source: Reagan Library, Guhin, Michael A.: Files, LOS (Law of the Sea) Rumsfeld Mission, Key Allies, October 1982–March 1983. Confidential; Immediate. Sent Immediate for information to London and for Michael Guhin in London. Printed from a copy that was received in the NSC Message Center.

² In telegram 25269 from London, November 19, the Embassy reported that Thatcher stated the British would not sign the treaty. (Ibid.)

185. Memorandum From Michael A. Guhin of the National Security Council Staff to the President's Assistant for National Security Affairs (Clark)¹

Washington, November 23, 1982

SUBJECT

Presidential Letter for Rumsfeld Mission

A Presidential letter to Prime Minister Suzuki on the Law of the Sea treaty was cabled out in October.² The same letter, addressed now to Prime Minister Nakasone, is at Tab I for Rumsfeld to hand deliver to Japan (assuming the planned meeting for December 1 stays on schedule).

RECOMMENDATION

That the letter to Nakasone at Tab I be signed. (It should be signed "Ronald Reagan".)³

Tab I

Letter From President Reagan to Japanese Prime Minister Nakasone⁴

Washington, November 24, 1982

Dear Mr. Prime Minister:

The Law of the Sea treaty adopted by the United Nations Conference last April raises many fundamental concerns for the United States. In July, as you know, I concluded that signing that treaty will not serve the national interest.

I recognize that the treaty deals with a wide variety of areas and issues. Indeed, my July statement noted that most provisions of the treaty are consistent with the interests of the United States and other

¹ Source: Reagan Library, Guhin, Michael A.: Files, LOS (Law of the Sea) Rumsfeld Mission, Key Allies, October 1982–March 1983. No classification marking. Sent for action. A stamped notation in the upper right-hand margin reads, "SIGNED."

² See Document 179.

³ Poindexter initialed the approve option.

⁴ No classification marking.

countries.⁵ Based on a review of significant interests, such as those with respect to military and commercial navigation, I am confident that they can be fully protected without signing or ratifying the treaty.

At the same time, I also believe that the deep seabed mining provisions of the treaty would be detrimental to the interests of a number of countries, including the United States and our close friends and allies. Development of deep seabed resources on an economic basis would be very difficult, if not impossible, to achieve under the treaty. In broader terms, the treaty would create precedents that are contrary to a range of important interests and that would adversely affect the positions of advanced countries in the future development of international institution-building generally.

These problems are of deep concern to the United States and to me personally. I believe it is very important that we work together to have a clear understanding of the consequences of the Law of the Sea treaty and to coordinate our efforts in a way that will serve our common interests.

For this reason, I have asked Don Rumsfeld to serve as a special emissary to discuss these matters with you and with other key allies. He has my fullest confidence and I trust that you will consider him to be my personal emissary in regard to the matters I have asked him to raise with you.⁶

Finally, let me say that while Law of the Sea is the issue which has led me to propose Don's mission, I view it within the context of our broader relationship as allies faced with a number of problems. While each of them has its complexities, I believe deeply that we are capable now, as perhaps never before, of solving them and of demonstrating a degree of allied cohesion unparalleled in the past generation. For this reason, Don will be receptive to listening to other elements of our common agenda. Needless to say, I will value your thoughts greatly and very much look forward to receiving Don's report.

With warm personal regards,

Ronald Reagan

⁵ See Document 168.

⁶ This paragraph is not in the text of the letters sent October 10. See Document 179.

186. Telegram From the Department of State to the Embassies in the Netherlands and Belgium¹

Washington, November 29, 1982, 2138Z

332341. Exdis Brussels for USEC. Subject: Rumsfeld Meeting in Netherlands and with EC.

1. Confidential—Entire text.

2. Rumsfeld met with State Secretary for Economic Affairs Fritz Bolkestein, State Secretary for Foreign Affairs Wim F. Van Eekelen and then Prime Minister Lubbers on November 17. Ambassador Dyess, Ambassador Adelman and Michael Guhin participated, Dutch staff members from Economic, Mining and Foreign Ministries sat in on the Bolkestein and Van Eekelen meetings.

3. In all three meetings the Dutch stressed similar themes:

(A) Visit was timely as subject of signing the Law of the Sea Treaty will come up for decision soon in Council of Ministers. GON will give due consideration to US [garble].

(B) GON shares concerns about a few provisions in the seabed part of the treaty—such as mandatory technology transfer and production limits—but years of work and compromises had been accomplished with previous US support and GON believes a comprehensive treaty is necessary. Many parts of the treaty provide an important degree of legal certainty, and the way to influence the process was to be involved in it and a voting member of Preparatory Commission.

(C) GON considers relations with Third World important.

(D) Dutch Shell supports signing the treaty and would be reluctant to invest in seabed mining outside it.

(E) A seabed mining alternative outside treaty is not viable. To defer or delay signature, therefore, Dutch would need tangible goals to reach in terms of changing treaty or developing rules and regulations to lessen impact of adverse provisions.

4. Lubbers noted that Netherlands saw no reason to hold out with US focusing on alternative rather than getting acceptable treaty. Lubbers provided non-paper with GON points (para 5 below).

5. Begin non-paper:

—The Netherlands always held the view that a generally accepted set of rules for the many uses of the sea is of utmost importance both for

¹ Source: Department of State, Central Foreign Policy File, D820618–0112. Confidential; Priority. Drafted by Guhin; cleared in EUR/RPE, USUN, OES/OLP, S/S, and the NSC; approved by Marshall.

the international community and for the Netherlands. In comparison to the 1958 treaties,² the new treaty is clearer as regards the rule for shipping, fisheries, environmental aspects, scientific sea research and the continental shelf.

—The treaty also is the result of a development over several decades; these developments (treaties and case law) are incorporated in the new treaty.

—The Netherlands for instance anticipated the treaty as regards the 200 miles fishing zone and the extension of the territorial waters to 12 sea miles. We also concluded a treaty with Venezuela in this respect.³

—Of course not all separate parts of the treaty can be judged as favourable. The treaty is a compromise. The environmental and shipping sections are more acceptable to us than the section on economic zones, the continental shelf and the sea research.

—From the military point of view the relevant sections of the treaty are considered favourable in NATO discussions.

—The different parts of the treaty are interconnected in this respect. Moreover, new rules are included in the treaty; we do not feel the treaty is no [*not?*] more than codification of generally accepted rules; quite apart from the rules on deep sea mining.

—Royal Dutch Shell studied the treaty carefully and officially took the view that a speedy conclusion of the treaty is in that company's interest and asked the UK and the Netherlands to sign the treaty.

—Signing the treaty is a positive contribution to the North-South relationship, in particular in view of our policies vis-a-vis the Third World.

—The Netherlands feels it can fully participate in the further work on the Law of the Sea in the context of the new treaty.

—We hope that the US Government would share our view that there is no real alternative to this treaty. End non-paper.

6. During a later meeting in Strasbourg, EC President Gaston Thorn expressed appreciation of reasons to oppose seabed parts of treaty. The problem at hand is to stop momentum for all European states to sign LOS, which has been generated by 4 of the 10 EC countries having announced intention to sign (France, Ireland, Greece, Denmark). Momentum can only be stopped by a major EC member—UK or FRG—not signing in December and better still, announcing soon that it will not sign.

² Reference is to the Conventions on the Continental Shelf, High Seas, Territorial Sea and Contiguous Zone, and Fishing and Conservation of Living Resources of the High Seas.

³ Reference is to the Netherlands-Venezuela Boundary Treaty signed in 1978.

7. Thorn met with EC–10 Foreign Ministers on Monday, November 22, and planned to discuss LOS over lunch (absent the Foreign Ministers experts being present).

8. EC Commissioner (with responsibility for LOS) Narjes also expressed appreciation for concerns about seabed part of treaty, summarized main country positions on the treaty (which conform to our own estimates) and saw problem in much the same terms as Thorn.

Shultz

187. Telegram From the Department of State to the Embassy in Japan¹

Washington, December 4, 1982, 2103Z

338589. Subject: Presidential Emissary Rumsfeld Visit.

1. C—Entire text.

2. Presidential Emissary Rumsfeld met with Prime Minister Nakasone December 1 for nearly an hour. DG (North American Affairs) Kitamura, DG (Treaties Bureau) Kuriyama, and Director (Oceans Division) Saito sat in for Japanese. Ambassador Mansfield, Ambassador Adelman, Michael Guhin, and Marc Baas accompanied Rumsfeld.

3. Rumsfeld opened meeting by extending President Reagan's invitation to meet with Nakasone in Washington on January 18.² Nakasone welcomed the good news and happily accepted the invitation. He appreciated President Reagan's letter on Law of the Sea Treaty³ and noted that:

—The difficult issues in U.S.–Japan relations can be solved through talks. Quarrels are an indication of the closeness of the U.S.–Japan relationship, like brothers.

—He is committed to further strengthening the relationship, both personally and officially.

¹ Source: Reagan Library, Guhin, Michael A.: Files, LOS (Law of the Sea) Rumsfeld Mission, Key Allies, October 1982–March 1983. Confidential; Immediate; Nodis. Printed from a copy that was received in the NSC Message Center.

² The memorandum of conversation for the Reagan-Nakasone meeting is scheduled for publication in *Foreign Relations*, 1981–1988, vol. XXX, Japan; Korea, 1981–1984.

³ See the attachment to Document 185.

—U.S.-Japan tie is key to stability in Asia and world stability generally. If there are shaky aspects in the relationship, policy toward the Soviet Union and China cannot be effectively conducted and ASEAN countries worry as well.

—Discussions at highest level are important.

4. Following Rumsfeld's presentation of U.S. concerns about the Law of the Sea Treaty and President Reagan's hopes that Japan will decide not to sign it or at least to delay any signing, Nakasone noted that:

—He has reviewed the matter to some extent already.

—Basic attitude in the GOJ is that Japan has to sign the treaty because of advantages of it as a whole and the situation with the developing countries.

—Rumsfeld and U.S. non-paper,⁴ raise other aspects and problems with the treaty that will be considered before making a final decision on signing.

—U.S. is a leading nation in seabed mining, whereas Japan is a latecomer.

5. In response to Rumsfeld's query as to whether the GOJ had in effect already made up its mind to sign, Nakasone clarified that the cabinet has not taken a decision yet but he understands the basic direction is toward signing.

6. When Rumsfeld stressed possibility of delaying a decision on signing to see what the Europeans (particularly UK and FRG) are doing and, given the importance of the issue and President Reagan's concerns, to have a chance of discussing it during his visit to Washington, Nakasone replied that:

—He cannot deny that there is that possibility.

—He wants to consider the issue personally since President Reagan has sent Rumsfeld as an emissary to discuss it.

—They have not had time yet to review matter thoroughly.

7. At subsequent meeting and dinner hosted by Foreign Minister Abe; in response to Rumsfeld presentation Abe noted that:

—Former cabinet's basic position was that Japan will sign the treaty and present government is still an LDP cabinet, even though Prime Minister has changed.

—GOJ understands U.S. position.

—U.S. and Japan should take concerted steps on all major issues in alliance, but differ on Law of the Sea.

⁴ Not found.

—He will look into the matter and consult with Nakasone to see what can be done. They will bear in mind January visit.

—Nakasone wants to work closely with us to solve outstanding problems and hopes for a successful bilateral summit in January.

8. In private conversation with Rumsfeld after dinner, Abe said that President Reagan's sending an emissary has signified importance of LOS issues and, as result, he will recommend that the GOJ carefully consider option of delaying signature of treaty.

9. Rumsfeld comment: If Japan decides to delay signature, which is still a long shot, it will do so solely for political reasons vis-a-vis U.S. That makes it all the more important for the President and SecState to include law of the sea in January meetings. It also argues for prompt expert level meetings to begin to develop a rationale in GOJ bureaucracy for not signing LOS that is based on more than simply their desire not to be crossways with USG.

Dam

**188. Memorandum From the Executive Secretary of the
Department of State (Bremer) to the President's Assistant for
National Security Affairs (Clark)¹**

Washington, December 6, 1982

SUBJECT

Law of the Sea Negotiations and the Final Act

The United States has sent a small technical level delegation to attend the final session of the Third United Nations Conference on the Law of the Sea (UNCLOS III) currently taking place in Montego Bay December 6–December 10, at which those States which participated in UNCLOS III will be invited to sign the Final Act of the Conference. The Convention will be opened for signature following signing of the Final Act on December 10. It will remain open for signature for two years.

The United States, which will sign the Final Act, thereby attests that the Convention in its six official linguistic texts is, in fact, that

¹ Source: Department of State, Central Foreign Policy File, P820179–0858. Confidential. Drafted by Bernhardt and Malone.

negotiated during the law of the sea negotiations. The signing of the Final Act implies no legal consequences for the U.S. The U.S. may offer statements on the record in plenary as to the meaning of textual provisions, in response to interventions by other States, if needed. We are thus able to protect the US juridical position with regard to law of the sea.

The United States Delegation has met with a number of delegations to date. Japan has stated it will not sign the Convention at Montego Bay, and will at the earliest be able to do so at the end of January. Peru has announced that it will not sign the Convention in Montego Bay, primarily due to the fact that the Convention would deprive Peru of its 200-mile territorial sea. Peruvian President Belaunde has called for a debate and subsequent national consensus as a prerequisite to signature. In that Peru was one of the foremost proponents of the Treaty in its formative stages this is a promising development from the US vantage, as most South American coastal states share Peru's coastal orientation. Thus far at least the following countries will not sign the Convention in Jamaica: The U.S., the U.K., the FRG, Belgium, Italy, Spain, Israel, Turkey, Argentina, Ecuador and Peru.

Further, Canada, having been informed of our strong objections to certain portions of their proposed plenary statement which would have been adverse to our navigation interests, agreed to excise some of the offending portions.² Foreign Minister McEachen, the Canadian head of delegation, delivered that statement on December 6. The Canadian statement as delivered, emphasized the concept of a "package deal" and the Canadian view that the transit passage through international straits provisions of the treaty are a major inducement to signing.

In furtherance of our private resolve to keep to a minimum the number of States signing the Convention (as contrasted with the Final Act) at Montego Bay, we are making separate demarches to Uruguay, Chile, and South Korea.³ The United States has prepared a plenary statement and will offer comment on the impact of certain Convention articles as the need arises.

L. Paul Bremer, III⁴

² See Document 191.

³ The Department transmitted the text of the *démarche* in telegram 339805 to Montevideo, telegram 339996 to Seoul, and telegram 339804 to Santiago, December 7. (Department of State, Central Foreign Policy File, D820633-0521, D820634-0507, and D820633-0497, respectively)

⁴ An unknown hand signed for Bremer above his typed signature.

189. Telegram From the Mission to the United Nations to the Department of State¹

New York, December 7, 1982, 2132Z

3846. Subject: LOS at UNGA; Wrap-Up.

(U) 1. The financial report cleared 5th Comm on Thursday, 2 Dec with a price tag of \$4.3 million for 1983. The vote in the 5th Comm was 92 for, 3 against, 19 abstain.

(U) 2. The item came to the General Assembly on Friday afternoon, 3 Dec. LOS Chairman (Koh) introduced the draft resolution with a 25 min. statement which included the following points:

—The draft resolution was reasonable compromise to hold down costs.

—Blasted W. Safire and *Wall Street Journal* for “fabricated” \$20M figure and improperly inflaming public and administration opinion.²

—Proper for UN to finance considering depressed state of economies of many states.

(U) 3. Following Koh’s remarks Argentina, Israel, U.S. and Turkey made statements. Argentina again expressed regret over LOS Resolution III and elected not to partake in the voting. Israel stated their criticism of the financing method; dissatisfaction with LOS membership; and a general opinion that the demands of the draft resolutions were contrary to international law. U.S. made statement on introduction of U.S./Turkey Amendment.³ Turkey stated its total dissatisfaction with financing and territorial provisions of draft resolution and treaty. U.S. then made explanation of vote on draft resolution.

(U) 4. Votes were taken as follows:

—A. U.S./Turkey Amendment—134 against; 3 in favor (U.S., Turkey, Israel); 7 abstain (Belgium, Ecuador, FRG, Italy, Lux, Spain, U.K.)

—B. Operative para. 2—same results as A. above

—C. Operative para 3—134 in favor; 5 against; 5 abstain (Spain and U.K. shifted from abstention to against)

¹ Source: Reagan Library, Guhin, Michael A.: Files, LOS (Law of the Sea) UN (United Nations) (2). Confidential; Immediate. Sent Immediate to the White House and Immediate for information to Kingston to pass to U.S. Delegation Montego for Ambassador Clingan and Eskin. Printed from a copy that was received in the NSC Message Center.

² See William Safire, “Sea Law Seduction,” *Wall Street Journal*, November 9, 1982, p. 34.

³ In telegram 3198 from New York, November 3, USUN transmitted the text of the proposed U.S. amendment. (Department of State, Central Foreign Policy File, D820568–0339)

—D. Operative para 9—same results as A. and B. above

—E. Draft resolution—134 in favor; 2 against; 8 abstain (Israel shifted to abstention)

(C) 5. The voting went as expected. The only observations worth noting are that Argentina, Bolivia and Venezuela did not participate in vote but were present; neither FRG or Belgium voted against operative para 3, despite U.K.'s position; and Ecuador's consistent abstentions throughout voting. Peru's votes (all with majority) seem out of step with its announcement that it would not sign in Montego. The most likely explanation is that the decision did not reach the U.N. delegation in time.

(C) 6. Comment: Except for Canada and France, there are mild indicators that many of the Western states are coming to the harsh realization that the Prep Comm will be fully controlled by the Third World. The sterility of WEOG in the financial negotiations was felt by all. The Third World horse has taken the bit between its teeth. The sole reason any concessions were made at all was Koh's influence and ability to use the threat of losing the industrialized states, and particularly the Soviet bloc, at this final stage of the proceedings. Koh now fades from the scene. The pressures for consensus and Soviet bloc resistance will be far less in the Prep Comm. The inescapable fact that is finally surfacing is that Western industrial states will have little influence in Prep Comm decisions. End comment.

(U) 7. A documentation including vote tallies and statements are being pouched to OES/OLP.⁴

Kirkpatrick

⁴ Not found.

190. Memorandum From the Special Presidential Envoy on the Law of the Sea Treaty (Rumsfeld) to President Reagan¹

Washington, December 12, 1982

SUBJECT

Law of the Sea Talks with Key Allies

Law of the Sea (LOS). A French official told us that “a poor outcome was inevitable once the LOS process was launched in the UN.” Unfortunately, subjects seem to become more difficult to handle in multilateral processes like the UN, and the results are more likely to clash with US interests and common sense. The seabed mining provisions in the LOS treaty may be one of the most extreme examples.

The mission as your special emissary was to raise LOS from the level of experts, who had helped create the problem over the past 10 years, to the top political level—the only level where we had a chance of averting a damaging outcome at this late date. The specific objective was to dissuade key allies from signing the treaty when it opened for signature. To this end, we traveled to five countries and discussed LOS with President Mitterrand, Chancellor Kohl, Prime Ministers Thatcher, Lubbers and Nakasone, and the President of the European Commission.²

The reception accorded the mission shows the importance of the US to these countries and the respect extended to you personally. As expected, the reactions of these leaders varied. Thatcher was most impressive and correctly labeled LOS “an international nationalization of the seabeds.” Conversely, Mitterrand expressed no concern about the offensive aspects of the treaty and was unhelpful. (France had announced its decision to sign the treaty before the mission began.)³

When the treaty was opened for signature on December 10 in Jamaica, of the countries we targeted only France and the Netherlands signed it. The UK, FRG, Japan, Belgium and Italy did not sign. Notably, only one major western country with a capability for deep seabed mining (France) signed.

A favorable outcome for US policy in this area will require proper follow-up. The treaty is open for signature for two years and the Prepa-

¹ Source: Reagan Library, Executive Secretariat, NSC: Subject File, Law of the Sea (12/3–12/12/82). Secret. Sent for information. A stamped notation on the document reads: “The President has seen.” Reagan initialed the memorandum in the upper right-hand margin.

² See Documents 180, 186, and 187.

³ See footnote 4, Document 179.

ratory Commission will begin working on the rules and regulations in a few months. The major industrialized countries will continue to be under pressure to sign from their own LOS experts and from Third World countries. Over 110 countries signed the treaty.

Your involvement, Mr. President, will be needed to counter such pressure, especially during your January 18 meeting with Nakasone⁴ as the pressures to sign in Japan are strong. Continuing involvement by the Secretaries of State, Defense and the Treasury will be necessary as well. Finally, the US must develop and present a more definite and detailed alternative to LOS for major seabed mining countries. Without that, the risk of their signing the treaty late next year will be greater.

Allied Relations. Four of the seven key allies you asked me to visit underwent a change of government since the mission was launched about two months ago. This symbolizes the political problems of countries that are most important to the US. That extraordinary pace of political change is generally not a healthy sign for stability in free world approaches, but the leaders in the FRG and Japan seem closer to your philosophy and approach than those they replaced.

The mission's outcome suggests again that the US can have a positive influence on other countries' perceptions, plans and, at times, policies when the US adopts a policy that is sound, lends Presidential prestige to it and takes the issues to the top leaders in these countries on a timely basis. The US effort and mission on LOS gave heart to those in and out of government in these countries who agreed with your position but had concluded that the battle was already lost.

Personal. I appreciate the confidence you expressed in me by naming me your special emissary. Also, the support given the mission by your NSC staff, particularly Michael Guhin, and the Department of State, particularly your Deputy Ambassador to the UN Kenneth Adelman, was superb.

⁴ See footnote 2, Document 187.

191. Telegram From the Embassy in Jamaica to the Department of State¹

Kingston, December 13, 1982, 1316Z

11231. Subject: Concluding Sessions of UNCLOS III.

1. (U) On December 10, 1982, 140 countries signed the Final Act of UNCLOS III and 117 countries (plus UN Council for Namibia and Cook Islands) signed the UN LOS Convention. One hundred and forty-two states were present. Fiji has announced that it has ratified LOS Convention.

2. (U) Among those not signing were U.S., UK, FRG, Japan, Belgium, Italy, Israel, Spain, Ecuador, Luxembourg, Peru, South Korea, Switzerland, and Venezuela.

3. (U) During period of December 6–9, over 120 delegates took the floor to make general political statements. The vast majority welcomed the adoption of the LOS Convention and expressed their strong support for it. Many appealed to the US and to others to sign the convention. Few speakers made formal interpretive statements. A large number of delegates criticized those countries who sought to quote pick and choose unquote among provisions of convention they wished to accept. Many specifically attacked the seabed quote mini-treaty. Unquote

4. (C) Canadian Foreign Minister Macheachan gave strong pro-treaty statement. Canadians, at US urging, made some modifications in remarks on legal regime on navigation, but statement as a whole was still unhelpful. Macheachan made specific reference to quote new provisions on transit passage through international straits. Unquote In oblique reference to US, Macheachan said that if states may arbitrarily select those rights and responsibilities they will recognize or deny quote we will see the end not only of our dream of a universal, comprehensive Convention on Law of the Sea, but perhaps the end of any prospect for global cooperation on issues that touch the lives of all mankind. Unquote

5. (U) In the Soviet statement, Minister Gouzenko stated that the US has charted a course to torpedo the convention, and to conclude separate agreements to carry out activities on the seabed violating the convention. Soviet rep stated that a country cannot choose a selective approach to the norms of international law.

¹ Source: Reagan Library, Guhin, Michael A.: Files, LOS (Law of the Sea) Follow-On Review (16). Confidential; Immediate. Sent for information to Ottawa. Sent to Jakarta, Paris, London, Bonn, Moscow, Brussels, Rome, Luxembourg, Quito, Lima, Seoul, Bern, Caracas, Tokyo, Ankara, Athens, Madrid, Suva, USNATO, and USUN New York. Printed from a copy that was received in the NSC Message Center.

6. (U) Statements by UK, FRG and France were generally helpful, particularly in pointing out defects in seabed regime.

7. (U) US Rep (Clingan) gave brief statement on the afternoon of December 9. Statement pointed out that seabed provisions of LOS Convention were unacceptable to US and do not serve the interests of the international community and stressed that alternative ways of preserving national access to deep seabed resources were necessary, just, and permitted by international law. US will consider specific interpretive statements and exercise of right of reply during 30-day period provided.

8. (U) At closing session, Conference President Koh made very hard-hitting statement directly singling out the US by name. He stated that quote The argument that, except for Part XI,² the convention codifies customary law or reflects existing international practice is factually incorrect and legally insupportable. The regime of transit passage through straits used for international navigation and the regime of archipelagic sea lanes passage are two examples of the many new concepts in the convention. Unquote He later stated that the doctrine of the freedom of the high seas can provide quote no legal basis for the grant by any state of exclusive title to a specific mine site in the international area. Unquote There was no legal analysis to back up these statements. Full text of statement being sent by separate telegram.³

9. (C) US Del met on several occasions with representatives of Federated States of Micronesia and of Marshall Islands. Despite strongly voiced TTPI⁴ desire to sign convention, on December 10, Micronesian Reps signed only Final Act (not Convention) as observers. Soviets in their statement said quote We firmly believe that if the participation in the convention of self-governing associated states will entail a change in the status of the strategic Trusteeship Territory of the US-Pacific Islands (Micronesia) then any change in the status and the conditions of the Trusteeship Agreement should be sanctioned by the Security Council in accordance with Art. 83 of the UN Charter.⁵ Unquote TTPI statement on December 9 was moderate. Micronesian Rep stated that TTPI governments will sign Final Act and sign and ratify the Convention.

10. (C) The Greek Delegation requested an informal meeting with Amb Clingan to discuss proposed Greek interpretative statement on straits. The Greeks advised that their statement would be tabled upon

² Part XI established an International Seabed Authority to permit mining and distribute royalties for activity that occurs outside any state's EEZ.

³ Not found.

⁴ Reference is to the Trust Territory of the Pacific Islands.

⁵ Article 83.1 of the UN Charter refers to the relationship between the Security Council and strategic areas, including trusteeships.

ratification (they were noncommittal as to when this would occur). Clingan suggested that the Greeks consider tailoring their statement to Article 38.1.⁶ The Greeks are concerned only about overflight through the Kea and Euroea Straits (the corridor between Kea and Andros Islands and the mainland). They are fearful that Turkey will increase tensions in the Aegean with aircraft operating out of Istanbul, passing close to Athens. The Greek Delegation informally discussed their proposal with the Soviets who expressed no objection. Clingan was noncommittal in the proposal, pointing out that the US would be analyzing all proposals to apply treaty provisions to specific geographic areas on a case-by-case basis.

11. (C) AMB Clingan met with Indonesian FonMin Mochtar and Amb Djalal in attempt to determine the position of the GOI on US offer to discuss the possibility of recognizing the Indonesian claimed archipelago provided that US navigation and overflight rights are recognized by Indonesia as being derived from international law rather than Indonesian consent. FonMin Mochtar was noncommittal although he indicated that it may be too soon to pursue discussions. Clingan pointed out that the US did not anticipate a change in the operation of US forces and was willing to use the treaty provisions as the basis for an understanding because we view those provisions as articulating existing maritime practices. Clingan gave Mochtar a small map of the Indonesian-claimed archipelago, annotated with potential sealanes. Clingan concluded by once again urging prompt consideration by Indonesia of the US offer for consultations.

12. (C) US Del met with Spanish Reps for brief and very general discussion of straits issue. It was clear that Spanish Del had no specific instructions on straits and it appears new government has not yet focused on question. US and Spanish Reps agreed on need to work closely in future on this issue.

13. (C) In military-to-military consultations with the Soviets on December 7, efforts were made to convince USSR of the pitfalls of a contractual approach to the navigation and overflight provisions of the draft treaty.⁷ RAdm Harlow and Navy General Counsel O'Neill pointed out that, if key strait states refuse to sign, the contract theory becomes a trap. Only by maintaining that the navigation and overflight provisions reflect customary international law can the right of transit passage be fully protected as against nonsignatory bordering states. It was also pointed out that the customary law argument is bolstered by the maritime practice of both the US and USSR and is consistent with

⁶ Article 38 of the Law of the Sea Treaty refers to the right of transit passage through straits used for international navigation.

⁷ No record of this meeting has been found.

the long-standing Soviet position regarding rights of navigation and overflight through straits. The points appeared to be sinking in as the meeting progressed, and Soviets agreed to consider the issue further. From what they divulged during the course of the discussion concerning the nature of their intended plenary statement, the actual plenary statement two days later appeared to have been altered to some degree away from the contractual approach. The consultation could thus be viewed as a success and the Soviets expressed the desire for continued consultations of this nature in the future.

14. (C) Canadian delegation has gone ahead with its efforts to prepare for PIP applications through adoption of a memorandum of understanding (MOU).⁸ Canadians held meeting on December 3, and are scheduled to hold a second on December 11. US Reps met with Canadian delegation members to discuss Canadian plans. Canada understands that US is not in UNCLOS process but they do not understand that UK and FRG may be out also. In bilateral discussions Canadians made clear that Soviets would insist on MOU being limited to treaty signatories and Canadians would agree to that. Current Canadian draft MOU reflects this limitation. Canadians hope to draw all deep seabed mining consortia into their MOU process through representation by Netherlands, France, Japan, and perhaps others. Canadians hope to move forward as quickly as possible in hope of signing MOU at Prepcom session in March. US Reps informed Canadians that since MOU was based exclusively on PIP and potential signature of LOS Convention, there was no purpose in continued US involvement and US would not be represented at December 11 or subsequent meetings. Comment. Some other dels, including some on Canadian Delegation (protect) are highly skeptical that anything serious can be produced by the Canadian group. End comment.

15. (C) At Japanese hosted G-5 lunch December 8, there was little of substance discussed. There was, however, general agreement among five that Group had served useful purposes and that nations in Group continue to have common marine concerns despite differences on LOS Convention. Therefore, it would be desirable for Group to continue to meet from time-to-time. (Drafted: OES/Eskin; approved: DCM/WRWarne).

Hewitt

⁸ In telegram 8953 from Ottawa, December 21, the Embassy reported on a conversation with Canadian diplomats, in which the proposed memorandum of understanding on seabed mining was discussed. (Department of State, Central Foreign Policy File, D820662-0038)

192. National Security Decision Directive 72¹

Washington, December 13, 1982

*UNITED STATES PROGRAM FOR THE EXERCISE OF
NAVIGATION AND OVERFLIGHT RIGHTS AT SEA (C)*

I have considered agency views and recommendations² on the subject program and decided that the United States will continue to protect U.S. navigation, overflight, and related security interests in the seas through the vigorous exercise of its rights against excessive maritime claims. The current uncertainty in the law of the sea and the U.S. decision not to become a party to the Law of the Sea (LOS) Convention make all the more necessary a clear assertion of our rights and a revitalized and more effective navigation and overflight program. Accordingly, I have also decided that the following procedures be instituted immediately to implement this program. (C)

U.S. interests are to be protected against the following categories of excessive maritime claims:

1. Those historic bay/historic water claims not recognized by the United States. (C)

2. Those continental territorial sea baseline claims not drawn in conformance with the LOS Convention. (C)

3. Those territorial seas claims exceeding three miles but not exceeding twelve miles in breadth that:

a. overlap straits used for international navigation and do not permit transit passage in conformance with the LOS Convention, including submerged transit of submarines, overflight of military aircraft, and surface transit of warships/naval auxiliaries, without prior notification or authorization; or

b. contain requirements for advance notification or authorization for warships/naval auxiliaries or apply discriminatory requirements to such vessels; or

c. apply special requirements, not recognized by international law, to nuclear-powered warships or to warships/naval auxiliaries carrying nuclear weapons or specific cargoes. (C)

4. Territorial sea claims in excess of twelve miles. (C)

¹ Source: Reagan Library, Executive Secretariat, NSC: NSDD Records, NSDD 72 [The United States Programs for the Exercise of Navigation and Overflight Rights at Sea]. Confidential.

² See footnote 8, Document 162.

5. Other claims to jurisdiction over maritime areas in excess of twelve miles, such as exclusive economic zones or security zones, which purport to restrict non-resource related high seas freedoms. (C)

6. Those archipelagic claims that either:

a. are not in conformance with the LOS Convention; or

b. do not permit archipelagic sea lanes passage in conformance with the LOS Convention, including submerged passage of submarines and overflight of military aircraft, and including transit in a manner of deployment consistent with the security of the forces involved. (C)

The current United States juridical position regarding the breadth of the territorial seas and other jurisdictional entitlements will not be changed pending further review. (C)

To ensure that the execution of the program gives appropriate consideration to the possibility of damage to bilateral or other relations, the Department of Defense will plan, and administer the program under the following procedures: (C)

- International straits (paragraph 3.a. above) will be used by both naval ships and aircraft freely and frequently as directed by the Department of Defense. (C)

- The Department of Defense will routinely assert U.S. rights against territorial sea claims and other claims to jurisdiction over maritime areas in excess of twelve miles (paragraphs 4 and 5 above). (C)

- The Department of Defense will submit in advance to the Department of State and the Assistant to the President for National Security Affairs a proposed schedule for asserting U.S. rights against the following categories of excessive claims: territorial sea claims of twelve miles or less which contain special requirements not recognized by international law (paragraphs 3.b. and 3.c. above); archipelagic claims (paragraph 6 above), unrecognized historic claims (paragraph 1 above) and nonconforming baselines (paragraph 2 above).³ Objections to the schedule by the Department of State will be resolved by the Assistant to the President for National Security Affairs. After a reasonable number of assertions of U.S. rights against an excessive claim in any of these categories, on the recommendations of the Departments of Defense and State, the Assistant to the President for National Security Affairs may determine that advance scheduling to assert rights against these claims will no longer be required. (C)

Except for navigation in and over international straits including their approaches, when any assertion of rights against an excessive claim will result in entry into a politically sensitive area, the planned

³ The Department of Defense proposed schedule has not been found.

operation will be reviewed by the Department of State, and the Assistant to the President for National Security Affairs prior to execution by the Department of Defense. The Department of State is responsible for maintaining an up-to-date list of politically sensitive areas. In addition, the Department of State will advise the Department of Defense if any transient political factors in a littoral country which is not a politically sensitive area make it inadvisable for a limited time to conduct an operation under this program. (C)

The Department of State, in conjunction with this program, will continue to protest in diplomatic channels the excessive claims of littoral countries. (C)

Ronald Reagan

193. Memorandum From the President's Assistant for National Security Affairs (Clark) to President Reagan¹

Washington, undated

SUBJECT

Law of the Sea Preparatory Commission

Issue

Should we withhold our share of our assessed UN contribution for implementing the Law of the Sea (LOS) seabed provisions?

Discussion

The UN recently adopted a resolution, by a vote of 132–4, that would finance the LOS Preparatory Commission out of the regular UN budget, of which we normally pay 25 percent. We strongly opposed it.²

Withholding our share (1) would not stop the Preparatory Commission; (2) would likely be criticized by some as contrary to collective financial responsibility which the US strongly supports for the UN; and (3) might be successfully challenged in the International Court of Justice. (We have withheld such funds to date only in rare circumstances where Congress has so directed.)³

¹ Source: Reagan Library, Meese Files, Law of the Sea. Confidential. Sent for action. Drafted by Guhin. A copy was sent to Meese. Printed from an unsigned copy.

² See Document 181.

³ See footnote 7, Document 183.

On the other hand, the LOS Commission is not a proper UN expense; we have a good legal basis for not paying for it; and payment would be a bad precedent for any future cases of improper use of assessed funds; and be criticized by supporters of our LOS policy. Moreover, payment would support an activity that is directly contrary to our policy and approach on LOS and seabed mining as we oppose the treaty because of the damaging seabed provisions and will not be participating in the Preparatory Commission.

George Shultz and Jeane Kirkpatrick recommend withholding these funds (Tabs B & C).⁴ Ed Meese and I fully agree. This would apply to about \$1 million of next year's funds and possibly more in subsequent years.

RECOMMENDATION

That you approve the policy of withholding funds from our assessed UN contribution for implementing the LOS seabed provisions. (If you approve, I will issue the memo to agencies at Tab A.)⁵

⁴ Attached but not printed.

⁵ Attached but not printed. An unknown hand drew a line through the proposed memorandum and wrote: "Will not be sent." Clark checked and initialed the approve option for Reagan. On December 30, 1982, Reagan issued a statement regarding the withholding of funds from the Preparatory Commission. (*Public Papers: Reagan, 1982*, Book II, p. 1652)

194. Action Memorandum From the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs (Malone) to Secretary of State Shultz¹

Washington, January 12, 1983

SUBJECT

Oceans Policy and Law of the Sea—Establishment of an Exclusive Economic Zone for the United States by Presidential Proclamation and Promulgation of a US Oceans Policy

ISSUE FOR DECISION: Whether the Department of State should support the establishment of an Exclusive Economic Zone (EEZ) by Presidential Proclamation and the promulgation of a US Oceans Policy as recommended by the Interagency Group on Oceans Policy and Law of the Sea.

ESSENTIAL FACTORS: By NSDD-58 (Tab A)² the Senior Interagency Group for Oceans Policy and Law of the Sea was charged with preparing recommendations on oceans policy including giving prompt attention to the establishment of an EEZ for the United States. The Interagency Group has considered this matter and has prepared a draft decision memorandum for the President recommending that he establish an EEZ by Proclamation, a draft Proclamation and a draft Oceans Policy Statement, which would be issued at the same time. The IG has forwarded these documents to the Senior Interagency Group for review.³ If the SIG approves, the package will be transmitted to the President for his decision.⁴

An EEZ is an area beyond and adjacent to the territorial sea, over which the coastal State has sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the seabed and subsoil and superjacent waters, and with regard to other activities related to the economic exploration and exploitation of the zone. In this zone, other States would continue to enjoy the high seas freedoms of navigation and overflight and the laying of submarine cables and pipelines. The zone extends from the outer limits of the territorial sea to a line, in most

¹ Source: Reagan Library, Papers of George P. Shultz, Law of the Sea. Confidential. Sent through Schneider. A stamped notation on the memorandum indicates Shultz saw it.

² Not attached, printed in Document 176.

³ In a January 6 memorandum to Senior Interagency Group No. 32, Bremer forwarded draft copies of the decision memorandum, policy statement, and Presidential proclamation (Tabs B, C, and D). (Reagan Library, Guhin, Michael A.: Files, 1/19/1983[2])

⁴ See Document 195.

cases 200 nautical miles from the baseline from which the breadth of the territorial sea is measured.

BACKGROUND

The United States already has fishery resource jurisdiction (with the exception of tuna) extending to 200 nautical miles from the coast (under the Magnuson Fishery Conservation and Management Act), sovereign rights for the purpose of exploration and exploitation of the resources of the continental shelf (implemented through the Outer Continental Shelf Lands Act), and certain jurisdiction beyond the territorial sea relating to pollution control (under the Clean Water Act of 1977 and other laws).

The establishment of an EEZ would establish new United States jurisdiction over: a) mineral resources of the ocean floor beyond the continental shelf out to 200 nautical miles; b) other economic activities, such as the production of energy from the winds, waves, tides and thermal conditions, within the EEZ; c) all artificial islands, installations and structures used for economic purposes (to the extent not yet established); and would create a framework wherein jurisdiction over marine pollution and marine scientific research could be exercised or expanded, as appropriate, by legislation. The EEZ would apply to the waters adjacent to the United States, US overseas possessions, and the Commonwealth of Puerto Rico.

Proclamation of an EEZ at this time would create a valuable precedent to help guide the practice of other coastal States when they establish their EEZ's. (Over 50 nations have already done so.) Most other coastal states are expected to follow suit in the near future. An EEZ would bring within the jurisdiction and control of the United States substantial additional mineral resources within 200 nautical miles of our coasts while preserving the traditional high seas freedoms of other states. It would be seen by the public and many members of Congress as a commitment by the President to protect and promote US interests.

The major disadvantages of a US proclamation at this time are: that it could accelerate the tendency of a number of coastal States to adopt EEZ's claiming jurisdiction and control in excess of that permitted under international law as reflected in the Law of the Sea Convention and, therefore, contrary to US interests; it would reinforce the argument that the US is picking and choosing among those rights and duties that it will respect, and may be viewed by some in the Congress as an act that would impair rather than promote US interests by attracting challenges to the exercise of our oceans rights.

A draft Decision Memorandum for the President is attached at Tab B, a draft Presidential Proclamation is attached at Tab C, and a

Presidential Statement on Oceans Policy at Tab D.⁵ These documents reflect the views of the Interagency Group on Oceans Policy and Law of the Sea. We expect that all concerned agencies will recommend that an EEZ be established by Presidential Proclamation and that these documents be submitted to the President for his review.

No outstanding substantive issues remain.

Decisions made today will affect the basic freedoms of the sea for decades to come. It is incumbent upon us to gain a wide range of support, both inside and outside of government, for a new oceans policy based on our non-signature of the LOS Convention. Don Rumsfeld committed us to genuine consultations with our allies on oceans policy issues. We have cabled texts of the proposed EEZ proclamation and oceans policy statements to key maritime countries with a request for their comments.⁶

This week, we have undertaken an extensive program with our allies, neighbors, and others to explain the US approach to an EEZ and to solicit their views on the US EEZ initiative and oceans policy. The results of these consultations will be included in the final paper for the President.⁷

RECOMMENDATION

All concerned bureaus in the Department of State recommend that the Department of State support the establishment of an EEZ and that the attached package be submitted to the President.⁸

⁵ Tabs B, C, and D are not attached. See footnote 3, above.

⁶ In telegram 5357 to multiple recipients, January 8, the Department transmitted the proposed EEZ proclamation and requested feedback from host governments. (Department of State, Central Foreign Policy File, [no film number])

⁷ See Document 195.

⁸ Shultz initialed the approve option on January 14.

195. Report Prepared by the Senior Interagency Group¹

Washington, January 18, 1983

Interagency Report on Oceans Policy and Law of the Sea:
Establishment of an US Exclusive Economic Zone
and a National Oceans Policy

ISSUE: Whether the United States should establish an Exclusive Economic Zone (EEZ) by Presidential Proclamation and promulgate a US Oceans Policy Statement.

By NSDD-58 (Tab 3)² the Senior Interagency Group for Oceans Policy and Law of the Sea was charged with preparing recommendations on oceans policy including giving prompt consideration of an Exclusive Economic Zone (EEZ) and other possible initiatives.

This paper reflects the considerations of the Senior Interagency Group. The Senior Interagency Group recommends that an EEZ be established by Presidential Proclamation and that the Administration seek supplemental legislative and regulatory initiatives consistent with the Proclamation. A proposed Presidential Proclamation is attached at Tab 1³ and Presidential Statement on Oceans Policy at Tab 2.⁴

An EEZ is an area beyond and adjacent to the territorial sea, over which the coastal State has sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the seabed and subsoil and superjacent waters, and with regard to other activities related to the economic exploration and exploitation of the zone. The zone extends from the outer limits of the territorial sea to a line, in most cases, 200 nautical miles from the baseline from which the breadth of the territorial sea is measured.

The United States already has fishery resource jurisdiction (with the exception of highly migratory species of tuna) extending to 200 nautical miles from the coast (under the Magnuson Fishery Conservation and Management Act), sovereign rights for the purpose of exploration and exploitation of the resources of the continental shelf (implemented through the Outer Continental Shelf Lands Act), and certain

¹ Source: Department of State, Central Foreign Policy File, P830024-1184. Confidential. Sent to Clark under a February 1 covering memorandum from Bremer. There is no indication Reagan saw the memorandum.

² Attached, printed in Document 176.

³ Attached but not printed. See *Public Papers: Reagan*, 1983, Book I, p. 380.

⁴ Not attached. See *Public Papers: Reagan*, 1983, Book I, pp. 378-379.

jurisdiction beyond the territorial sea relating to pollution control (under the Clean Water Act of 1977 and other laws).

The establishment of an EEZ would provide new United States jurisdiction over: a) mineral resources of the ocean floor beyond the continental shelf out to 200 nautical miles (including US tax jurisdiction over extraction of such mineral resources); b) other economic activities, such as the production of energy from the winds, waves, tides and thermal conditions, within the EEZ; c) all artificial islands, and installations and structures used for economic purposes (to the extent not yet established). It would also create a framework wherein jurisdiction over marine pollution and marine scientific research could be exercised or expanded, as appropriate, by legislation. The EEZ would apply to the waters adjacent to the United States, US overseas possessions, and the Commonwealth of Puerto Rico.

Proclamation of an EEZ at this time would create a valuable precedent to help guide the practice of other coastal States when they establish their EEZ's and would bring within the jurisdiction and control of the United States additional resources within 200 nautical miles of our coasts. It would be seen by the public and many members of Congress as a commitment by the President to protect and promote US interests.

The perceived disadvantages of a US proclamation at this time area: that it could accelerate the disposition of a number of coastal States to adopt EEZ's claiming jurisdiction and control in excess of that permitted under international law as reflected in the Law of the Sea Convention and, therefore, contrary to US interests; it would reinforce the argument that the US is picking and choosing among those rights and duties that it will respect, and it would be viewed by some in the Congress as an act that would impair rather than promote US interests by attracting challenges to our exercise of our oceans rights.

BACKGROUND

1. Purpose

The purpose of establishing an EEZ is to assert our rights and interests in a manner which could help the development of international oceans law and bring within our jurisdiction resources which are rightfully ours consistent with such law. If this is carefully done so that the rights and jurisdiction asserted by the US are within the parameters of the international law of the EEZ as reflected in the LOS Convention and take into consideration the concerns of our allies and other key States, we have the opportunity to encourage the practice of other States along similar lines and thereby to encourage customary international law to develop in a manner acceptable to us.

2. The Evolution of the Exclusive Economic Zone

The EEZ evolved during the Third United Nations Conference on the Law of the Sea (UNCLOS III) as a compromise between those States oriented toward the establishment of jurisdiction and sovereign rights over marine areas off their coasts (including Latin American claimants of 200 nautical mile territorial seas) and those States more oriented toward the maintenance of traditional freedoms of the seas beyond a narrow territorial sea. The essential compromise worked out in the UNCLOS III Convention is that, in an exclusive economic zone extending 200 nautical miles from the coast, the coastal State is entitled to exercise sovereign rights and jurisdiction over the conservation and management of the living and non-living resources of the area; in return, all other high seas freedoms, such as freedoms of navigation and overflight and related uses of the zone remain intact.

The UNCLOS III Convention elaborates the resource related jurisdiction, the pollution jurisdiction, and the marine scientific research jurisdiction that may be exercised; it does not, unfortunately, elaborate as clearly the relationship of these concepts to the freedoms of navigation and overflight and other related uses in the zone. Thus, the UNCLOS III Convention leaves somewhat ambiguous the precise jurisdictional parameters of the EEZ. Over 50 States have already made EEZ claims and many more are likely to do so in the interim between opening the UNCLOS III Convention for signature and its eventual entry into force, if that ever occurs. Some of these claims are consistent with the Convention, others are not. Accordingly, State practice, both within and outside of the Convention, will help to define the content of the EEZ in international law.

The application of appropriate policies in a US EEZ would create a valuable precedent with respect to the shaping of the EEZ as a feature of international law. The EEZ the US creates should be consistent with the UNCLOS III principles which, on balance, reflect US interests. Deviation from these principles, especially if the US were to claim more extensive jurisdiction than permitted by the Convention, could provoke others to do so with potentially adverse effects on our commercial and military navigation interests. The proposed proclamation is consistent with the UNCLOS III principles.

3. The Legal Basis for the Establishment of an Economic Zone

While the text of the UNCLOS III Convention provides for the establishment of an EEZ, it is also clear that the EEZ is widely regarded as a claim of jurisdiction whose lawfulness is not dependent upon the Convention's entry into force or a claimant's becoming a party to the Convention. There is a record of State practice in support of such zones, generally consistent with, but not dependent upon the UNCLOS III

Convention. The States that have declared exclusive economic zones include some US allies (France, New Zealand, Norway, Spain, and Iceland). The International Court of Justice stated in the *Tunisia-Libya Continental Shelf Case* that “the concept of the exclusive economic zone . . . may be regarded as part of modern international law”. (ICJ Reports 1982, para. 100.) The American Law Institute also has (preliminarily) indicated that it believes that the EEZ is part of customary international law.⁵ Accordingly, a US claim of an EEZ would have a substantial basis in customary international law and its lawfulness would not be subject to serious or sustained challenge by other States. At the same time, we must recognize that if we make such a claim, we are in no position to deny the rights of other States to make similar claims. Indeed, it appears useful to stimulate claims conforming to our own.

4. International Legal Implications of Establishing an EEZ

Under the LOS Convention, the EEZ is a specific legal regime with detailed, but also ambiguous, parameters. The jurisdictional content of the EEZ as a matter of customary international law has not crystallized. Some States have claimed more control over activities in their EEZ's than they could exercise under the UNCLOS III Convention: e.g., control over military exercises; the laws of other States do not claim as much; and others simply have not specified the rights they claim.

If we follow the UNCLOS III principles, we would enhance our position that other claims cannot be inconsistent with our interpretation of the model.

We must also recognize that the legal basis for establishing an economic zone cannot persuasively be distinguished from the legal basis supporting any jurisdictional claim made by a coastal State that is consistent with the LOS Convention. Whether or not the US claims an EEZ, we will not be able to argue credibly that a coastal State has no basis in international law for establishing a 12-mile territorial seas which affords to all States the navigational rights and freedoms specified in the Convention. However, the legal basis of the traditional 3-mile position will be maintained in all specific instances until the coastal State in question demonstrates respect for our rights and freedoms.

BENEFITS TO THE UNITED STATES OF AN EEZ CLAIM

There are two major areas of benefit for the US in the establishment of an EEZ. One is the actual resource jurisdiction that would be encompassed. The other is the valuable precedential effect that could be

⁵ See footnote 7, Document 160.

created with respect to shaping the content of the EEZ as a feature of international law.

The establishment of an EEZ would not materially affect present US fisheries and continental shelf jurisdiction, which is complete as a matter of international law. However, it would bring within the control of the United States additional economic resource uses of the oceans within 200 nautical miles of the United States' coast. It would somewhat strengthen our fisheries negotiating leverage. It would clearly establish US jurisdiction and control over the minerals of the seabed beyond the continental shelf out to 200 nautical miles, including polymetallic sulphides and cobalt/manganese crusts which may be of substantial commercial value in the future, and energy related uses from winds, tides, waves and thermal energy conversion.

Under the UNCLOS EEZ concept, the coastal State may establish significant jurisdiction over pollution and marine scientific research in the EEZ. In the Convention, the scope of coastal State control over marine scientific research is extremely broad, and over pollution somewhat less so. Nevertheless, the SIG has reviewed US marine science and pollution control interests and determined that the US does not at this time have a coastal interest in augmenting its present pollution jurisdiction or asserting marine scientific research jurisdiction. However, the US does have a strong interest in preventing coastal States from using marine scientific research or, more likely, pollution jurisdiction, to restrict the exercise of those traditional high seas freedoms that the UNCLOS Convention, as we interpret it, reserves for all States in the EEZ. It is in this area that the US can set an example that would guide State practice towards acceptance of an EEZ regime whose pollution and marine scientific research elements do not restrict the exercise of these freedoms, but do protect legitimate coastal State interests.

An EEZ proclamation would be seen by the public as a commitment by the President to protect and promote US interests in the development and conservation of resources to which the US is entitled under international law.

The EEZ proclamation should be viewed by some in the Congress as a positive effort by the President to promote US interests. Senator Ted Stevens (R-Alaska) and Congressman John Breaux (D-LA) have introduced bills to establish an EEZ.⁶ A recent letter to President Reagan from Breaux and nineteen other Congressmen has urged prompt establishment of an EEZ.⁷ While these proposals will require changes before

⁶ S. 2997 and H.R. 7225, both introduced September 30, 1982. (THOMAS online)

⁷ In a January 6 memorandum to Ponticelli, Wheeler forwarded the letter from the 20 Congressmen. (Reagan Library, Guhin, Michael A.: Files, LOS (Law of the Sea) Statements/Letters [3])

enactment, they could form the basis of legislative implementation of the EEZ proclamation, as the OCS Lands Act of 1953 did for the Truman Proclamation of 1945.⁸ Senators Percy and Pell have written the President indicating their concern that a US Proclamation of an EEZ at this time could provoke nations that are hostile to our refusal to sign the LOS Convention.⁹ Chairman Zablocki on behalf of himself and 57 other Congressmen (most of whom are critics of the President's LOS policy) have expressed concern about the consequences of a unilaterally declared US EEZ; and whether it is appropriate to move forward at present with such a proposition.

US proclamation of the EEZ along the lines of the UN LOS Convention will reassure countries with important LOS concerns that the US will accept the coastal jurisdictional provisions contained in the LOS Convention. Many nations fear that the US, by removing itself from the UN LOS treaty process, will reject jurisdictional claims reflected in the UNCLOS III Convention and growing State practice. Declaration of an EEZ in conjunction with a comprehensive oceans policy would reassure some countries that we do not intend to undermine the development of international oceans law. It may also show some States that they need not become party to the LOS Convention to enjoy rights under the international law of the sea. By shaping the content of our EEZ to permit maximum freedom of the high seas consistent with US resource jurisdiction, and in particular in the area of pollution, we may influence the implementation of the EEZ concept by other States and thus retard further erosion of the freedoms of the seas in the 200-mile zones.

POTENTIAL DISADVANTAGES OF AN EEZ CLAIM BY THE UNITED STATES

A number of potential disadvantages exist to establishing an EEZ at this time. At a time when the US is under attack by a number of countries for not signing the LOS Convention, US declaration of an EEZ could hasten the adoption by other countries of EEZ's that claim greater jurisdiction than permissible under the US interpretation of the Convention. Such excessive claims would be contrary to US interests and could encourage challenges to US uses of the oceans. Establishment of an EEZ at this time could reinforce the arguments of domestic and foreign critics of the Administration that the US is picking and choosing from a package deal, trying to reap the benefits while rejecting the

⁸ Proclamation 2667, issued on September 28, 1945, proclaimed U.S. jurisdiction over the Outer Continental Shelf. Truman's proclamation was further clarified by the Outer Continental Shelf Lands Act of 1953.

⁹ Not found.

burdens of the LOS Convention. Establishment of an EEZ now will be seen by many Congressional critics of the Administration's LOS policy as encouraging US isolation from its responsibilities as a member of the international community.

An EEZ claim by the United States means that we must accept comparable claims of other States. Thus, we would have to concede resource jurisdiction off foreign coasts out to 200 nautical miles (except for jurisdiction over highly migratory species of tuna). Although this means giving up a right to exploit seabed resources beyond the continental shelf but within 200 nautical miles of a foreign coast, it is most unlikely, in light of the clear trend in the law, that US companies would spend the money to exploit resources in such areas even if the US maintained its current position. Second, an EEZ claim concedes the right of the coastal State to impose reasonable controls on marine scientific research off its coast, unless such control is specifically disclaimed in an EEZ assertion. This will require closer cooperation with other States to allow research programs to continue. Whether or not we assert an EEZ, military research and other activities related to the freedom of the high seas (and not subject to coastal State jurisdiction) may be questioned by other nations. We must be firm in exercising our rights in the face of such challenges. Third, the declaration of an EEZ could hasten claims of other States to expansive pollution jurisdiction. However, these claims either exist or are expected to arise regardless of whether we act.

THE PRESIDENT'S AUTHORITY AND OTHER DOMESTIC LEGAL CONSIDERATIONS

The precedent of the US claim to the Outer Continental Shelf supports the view that the President can establish an EEZ by proclamation, rather than by legislation. In 1945, President Truman proclaimed jurisdiction and control over the continental shelf, but it was not until 1953 that legislation was passed to provide a framework for the regulation of activities on the shelf.

In balancing the President's inherent foreign affairs powers against the powers of the Congress to regulate interstate commerce under Article 1, section 8 of the Constitution, the best conclusion, although by no means the only defensible one, seems to be that the President could proclaim US sovereign rights or control over the resources of an EEZ, but that only Congress may establish a regulatory framework for the exploitation of resources, for the protection of the marine environment, and for the conduct of marine scientific research. This conclusion is reinforced by the record of legislative action in several relevant areas, such as fisheries, the continental shelf, ocean thermal energy conversion, deepwater ports and marine pollution. The precise division

between Presidential and Congressional authority may be difficult to identify with certainty, but this much is clear:

1) By Proclamation the President could control resource related activities by a foreign flag vessel beyond the continental shelf but within 200 nautical miles of the coast.

2) By Proclamation the President could assert jurisdiction in general terms, leaving for Congress the identification of its specific content.

3) By Proclamation the President could not regulate the activities of US nationals in these areas where there was not otherwise a statutory basis.

Therefore, any decision to proclaim an EEZ should be accompanied by a decision to begin the process of implementing legislation. This would be achieved either by drafting an Administration Bill or working closely with the Members of Congress and Senators who have already introduced EEZ Bills to perfect that legislation. We would then have to promulgate regulations to implement the new law. We will have to examine very carefully existing statutes to determine what modifications are necessary or desirable as a result of the US establishing an EEZ, including tax consequences which may be substantial.

ELEMENTS OF THE EXCLUSIVE ECONOMIC ZONE

1. Fisheries

A US EEZ would not change existing US control over fisheries within 200 nautical miles of the coast. The present US law on highly migratory species of tuna within the 200 mile zone varies from the UNCLOS III Convention as interpreted by a majority of States, in that the US neither recognizes nor asserts unilateral jurisdiction over such tuna. Any change in our tuna policy would be politically controversial and would severely damage our distant-water tuna industry. The establishment of an EEZ would not affect the scope of our laws, but would give us a stronger hand in fishery negotiations with other States by establishing US sovereign rights in these resources.

2. Continental Shelf

A US EEZ would incorporate existing US jurisdiction over the continental shelf. No changes in that jurisdiction are contemplated. The only question is the geographical outer limit. The exploitability test, set out in the 1958 Geneva Convention on the Continental Shelf to which the US is a party, is ambiguous. It would be possible at this time—but is not necessary—to define specifically the outer limits of the US continental shelf in those areas where it may extend beyond 200 nautical miles.

The Minerals Management Service, Department of the Interior, published notice of jurisdiction over the Juan de Fuca Ridge, and the

Gorda Ridge, of the west coast of the United States, on 8 December 1982 in the *Federal Register*, based on the exploitability test of the 1958 Geneva Convention on the Continental Shelf, the Truman Proclamation of 1945, and domestic Outer Continental Shelf and deep seabed mining legislation. This assertion of United States jurisdiction is under active discussion within the interested agencies of the government, some of whom consider it without merit. Insofar as the Gorda Ridge, which lies within 200 nautical miles of the US, is concerned, the EEZ Proclamation would obviate any actual or potential problems arising from the assertion of jurisdiction. The question of the inclusion of the Juan de Fuca Ridge, most of which lies beyond 200 miles, within the limits of the continental shelf of the United States must, however, await resolution of questions regarding the exact definition of the limit of the continental shelf beyond 200 miles, noted above. DOI will place a notice in the *Federal Register* clarifying its jurisdictional claim prior to publication of the EEZ proclamation.

3. *Other Mining Activities*

The greatest resource benefit in the claim of an EEZ would be that the United States would gain jurisdiction over the resources of the seabed beyond the continental shelf but within 200 nautical miles of the coast. Recently discovered deposits of polymetallic sulphides and cobalt/manganese crusts are not currently commercially recoverable, but could be a major source of industrially important strategic minerals in the future. The EEZ will assert jurisdiction over all minerals (nodules, sulfide deposits, hydrocarbons, etc.) in these areas. The Proclamation will permit the US to control any foreign resource-related activities in these areas. The Deep Seabed Hard Mineral Resources Act already governs US citizens mining nodules in these areas as an exercise of a high seas freedom. Additional legislation should be sought to establish exclusive rights to particular mine sites; and to establish US regulatory authority over non-nodule minerals.

4. *Marine Scientific Research*

The SIG recommends that the US assert no new jurisdiction over marine scientific research. The US will continue to exercise existing controls over resource related research on the continental shelf and within the fisheries zone. However, as a legal matter, if the US adopts the concept of an EEZ, it must accept that the coastal State has jurisdiction over marine scientific research in the EEZ (understanding that military activities are not within the definition of marine scientific research). It is important to clarify the distinction between marine scientific research, which is subject to coastal State controls, and research related to other uses of the high seas and embodied in the concept of freedom of navigation and overflight, which is not subject

to coastal State controls. This distinction is essential to preserve our right to conduct military related research off the coasts of other States.

The US scientific community has indicated that it is reluctantly willing to accede to expanded coastal State jurisdiction over marine scientific research in the EEZ if the US will seek clearances from coastal States for such research. The Department of State will submit such vessel clearance requests from US marine scientists seeking to conduct marine scientific research programs in foreign EEZ's.

5. Marine Pollution

The Clean Water Act, and other laws, provide for certain pollution jurisdiction off the US coast at the present time. Without going into detail, it may be said that the UNCLOS III Convention provides a complex formula for an exercise of significantly more coastal State jurisdiction, but this is subject to dispute settlement procedures established under the Convention. Our present jurisdiction is probably sufficient to meet our own coastal needs for the foreseeable future. However, in light of the interest of other States in asserting new pollution control jurisdiction that could seriously affect and have a negative influence on continued freedom of navigation and overflight in the EEZ, in the future we may wish to consider establishing a pollution jurisdiction that implements the principles of the UNCLOS III Convention in this area. There are essentially three aspects of this matter. Under the UNCLOS III Convention, the coastal State has jurisdiction over the dumping of wastes (as defined) within the EEZ. By asserting an EEZ, we would be recognizing the rights of others to control this activity. The Marine Protection Research and Sanctuaries Act would require amendment to bring foreign dumping in a US EEZ under US regulatory authority beyond the territorial sea and contiguous zone.

The second aspect of this matter is the port State's authority to take actions in port against foreign flag vessels that have violated pollution regulations applicable to the EEZ. The US has an interest in maintaining that such regulations may only implement generally agreed international standards and that the coastal State has no authority to adopt its own *ad hoc* standards. Our commercial shipping interests would also benefit from a precedent created for prompt resolution of any legal proceedings brought by the port State. The entry into force of the International Convention for the Prevention of Pollution from Ships of 1973 and the 1978 Protocol relating thereto in October 1983 will, in large measure, together with other US laws, enable the United States to structure a responsible pollution regime for the EEZ that can influence other States as they deal with this complicated question. At this time, it would be appropriate to indicate our general intentions and to require further study of this question.

The third aspect of this matter is the enforcement jurisdiction that the coastal State may exercise against foreign flag vessels passing through the EEZ, but not entering a port. In other words, to what extent and in conformity with what pollution criteria may a coastal State enforcement authority stop, board, inspect, and take control of a foreign flag vessel passing through the EEZ. Because of our navigation interests the US objective is to see a very restricted State practice develop in this area. At this time, it would be appropriate to indicate the US view that such coastal State authority is extremely limited and goes no further than the jurisdiction we presently have to intervene in the case of marine disasters. This view need not be discussed at the present time in either the Proclamation or the Policy Statement.

A marine pollution policy along these lines would be seen as responsive to the development of international law; be a contribution to the international community in developing a rational legal proposal in this area; and would be protective of US resources and the coastal environment. In structuring a marine pollution policy we would have the opportunity to reaffirm our view that pollution jurisdiction is not applicable to ships and aircraft entitled to sovereign immunity.

6. Other Jurisdiction

An EEZ provides for the coastal State control of new technologies designed to harness energy from the sea. It is appropriate to claim this jurisdiction by Proclamation, but to leave its details to legislation. Present OTEC legislation would need to be amended.

7. Navigation and Overflight

In claiming an EEZ, the character of the zone as being beyond national territory, and the freedoms enjoyed by foreign vessels and aircraft, should be acknowledged. We have an interest in asserting leadership in this area (protecting rights off foreign coasts by acknowledging their existence off our coasts), but at the same time we have an interest in not creating such a strong record that it causes an exaggerated reaction, creating a contrary record in the end. We should indicate that the EEZ is an area beyond the territory of the coastal State.

There are two issues concerning resource zones of particular interest to the Department of Defense: (1) the scope and nature of high seas freedoms retained by the international community and (2) whether it is to be regarded as a zone in which residual rights reside in the international community or in the coastal State.

The importance to the United States in ensuring the retention of the broadest scope and nature of traditional high seas freedoms in resource zones extending out to 200 miles from foreign coasts is obvious. As to the second issue, whether or not the zone is regarded

as national territory is equally important. It is a key in the determination of whether residual rights reside with the international community or coastal state. Coastal state arguments claiming control over foreign warships and aircraft would be much greater if the zone were viewed as national in character, albeit *sui generis*. Therefore, the US should protest all claims that purport to assert “national zones” under the rubric of an EEZ that do not protect high seas rights in the zone.

For practical purposes, the US assertion that the zone is not national territory will help make it clear that the zone is not one wherein the residual rights are nationalized. Such a US zone should not result in an exaggerated reaction by others.

8. *Marine Mammals*

Under the Marine Mammal Protection Act, the US already has jurisdiction over marine mammals within 200 miles of the US coast. The US has chosen, as a matter of policy which is stated in the Marine Mammal Protection Act, to exercise this jurisdiction in the case of fur seals and directed take of cetaceans by deferring to management by international organizations. The EEZ would not affect marine mammal management nor US policy of deferring to international organizations in these two situations.

9. *Boundaries*

It is appropriate in the Proclamation to mention the opposite and adjacent international maritime boundary delimitation issues that the US has with its neighbors. In doing so we reaffirm that they should be established by agreement in accordance with equitable principles, and note their interrelation with continental shelf and fisheries zone boundaries.

10. *Artificial Islands, Installations and Structures*

The UNCLOS III Convention is somewhat ambiguous in its recognition of coastal State jurisdiction in this area. The US has an opportunity to assert jurisdiction in a manner compatible with our interpretation of the LOS text, i.e., jurisdiction over all artificial islands, over installations and structures having economic purposes only, but not over installations and structures having non-economic purposes. Setting this standard is important to our non-navigational, military uses of foreign EEZs. The US OCSLA and Deepwater Ports Act pertain and may require some modification.

A number of legal considerations concerning taxable activities, immigration, and criminal and civil jurisdiction for the purpose of numerous US statutes will arise in the consideration of legislative initiatives.

RECOMMENDATIONS:

That the proposed proclamation and Presidential Statement on Oceans Policy be issued as soon as practicable. The Departments of State, Defense, Interior, Commerce, Justice, Treasury, Transportation, Energy, and Labor, the Central Intelligence Agency, the National Science Foundation, the Office of Management and Budget, and the Joint Chiefs of Staff concur.¹⁰

That the Administration begin to work with Congress on legislation necessary to implement the Exclusive Economic Zone and oceans policy within the guidance established by these documents. The Departments of State, Defense, Interior, Commerce, Justice, Treasury, Transportation, Energy, and Labor, the Central Intelligence Agency, the National Science Foundation, the Office of Management and Budget, and the Joint Chiefs of Staff concur.¹¹

¹⁰ There is no indication of approval or disapproval of the recommendation, but see Document 196.

¹¹ There is no indication of approval or disapproval of the recommendation, but see footnote 3, Document 196.

196. National Security Decision Directive 83¹

Washington, March 10, 1983

*UNITED STATES OCEANS POLICY, LAW OF THE SEA AND
EXCLUSIVE ECONOMIC ZONE (C)*

Having reviewed the Senior Interagency Group's report and recommendations on the above subject, as forwarded by the Department of State on February 1,² and 27,³ I have decided that:

¹ Source: Reagan Library, Guhin, Michael A.: Files, 03/10/1983 (1). Confidential.

² See Document 195.

³ In a February 8 memorandum to Bremer, Wheeler requested that the Department provide a report on the positions of key Members of Congress on the likelihood of obtaining legislation establishing an EEZ. (Reagan Library, Guhin, Michael A.: Files, 02/01/1982-02/02/1983) In a February 27 memorandum to Clark, Bremer forwarded the Department's report on congressional consultations. (Reagan Library, Executive Secretariat, NSC: NSDD Records, NSDD 83 [United States Oceans Policy, Law of the Sea and Exclusive Economic Zone])

- The United States is prepared to accept and act in accordance with the balance of interests reflected in the Law of the Sea Convention relating to traditional uses of the oceans, such as navigation and overflight. In this respect, the United States will (1) recognize the rights of other states in the waters off their coasts, as reflected in the Law of the Sea Convention, so long as the rights and freedoms of the United States and others under international law are recognized by such coastal states; and (2), as indicated in National Security Decision Directive 72,⁴ the United States will exercise and assert its navigation and overflight rights and freedoms in a manner that is consistent with the results reflected in that Convention. (C)

- The United States will establish an Exclusive Economic Zone in which it will exercise sovereign rights in the living and non-living resources, except as qualified below, within 200 nautical miles of its coast. (U)

- Within this zone all nations will continue to enjoy the high seas rights and freedoms that are not resource related, including the freedoms of navigation and overflight. (U)

- The establishment of such a zone will not change existing U.S. policies with respect to marine mammals, the continental shelf and fisheries, including highly migratory species of tuna. (U)

- The United States will continue efforts to reach agreements among concerned countries for the effective management of highly migratory species of tuna. (U)

These policy directions will not affect the application of existing United States law concerning the high seas or existing authorities of any U.S. government agency. (U)

The Senior Interagency Group on Oceans Policy and Law of the Sea is responsible for overseeing implementation of these decisions. It will oversee and coordinate efforts to work with Congress to achieve legislation to implement the Exclusive Economic Zone in a manner that will be fully within the guidance established by this directive and other related U.S. policies and not otherwise go beyond the Law of the Sea Convention. This effort will include priority consideration to introducing an Administration bill or package of amendments to bills introduced in Congress. (U)

No agency will advance or seek to establish any new jurisdiction beyond 200 nautical miles, prior to review of any such proposals by the Senior Interagency Group and, if there are significant policy implications, review by me. (C)

⁴ See Document 192.

With respect to deep seabed mining, the United States will continue to give priority attention to achieving an alternative arrangement outside the Law of the Sea Convention and to having our allies and others not accept the deep seabed regime in that Convention. (C)

Ronald Reagan

197. Information Memorandum From the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs (Malone) to Secretary of State Shultz¹

Washington, July 13, 1983

SUBJECT

Deep Seabed Mining Agreement

As you know, over the last few months we have been actively engaged in negotiating an agreement on deep seabed mining which could serve as an alternative to the LOS Convention seabed mining regime. At the most recent round of negotiations, held in London, July 6 and 7, and attended by the US, UK, France, FRG, Italy, Belgium, the Netherlands and Japan, we reached agreement in principle on all important outstanding questions.² The issues which remain are largely technical in character and, I believe, can be dealt with satisfactorily.

We have made a special effort to negotiate our differences with Japan. Bilateral talks were held in Tokyo in June and, as a result, we appear to have settled our outstanding bilateral issues relating to the seabed mining agreement.³

The next and, we hope, final, substantive meeting is scheduled to take place at the end of September in Paris.⁴ We hope to be able to sign the agreement after a technical review following the Paris meeting.

¹ Source: Department of State, Central Foreign Policy File, P830132-2350. Confidential. Sent through Schneider. Drafted by Eskin on July 12 and cleared in OES/O, L/OES, EB/ICD, EA/RA, and EUR/RPE.

² In telegram 193251 to multiple recipients, July 12, the Department provided a summary of the consultations on July 6-7. (Department of State, Central Foreign Policy File, D830395-0731)

³ In telegram 12403 from Tokyo, June 30, the Embassy provided a summary of the seabed mining consultations with Japan. (Department of State, Central Foreign Policy File, D830372-0682)

⁴ In telegram 294888 to multiple recipients, October 15, the Department summarized seabed mining negotiations, including the talks in Paris. (Department of State, Central Foreign Policy File, D830600-0310)

Concurrently, the private seabed mining companies have been negotiating a resolution of overlapping seabed mine sites. Negotiations have been successfully concluded among the US and European-led consortia, and negotiations between the US-European consortia and the Japanese have begun. The initial results are encouraging. There seems to be a good chance that the consortia will sign an arbitration agreement with the Japanese in early September and, possibly, reach final resolution of conflicts by the middle of December.

Most of the countries with which we have been negotiating have made no decision yet on whether to sign a seabed mining agreement. That decision will have to be made at high political levels, and the issue may be controversial. The industrialized countries, particularly those which have signed the LOS Convention, do not want to be criticized for acting in bad faith by the LDC's and the Soviet Bloc.

The Japanese have told us they will not consider signing a government-to-government seabed mining agreement until the negotiations between the US-European consortia and the Japanese consortium are successfully completed, and that if the U.S. and other countries go ahead and sign the agreement without them, the Japanese would be "forced", for domestic political reasons, to criticize the agreement publicly, thus excluding Japan from the agreement. As a result, there is a close link between the government and the private sector negotiations.

In the meantime, the Law of the Sea Preparatory Commission will meet again in Kingston for a four-week session beginning in August, although most countries objected to Kingston as a site.⁵ We do not expect that any substantial progress will be made at that session.

⁵ In telegram 7814 from Kingston, August 16, the Embassy announced that the Preparatory Commission had begun. (Department of State, Central Foreign Policy File, D830470–0759)

198. Telegram From the Department of State to the Embassies in West Germany, Belgium, Japan, the United Kingdom, Italy, the Netherlands and France¹

Washington, February 10, 1984, 0657Z

40354. Subject: Deep Seabed Mining Agreement.

1. (Confidential—Entire text.)

2. The like-minded Group of Eight countries US, UK, FRG, France, Japan, Netherlands, Belgium and Italy, have agreed on the text of an agreement on seabed mining: Provisional Understanding Regarding Seabed Matters. In a series of extremely difficult and, at times heated negotiations Jan. 30–Feb one in The Hague, the issue between the FRG and Japan regarding the listing of the German AMR mine site was resolved.² Once that problem was disposed of, the remaining technical questions in the text were quickly settled. During the negotiations certain changes were made to the core provisions of the draft agreement. Therefore, as a formal matter, all parties will review revised text to determine whether it is acceptable. We do not expect any problems and, for practical purposes, the final text of provisional understanding is completed and there will be no further negotiations. Following negotiations a Japanese Rep raised several minor drafting points with US Rep; these are the subject of a separate message.³

3. Next step will be completion of preparation of text in the other official languages French, German, Italian, Japanese and Dutch. It was agreed in The Hague that revised texts in these languages, reflecting final text changes adopted February one, would be exchanged over next two weeks. US agreed to coordinate language comparison. It has been left open whether it will be necessary to convene a meeting to conform various language texts.

4. France, FRG and Japan expressed strong view that, because of the need to complete review of six language texts, agreement could

¹ Source: Department of State, Central Foreign Policy File, D840090–0549. Confidential. Sent for information to the U.S. Mission in Geneva and USUN New York. Drafted by Eskin; cleared in EB/MPM, L/OES, EAP/J, EUR/RPE, and NOAA; and approved by Eskin.

² In telegram 358701 to Tokyo and London, December 19, 1983, the Department outlined the dispute regarding the German mine site. (Department of State, Central Foreign Policy File, D830749–0153)

³ In telegram 38279 to Tokyo, February 8, the Department forwarded the drafting queries to the Embassy. (Department of State, Central Foreign Policy File, D840085–0702) In telegram 2598 from Tokyo, February 9, the Embassy reported that most of the changes were acceptable to the Japanese. (National Archives, RG 69, Central Foreign Policy File, D840086–0831)

not be ready for signature before early March and that would be too close to the UN LOS Preparatory Commission meeting mid-March to mid-April. Japanese strongly urged that date of signature be postponed until after Diet has recessed in late May. On a tentative basis, it was agreed that seabed mining agreement should be opened for signature in May or early June, 1984 in Geneva.⁴ US Representative said US would make its mission in Geneva available as site for signature.

5. Next major step will be political level review of agreement in capitals. At The Hague meeting, UK, US, Italy and Belgian Representatives indicated they expected their governments to sign. French and Japanese Representatives indicated that they expected that agreement would be submitted to their cabinet with recommendation to sign. Dutch and German Representatives were noncommittal. We expect political decision on signature to be made after PrepCom, in late April–early May.

6. US and Italian experts reviewed Italian draft seabed mining law and regulations. Some further communication will be necessary but we expect to be in the position to designate Italy as a reciprocating state on passage of Italian legislation and Italian signature of seabed mining agreement.

7. US held talks with Italian and Belgian Reps regarding side letter. Italians and Belgians seemed essentially satisfied with latest US draft. Italians suggested several changes which are acceptable. Belgians raised some questions which will require further coordination. We expect in next few weeks to propose revised draft of US letter based on these exchanges.⁵

8. Department hopes to minimize any publicity connected to the Seabed Mining Agreement. Members of the like-minded are sensitive to attacks from the Soviet bloc or G-77, particularly during the Prep-

⁴ In telegram 20232 from Paris, May 22, the Embassy reported that French officials wished to postpone the signing of the agreement until September because they believed the other seven parties were not yet prepared for a June signing. (Department of State, Central Foreign Policy File, D840332–0342) In a July 12 memorandum to Burt, Marshall reported that the French had decided to sign the agreement on August 3 but that the West Germans had not yet come to a decision. (Department of State, Chronological Files, 1984–1985, Lot 86D362, July 1984 #1 Completed Items) In telegram 206759 to Bonn, July 14, the Department transmitted a letter from Reagan to Kohl, stating: “We are concerned that any delay beyond August 3 may make it difficult for some nations to sign the agreement, and thereby jeopardize important efforts of the last two years to reach agreement.” (Department of State, Central Foreign Policy File, D840451–0218) In a July 25 information memorandum to Shultz, Malone reported that the West Germans had decided to sign the agreement on August 3. (Department of State, Central Foreign Policy File, P850025–0421)

⁵ In telegram 52577 to Rome, February 23, the Department reported on talks with the Italians wherein the side letter was mentioned. (Department of State, Central Foreign Policy File, D840117–0356)

Com. If asked about this agreement by public, press or other governments, posts should refer all questions to Department of State.

Shultz

199. Information Memorandum From the Acting Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs (Horner) to Acting Secretary of State Dam¹

Washington, August 3, 1984

SUBJECT

Weekly Report of OES Activities July 30–August 3, 1984

Signature of Seabed Mining Agreement. On August 3 in Geneva, Assistant Secretary James L. Malone signed for the United States the Provisional Understanding on Certain Matters Relating to Deep Seabed Mining. Other countries signing the agreement were the UK, FRG, France, Italy, Belgium, the Netherlands and Japan. The agreement provides for reciprocal recognition of ocean mining rights among the signatories. It satisfies the President's directive in NSDD-43² and the requirements of P.L. 98-283, the U.S. Deep Seabed Hard Mineral Resources Act.

¹ Source: Department of State, Central Foreign Policy File, D850029-0540. No classification marking. Drafted by Hoyle. A stamped notation, dated August 4, on the memorandum indicates Dam saw it.

² See Document 168.

200. National Security Decision Directive 265¹

Washington, March 16, 1987

FREEDOM OF NAVIGATION PROGRAM (C)

Since March 1979, the United States has successfully conducted a Freedom of Navigation (FON) program to protect U.S. navigation, overflight, and related interests on and over the seas against excessive maritime claims. (U)

Policy

In July 1982, the United States announced that it would not sign the Law of the Sea Convention because of several problems in the Convention's deep seabed mining provisions. The United States does, however, support the provisions of the Law of the Sea Convention governing traditional uses of the oceans which generally confirm existing maritime law and practice and fairly balance the interests of all states. (U)

General U.S. policy on the Law of the Sea is contained in NSDD-83 (U.S. Oceans Policy, Law of the Sea, and Exclusive Economic Zone) and the public Presidential statement of March 10, 1983.² Two important aspects of those documents pertain to U.S. policy on freedom of navigation and are reflected below. (C)

First, the United States is prepared to accept and act in accordance with the balance of interests relating to traditional uses of the oceans—such as navigation and overflight. In this respect, the United States will recognize the rights of other states in the waters off their coasts, as reflected in the Convention, so long as the rights and freedoms of the United States and others under international law are recognized by such coastal states. (U)

Second, the United States will exercise and assert its navigation and overflight rights and freedoms on a worldwide basis in a manner that is consistent with the balance of interests reflected in the Convention. The United States will not, however, acquiesce in unilateral acts of other states designed to restrict the rights and freedoms of the international community in navigation and overflight and other related high seas uses. (U)

¹ Source: Reagan Library, Executive Secretariat, NSC: NSDD Records, NSDD 265 [Freedom of Navigation Program (FON)]. Confidential.

² See Document 196.

Categories of Excessive Maritime Claims

U.S. interests are to be protected against the following categories of excessive maritime claims:

1. Those historic bay/historic water claims not recognized by the United States. (U)

2. Those territorial sea baseline claims not drawn in conformance with the customary international law reflected in the Law of the Sea (LOS) Convention. (U)

3. Those territorial sea claims not exceeding twelve nautical miles in breadth that:

a. overlap straits used for international navigation and do not permit transit passage in conformance with the customary international law reflected in the LOS Convention, including submerged transit of submarines, overflight of military aircraft, and surface transit of warships/naval auxiliaries, without prior notification or authorization, and including transit in a manner of deployment consistent with the security of the forces involved; or

b. contain requirements for advance notification or authorization for innocent passage of warships/naval auxiliaries or apply discriminatory requirements to such vessels; or

c. apply special requirements, not recognized by international law, for innocent passage of nuclear-powered warships (NPW) or warships/ naval auxiliaries carrying nuclear weapons or specific cargoes. (U)

4. Territorial sea claims in excess of twelve nautical miles. (U)

5. Other claims to jurisdiction over maritime areas in excess of twelve nautical miles, such as security zones, that purport to restrict non-resource related high seas freedoms. (U)

6. Those archipelagic claims that either:

a. do not permit archipelagic sea lanes passage in conformance with the customary international law reflected in the LOS Convention, including submerged passage of submarines, overflight of military aircraft, and surface transit of warships/naval auxiliaries, without prior notification or authorization, and including transit in a manner of deployment consistent with the security of the forces involved; or

b. are otherwise not in conformance with the customary international law reflected in the LOS Convention. (U)

Program Guidance

The Department of Defense will plan and administer the program under the following procedures:

- The Department of Defense will submit in advance to the Department of State and the Assistant to the President for National Security

Affairs a proposed schedule for asserting U.S. rights against the following categories of excessive claims: unrecognized historic claims (paragraph 1 above), nonconforming baselines (paragraph 2 above), and territorial sea claims of twelve nautical miles or less which contain special requirements not recognized by international law (paragraphs 3.b and 3.c above). Objections to the schedule by the Department of State will be resolved by the Assistant to the President for National Security Affairs. After a reasonable number of assertions of U.S. rights against an excessive claim in any of these categories, on the recommendations of the Departments of State and Defense, the Assistant to the President for National Security Affairs may determine that advance scheduling to assert rights against these claims will no longer be required. (C)

- Except for navigation in and over international straits (including their approaches) and archipelagic sea lanes passage, when any assertion of rights against an excessive claim will result in entry into a politically sensitive area (PSA), the Department of State and the Assistant to the President for National Security Affairs will be notified of such operations prior to execution by the Department of Defense. The Department of State is responsible, in consultation with the Department of Defense, for maintaining an up-to-date list of politically-sensitive areas. (C)

- International straits (paragraph 3.a. above) and archipelagic sea lanes (paragraph 6.a. above) will be used by both military ships and aircraft freely and frequently as directed by the Department of Defense. No prior approval or PSA notification of such transits is required. (C)

- The Department of Defense will routinely assert U.S. rights against territorial sea claims, other claims to jurisdiction over maritime areas in excess of twelve nautical miles, and archipelagic claims not in conformance with the LOS Convention, (paragraphs 4, 5, and 6.b. above). No prior approval of such operations is required, although PSA operations require prior notification. (C)

- A Table summarizing the above guidance is attached as Tab 1 to this NSDD.³ (U)

- The Department of State will advise the Department of Defense and the Assistant to the President for National Security Affairs if any transient political factors in a littoral country which is not a politically sensitive area make it inadvisable for a limited time to conduct an operation under this program. (C)

- The Department of State will continue to protest in diplomatic channels the excessive claims of littoral countries. (U)

³ Attached but not printed.

- In planning proposals for Freedom of Navigation operations which require prior interagency approval, the Department of Defense should consider the possible impact of frequent challenges upon bilateral political relations between the affected littoral nations and the United States. (C)

- Where possible, we should strive for a balanced challenge program which contests the excessive claims or illegal regimes of allied or friendly states, inimical powers, and neutral states alike. In sensitive areas, the FON program should be structured to avoid conveying the impression that the United States favors one country over another. (C)

- Special emphasis should be given to challenging claims which have no record of prior challenge. (C)

Ronald Reagan

201. Letter From Secretary of Defense Carlucci to Secretary of State Shultz¹

Washington, May 6, 1988

Dear George:

(C) The Joint Chiefs of Staff and I believe that extending the U.S. territorial sea to 12 nautical miles and the outer limit of the contiguous zone to 24 nautical miles would enhance the national security and other essential interests of the United States.

(C) We believe the most effective and expeditious way to achieve the benefits of extending the territorial sea and contiguous zone is through a Presidential proclamation. A Presidential proclamation would be effective for foreign policy purposes when issued, and the improved security that we seek from extending the U.S. territorial sea and contiguous zone could be realized immediately. Congress and the executive branch could address in due course domestic legal and resource issues that would inevitably arise by virtue of the extension of U.S. sovereignty and jurisdiction. We will participate fully in formulating the legal regime within the extended maritime claims. Enclosed is a draft Presidential proclamation (Annex A),² with accompanying Fact Sheet (Annex B),³ for your consideration.

¹ Source: Reagan Library, Papers of George P. Shultz, Law of the Sea. Confidential.

² Attached but not printed.

³ Attached but not printed

(C) Accordingly, I request you convene an Interagency Group on Ocean Policy and the Law of the Sea, as soon as possible, to consider recommending that the President sign a proclamation along the lines of the enclosed proposal. I look forward to working closely with you on this matter.⁴

Sincerely,

Frank

⁴ In a May 21 letter to Carlucci, Shultz wrote that he had “directed that the Interagency Group on Oceans Policy and Law of the Sea be convened soon to consider the matter.” (Reagan Library, Papers of George P. Shultz, Law of the Sea)

202. Action Memorandum From the Acting Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs (Smith) and the Legal Adviser of the Department of State (Sofaer) to Secretary of State Shultz¹

Washington, December 9, 1988

SUBJECT

Revision of Presidential Proclamation to extend the territorial sea

ISSUE FOR DECISION

Whether to extend the territorial sea now and defer extension of the contiguous zone.

ESSENTIAL FACTORS

With your approval, the Senior Interagency Group on Ocean Policy and Law of the Sea (SIG) has recommended to the National Security Council that the President extend by proclamation the territorial sea and contiguous zone of the United States.² Upon further reflection, the White House Legal Counsel and the General Counsels of the National

¹ Source: Reagan Library, Papers of George P. Shultz, Territorial Sea. Confidential. Drafted on December 7 by Hoyle and Small and cleared in L, EB, E, T, H, INM/P, PM/ISP. Sent through Derwinski. A stamped notation, dated December 12, on the memorandum indicates Shultz saw it.

² See footnote 4, Document 201.

Security Council and OMB have raised questions of Constitutional and international law regarding the President's power to extend the contiguous zone.

At the same time, they concur in immediate extension of the territorial sea and they would like to have the President sign a proclamation early in the week of December 12.³ A consensus among the interested agencies appears to exist that for reasons of national security the President should go forward now with the extension of the territorial sea while deferring the extension of the contiguous zone until the legal questions are resolved.

BACKGROUND

On November 7, the SIG transmitted recommendations to the National Security Council for the President that he extend the territorial sea to twelve nautical miles and the limit of the contiguous zone to twenty-four nautical miles (TAB 1).⁴ All agencies approved these recommendations.

RECOMMENDATION

That you concur in the President extending the territorial sea now while deferring action on the contiguous zone pending further consideration.⁵

³ On December 27, Reagan issued a proclamation that extended the territorial sea of the United States to 12 nautical miles. (*Public Papers: Reagan*, 1988, Book II, pp. 1657–1658)

⁴ Attached but not printed.

⁵ Shultz initialed the approve option on December 12.

African Famine

203. Information Memorandum From the Deputy Assistant Administrator of the Food for Peace and Voluntary Assistance Bureau, Agency for International Development (Gladson) to the Administrator of the Agency for International Development (McPherson)¹

Washington, February 18, 1983

SUBJECT

FVA Bureau Weekly Report

[Omitted here is information unrelated to African famine relief.]

TITLE II

Africa Emergency Food Assistance

An increasing number of reports indicate unfavorable crop conditions throughout Africa.² The food supply situation is critical in Chad and food shortages are being reported in parts of Ghana, Mali and Togo. In East Africa food shortages are reported in Ethiopia and Tanzania and the refugee problem remains serious in Djibouti, Somalia, Sudan, Uganda and Rwanda. However, the hardest hit is Southern Africa where at least seven countries are expecting poor crops due to drought. So far during FY 83 about 100,000 tons of Title II commodities valued at about \$18 million has been approved for African countries, largely refugee relief (Chad, Rwanda, Somalia and others) and drought assistance (Cape Verde, Mauritania, Mozambique, etc). FFP expects that an additional 65,000 tons of commodities will be required to meet refugee and drought relief needs during the remainder of FY 83. We will continue to monitor the food supply situation throughout Africa and will keep you informed.

[Omitted here is information unrelated to African famine relief.]

¹ Source: National Archives, RG 286, USAID/O/ADMIN/ExecSec, Box 149, ADM-2 (Feb-March) FY 83. No classification marking. Sent through AID/ES.

² Not further identified.

204. Information Memorandum From the Assistant Administrator of the Africa Bureau, Agency for International Development (Ruddy) to the Administrator of the Agency for International Development (McPherson)¹

Washington, April 15, 1983

SUBJECT

Africa Bureau Weekly Report—April 15, 1983

[Omitted here is information unrelated to African famine relief.]

4. *Ethiopia—War as well as Drought Generating Refugees (CONF)*: Another in the annual campaigns by the central government to crush resistance in Eritrea and Tigray has been launched.² Intense fighting has taken place in the westernmost portion of Tigray. The fighting is interrupting a potential flow of refugees from drought-stricken areas, but is likely to generate more refugees from the combat itself. The Embassy reports that security in Tigray has deteriorated to such a degree that movement from northern Tigray to Makelle (the capital, approximately in the center of the province) has taken as much as two weeks.³ Apparently even for non-combatant civilians travel is safe only when accompanying a military convoy.

At the same time, there is general agreement that a serious drought situation does exist. Reports from ICRC, the Canadian government, World Vision and Oxfam have been obtained recently, all of which confirm drought conditions, though they also indicated that the situation was not as bad as the PMGSE asserted. The Embassy reports that the RRC, sensitive to the public relations problem created by stories of diversions, has been more forthcoming with permits for foreigners to travel to the field. From the Ethiopian point of view this may have been an indiscretion. Ground and air travellers saw evidence of drought but also clear evidence that food crops were available.

The movement of refugees has begun to reach the Ethiopian border with border police counts rising from the 12–15 people the past three months to 100 or more per day. AmEmbassy reports that water is in

¹ Source: National Archives, RG 286, USAID/O/ADMIN/ExecSec, Box 149, ADM-2 (April–May) FY 83. Secret. Drafted by Sharp and cleared in AFR/DP and DAA/AFR. Sent through AID/ES.

² In NSDD 57, September 17, 1982, the President outlined U.S. policy toward the Horn of Africa, including the civil war in Ethiopia and stated that the United States had no interest in a settlement of the Eritrean conflict. (Department of State, INR/IL Files, Box 8, Roger Channel, Ethiopia—Non Covert Action 81–85)

³ Not further identified.

short supply. Both the fighting (as noted above) and the onset of the rainy season in Ethiopia are making travel difficult for refugees at present, but this may only increase the influx later. The donor community does not seem prepared at present to meet a large refugee influx; WFP, in Rome, is sending a team to Sudan to begin development of a contingency plan for handling large numbers of Ethiopian refugees. The Sudanese have only rudimentary preparations and there is still disagreement on whether the people involved are fleeing from natural disaster, war, political repression or other threats.⁴

[Omitted here is information unrelated to African famine relief.]

⁴ McPherson highlighted this paragraph and wrote: "I need to be kept *current on this*."

205. Action Memorandum From the Chairman of the Policy Planning Council, Department of State (Bosworth) to Secretary of State Shultz¹

Washington, April 22, 1983

SUBJECT

More Food Aid for Southern Africa?

The attached memo²—proposing to add \$25 million to the already approved \$68.2 million in food aid for southern Africa³—has occasioned considerable discussion. Larry Eagleburger asked us to write this short memo summarizing the issues and proposing recommendations.

¹ Source: Department of State, Deputy Assistant Secretary of State Subject Files—Edward Derwinski, 1984–1985, Lot 87D326, Famine Relief in Africa—1985. Limited Official Use; Not for the System. Drafted by Arndt. Sent through Eagleburger. In the upper right-hand margin, an unknown hand wrote the phrases "Note: Made ES Sensitive 8313446" and "Sent to Acting Secy 6/2, [illegible initials]."

² Undated and entitled "U.S. Response to Drought in Southern Africa;" attached but not printed.

³ In telegram 91703 to all African diplomatic posts, London, Paris, and Brussels, April 5, the Department described the existing \$68.2 million in P.L. 480 aid. (Department of State, Central Foreign Policy File, D830185–0893)

The issues are: (1) Should we exclude Angola, Mozambique, Zimbabwe, and Tanzania from such a package? (2) Can we be assured that the food will reach the truly needy? (3) Should the President be involved? and (4) Depending on the answers to the above, do we really have a viable package for southern Africa or should we approach the problem country by country? My views are:

1. *Involving the President:* To take the easiest first, there is agreement now in the building that the President should not be involved. Whether we exclude or include the politically sensitive countries, controversy can ensue and we should protect the President from this. Also, the package is small and we would be straining to wrest much diplomatic mileage from it. In addition, we've not yet received formal requests for assistance from Lesotho, Botswana, Swaziland, Zaire or Zimbabwe.

2. *Food for Political Purposes:* The U.S. Government's long-standing policy is to try to isolate humanitarian and emergency food aid under Title II from political considerations. We are currently supplying food to Ethiopia and Poland. Exceptions to this policy should be made only on a case by case basis, and only when there are compelling reasons since use of food for political purposes arouses strong public opposition. Denying humanitarian food aid is usually a measure of last resort in our dealings with individual countries. In this context:

Angola: UNICEF has formally requested us to supply an additional 9,600 MT of blended fortified food to their program which feeds 163,000 displaced mothers and young children. We've supported this program since 1977. The food is given directly to recipients at government feeding stations; it's a nutritious speciality product and is not related to filling Angola's overall food deficit.

Mozambique: Here we're proposing to increase Mozambique's already approved 25,195 metric ton Title II program by 16,815 tons. We've supplied Title II food to Mozambique for emergency purposes off and on since 1976. The food in this case is distributed through private retailers and government cooperatives at prevailing prices. Some also is distributed free to the hard core needy by the government. Mozambique has officially requested food aid from the U.S.

Zimbabwe: To date we've received no request from Zimbabwe although the government is preparing a large appeal to the donors for a special relief program for the hardest hit families in the communal lands.

Tanzania: We've already approved a PL 480 Title I program for Tanzania. There's no proposal for an increase for Tanzania in the \$25 million add-on.

Given the above, I recommend that we proceed now with Angola and Mozambique, since there's been no change in our present relations

with these countries which would warrant reversing present policy. In fact, this increased food aid could be marginally useful as support for our current policy initiatives in both countries. On Zimbabwe, I recommend that we act on this program when a request is received in light of both our long-standing policy on Title II and the review which Larry Eagleburger is overseeing on our ability to use diplomatic tools to build support for U.S. positions at the UN.

3. *Does the Food Get to the Needy?* Without going country by country, the answer is basically yes. AID has recently reviewed the Mozambique program and finds it well-run. We believe UNICEF's management in Angola is adequate. In Zaire, we may work through WFP in Shaba Province and there may be problems of mismanagement here as in other Zairian programs. In other countries, our AID Missions can monitor distribution.

4. *Do We Need a Package Approach?* Absent a presidential initiative, should not assistance be allocated case by case? This approach would allow exact needs to be better identified, allow individual handling of red flags through consultations on the Hill, and permit a better examination of political considerations. We can announce that we've approved an additional \$25 million for southern Africa and that we will be allocating it to specific countries over time as the needs are quantified and requests received and reviewed.

As a final note, the attached memo does not address your broader question of how we use our food surpluses more effectively and flexibly in our foreign policy. This is a difficult issue with ramifications which range from the minutely technical to the grandly moral. The relevant bureaus, including S/P, should analyze this question for you and identify options.

*Recommendations:*⁴

That there not be a Presidential announcement of a food aid package.

That you approve announcement of the \$25 million in additional food aid for southern Africa. Place and time to be coordinated with AID and AF by PA. (We will notify the NSC via a Hill-Clark memo.)

That you approve AID's going ahead with additional programs in Angola, Mozambique, and other countries in southern Africa as

⁴ There is no indication of approval or disapproval of any of the five recommendations. In telegram 162166 to Pretoria, June 11, the Department transmitted excerpts from a press briefing: "The United States Government will release an additional 25 million dollars in emergency food aid to drought-stricken African countries." (Department of State, Central Foreign Policy File, D830333-0129)

requirements are defined, with the exception of Zimbabwe which is the only new program and which you will review at the appropriate time.

Alternatively, and this is AID and AF's recommendation, that you approve AID's going ahead with Zimbabwe as well on the condition that any requested program meets our criteria as a humanitarian/relief effort and we are sure that the program will be managed properly.

That you instruct the relevant bureaus and AID to return to the starting point and examine the use of food surpluses in serving long-term foreign policy goals.

206. Telegram From the Embassy in Ethiopia to the Department of State¹

Addis Ababa, May 5, 1983, 1346Z

1577. Subj: Declaration of Disaster in Ethiopia.

1. Pursuant to 2 FAM 60² Charge herewith determines that disaster conditions exist in Ethiopia as a result of drought and severe food shortages resulting in famine in the north-central regions of the country.

2. Embassy requests full \$25,000 available as result of Chief of Mission determination be used for provision of foodstuffs to Catholic Relief Services to assist in immediate start-up of its emergency feeding program in Makelle, Tigre. Alternatively the \$25,000 could be used for contribution to the World Food Program or Save the Children Relief efforts in Ethiopia. Embassy recommends Dept/AID/W consider what additional contributions USG might be able to make to the relief effort.³

3. Washington agencies are requested not rpt not to make public this disaster determination until Embassy has been able to advise

¹ Source: Department of State, Central Foreign Policy File, D830254-0326. Limited Official Use; Immediate.

² The Department's *Foreign Affairs Manual* (2 FAM 60) delineated rules for foreign disaster assistance.

³ In telegram 129900 to the Secretary's delegation in Paris, May 11, the Department transmitted a memorandum from Crocker to Shultz, which stated: "Peter released \$25,000 based on Embassy Addis Ababa's disaster determination of May 5, approved provision of 838 tons of food (about \$250,000), to the World Food Program and another 630 tons (about \$180,000) to Catholic Relief Services." (Department of State, Central Foreign Policy File, D830266-0874)

PMGSE Ministry of Foreign Affairs of it.⁴ Since Foreign Ministry offices are at this moment closed for Ethiopian Easter Holiday May 6 we may not be able to contact the Ministry before Saturday May 7. We will report as soon as we have spoken with the Ministry.

Korn

⁴ In telegram 1578 from Addis Ababa, May 6, the Embassy reported that Korn informed Ethiopian officials that he had declared the disaster. (Department of State, Central Foreign Policy File, D830256–0314)

207. Information Memorandum From the Assistant Administrator of the Food for Peace and Voluntary Assistance Bureau, Agency for International Development (Bloch) to the Administrator of the Agency for International Development (McPherson)¹

Washington, August 19, 1983

SUBJECT

FVA Bureau Weekly Report

OFFICE OF FOOD FOR PEACE (FFP)

[Omitted here is information unrelated to Ethiopian famine relief.]

Ethiopia

Reports from the AID assessment team in country indicate that there will be a shortfall in northern Ethiopia of donated cereals, oil, and milk between late October through the end of December.² The AID team and the U.S. Embassy have recommended that the USG consider the approval of 15,000 MT cereals as well as a pledge against

¹ Source: National Archives, RG 286, USAID/O/ADMIN/ExecSec, Box 148, ADM-2 (August–September) FY 83. No classification marking.

² Not further identified. In telegram 2831 from Addis Ababa, August 11, the Department transmitted a statement issued by Representative Wolpe (D-MI) who had visited Ethiopia and assessed the famine. The statement read: “Thousands of inhabitants of drought-stricken Ethiopia face imminent death unless there is an immediate increase in the American and international relief assistance to Ethiopia.” (Department of State, Central Foreign Policy File, D830459–0412)

the as yet unmet UNDRO appeal of 3,300 MT of oil and 1,200 MT of milk. AID/W is actively exploring mechanisms through which we can most effectively channel future assistance, as well as possible diversions for delivery during critical food deficit months.³

³ In an August 26 information memorandum to McPherson, Bloch wrote: "AID has earmarked (subject to DCC approval) an additional 15,000 MT of wheat and flour from the FY 84 P.L. 480 Title II budget to be made available [in Ethiopia] in October and November 1983. This program has an estimated value of \$6.7 million." (National Archives, RG 286, USAID/O/ADMIN/ExecSec, Box 148, ADM-2 [August-September] FY 83) A January 24, 1984, paper prepared in the Agency for International Development summarized the U.S. financial contribution to the African famine from October 1, 1983, to January 24, 1984. (Department of State, Deputy Assistant Secretary of State Subject Files—Edward Derwinski, 1984–1985, Lot 87D326, Famine Relief in Africa—1985)

208. Information Memorandum From the Assistant Administrator of the Food for Peace and Voluntary Assistance Bureau, Agency for International Development (Bloch) to the Administrator of the Agency for International Development (McPherson)¹

Washington, September 23, 1983

SUBJECT

FVA Bureau Weekly Report

OFFICE OF FOOD FOR PEACE (FFP)

TITLE II

[Omitted here is information unrelated to African famine relief.]

Africa Emergencies—General

FFP met with the Africa Bureau to discuss ways in which to most effectively utilize the FY 84 IEFER funds. Africa's widespread drought has generated a large number of requests for emergency food aid and rising domestic commodity prices coupled with emergency food needs in other regions indicate that our ability to meet these requests will be taxed. Country requests are being carefully studied and grouped

¹ Source: National Archives, RG 286, USAID/O/ADMIN/ExecSec, Box 148, ADM-2 (August-September) FY 83. No classification marking.

according to need. The acceptability of less costly substitute commodities is being explored with USAID Missions. The DCC Food Aid Subcommittee will be thoroughly analyzing and requiring strong justifications for project proposals due to competition for limited resources.²

[Omitted here is information unrelated to African famine relief.]

² The Development Coordination Committee was an interagency group that met to discuss the implementation of P.L. 480 assistance.

209. Information Memorandum From the Counselor of the Agency for International Development (Kimball) to the Administrator of the Agency for International Development (McPherson)¹

Washington, November 30, 1983

SUBJECT

Agency Strategic Plan

This second try by PPC to write an outline for an Agency Strategic Plan reads like a liberal Democrat manifesto on what foreign aid should be about.² The essence is contained in III *What AID is Trying to Achieve*.³ It clearly conveys the idea that most of the problems of the poor stem from a lack of social services. I thought that notion was obsolete by now.

I believe our basic theme should be as follows:

1. People can meet their basic human needs when they are earning adequate incomes through productive employment.
2. A.I.D.'s preeminent objective is to increase employment and incomes through increasing productivity.
3. Meeting this objective will require action in a number of areas, e.g., improved health, enhanced skills and greater efficiency in the use of energy.

¹ Source: National Archives, RG 286, USAID/O/ADMIN/ExecSec, Box 195, ADM (Oct-Jan) FY 84. No classification marking.

² Not found.

³ Undated, drafted on November 18, attached but not printed.

4. The best means of enhancing productivity are through:
 - a. Changes in economic policy which emphasize comparative advantage and greater efficiency in the use of resources;
 - b. Reliance on competitive market forces and the private sector;
 - c. Creation and adaptation of new technologies, and;
 - d. Establishment of systems, processes and institutions which ensure that a, b and c above are a continuous effort.

A side issue in the paper is the goal of "achieving basic stabilization and attacking financial disequilibrium." I suppose this has become a goal because so many Missions have become party to, in one way or another, IMF stabilization programs. Financial stability, like political stability, is a required pre-condition for development but isn't a development goal. That we use ESF to promote stabilization isn't a reason for including it as a goal any more than it would be for including political stability as a goal.

Also, one does not "attack hunger." Hunger is the result of inadequate employment and incomes or lack of agricultural productivity or both. We can "attack hunger" by straightforward dole feeding but that is not what this Agency is about.

210. Memorandum From the President's Assistant for National Security Affairs (McFarlane) to Multiple Recipients¹

Washington, February 7, 1984

SUBJECT

NSSD on U.S. Third World Hunger Relief (S)

The President has directed that a study be conducted to develop a creative and comprehensive U.S. food assistance program and that a National Security Study Directive: U.S. Third World Hunger Relief, with options as appropriate, be submitted for National Security Council consideration and Presidential decision, not later than April 15, 1984.² (S)

¹ Source: Central Intelligence Agency, Office of the Director of Central Intelligence, Job 90B01013R: Policy Files (1981–1988), Box 4, Folder 3: U.S. Third World Hunger Relief. Secret. Sent to Bush, Shultz, Regan, Weinberger, Block, Baldrige, Stockman, Casey, Brock, McPherson, Wick, and Ruppe.

² In a January 27 memorandum to McFarlane, Robinson wrote: "Our Directorate has had the lead in preparing packages related to African hunger relief and terms of reference for a more creative approach to the world hunger problem. The NSSD terms of reference are completed and will be over by 9 a.m. Monday." (Reagan Library, McFarlane Files, Chron [Official] February 1984 [3])

The Department of State will chair this study; the Agency for International Development will serve as the deputy chair for this effort. It has been agreed that Ambassador Robert Keating of the Department of State will be study chairman. (S)

Management of the NSSD review will be the responsibility of an interagency steering group led by Ambassador Keating; agency representation on this steering group will be at least at the Assistant Secretary level. Interagency working groups will complete specific tasks and then report their results to the study's steering group. The steering group will submit its final study to the NSC. (S)

Agencies should provide comments on the attached draft National Security Study Directive terms of reference by COB February 10, 1984. (S)

Robert C. McFarlane

Tab A

Draft of a National Security Study Directive³

Washington, undated

U.S. THIRD WORLD HUNGER RELIEF (S)

Introduction

This National Security Study Directive establishes the terms of reference for an action oriented program plan for Third World Hunger Relief based on an assessment of current U.S. policies and feasible new policies and programs. (S)

Objective of the Study

To produce a National Security Decision Directive (NSDD) for consideration by the National Security Council and in turn for decision by the President. (S)

Scope

The study will include, at a minimum, the following topics:

—An overview of Third World hunger issues linked to U.S. strategic, trade and development interests.

³ Secret.

—An examination of the effectiveness of U.S. policy tools and resources used to alleviate hunger.

—A review and enumeration of recommendations from prior Presidentially approved studies which were presented to the Congress and enacted.

—Major constraints to reducing or expanding U.S. food aid resources should be reported in the context of a four year planning framework—1984–1988.

—An examination of the probable demands and/or tradeoffs on future economic and security assistance funding resulting from higher food aid levels, including appropriate levels and time frames. This should also include an examination of other donor reactions to higher food aid levels.

—Alternatives to current agricultural export assistance programs should be considered, particularly those creative alternatives which contribute to increasing Third World food supplies, short-term liquidity, export earnings and food production. These should be examined and presented noting their impact on:

- Whether U.S. actions to increase food aid resources would conflict with international trade obligations.
- How the Administration and Congress would deal with domestic reactions to creative policy alternatives which increase agricultural exports.
- How the Administration and Congress would likely react to new initiatives before taking up the Farm Bill in 1985.
- Administration strategy to increase public and private sector cooperation in simultaneously relieving Third World debt and hunger.
- Budget costs and benefits over 1984–1988 and any net budgetary impact. (S)

Administration

Management of the NSSD review will be the responsibility of an interagency steering group chaired by the Department of State. AID will serve as deputy chair for this study. Ambassador Robert Keating of State will be the study chairman. Richard Levine of the NSC staff will serve as study coordinator. Representatives will be from the following agencies and departments: State, Defense, CIA, Treasury, Agriculture, the Office of the Vice President, OMB, USTR, Peace Corps, AID, USIA, Commerce and NSC. This group under State chairmanship will report its findings to the National Security Council not later than April 15, 1984. (S)

All matters relating to this NSSD will be classified secret. Dissemination of this NSSD, subsequent study material, and the resulting draft NSDD will be handled on a strict need-to-know basis. (U)

211. Memorandum From Secretary of Agriculture Block to the President's Assistant for National Security Affairs (McFarlane)¹

Washington, February 10, 1984

SUBJECT

NSSD on U.S. Third World Hunger Relief

The Department of Agriculture supports a high level study to develop a creative and comprehensive U.S. food assistance program to help resolve world hunger. This Department administers the P.L. 480 program which is the cornerstone of U.S. foreign food assistance efforts. We recognize that the effectiveness of these programs are of vital interest to the United States and should be reviewed periodically.

Currently, the Department is reviewing the effectiveness of P.L. 480 and other programs employed to meet world food requirements. The study focuses on the long-term concern of how food and aid can best be utilized to support economic and trade development. Economic development is the long-term answer to alleviating hunger. The review is expected to be completed by March 1.

Since this review is almost completed, the Department of Agriculture recommends that this new study focus on how the United States can better respond to crisis situations such as we currently face in Africa. Better response is needed both in the decision making process and in efficiently getting the food to the people in need.

I recommend that Daniel G. Amstutz, Under Secretary for International Affairs and Commodity Programs, be placed on the steering group and chaired by the Department of State.² Mr. Amstutz is chairman of the DCC Food Aid Subcommittee.

John R. Block

¹ Source: Reagan Library, Executive Secretariat, NSC NSSD File, NSSD 1–84 [US Third World Hunger Relief] (1 of 3). Secret.

² Raymond D. Lett represented the Department of Agriculture on the steering group.

212. Memorandum From the Administrator of the Agency for International Development (McPherson) to the President's Assistant for National Security Affairs (McFarlane)¹

Washington, February 10, 1984

SUBJECT

National Security Study Directive (NSSD) on U.S. Third World Hunger Relief

I believe the terms of reference for the study should be narrowed. I recommend that the study focus on the U.S. response to conditions of serious food needs in the developing world, i.e., the emergency food aid provided under Title II of P.L. 480, and develop options for improving that response.

The draft terms of reference contemplate a comprehensive study, not only of the wide range of policy tools and financial resources available to the U.S. to address Third World hunger, but also of the profound and complex issues related to the causes of hunger. I do not think it necessary—nor would it be feasible within a period of two months—to produce a study of the issues.

As you know, the U.S. response to the challenges of hunger, poverty and underdevelopment was quite recently the subject of substantial scrutiny by a very prominent body. The Carlucci Commission considered how food aid, as well as other foreign assistance instruments, contributed to U.S. efforts to address serious problems of poverty and hunger, in the context of U.S. foreign policy, national security, economic and commercial interests.² It recommended support for the development objectives of food aid, and the integration of PL 480 resources with other forms of economic assistance to maximize development impact. While the mandate of the Carlucci Commission was of course much broader, its study included careful consideration of PL 480 and its relationship to U.S. interests and other forms of foreign aid. I question the necessity of a similar review at this time.

I believe the members of the Development Coordination Committee Food Aid Subcommittee have worked rather well together in the last few years. Agreements have been reached on important budgetary, policy and programmatic issues.

¹ Source: Reagan Library, Executive Secretariat, NSC NSSD File, NSSD 1-84 [US Third World Hunger Relief] (1 of 3). Secret.

² See Bernard Gwertzman, "Panel Suggests Combined Agency for U.S. Economic and Arms Aid," *New York Times*, November 22, 1983, p. A1.

I propose an alternative, narrower scope for the study—one which focusses on the immediate needs of people who are threatened with severe malnutrition and starvation by virtue of natural disasters and civil strife. This is the matter which so concerns the American people. This proposal is timely, given the increasing concern in Congress and elsewhere about crisis conditions in Africa.³ It is limited in scope, and thus can be accomplished relatively quickly. Perhaps most important, it is *directly* related to the plight of hungry people, and not diluted in focus by considerations of complex trade, commercial and macroeconomic issues.

I feel the NSSD should be revised to establish the terms of reference for an action oriented program plan for Third World Hunger Relief based on an assessment of current U.S. policies and programs concerning emergency food assistance, and feasible new policies and programs to improve the U.S. response.

I believe the scope of the study would include:

- an examination of the need for emergency food relief, and the methods used to determine needs globally, regionally, nationally, and within countries.

- a study of how the emergency food program could be strengthened.

- an analysis of the current levels of U.S. emergency food aid.

- a review of the constraints to expanding U.S. food aid to meet emergency needs.

- a consideration of the appropriate roles of other developed nations and international organizations in identifying and responding to emergency needs.

As to the administration of such a study, I suggest that the inter-agency body be chaired by AID, given our paramount interest in and responsibility for international emergency food aid programs. Also, there is a clear interest in Congress and some vocal groups that disaster assistance not be a foreign policy matter but rather be treated as a humanitarian need. In short, a lead role for AID is important in the Administration's dealing with Congress and the public. This suggestion is consistent with Ambassador Keating performing his role as Director of the study. Indeed, he and I have met and are off to a very good start.⁴

M. Peter McPherson

³ See "Congressmen Say Famine Faces Millions in Africa," *Washington Post*, December 20, 1983, p. A11.

⁴ Below his signature McPherson wrote: "Bud Thanks for your time the other morning. I hope something can be worked out. P."

213. Memorandum From Secretary of Commerce Baldrige to the President's Assistant for National Security Affairs (McFarlane)¹

Washington, February 10, 1984

SUBJECT

NSSD on U.S. Third World Hunger Relief (S)

The Department of Commerce will be represented on the Inter-agency Steering Group by the Assistant Secretary for International Economic Policy.

The Department of Commerce has long stressed the linkage between trade development interests and agricultural policy, particularly in the Third World. We have worked closely with the Department of Agriculture in putting together foreign trade missions and seminars to support economic and commercial relations with countries which have demonstrated a willingness to strive for agricultural self sufficiency. We look forward to participating in the proposed study and hope that it will lead to a more coordinated, government-wide effort linking U.S. assistance to in-country attempts at agricultural development and indigenous efforts to relieve hunger. (S)

Also, we particularly look forward to participating in the study of (1) possible U.S. action to increase food aid without fundamental conflict to our international trade obligations, and (2) steps to increase public and private sector cooperation toward relieving Third World debt and hunger. It is in the U.S. economic/commercial interest, as well as our strategic and political interest, to alleviate these problems and much can be done to increase public perception of this fact.

Mac

¹ Source: Reagan Library, Executive Secretariat, NSC NSSD File, NSSD 1-84 [US Third World Hunger Relief] (1 of 3). Secret.

214. Memorandum From Acting Director of Central Intelligence McMahon to the President's Assistant for National Security Affairs (McFarlane)¹

Washington, February 11, 1984

SUBJECT

NSSD on US Third World Hunger Relief [*portion marking not declassified*]

1. The subject of the NSSD is of obvious importance, and the terms of reference appear to be well thought out. I have asked Jim Lynch, Director of the Office of Global Issues, to represent the Agency on the NSSD.² [*portion marking not declassified*]

2. We believe that specific attention should be given to the probable political impact both of hunger and of possible US efforts to alleviate hunger in those Third World countries of greatest importance to the United States. In particular, the possibility that ill-conceived US efforts in this area could upset the political or social balance in certain Third World countries or undermine ongoing programs of friendly governments should be examined. [*portion marking not declassified*]

3. The possible effect of expanded food assistance programs on trade patterns and future agricultural production in the Third World should also be addressed. [*portion marking not declassified*]

John N. McMahon

¹ Source: Reagan Library, Executive Secretariat, NSC NSSD File, NSSD 1–84 [US Third World Hunger Relief] (1 of 3). Secret.

² Thomas B. Cormack represented the Central Intelligence Agency on the steering group.

215. Memorandum From the Associate Director of the Office of Management and Budget (Keel) to the President's Assistant for National Security Affairs (McFarlane)¹

Washington, February 13, 1984

SUBJECT

Third World Hunger Relief

This responds to your February 7 request² for comments on the draft NSSD on third-world hunger relief.

The study represents a timely opportunity to examine one of the major international issues that must be faced over the next few years. However, to keep food aid in perspective in analyzing the issue, we recommend that the study distinguish between short-term and long-term hunger issues.

- *Short-term* hunger problems, for example, those due to the African drought, can be addressed by emergency food aid, such as the U.S. provides under Title II of PL 480.

- *Long-term* hunger problems are much more intractable and are largely attributable to deficiencies in agricultural policies in recipient countries. Food aid is only one of many ways of transferring resources to relieve the problem. Many other factors need to be considered, such as ongoing efforts to improve the capacity of the third world to feed itself.

We caution against a premature conclusion that the answer to the underlying problem of relieving third world hunger lies in providing substantial increases in food aid or agricultural export assistance programs.

Finally, we recommend that the study consider ways to improve implementation of food aid programs. For example:

- How best can conflicting policy objectives of the program be reconciled?
- Should maritime subsidies be funded under the program?

Attached is a mark-up of the draft NSSD indicating changes needed to reflect the above comments.³

¹ Source: Reagan Library, Executive Secretariat, NSC NSSD File, 1-84 [US Third World Hunger Relief] (1 of 3). Secret.

² See Document 210.

³ Not attached and not found.

216. Memorandum From the President's Assistant for National Security Affairs (McFarlane) to President Reagan¹

Washington, February 27, 1984

SUBJECT

National Security Study Directive on Third World Hunger Relief

*Issue*Should you sign the attached NSSD on Third World hunger relief?²*Facts*

Ambassador Robert Keating, our Ambassador to Madagascar and a political appointee, has been chosen to lead the study effort outlined in the attached NSSD. The NSSD's first priority will be to define three things: (1) our current food aid financing programs, (2) the current food supply and demand situation in Third World countries, and (3) the food distribution systems in those countries. Interagency working groups chaired by Treasury, USDA and AID will be established to complete these reviews.³ Once the present situation is clear, the study will focus on alternative and creative means to close the food "gap," perhaps by increasing U.S. food shipments to affected countries. Emphasis will be placed on reviewing food aid mechanisms which will not affect the budget. The study would be completed by April 30, 1984.

Discussion

The attached NSSD, in draft form, has already been cleared by all concerned agencies. Only AID has some questions about the desirability of the study; other agencies are highly supportive. AID is understandably concerned about other agencies reviewing its programs, but given the severity of the Third World hunger problem such review is important. We are hopeful that this study will yield a plan of action which

¹ Source: Reagan Library, Executive Secretariat, NSC NSSD File, 1–84 [US Third World Hunger Relief] (1 of 3). Secret. Drafted by Levine. Sent for action. A stamped notation in the upper right-hand margin reads: "The President has seen."

² Not attached. Printed as Document 218.

³ In a February 21 action memorandum to McFarlane, Levine wrote: "All agencies support this study (and most made very positive comments about the terms of reference) with the exception of AID. AID objects to this study, but if it has to be, AID would like to chair it. Like any agency, AID objects to others reviewing what they view as their province." (Reagan Library, Rosenberg Files, Food for Refugees—Keating Group (Famine) 2/21/84–02/17/84)

could directly impact on the hunger problem and our disaster relief measures.

RECOMMENDATION

That you sign the attached NSSD that I will send to the agencies under my cover memo.⁴

⁴ Reagan checked and initialed the approve option.

217. Memorandum From the President's Assistant for National Security Affairs (McFarlane) to Multiple Recipients¹

Washington, February 27, 1984

SUBJECT

NSSD on U.S. Third World Hunger Relief (S)

Attached please find the NSSD terms of reference, on Third World Hunger Relief.² Agency comments have clearly supported the need for this study. Given the short timetable available for this review of hunger relief, a few agencies suggested that the study focus on emergency food assistance. The President's request for such a study stems in part from the current emergency situation as to food in Africa and other parts of the world. It is the President's view, though, that today's emergency food problem is indicative of the larger concern of how U.S. and other donor country food aid programs treat the world hunger problem over time. Thus, while this study should make recommendations on how the current emergency food program might best be strengthened, these recommendations must be made in the larger light of our other long-term efforts to relieve hunger in the Third World. The attached NSSD establishes the terms of reference for this study with the understanding that these terms may be further shaped by the study chairman and steering group as work proceeds. (S)

¹ Source: Reagan Library, Executive Secretariat, NSC NSSD File, 1-84 [US Third World Hunger Relief] (1 of 3). Secret. Sent to Bush, Shultz, Regan, Weinberger, Block, Baldrige, Stockman, Casey, Brock, McPherson, Wick, and Ruppe.

² Not attached. See Document 218.

Ambassador Robert Keating, chairman of this study, will soon advise your respective offices of the first steering group meeting at which the study's management scheme and timetable will be further explained.³ (U)

Since certain agency comments on the NSSD draft were late in arriving, the completion date for this study will be April 30. (S)

FOR THE PRESIDENT:

Robert C. McFarlane

³ In a March 1 memorandum to multiple recipients, Hill wrote that the first steering group meeting for the task force would take place on March 5 and attached a document that outlined a plan of work. (Reagan Library, Rosenberg Files, Food for Refugees—Keating Group (Famine) 2/21/84–02/17/84)

218. National Security Study Directive 1–84¹

Washington, February 27, 1984

U.S. THIRD WORLD HUNGER RELIEF (S)

Introduction

This National Security Study Directive establishes the terms of reference for an action oriented program plan for Third World Hunger Relief based on an assessment of current U.S. policies and feasible new policies and programs. (S)

Objective of the Study

To produce a National Security Decision Directive (NSDD) for consideration by the National Security Council and in turn for decision by the President. (S)

Scope

The study will include, at a minimum, the following topics:

—An overview of Third World hunger issues linked to U.S. strategic, trade, humanitarian and development interests.

¹ Source: National Archives, Collection RR–NSC, Numbered National Security Policy Papers 1981–1989, National Security Study Directives (NSSDs), 01/20/1981–1/20/1989 (accessed online). Secret.

—An examination of the effectiveness of U.S. policy tools and resources used to alleviate hunger.

—A review and enumeration of recommendations from prior Presidentially approved studies which were presented to the Congress and enacted.

—Additional policy options for assuring effective U.S. support for relieving Third World hunger problems.

—Alternatives for reducing or expanding U.S. food aid resources to address the hunger problem should be evaluated in the context of a four year planning framework—1984–1988.

—An examination of the probable demands and/or tradeoffs on future economic and security assistance funding resulting from higher food aid levels, including appropriate levels and time frames. This should also include an examination of other reactions, donors, suppliers and recipient countries to higher or lower food aid levels.

—Alternatives to current agricultural export assistance programs should be considered, particularly those creative alternatives which contribute to increasing Third World food supplies, short-term liquidity, export earnings and food production. These should be examined and presented noting their impact on:

- Whether U.S. actions to increase food aid resources would conflict with international trade obligations.
- How the Administration and Congress would deal with domestic reactions to creative policy alternatives which increase or decrease agricultural exports in the interest of relieving Third World hunger.
- The impact of new initiatives on 1985 farm legislation.
- Administration strategy to increase public and private sector cooperation in simultaneously relieving Third World debt and hunger.
- Net budgetary impact over 1984–1988. (S)

Administration

Management of the NSSD review will be the responsibility of an interagency steering group chaired by the Department of State. AID will serve as deputy chair for this study. Ambassador Robert Keating of State will be the study chairman. Richard Levine of the NSC staff will serve as study coordinator. Representatives will be from the following agencies and departments: State, Defense, CIA, Treasury, Agriculture, the Office of the Vice President, OMB, USTR, Peace Corps, AID, USIA, CEA, Commerce and NSC. This group under State chairmanship will report its findings to the National Security Council not later than April 30, 1984. (S)

All matters relating to this NSSD will be classified secret. Dissemination of this NSSD, subsequent study material, and the resulting draft NSSD will be handled on a strict need-to-know basis. (S)

Ronald Reagan

219. Memorandum From the Chairman of the Third World Hunger Study (Keating) to the Steering Group of the Third World Hunger Study¹

Washington, May 9, 1984

Three months ago, President Reagan asked that we examine the problems of hunger and starvation in the Third World, and the U.S. response to them.² The President was particularly concerned about starvation in poor countries suffering from drought or other natural disasters, although he asked that we review non-emergency food problems as well. This is the first time that we have looked at Third World food problems from this perspective.

This memorandum reports on the first part of our work, acute food crisis situations where emergency food aid can prevent starvation. We have analyzed our emergency food aid processes from beginning to end, reviewing the adequacy of USG operations and mechanisms, the extent of distribution constraints, the quality of food supply and demand data, and the degree to which we have received international cooperation in our relief efforts.

Our findings reveal that starvation continues to be a real threat to rural populations in the poorest countries of the Third World. It is especially acute in sub-Saharan Africa where millions live in absolute poverty. The United States response to Third World hunger has always been generous—unrivalled in the world. For example, the Reagan Administration doubled emergency food aid over fiscal years 1982 to 1984 to \$343 million. This year we are providing 663,000 metric tons of emergency food aid, amounting to 45 percent of all donor financing. Almost 60 percent of our emergency food aid is going to 24 sub-Saharan African countries hard hit by a drought that this time affects not only the vast Sahelian area in the north, but also the usually fertile savannah and livestock plains as far as the southern African veldt.

Generally, Congressional support for regular appropriations for PL 480 programs (supplemental funds to meet extraordinary emergency needs) is excellent. This is a reflection of our humanitarian concerns, and the existence of U.S. farm surpluses and the many interests served by the PL 480 program. However, the time required to obtain approval of additional funds to meet emergency needs is regarded as unaccept-

¹ Source: Source: Reagan Library, Executive Secretariat, NSC NSSD File, 1–84 [US Third World Hunger Relief] (2 of 3). Secret.

² See Document 217.

ably long in view of the human suffering associated with delays in food shipments.

The most demanding task of emergency food relief programs begins at the port of entry in the Third World. There the effort to distribute foodstuffs inland to remote areas can be very difficult, and sometimes impossible in countries where military violence either disrupts or prevents access to hungry people. In combination with badly rutted or non-existent roads, and beaten-up trucks, the job of food delivery is indeed expensive, time-consuming, and dangerous. The field workers of the private voluntary organizations and other international programs who have long been in the vanguard in carrying out this responsibility are to be commended for their valiant efforts.

Unfortunately, poor countries suffering from food shortage emergencies have been increasingly unable to share the burden of the internal distribution costs of free food. They were once able to meet the extra expense (both local currency and foreign exchange), but their worsening balance of payments positions increasingly compel them to turn to donors and international organizations to pay these costs. As a consequence, the financing of the complete emergency food aid delivery system, from farmer to port of entry to hungry people, is likely to fall on donors if more lives are to be saved.

The timely provision and accuracy of food supply and demand data are other areas of concern. Various studies suggest that the margin of safety for coping with sudden drops in local food production is shrinking in many Third World countries, particularly in sub-Saharan Africa.³ They are prone to acute food crises because of irrational government policies which have caused a structural deterioration of their agricultural sectors and a severe decline in food production. While we expect an increase in emergency food requests over the next five years, we are not entirely comfortable with the analytical models now used to estimate demand.

In carrying out emergency food aid programs, cooperation from other donor countries and international organizations can increase the effectiveness of our bilateral assistance and lead to a greater total food aid effort. The United States contributes 25 percent of the resources for the FAO and WFP, but with regard to the FAO we are dissatisfied with its leadership and management. Moreover, FAO interpretations of emergency food requirements often do not square with those of major donors. Our own expectations with regard to other donor governments and international food organizations have not been entirely

³ Not further identified.

clear; an uncertainty that constrains us in seeking improvements in international emergency food aid cooperation and coordination.

A final area where improvement is needed concerns cooperation between the public and private sectors on Third World hunger problems. In spite of the United States' tremendous food aid efforts over the past three decades, the general public is still largely unaware of what we have done and are doing. The media have tended to focus, perhaps disproportionately, on the severity of the hunger problem rather than on the many positive actions the Administration has taken to meet the challenge. In addition, the potential of the business community to provide government decisionmakers with unique regional perspectives and expertise for Third World hunger problems has gone mostly untapped.

Our findings suggest that if we are to reduce loss of life caused by acute food crises, we must 1) respond more rapidly; 2) deliver food more effectively; 3) improve food data analysis; 4) cooperate more closely with the private sectors, and 5) seek improvements in international cooperation and coordination. We have made ten specific recommendations to reach these objectives.

We have also considered the budgetary implications of our recommendations (attached),⁴ proposing small budget increases only in cases where, in our judgement, additional funding (provided in a timely and flexible way) could break critical bottlenecks and help maintain the integrity of our emergency food aid programs. Amended legislation would be necessary for three of our recommendations.

We are continuing to work on the second part of our report, the non-emergency food problems, and will shortly submit recommendations to the Steering Group.

I look forward to your participation at the Steering Group meeting on May 15.⁵

Robert B. Keating

⁴ The undated analyses of the individual recommendations are numbered one through eight and are attached but not printed.

⁵ No record of this meeting has been found.

Attachment

Paper Prepared by the Steering Group of the Third World Hunger Study⁶

Washington, undated

PART I

How can we improve our response to emergency hunger problems?

RECOMMENDATIONS

(more rapid response)

- Special Presidential fund to permit timely response to acute food crises in the Third World
- Prepositioning of PL480 Title II food in selected Third World regions for immediate use in initial stages of acute food crises

(more effective delivery)

- Pay in-country distribution costs of emergency food for poorest Third World countries from PL480 Title II ocean transportation account
- Amortize ocean freight charges for PL480 Title I food shipments for certain Third World countries encountering increasingly severe balance of payment difficulties because of acute food emergencies

(more effective research and analysis)

- Improve forecasting of Third World emergency food needs through further development of USDA and OFDA analytical models
- Inter-agency research working group to develop better Third World food data and analyses

(more effective U.S. public and private-sector cooperation)

- White House-directed public relations program to increase public awareness of Administration efforts to meet Third World food needs
- Regionally-organized advisory groups chaired by business leaders to increase private sector involvement in Third World food problems

⁶ Secret.

(more effective international cooperation)

- Clarify what U.S. seeks from other donors and international food organizations in responding to Third World food emergencies
- Subsequently, a high-level donors meeting to discuss U.S. recommendations for improving international cooperation and coordination⁷

⁷ Under a May 30 action memorandum to McFarlane, Levine forwarded Keating's May 9 memorandum. McFarlane wrote in the upper right-hand corner of the memorandum, "Terrific work." (Reagan Library, Rosenberg Files, Food for Progress-Keating Group [Famine] 5/23/1984–06/06/1984)

220. Memorandum From the Acting Assistant Administrator for Program and Policy Coordination, Agency for International Development (Derham) to the Senior Staff of the Agency for International Development¹

Washington, May 11, 1984

SUBJECT

Policy Determination on Emergency Food Aid

Attached is a draft Policy Determination entitled "Using PL 480 Title II Food Aid for Emergency or Refugee Relief." We have circulated the paper to the regional and central bureaus for comment. These comments are reflected in the present draft.

We are now circulating the paper for formal bureau clearance. We would appreciate any additional comments and/or clearance by COB Friday, May 25, 1984.²

¹ Source: National Archives, RG 286, USAID/O/ADMIN/ExecSec, Box 194, ADM (Feb-May) FY 84. No classification marking.

² None found.

Attachment

Paper Prepared in the Agency for International Development³

Washington, May 11, 1984

A.I.D.

POLICY DETERMINATION

USING PL 480 TITLE II FOOD AID FOR EMERGENCY OR REFUGEE RELIEF

I. Introduction

PL 480 Title II authorizes the President to determine requirements and provide agricultural commodities, on behalf of the people of the United States of America, “. . . to [*inter alia*]⁴ meet famine or other urgent or extraordinary relief requirements . . . and for needy persons . . . outside the United States.”⁵ The Act further states that the President may furnish the commodities through friendly governments and private or public agencies, including multilateral organizations. In addition, the legislation specifically prohibits furnishing Title II assistance to one country—Vietnam.

The United States historically has shared its bountiful food supplies with victims of natural disasters (such as floods, droughts, earthquakes and hurricanes) and has helped to avert starvation for victims of man-made problems (such as refugees from civil disturbances or armed conflict). This humanitarian food assistance has been provided as emergency or refugee relief without regard to the political philosophy of the government whose people receive the food aid.

Like all forms of PL 480 food aid, requests for emergency or refugee relief are reviewed and approved under established procedures set forth by the inter-agency Development Coordination Committee.

II. A.I.D. Policy

It continues to be A.I.D. policy to provide food aid for emergency or refugee relief requirements of needy persons without regard to the political philosophy of their government. The guiding principle underlying this policy is that a hungry child knows no politics. The

³ No classification marking.

⁴ Brackets in the original.

⁵ Agricultural Trade Development and Assistance Act of 1954, as amended (P.L. 480), Sec. 201. [Footnote is in the original.]

desire is to mount a concerted effort quickly and decisively in response to a humanitarian need.

In determining the appropriate response to a request for such food aid, A.I.D. must take into consideration several factors: (a) the nature of the disaster or other requirement—including the need to provide food as quickly as possible; (b) the nutritional needs of the population affected; (c) the amount and type of food assistance provided by other international donors; (d) the logistical requirements of delivering the food to those in need; (e) whether or not there is reasonable assurance that the food deliveries will be monitored, including, but not limited to, on-site inspection by A.I.D. or an intermediary; (f) a determination that adequate storage facilities are available in the recipient country to avoid commodity spoilage or waste; (g) a determination that the distribution of the food aid will not result in a substantial disincentive to or interference with domestic production or marketing; and (h) other relevant factors considered necessary to determine an appropriate response.

In reviewing emergency or refugee food aid requests, A.I.D. must be sensitive to the enormous complexities associated with mounting an effective and timely response to urgent needs under uncertain circumstances that frequently require hard choices and immediate judgments. A.I.D. will review such requests to assure that the assistance is not perceived as a substitute for action which a responsible recipient government may need to take to assure adequate food supplies for its people, and that it will not create a dependency on further food aid shipments. At the same time, in deciding whether or not, or to what extent, to provide such food assistance, A.I.D. will endeavor not to penalize those in need of assistance for the inadequate action or inappropriate policies of their government.

The following additional factors will also be taken into account.

1. *Emergency Situations.* A.I.D. is reluctant to provide “emergency” food aid to help alleviate a chronic food-deficit situation that occurs year after year in the same country which in substantial measure is brought about by inappropriate government policies, since this reduces the resources available to respond to those emergency situations that are sudden and unanticipated. In such cases, the provision of emergency food aid should be linked to (but not necessarily conditioned on) a policy dialogue with the recipient country with the view to correcting the policies which bear significant responsibility for the chronic deficit. Emergency food aid provided in this fashion can help to assure adequate availability of food in the future. Should efforts to start such a dialogue fail, consideration should be given to providing aid through an intermediary such as a PVO or multilateral organization with a proven ability to deliver food to those in actual need of assistance.

In cases where the chronic food deficit is related to weather or natural resource constraints (in contrast to policy constraints), the provision of emergency food aid should be linked to a dialogue concerning measures that might help to mitigate or ameliorate the problem.

2. *Situations Involving Refugees or Displaced Persons.* Under these circumstances, A.I.D. may provide food aid to those in need under government-to-government programs and/or non-government programs, whichever is appropriate.

Persons requiring emergency food aid may reside in a country which, while their own, is controlled by a government unsympathetic to their legitimate need for food aid. Provision of food aid on a government-to-government basis under these circumstances should only be considered where A.I.D. can be assured that the food will actually be delivered to those in need. A.I.D. normally does not provide emergency food aid to persons in a country if the government of that country opposes such assistance. A decision to do so (for example, providing food aid through a PVO or multilateral organization) should be made by the A.I.D. Administrator.⁶

⁶ Signed by McPherson on June 26 as USAID Policy Determination 11. See USAID, "Policy Determination Agency for International Development." (accessed online)

221. National Security Decision Directive 143¹

Washington, July 9, 1984

U.S. Third World Hunger Relief: Emergency Assistance (U)

NSSD 1-84² established the terms of reference for a study aimed at producing new, effective initiatives to address Third World hunger problems; that is, both emergency situations and longer-term problems and how U.S. and donor country food aid programs affect these cases. (C)

¹ Source: Reagan Library, African Affairs Directorate, NSC: Records, AF Famine [05/20/84-09/30/84]. Confidential.

² See Document 218.

The study of the emergency food aid situation focused on how to reduce the loss of life caused by grave food crises in the Third World.³ This study has reviewed initiatives to meet the following objectives: to respond more rapidly in delivering food to Third World countries experiencing food crises; to distribute food in-country more effectively; to improve the quality of food/transport/distribution information and methods of forecasting acute food crises; to seek greater international cooperation to deal effectively with acute hunger problems through existing public and private fora; to increase public, business and foreign awareness of U.S. hunger relief programs and the hunger problem in the Third World; and to seek greater international cooperation in response to acute hunger problems. (C)

In order to meet these objectives to help reduce loss of life caused by acute food crises, ten actions are to be taken as recommended by the NSSD 1–84 Study Group:

1) The prepositioning of P.L. 480 Title II grain in selected Third World areas for immediate distribution in a starvation situation.

2) The establishment of a special no-year, \$50 million Presidential fund to permit timely response to aggravated food situations.⁴

3) The amortization of ocean freight charges for P.L. 480 Title I food aid in certain special cases.

4) The paying of in-country distribution costs of P.L. 480 Title II emergency food aid for certain of the poorest Third World countries to permit an effective distribution of food aid.

5) The refinement of USDA and AID analytical methods for better estimates of Third World emergency food needs.

6) The formation of an interagency Emergency Food Needs Research Working Group, chaired by USDA under the Development Coordination Committee, to develop better analytical techniques and data bases for gauging emergency food requirements and forecasting acute food crises. This group would also consider coordinating steps

³ See Document 219 and attachment thereto.

⁴ In a June 21 memorandum to McFarlane, Levine wrote: “Peter McPherson has never supported the Third World Hunger Relief Study,” adding, “McPherson will state that this \$50 million fund should not, as the NSDD states, be funded from our existing budgets. In fact, the \$50 million can come from windfalls from shippings savings with our current P.L. 480 program that amount to that sum. Also our P.L. 480 grant program has increased from \$515 million in 1982 to \$800 million in 1984. There is clearly money for the Presidential fund. McPherson, however, is trying to use up the shipping windfall money for *non-emergency* food aid programs so that the money may not be applied to our Presidential fund concept. McPherson, I understand, is also telling the Hill that creation of a Presidential fund *within* existing resources will soak up \$50 million that would otherwise go into the mouths of the hungry. In fact, if we submit legislation on our initiatives early, as is our intent, the fund will speed matters up.” (Reagan Library, Rosenberg Files, Food for Progress—Keating Group [Famine] 06/07/1984–08/06/1984)

with other donor governments and international food organizations on the assessment of emergency food needs. Transportation bottlenecks and inefficiencies should be reviewed with appropriate recommendations forwarded.

7) A Special Planning Group meeting on Public Diplomacy is to be held to establish a White House-directed public information program, in conjunction with this year's observance of the 30th anniversary of P.L. 480, to increase U.S. and foreign awareness of USG food aid initiatives and the nature of the Third World hunger problem.

8) The formation of a Third World Food Problems Subcommittee under the State Department's Advisory Committee on International Investment, Technology and Development, to permit business leaders to share information on Third World hunger problems and to address these concerns in a cooperative manner.

9) The NSSD 1-84 Working Group will continue to study and clarify what type of coordination, cooperation or actions the USG should seek from other donor governments and international organizations on the emergency food aid problem. This study shall be completed within 2 months with appropriate actions recommended.⁵

10) The noted study on international cooperation will, in particular, consider recommending a high-level donors meeting or other similar measures to improve international coordination in effectively meeting food aid emergencies. Negotiations and communications with other countries on these matters shall continue through existing, approved methods. (C)

These ten actions are designed to improve the efficiency of the USG's emergency food aid programs. Funding for these ten initiatives will thus come from the projected assistance budgets for fiscal years FY 85 and beyond. An OMB-chaired interagency task force, under the NSSD 1-84 Working Group, will take steps to ensure the timely implementation of these actions. (C)

Ronald Reagan

⁵ Reference is presumably to Document 236.

**222. Note From the Under Secretary of State for Political Affairs
(Armacost) to Secretary of State Shultz¹**

Washington, October 1, 1984

Mr. Secretary:

We face another acute food crisis in Africa. Credible reports anticipate as many as 900,000 deaths in Ethiopia alone by year's end. Chet Crocker and Peter McPherson propose to freeze \$50 million in PL 480 Title I reserves to assure that we have adequate resources on hand to meet urgent Africa needs through February when a supplemental may be required.² I strongly endorse this course of action. It is the right thing to do, and we need to be out ahead of the problem.

Michael H. Armacost³

¹ Source: Department of State, U/S Michael Armacost CHRON and Country Files, 1979–1989, Lot 89D169, MHA Chron 1984. Confidential.

² In an undated, unsigned memorandum to Shultz, McPherson outlined FY 1984 spending on the African famine and discussed freezing the \$50 million in Title I reserves, as well as Crocker's ideas. (Reagan Library, African Affairs Directorate, NSC: Records, AF Famine: [05/20/84–09/30/84])

³ Armacost initialed "MA" above his typed signature.

223. Memorandum From Fred Wattering of the National Security Council Staff to the President's Deputy Assistant for National Security Affairs (Poindexter)¹

Washington, October 5, 1984

SUBJECT

Talking Points—Your Meeting with AID OFDA Director, General Julius Becton, Friday, October 5, 2:00 p.m.

You will meet with AID Director of the Office of Foreign Disaster Assistance, General Julius Becton, at 2:00 p.m. today, October 5.² Richard Levine and I will sit in. General Becton has been named by Peter McPherson to be his African famine “czar” and head up a working group to coordinate USG responses to the continuing and deepening famine situation in Africa.

Peter McPherson wanted General Becton to see you for two reasons: to sensitize you to the magnitude of the problem, and to guard against any efforts by Ambassador Bob Keating to insert himself into this effort. (Peter considers Keating a White House man capable of pulling strings to get a piece of the action. Actually, Keating first proposed the czar idea, envisioning himself as czar, and Peter opposed it at that time.)

Peter is chairing an interagency group meeting on the problem next Tuesday³ which Richard and I will attend. Based on new information, it appears that the drought/famine potential in Africa for the next year could be several orders of magnitude worse than this last year, and we may have to commit additional resources and probably seek a supplemental appropriation as early as February. (OMB may resist this.) Another issue is whether the President should make a statement on World Food Day on October 16, noting the situation and pledging \$150–200 million in programmed funds to help.⁴ (OMB will fight this,

¹ Source: Reagan Library, African Affairs Directorate, NSC: Records, AF Famine [10/01/84–10/10/84]. Confidential. Sent for information. A copy was sent to Levine. Zerwick initialed for Wattering. A stamped notation in the upper right-hand margin reads, “NOTED.”

² No record of this meeting has been found.

³ October 9. In an October 2 memorandum to multiple recipients, McPherson announced he was “calling a meeting of interested agencies to discuss the African food emergency” on October 9. Attached but not printed.

⁴ On October 16, Reagan made a statement regarding food shortages in Africa without mentioning pledged funds, but mentioned funding in a statement on December 5. See *Public Papers: Reagan*, 1984, Book II, pp. 1560–1561 and 1866–1867.

and Richard, Doug McMinn and others are against raising this matter during the next few weeks. More on this, as proposals come in.)

Talking points are attached (Tab A)⁵ for this meeting.

⁵ Dated October 5, attached but not printed.

224. Telegram From the Embassy in Ethiopia to the Department of State¹

Addis Ababa, October 9, 1984, 0729Z

4583. Subject: RRC Commissioner Dawit Criticizes USG Humanitarian Assistance.

1. RRC Commissioner Dawit called a meeting of Donor Government Chiefs of Mission, International Organization and PVO Resident Representatives on October 8 to launch a renewed appeal for humanitarian assistance in view of the growing severity of Ethiopia's drought and famine. On October 6, in a meeting with the AID TDY Team just returned from its survey trip and Charge, Dawit remarked jocularly that he was going to have to "attack the United States" in his remarks to the October 8 conference, because the United States has not done enough to help. Charge reminded Dawit that USG humanitarian assistance to Ethiopia for calendar year 1984, comprising commodities and money already handed over and those on the way, will total \$27.2 million, including fifty-two thousand tons of commodities, thus making the USG probably the largest individual donor. Though we have kept Dawit regularly advised of USG Humanitarian Assistance allocations for Ethiopia,² he professed surprise. Charge expressed hope that Dawit would take account of this substantial assistance in formulating his remarks. Later that day we sent Dawit a fact sheet done by AID/FFP

¹ Source: National Archives, RG 286, USAID/Office of Foreign Disaster Assistance, Box 7, Project Drought Ethiopia Declared 10/14/85. Limited Official Use; Priority. Sent for information to Nairobi, Rome, and USUN Geneva.

² In telegram 147309 to Addis Ababa, May 19, the Department reported on a conversation between Lyman and Dawit in which U.S.-Ethiopian relations and food aid to Ethiopia were discussed. (Department of State, Central Foreign Policy File, D840326-0350)

TDY officer Gold giving a breakdown of and totals for CY 1984 USG humanitarian assistance to Ethiopia.³

2. All to no avail. Dawit delivered a very defensive address, castigating the donors for failing to respond to his March 1984 appeal⁴ and ignoring how severe Ethiopia's situation had become, despite the RRC's repeated warnings (in fact, of course, what happened was just the reverse: all summer long there was growing awareness in the donor community of the severity of the drought and famine, but the RRC kept quiet while the PMGSE prepared for the forming of the Workers Party of Ethiopia and spent lavishly on celebration of the Tenth Anniversary of the Revolution). Only the USG was mentioned by name. On the United States, Dawit quoted from an article by Jay Ross in the *Washington Post* and one from the *Manchester Guardian* alleging that the USG was withholding humanitarian assistance for political reasons;⁵ he also quoted a statement by CRS/E Director Fitzpatrick protesting AID plans to eliminate commodity support for CRS' Program for Ethiopia.⁶ Dawit made no mention of the fact that these press stories, and Dr. Fitzpatrick's remarks, dated from early and mid 1983; he said nothing about USG humanitarian assistance for Ethiopia since that time and made no use of the data we provided him on USG assistance for CY 1984.

3. Before the coffee break and discussion period, Charge had to leave for a previously scheduled appointment. On departing, Charge instructed ADCM to deliver a clarification at the beginning of the discussion period, to point out that the press reports and statements dated from early and mid 1983, to give facts and figures on our 1984 assistance, and to express our regret over the Commissioner's use of dated material to give the impression that the USG is withholding humanitarian assistance for political reasons, and his failure to mention the substantial assistance extended by the USG during 1984. When Dawit became aware that ADCM intended to make a statement along these lines he became quite agitated and volunteered to deliver a clarification himself, which he then proceeded to do. In the ensuing discussion, the Papal Pro-Nuncio, Archbishop White, expressed gratitude to the USG for the substantial amounts of commodities provided CRS for its Ethiopia program. At a meeting of Donor Government Chiefs of

³ Not further identified.

⁴ In telegram 1494 from Addis Ababa, March 31, the Embassy reported on Dawit's appeal for assistance. (Department of State, Central Foreign Policy File, D840211-0399)

⁵ See Jay Ross, "Famine, War Threaten Thousands in Ethiopia," *Washington Post*, June 26, 1983, p. A1.

⁶ Not further identified. In telegram 1300 from Addis Ababa, April 14, 1983, the Embassy reported on a meeting in which Fitzpatrick was informed about the termination of the program. (Department of State, Central Foreign Policy File, D830207-0990)

Mission, International Organization and PVO Resident Representatives that same afternoon at the residence of the Italian Ambassador (EC Chairman), Charge provided full data on US CY 1984 Humanitarian Assistance for Ethiopia.

4. Charge received letter from Commissioner Dawit morning October 9 referring to the October 8 meeting and stating that “We are very much appreciative of your (read USG) assistance . . . because of the fact that we believe the United States has the capacity to do more we thought it would be proper not to give the feeling that we had enough and the United States has done all it could. The statement referring to the United States was our own way of creating pressure to get more and was never intended to provoke you, upset you or in any way be ungrateful of the assistance which we have received so far. My statement was a statement of concern and had no political tone. It was only a strong humanitarian investigation of why more could not be done by a country which has a capacity to do so.”

Korn

225. Memorandum From the Executive Secretary of the National Security Council (Kimmit) to Fred Wetering and Richard Levine of the National Security Council Staff¹

Washington, October 15, 1984

SUBJECT

Secretary Shultz's Evening Report of: 10/12/84

The following excerpt is for your information only. *Please do not refer to it in any discussions.*

1. *Sub-Saharan Food Crisis.* Recent crop information from Sub-Saharan Africa makes it clear that the drought, food shortages, and potential for famine will be worse this year than last. Information on food stocks and rainfall suggests the production shortfall could be as much as 8–10 million tons. The countries most threatened include

¹ Source: Reagan Library, African Affairs Directorate, NSC: Records, AF Famine: [10/11/84–10/25/84]. Secret. Printed from an unsigned copy.

Sudan, Chad, Kenya, Niger, Mozambique, and Ethiopia.² Ten million people may be seriously affected. The situation in Ethiopia is alarming; we have estimates that 125,000 may have died already. We tripled food aid to Africa in the last twelve months, but even more will be required to hold down the human death toll, and limit the potential for instability. Peter McPherson has launched a high level interagency task force to coordinate the overall U.S. response.

² In the left-hand margin, an unknown hand wrote the names "Wettering" and "Levine."

226. Telegram From the Mission to the United Nations to the Department of State¹

New York, November 20, 1984, 1706Z

3325. White House for Vice President Bush and National Security Council Director. Subject: AID Administrator Meeting with UN Secretary General—November 17, 1984.

1. (C—Entire text)

2. Summary: At a meeting between the UN Secretary General and the AID Administrator on November 17, the Secretary General agreed to convene a special pledging and coordination session on Ethiopia "within two weeks."² The Secretary General also agreed to call a similar session in early January to focus on other drought-related emergencies in Africa. End summary.

3. Peter McPherson, AID Administrator, called on the UN Secretary General, Perez de Cuellar, on November 17th to discuss the drought-related emergency in Ethiopia as well as the probability of similar emergencies breaking out in several other African countries. The UN Director General, Jean Ripert, attended the meeting as did Ambassador Alan Keyes of USUN.

¹ Source: Department of State, Central Foreign Policy File, [no film number]. Confidential. Sent Immediate to the White House, Addis Ababa, Paris, Rome, and Geneva.

² In telegram 3805 from New York, December 22, USUN reported on the December 18 UN Special Session on Emergency Assistance for Ethiopia. (Department of State, Central Foreign Policy File, D840819-0340)

4. After referring to their respective visits to Ethiopia earlier this month, McPherson related to the Secretary General the devastating effect the “walking stick figures” had had on him during his tour of food distribution camps in Ethiopia.³ He explained that he had briefed President Reagan, at the White House, just the day before, and the President had been strongly supportive of current efforts to diminish the human misery in Ethiopia as quickly as possible.⁴ According to relief experts in Addis, the Administrator suggested over 1 million metric tons of food aid will be needed between now and September 1985 if the approximately seven million Ethiopians currently at risk are to be saved. This means that 100,000 MT of food will have to be channeled monthly through the local logistical system which is now capable of handling only 50,000 MT per month. If this system is to be upgraded, and deliveries to drought victims assured, the worldwide donor community will have to contribute more generously, and in a more coordinated fashion, than is now the case. One way of achieving these objectives, according to the AID Administrator, would be for the Secretary General to convene a special pledging and coordination session to focus the attention of all possible contributors on the magnitude of the suffering unfolding now in Ethiopia—with the probability of similar emergencies following in a few months in Sudan, Mozambique, Chad and, possibly, Niger, Mali and Mauritania. The Administrator then referred to a special meeting of the DAC on the African emergency which will take place in Paris following the December 3 and 4 high level session—at the urging of the U.S.⁵ McPherson solicited the Secretary General’s advice on how we can best stimulate DAC and non-DAC concern about the African tragedy. He concluded his opening remarks by pointing out that the U.S., in the first 45 days of FY 85, committed 215,000 MT of food aid to Africa with a value of \$190 million. This compares with a commitment of \$172 million for all of last FY—which was the highest amount of food aid programmed to Africa in U.S. history.

5. Perez de Cuellar warmly thanked the AID Administrator for making a special Saturday morning trip to NYC to discuss “matters

³ In telegram 5209 from Addis Ababa, November 7, the Embassy reported on McPherson’s November 6 meetings with Ethiopian officials in Addis Ababa. (Department of State, Central Foreign Policy File, D840712–0256)

⁴ According to the President’s Daily Diary, Reagan met with Bush, McPherson, Baker, Meese, McFarlane, and Wattering on November 16, from 9:55 to 10:03 a.m. “to discuss Mr. McPherson’s recent trip to Ethiopia to study food assistance to alleviate effects of the African drought.” (Reagan Library, President’s Daily Diary)

⁵ In telegram 363466 to all African diplomatic posts and all OECD capitals, December 10, the Department reported on the Paris meeting of major donors to the relief effort. (Department of State, Central Foreign Policy File, D840789–0608)

of mutual concern." The Sec Gen indicated that he too had been shaken by what he had seen in Ethiopia and was particularly gratified that the AID Administrator was alert to the probability of new disasters breaking out in other African countries. With respect to Ethiopia, matters seemed to be improving a little although the Sec Gen could not be certain because he might have been shielded "from the worst" by the bands of soldiers that surrounded his entourage wherever it went in Ethiopia. He then confided that the Ethiopian Government saw itself "very much on the spot." Its concerns over the grave food situation were not wholly humanitarian. The regime remembers only too well that the previous administration was toppled in the mid 1970's largely because it failed to mount an effective drought-relief campaign.⁶ The Mengistu regime also recognizes, according to the Sec Gen, that it will have to turn eventually to the West for development aid since—like many African governments—its flirtation with socialism has had disastrous effects on the Ethiopian economy.

6. Jean Ripert pointed out that the Ethiopian Government already was hoping that some of the emergency assistance it would be receiving could be used for longer-term rehabilitation. During their recent trip, the government had asked for UN assistance in helping to resettle Ethiopians from the highlands into the Ogaden region in the South. Aware of the political implications, the UN team had declined to comment on the proposal. The AID Administrator pointedly referred to the enormous pressure in the U.S. against the provision of development assistance to the Mengistu regime. Indeed our humanitarian response could be seriously jeopardized if any of the U.S. assistance was used in connection with development projects proposed by the current regime. (Both the Sec Gen and Ripert nodded in complete understanding.)

7. The Sec Gen agreed that the AID Administrator's idea on a special UN pledging and coordinating session was a good one—if held at the Perm Rep level. He then mused about "LDC Governments, being, at times, their own worst enemies." On several occasions he had felt compelled to advise them "to get their own houses and priorities in order" if they expected him to mount special appeals for outside assistance. Ambassador Keyes underscored the Secretary's point by alluding to the current General Assembly proposal to allocate \$73 million for an unneeded ECA Conference Center in Addis Ababa at a time when starvation ran rampant in the countryside. (All agreed that the Conference Center proposal was indeed unfortunate.)⁷

⁶ Reference is to the overthrow of Emperor Haile Selassie in 1974.

⁷ In telegram 2875 from New York, October 22, USUN reported on the vote approving the construction of the conference facilities in Addis Ababa. (Department of State, Central Foreign Policy File, D840674-0768)

8. The Director General parenthetically referred to a growing concern among Latin American countries that “all this attention on Africa” will leave L.A. with a shrinking portion of donor assistance. The Secretary General agreed about the concern and confided that it may be necessary “to stage a compensatory event” for the Latin Americans in the not too distant future.

9. The discussion then shifted to Kurt Jansson’s mandate as the UN Special Coordinator for Emergency Assistance in Addis. The Sec Gen reaffirmed that Jansson reports directly to him and has complete authority to make decisions on-the-ground as he deems necessary. (The UNDP Res Rep would not be a “problem,” according to the Sec Gen, because King fully understands the need to focus his energies on “non-emergency assistance matters.”) In keeping with the prevailing frankness, McPherson indicated that the U.S. Government was concerned about the quality of some UN Representatives in the field. Given the fact that the bulk of emergency assistance will flow through bilateral channels, it seems only fitting that bilateral donors have a real say about which UN agency rep (e.g., UNDP, WFP, UNICEF) should assume the role of emergency relief coordinator in a given country. In the same connection, the U.S. Government favors the setting up of a small “executive board of principal donors,” in each disaster country, to make sure that coordination runs smoothly. Perez de Cuellar did not directly address this last point—instead, he softly lamented the fact that “member governments” had eroded the Secretary General’s coordination effectiveness over the UN family by allowing the individual UN agencies to become too autonomous.

10. The AID Administrator then asked the Secretary General’s indulgence to sum up his understanding of what would come out of the meeting. First, the Secretary General will call a special emergency assistance pledging session for Ethiopia at the UN “in two weeks time.” In preparation for that session Kurt Jansson will draw up a logistics plan for the Ethiopia emergency situation—as well as a resource gap analysis which will be distributed to all prospective donors before the pledging session.⁸ At the meeting donors will be expected to clearly spell out the specifics of their contributions. Secondly, before the close of the Special Session on Ethiopia, the Secretary General will announce that there will be a follow-on African-wide emergency appeal session to be held at the UN in early January 1985.⁹ This meeting will set the stage for country-specific pledging sessions. The Sec Gen agreed with

⁸ Not found.

⁹ In telegram 384 from Geneva, January 16, 1985, USUN reported on the UN meeting. (Department of State, Central Foreign Policy File, D850034-0612)

the Administrator's summary of their discussion and promised to set the wheels in motion immediately for the first meeting on Ethiopia.

11. As the meeting was concluded, the UN information unit ushered in an ABC T.V. filming crew which had asked to shoot some "no voice" takes of the Sec Gen and the AID Administrator for the "This Week with David Brinkley Show" (November 18th). During the filming the Administrator reminisced warmly on his days as a Peace Corps volunteer in Lima—to the obvious delight of the Peruvian Secretary General.

Kirkpatrick

227. Memorandum From the Administrator of the Agency for International Development (McPherson) to the Deputy Chief of Staff and Assistant to the President (Deaver)¹

Washington, December 1, 1984

SUBJECT

Suggested Events Related to Africa Famine

The disaster in Africa caused by famine has generated widespread concern throughout the United States and the Western World. The U.S. government response to the crisis has been prompt and to date, \$200 million in food assistance has been provided to the people of Africa.

The United States is also providing emergency food assistance for other drought-stricken African nations which are facing severe food shortages. New amounts of emergency food assistance have been announced for Mozambique (\$5.9 million), Mauritania (\$8.5 million) and Chad (\$5.6 million).

Participation by the First Lady or President in an event or series of public announcements would emphasize the importance of assistance, both from the public and private sectors, to the drought-stricken areas.

We suggest the following events for participation by the President, First Lady or White House officials:

1. A Public Service Announcement (PSA) by the First Lady. I recommend a one-minute announcement thanking the American people for

¹ Source: National Archives, RG 286, USAID/O/ADMIN/ExecSec, Box 251, ADM-6 (White House) FY 85. No classification marking. Copies were sent to Ringdahl and Raymond.

their generous support and explaining the extent of the United States Government's assistance to Ethiopia and other Sub-Saharan countries.² It could also include a plea for private cash donations to INTERACTION or other voluntary organizations working in Africa. This is the most effective way for the public to help.

2. Addressing the issue in the President's Saturday radio announcement. During the holiday season when giving to those less fortunate is a practice followed by many, the tragedy of the famine-struck African people should receive special attention.

3. Sending a message from the President or First Lady to major newspapers across the country with information about the famine and steps that the private sector can take to help.

4. We may also consider a visit by a member of the Vice President's family to African nations affected by food shortages. Should this be chosen as an option, we will pursue plans and coordinate appropriately.³

M. Peter McPherson⁴

² In a December 17 memorandum to McPherson, Poindexter wrote: "The NSC supports your suggestions that the President's December 22 radio broadcast and a one-minute public service announcement by Mrs. Reagan be used to mobilize private efforts to provide assistance to African famine victims." (Ibid.) Reagan met with Thatcher on December 22; he did not make a radio address, but he issued a statement about African famine relief on January 3, the same day he signed NSDD 156. (*Public Papers: Reagan*, 1985, Book I, pp. 6–7) See Document 236.

³ In the December 17 memorandum to McPherson, Poindexter also wrote: "We do not believe it is advisable to send the Vice President or a member of his family to a famine-affected country, at least at this stage."

⁴ McPherson initialed above his typed signature.

228. Note From the President's Deputy Assistant for National Security Affairs (Poindexter) to the President's Assistant for National Security Affairs (McFarlane)¹

Washington, December 3, 1984, 5:06 p.m.

SUBJECT

Congressional Delegation with President

The President met today with the delegation back from Ethiopia.² The Administration was roundly praised for what we are doing. It was a very positive meeting. But everybody recognizes that more needs to be done. Everybody agreed that Ethiopia was not the only problem. I talked to Bob Keating afterwards about speeding up the initiative that he has been working on.³ I am arranging through Bob Kimmitt to get Keating in to brief Shultz on Tues or Wed.⁴ He will brief Ed Meese tomorrow.⁵ I think we just about have everybody that counts on board. Peter was not very enthusiastic according to Keating, but I expect it is simply the not invented here syndrome.⁶ I am afraid if we don't move rather rapidly on this it will eventually look like we are being dragged into it. Also there will be a tendency to want a supplemental that is much bigger than necessary without our initiative on the table. I think we should plan to take Bob up to brief the President on Thursday

¹ Source: Reagan Library, African Affairs Directorate, NSC: Records, AF Famine [12/03/84-12/31/84]. Secret. Copies to Levine, Ringdahl, Kimmitt, Fortier, and Van Eron.

² In telegram 5718 from Addis Ababa, November 29, the Embassy reported on a visit to Ethiopia by a congressional delegation that included Representatives Mickey Leland (D-TX), William H. Gray (D-PA), Edolphus Towns (D-NY), William Emerson (R-MO), Gary Ackerman (D-NY), Thomas Foglietta (D-PA), and Marge Roukema (R-NJ). (Department of State, Central Foreign Policy File, D840762-0374) According to the President's Daily Diary, Reagan met with members from the delegation on December 3 from 4:15 to 4:35 p.m. (Reagan Library, President's Daily Diary)

³ Reference is presumably to Document 236.

⁴ December 4 or 5.

⁵ No record of this meeting has been found.

⁶ In a December 10 message from Thompson, Kimmitt forwarded a message from McFarlane: "As you know we are pushing Bob Keating as the most able candidate to be the Administration's point man on Food Aid to Africa. There are inevitable turf issues with AID on this and State as well. In addition we want to engender a private sector role with Bill Verity being the current favorite to coordinate the PS dimension. I have talked to Shultz on this and he wants to exploit Keating's knowledge without offending Peter. That's understandable. He would like to pursue a 'brokering option' in which he would ask Ed Derwinski to bring Peter, Bob K, and ultimately the private sector POC people together and establish a division of labor among them. This may work." (Reagan Library, McFarlane Files, Chron [Official] December 1984 [1])

morning at the 0930.⁷ Then on Monday the President will see Charlton Heston and a group of African Food Aid.⁸ That might be a good opportunity to lift the curtain on our initiative.

The President told the group that he would have the WH office of Private Sector Initiative look into putting out a call for more private sector aid.

Also did you have a chance to talk to George⁹ about Bob Keating as a special envoy for African Emergency Food Aid?

⁷ December 6. According to the President's Daily Diary, Reagan met with Bush, Keating, McFarlane, Poindexter, Levine, Baker, and Meese on December 6 from 11:46 a.m. to 12:10 p.m. (Reagan Library, President's Daily Diary)

⁸ December 10. According to the President's Daily Diary, Reagan "attended a briefing on the Ethiopian famine situation by a delegation from the American Red Cross, who recently returned from a trip to Ethiopia," on December 10 from 1:48 to 2:08 p.m. (Reagan Library, President's Daily Diary)

⁹ In a December 4 memorandum to Poindexter, McFarlane wrote: "I have talked to Shultz twice about Bob. He is getting the message and we should push for the briefing. I will also reinforce again with him. The briefing for the President is also good." (Reagan Library, African Affairs Directorate, NSC: Records, AF Famine [12/03/84–12/31/84])

229. Information Memorandum From the Assistant Secretary of State for African Affairs (Crocker) to Secretary of State Shultz¹

Washington, December 3, 1984

SUBJECT

Famine Situation in Rebel-Controlled Areas of Ethiopia

While the United States and other donors are reaching additional numbers of Ethiopians at feeding centers, large populations remain beyond reach due to insurgencies.

The issue of getting food to rebel held areas of northern Ethiopia remains a difficult problem, and it is attracting increasing media attention. NBC-TV and British media stories emphasize the political uses

¹ Source: Department of State, Central Foreign Policy File, P850089–2281. Secret. Drafted by Bogosian and LeCocq and cleared in AID/AFR/EA, AF, and H. A stamped notation on the memorandum indicates that Shultz saw it.

of the drought, i.e., denial of food to rebel-controlled population.² While NBC is airing the rebels' side of the story, rebels recently burned a large food shipment for the government-held areas.

We and other donors have for some time unsuccessfully pressured the Ethiopian government to do more in contested areas. In our November 2 agreement with the PMGSE to initiate a government-to-government relief program³ one of our conditions was that the Ethiopians do more to get food to "all parts of Ethiopia."⁴

In the meantime, to meet the growing humanitarian need, the USG has provided \$20.7 million in food and funds across the Sudanese border to rebel-held areas.⁵ Included in that is a recent approval of \$6 million to purchase available grain in the open markets in rebel-controlled Western Tigray. Our cross-border relief has been channeled via Lutheran World Relief and Mercy Corps (private voluntary organizations) as well as the Red Cross (ICRC). Although this is not publicized, the press has begun to focus on it. In response we are preparing guidance that we are contributing food and funds to some PVOs which are non-political and able to provide food to insurgent areas, but that we have no official relations with rebel groups.

The Ethiopians recently learned of our cross-border operation and expressed opposition to our providing emergency food to Tigray and Eritrea via Sudan. The Sudanese, both here and in Khartoum, where Nimeiri called in our Charge, have urged that we forestall massive additional movement of refugees by getting food directly to hungry people in Ethiopia (and Chad). I have discussed this problem with Perez de Cuellar,⁶ and Peter McPherson is raising it in Paris at the DAC.⁷ Ideally, some form of food truce is needed, but it will be an extremely delicate task to arrange. Meanwhile we feel we must continue providing assistance both through Ethiopia and via Sudan. We believe Congress will support us on this.

² References possibly are to NBC's October 23 broadcast and Michael Buerk's October 24 BBC broadcast, respectively.

³ Not further identified.

⁴ In telegram 9879 from Geneva, December 12, USUN reported on a meeting with ICRC officials that involved discussion of feeding people in rebel-held areas. (Department of State, Central Foreign Policy File, D840795-0249)

⁵ In telegram 14884 from Khartoum, November 26, the Embassy reported on a meeting between Nimeiri and the Chargé that discussed cross-border feeding of people. (Department of State, Central Foreign Policy File, D840753-0499)

⁶ In telegram 3523 from New York, December 4, USUN reported on a meeting among Crocker, Keyes, and De Cuellar about food-related issues. (Department of State, Central Foreign Policy File, D840772-0441)

⁷ See footnote 5, Document 226.

230. Telegram From the Department of State to Secretary of State Shultz's Delegation in Lisbon¹

Washington, December 13, 1984, 0020Z

366048. Subject: Approach to Soviets on Ethiopian Food Truce.

1. S—Entire text.

2. Summary and action requested. Dept has decided to make a demarche to the Soviets asking their support for greater free passage of food within Ethiopia. Paragraph 7 of this message contains talking points for use by Ambassador Hartman or DCM with highest available Soviet Foreign Ministry official. Paragraph 8 contains points to be used by Embassy Addis to inform the Ethiopians on our various approaches on this subject, including informing them of the Soviet demarche. End summary.

3. Background: Given increasingly dire humanitarian needs in Ethiopia and to ease refugee burdens in Sudan and persistent political obstacles to effective delivery of emergency assistance to affected population in Ethiopia, Dept believes it is necessary to investigate fully and urgently the possibility for some sort of a "safe passage" arrangement agreed on by both the Central Government and insurgents.

At least three million people, perhaps a majority of those affected by the current drought in Ethiopia, are behind rebel lines and have been receiving only marginal assistance through Ethiopian Government feeding centers and through unpublicized cross-border operations from Sudan. The situation has deteriorated rapidly, with as many as 1700 people in insurgent areas of Eritrea, Tigre and Welo dying each day. Mass migrations are underway, perhaps of several hundred thousand, to Sudan. Both sides appear to have taken actions, for political reasons, which impede the delivery of food to people in need. This is an extremely pressing issue. For example, there have been recent reports that Ethiopian MiGs strafed people migrating from insurgent areas to Sudan. It is essential to provide safe passage for people migrating to Sudan and those walking to feeding centers inside Ethiopia as well as for private voluntary organization (PVO) convoys and flights making deliveries in contested areas. We also need Ethiopian agreement not to impede additional, perhaps massive cross-border deliveries into insurgent areas from Sudan. Although Mengistu has said publicly he will not agree to negotiate with "bandits," and the government has

¹ Source: Department of State, Subject Files, Edward J. Derwinski, 1982–1985, Lot 87D258, Famine Relief in Africa. Secret; Nodis. Drafted by LeCocq; cleared in AF/E, AF/RA, AF, EUR/SOV, EUR, C, P, and AID; and approved by Armacost. Sent to Moscow, USUN, Addis Ababa, London, Rome, Ottawa, and Khartoum.

up to now formally objected to our cross-border feeding programs, both sides have already acceded to free passage by the ICRC and there have been some indications in private from both sides that they would not impede actual deliveries by other PVOs.

4. To help address this problem, we have underway a series of diplomatic actions designed to call the attention of the world community to the problem and to encourage the various parties in Ethiopia to enter into *de facto* safe passage arrangements. We anticipate that implementation would be left to a neutral party such as the ICRC and/or other PVOs. Our plan of action includes an initial approach to the ICRC, the Pope, and UNSYG, urging them to speak out both privately and publicly for a program of humanitarian safe passage and ultimately to involve other figures in the effort to bring pressure on both the Ethiopian Government and guerrilla forces.

5. Given the Soviet Union's political influence with Chairman Mengistu, we want the Soviets to urge him to cooperate in more complete free passage of food. Mengistu's planned December 13 visit to Moscow presents us a unique opportunity to urge Soviet cooperation. Dept recognizes that the Soviets would normally be unlikely to press re the Ethiopian leader. On the other hand, Chernenko's statement in his November 16 interview with Marvin Kalb that one area for possible US-Soviet regional cooperation would be drought relief, at least provides us a handle to make an approach. The Soviets may have reasons (e.g. embarrassment at the dilemma of their client state and at the Soviet lack of capability to provide massive help) to encourage cooperation between the rebels and the government. An additional incentive for the Soviets could be our willingness to cooperate in more direct Soviet participation in the larger donor network headed by the UN. We are not interested in offering the Soviets a joint US-USSR effort in relief activities which would enable Moscow to piggyback on much larger Western response. But we are testing Moscow's *bona fides* in asking their help on this key problem where they have clear influence.

6. We will inform the Ethiopians in advance of Mengistu's trip that we are contacting numerous parties, including the Soviets, to gain international support for a safe passage arrangement. Informing the Ethiopians of our talks with the Soviets will prevent the latter from purposely distorting our approach in such a manner as to damage our efforts to pursue a broader political dialogue with Ethiopia. In short, we see cooperation with the Soviets in food relief as important given the situation on the ground, but do not want to enable the Soviets to use this to play a larger role in the Horn.

7. Following talking points for use by Ambassador Hartman or DCM on an urgent basis (we would like to get to the Soviets prior to Mengistu's arrival in Moscow on the 13th).

—We are concerned that food relief efforts have been seriously hampered by hostilities, especially in the Eritrea and Tigre insurgent areas.

—There are continuing reports that the various political elements in Ethiopia, both government and anti-government, are for political reasons hindering in various ways the free movement of food, and of people seeking food.

—In order to avert further mass starvation, we believe it might be possible to arrive at some sort of temporary *modus vivendi* among the parties which would allow free passage of food and other humanitarian relief to all areas of the country and all segments of the population.

—It is not only the United States which is concerned and which sees the need for some sort of safe passage arrangement. International organizations, private voluntary agencies and other donor nations share this view.

—The Soviet Union is in a unique position, considering its interests in Ethiopia and its role in the Ethiopian relief effort to use its influence with the PMGSE in favor of such an agreement. We note that Chairman Mengistu will soon be visiting the Soviet Union. In this context, we note that Chairman Chernenko, in his November 16 NBC interview with Marvin Kalb, suggested drought relief as a potential area of U.S.-Soviet regional cooperation.

—We recognize that neither side in the conflict will likely accede to a general cease-fire. We hope, therefore, that the Ethiopian Government will agree to a *de facto* safe passage arrangement, whereby food deliveries and people in search of food are not hindered and that food can be delivered in the most direct and efficient manner including from Sudan. We would expect that deliveries would be conducted by apolitical private voluntary organizations to be agreed to by all parties.

—The United States interest in safe passage is humanitarian. Our only role in this matter is support for this concept, which has been espoused by several international leaders and the media.

—The PMGSE is aware of our concerns and the need to facilitate food distribution, and we are in touch with other interested parties.

—The United States encourages the Soviet Union, in addition to continuing its deliveries of food within Ethiopia, to participate more directly with the donor community in Ethiopia and with the efforts of United Nations Secretary General Special Representative in Ethiopia Kurt Jansson.

8. For Addis: Charge should use following points with MFA and RRC Commissioner Dawit prior to Mengistu's departure for Moscow:

—The United States notes the considerable mention being made by the media and international leaders such as Willy Brandt of the

need for a "safe passage" arrangement for food deliveries and for people looking for food.

—We feel that some sort of arrangement needs to be made by the Ethiopian parties to facilitate the dispersing of food to all areas and to permit safe passage as well to people in search of food.

[The United States?] recognizes and supports the territorial integrity of Ethiopia. We have no desire to interfere with Ethiopia's internal affairs.

—We are aware of Chairman Mengistu's desire not to enter into negotiations with insurgents. This does not preclude, however, an informal or de facto arrangement whereby each side agrees not to impede the flow of drought victims in search of food or food deliveries. We recall Commissioner Dawit's agreement in the November 2 government-to-government agreement to additional efforts to make food available to all parts of Ethiopia.²

—The United States, for its part, maintains its policy of delinking food from politics. Our interest has been and remains assisting Ethiopians in need. We and other donors are concerned that large numbers of Ethiopians in northern area of fighting are not being reached. This problem is of such major concern that it is rapidly becoming the number one problem in Ethiopia and in the concern of the media.

—We applaud the Government of Ethiopia's efforts to assist the drought and famine situation, coordinating with donors, and improving logistics. In that same spirit, we would appreciate any ideas or suggestions by the PMGSE as to how a safe passage arrangement can be obtained to get food to insurgent as well as government-controlled areas. We need to consider de facto agreements to safe passage of food, free movement of people seeking food, and agreement on new routes for delivering food.

—This problem needs to be addressed urgently in light of the increasingly desperate situation in unreachable parts of northern Ethiopia, recent reports of innocent drought victims being caught in the crossfire, and charges that political considerations are involved by various parties to the fighting in food delivery or non-delivery.

—In view of the role the Soviets are playing in the relief effort, we are also raising this with them as well as with the UN, other donors, and humanitarian leaders and organizations.

9. For Geneva: You should draw on paras 3 and 4 to alert ICRC that we are approaching the Soviets and Ethiopians. You should underscore the need for strict confidentiality.

² Not further identified.

10. For London, Rome and Ottawa: On strict FYI basis only, you should inform host government of our approaches to Soviets and Ethiopians on this matter.

11. For USUN: Please brief the Secretary General on our plans to approach the Soviets and Ethiopians.

12. For Vatican: Septel will follow,³ asking Ambassador Walters to brief the Pope on food truce issue and requesting his support for safe passage related to food relief. This cable is for Ambassador Walters background.

Dam

³ Not found.

231. Telegram From the Embassy in Ethiopia to the Department of State¹

Addis Ababa, December 13, 1984, 1334Z

6032. Subject: Approach to Soviets and Ethiopians on Ethiopian Food Truce. Ref: State 366048.²

1. (S—Entire text)

2. Saw Acting Foreign Minister Tibebe Bekele afternoon December 13 and conveyed points para eight reftel, stressing non-political, humanitarian nature of our concern. I asked that Tibebe pass these points to Chairman Mengistu and Foreign Minister Goshu during their current travels. (Ethiopian radio has announced that Mengistu is on his way to Cuba. We understand he will proceed to Moscow after Havana.)

3. Tibebe said he wanted to give a “preliminary reaction” to our points. After expressions of appreciation for USG Food Assistance and for USG assurances that its assistance is humanitarian and non-political, Tibebe said in fact the request USG is making of Ethiopian Government is political. USG is asking the Ethiopian Government to make arrange-

¹ Source: Reagan Library, African Affairs Directorate, NSC: Records, Ethiopian Developments—Working File [1984]. Secret; Immediate; Nodis.

² Printed in Document 230.

ments with "criminals" and "bandits." Tibebe said "any request for a so-called third party understanding or alternative routing for delivery of food is a political request to which the Ethiopian Government will have to give a political response." Tibebe added that Ethiopian Government will regard USG's raising this matter as an "unfriendly" action. Tibebe said USG is operating on basis of a misconception of situation in the north of Ethiopia. If food is not getting to all parts of Ethiopia, the fault is not that of the Government of Ethiopia but of criminal elements who impede the free flow of food. USG should not ask the Government of Ethiopia to come to terms with these criminal elements but should tell them to cease their criminal activities. The Ethiopian Government desires to see food moved to all places in Ethiopia. The only solution to the problem, Tibebe said, is for the Ethiopian Government to put on more security to assure movement of food, not for Ethiopian Government to be asked to reach agreements with criminal elements. Tibebe continued in this vein for some time before in peroration declaring that it is "inconceivable" that the USG would want the Ethiopian Government to reach an understanding with criminals that would allow them to pursue their actions.

4. I said I regretted that both our presentation and our purpose had been so seriously misconstrued. We did not ask the Ethiopian Government to reach agreements with opposition elements, and we have no political purpose in mind. We are only trying to find a practical solution to the problem of getting food to people in the northern regions of the country where governments and world public opinion know that thousands are starving. We are seeking to consult with the Ethiopian Government to find a way to get food to Ethiopian citizens in dire need.

5. Tibebe's response to this was that "We won't modify how we operate in this country, criminals will be dealt with as criminals." Tibebe added that if the USG finds it cannot continue to assist the Ethiopian Government because of "these constraints", then the USG will have to "decide what to do."

6. Comment: Tibebe would not have ventured the above response had he not been quite sure it would meet with Mengistu's approval. My guess is that in this instance, unlike earlier ones, he will convey to Mengistu in Havana or Moscow our approach, together with a detailed and eloquent rendering of his reply.

7. Department pass Moscow and other addresses reftel as desired.

Korn

232. Telegram From the Embassy in the Soviet Union to the Department of State¹

Moscow, December 13, 1984, 1549Z

15828. Subject: Approach to Soviets on Ethiopian Food Truce. Ref: State 366048.²

1. Secret entire text.

2. In accordance with instructions reftel, DCM and Emboff called on MFA Third African Department Deputy Chief Sinitsyn December 13 to request that the Soviets use their influence with Mengistu to expedite famine relief in Ethiopia. On the Soviet side, Sector Chief for Horn Countries V. Tokin and Ethiopia Desk Officer E. Terekhim participated in the meeting.

3. DCM began by referring to Chernenko's reference in his NBC interview³ to the desirability of US-Soviet cooperation in the "battle against hunger". Noting reports of an imminent visit by Mengistu to the USSR,⁴ DCM said that we wanted to take the opportunity to urge that the Soviet Union and Ethiopia expedite relief efforts. DCM underscored that the US had no intention of interfering in Ethiopia's internal affairs and we fully realized the complexities of the current situation on the ground. Nevertheless, there had been reports that persons in need of emergency assistance had been hindered by both the government and its opponents in their efforts to obtain food and other assistance.⁵ This was reportedly taking a devastating toll of lives in Ethiopia, and we wished to urge again that all sides redouble their efforts to expedite relief.

4. Sinitsyn replied that the situation on the ground in Ethiopia was indeed complex and that, as the US side knew, the USSR was extending emergency assistance to the Ethiopian Government "to the extent of its capabilities". Sinitsyn added, however, that relief assistance must be provided on a humanitarian basis and not with the objective of interfering in Ethiopia's internal affairs. It was the Soviet view that all relief assistance issues should be decided by the Ethiopian Government as this was the only practice consistent with Ethiopian sovereignty.

¹ Source: Department of State, Subject Files, Edward J. Derwinski, 1982–1985, Lot 87D258, Famine Relief in Africa. Secret; Nodis; Immediate.

² See Document 230.

³ See Bernard Gwertzman, "Chernenko Urges Reagan to Return to Era of Détente," *New York Times*, November 17, 1984, p. A1.

⁴ See Document 231.

⁵ See Document 229.

Sinitsyn asserted that this was the “principled position” of the Soviet Government.

5. Sinitsyn added that “certain circles” had used the situation in Ethiopia to achieve political objectives. This had complicated efforts by the Ethiopian Government to stabilize the situation. As regards further relief efforts, Sinitsyn noted that the UN Secretary General would soon convene a conference in New York on African relief problems, including the crisis in Ethiopia.⁶

6. In response to Sinitsyn, DCM reiterated that we had no wish to interfere in Ethiopia’s internal affairs: our interest was a humanitarian one. We sought to solve practical problems associated with delivery of relief supplies. We were in constant consultation with the UN and other relief agencies and would be approaching the Ethiopian Government to express our concerns about food deliveries by PVO’s and difficulties encountered by refugees moving about the country in search of assistance.

7. Sinitsyn claimed that it was unlikely the Ethiopian Government would impede its own citizens’ efforts to obtain relief. According to Sinitsyn, there had, however, been reports of harassment of refugees by anti-government elements.⁷ DCM mentioned reports that government aircraft had attacked refugees who tried to cross from Ethiopia into Sudan. At this point, Tokin interjected that these reports seemed questionable, since the Ethiopia/Sudan border was far from the areas of central Ethiopia hardest hit by the drought. He added that it was very difficult to differentiate anti-government guerrillas from refugees in the area.

8. DCM said that we were well aware of the “principled” Soviet position on the situation in Ethiopia. But wanted nonetheless to underscore our concerns on the eve of the Mengistu visit. Sinitsyn asked whether we had already been in contact with the Ethiopian Government, and DCM replied that our Mission in Addis Ababa was instructed to make an approach. Sinitsyn closed the meeting by saying that he would convey the substance of our approach to the appropriate levels of the Soviet Government.

9. DCM left with Sinitsyn non-paper containing talking points in para 7 reftel.⁸

10. Department repeat as desired.

Hartman

⁶ See footnote 2, Document 226.

⁷ In telegram 356260 to Addis Ababa and Khartoum, December 4, the Department reported on harassment of cross-border refugees. (Department of State, Central Foreign Policy File, D840772-0464)

⁸ Not found.

233. Memorandum From the President's Assistant for National Security Affairs (McFarlane) to President Reagan¹

Washington, December 18, 1984

SUBJECT

SNIE on African Famine

Issue

To review Director Casey's Special National Intelligence Estimate (SNIE) on Famine.

Facts

The attached copy of the recently completed SNIE on Famine² points out that the magnitude of the famine in Africa is immense—14 to 20 million people will be at risk during the next year. Food commitments by the donor nations fall short of meeting this crisis and the Soviet Union will not offer any significant aid even to its client states. The SNIE notes that “key to significant improvements in food production is a profound change in indigenous government policies to improve agricultural pricing, (and) eliminate state-controlled marketing boards. . . .”

Director Casey urges the appointment of a distinguished individual to head an upgraded task force on famine and to present a comprehensive program to the Hill and to our allies.

Discussion

I agree with Director Casey's assessment of the famine and the theme inherent in his recommendations. Through the “Food for Progress” study and various NSC internal reviews, we have identified the following actions which could help alleviate the long-term emergency food situation in Africa:

—Adoption of the “Food for Progress” initiative to spur agricultural reform based on free market principles.³

¹ Source: Reagan Library, African Affairs Directorate, NSC: Records, AF Famine [12/03/84–12/31/84]. Secret. Sent for information. Drafted by Levine and Ringdahl. Poindexter initialed for McFarlane. There is no indication that Reagan saw the memorandum.

² Not attached. In a December 11 memorandum to Reagan, Casey transmitted the SNIE. (Central Intelligence Agency, National Intelligence Council, Job 87T00573R: Intelligence Publications Files (1979–1986), Box 7, Folder 99.

³ See Document 236.

—Emphasis on allied food aid efforts in the summit context to attempt to gain agreement on a central western famine forecasting capability and EC prepositioning of food in the Third World as we are doing.

—The possible creation of a Special Ambassador position on Food Aid.

—The linking and focusing of our new supplemental emergency food aid efforts to countries willing to undertake needed structural reforms in agriculture to prevent the current crisis from recurring.

—In a related matter, a big push for a “food truce” in the insurgent dominated areas of Ethiopia to get food into Eritrea and Tigray.⁴

As the study rightly points out, Ethiopian policies and practices have exacerbated the problem. If we provide massive assistance, we have the obligation to try to make that relief effective.

⁴ See Document 232.

234. Memorandum From the Counselor of the Department of State (Derwinski) to the Deputy Secretary of State (Dam)¹

Washington, December 19, 1984

SUBJECT

Pre-Christmas PR Aspects of the African Famine

The international media attention on the African famine is at such a peak that we have at this moment a unique opportunity to create a very positive impact out of what could otherwise be a very negative PR situation.

I know that you, Bill Schneider, and Peter McPherson are agreed on handling the African Emergency Food Supplemental in tomorrow’s review at OMB.² Also, I have supported Jim Purcell’s request to the

¹ Source: Department of State, Subject Files, Edward J. Derwinski, 1982–1985, Lot 87D258, Famine Relief in Africa. Confidential.

² In a December 14 memorandum to Dam, Schneider transmitted a document discussing a \$455 million supplement request for food aid. (Ibid.)

Secretary for Presidential approval of an emergency drawdown from existing funds³ for the massive problem of feeding and inoculating migrating refugees, particularly in eastern Sudan, where Senator Kennedy will be spending his Christmas.⁴

I cannot recall in all my years in Washington an international emergency about which there was in place enough public awareness to create such broad bi-partisan support in Congress as we have at this moment. I think that the time is ripe for a Pre-Christmas Presidential announcement⁵ of our full package of famine relief efforts.

³ Not found.

⁴ In telegram 16388 from Khartoum, December 27, the Embassy conveyed Kennedy's impressions of his visit to Ethiopia and Sudan. (Department of State, Central Foreign Policy File, D840825–0660)

⁵ See footnote 2, Document 227.

235. Briefing Memorandum From the Administrator of the Agency for International Development (McPherson) to Acting Secretary of State Dam¹

Washington, December 26, 1984

SUBJECT

Agenda and Talking Points for Meeting on PL-480 Supplemental for Africa, Wednesday, December 26 at 2:00 p.m.²

Your staff will furnish a list of attendees.

The *purpose* of this meeting is to agree upon a \$600 million *supplemental*, agree to *announcement of the supplemental* as soon as possible, and possibly agree to have the *President ask Congress*³ to *pass the supplemental on January 3*.⁴

¹ Source: Department of State, Subject Files, Edward J. Derwinski, 1982–1985, Lot 87D258, Famine Relief in Africa. No classification marking.

² No record of this meeting has been found.

³ H.R. 41 and H.R. 100 both dealt with African famine relief and were introduced on January 3, 1985, but neither left committee. Introduced on February 21 and enacted as P.L. 99–10 on April 4, H.R. 1239 provided the emergency funds for African famine relief—\$400 million until December 31, 1985; \$137.5 million until March 31, 1986; and \$225 million until September 30, 1986.

⁴ See footnote 2, Document 227.

ACTING SECRETARY'S OPENING REMARKS:

What has been done

1. A massive and speedy response.
2. In FY 84, the U.S. contributed \$172 million for the drought in Africa. This was the largest amount the U.S. has ever committed in a single year to the drought in Africa and *about 50 percent of the donor food delivered last year.*
3. In the *first three months* of FY 86 [85] we have committed about \$250 million in food and assistance.
4. *We continue to keep ahead of the media* on this issue, e.g., the airlift to Sudan last weekend.⁵

RESPONSIBILITIES FOR DROUGHT

1. Africa drought has been and continues to be the *line responsibility* of Peter McPherson as the *President's Coordinator for Disaster Assistance.*
2. Peter has designated Lt. General Julius Becton as his Deputy and head of the *Inter-Agency Task Force on African Relief.*
3. Peter and the *Task Force* work closely with *State*, and the group also includes NSC, DOD, OMB, and numerous other agencies.
4. Additional senior people from *State* and the White House have become involved in helping in this effort. Specifically, *Ed Derwinski* has agreed to lend a hand as a troubleshooter, particularly in connection with the Supplemental.

Need for Supplemental:

Its my view that the *situation in Africa is getting worse* and the need for a \$600 Million supplemental is *urgent, both substantively and to lead public opinion.* I have distributed a paper explaining the supplemental.⁶

Ed Derwinski—call on Ed to give us Capitol Hill/political context on this discussion.

Princeton Lyman—call upon Princeton Lyman to provide an African foreign policy context for the discussion.

Peter McPherson—call upon Peter McPherson to review the situation in Africa and the details of the supplemental.

Dr. Keel—ask for comments from OMB.

M. Peter McPherson⁷

⁵ In telegram 376959 to Khartoum, Geneva, Rome, and USUN New York, December 24, the Department transmitted press reports regarding the airlift of relief supplies to Sudan. (Department of State, Central Foreign Policy File, D840820-0614)

⁶ See footnote 2, Document 234.

⁷ McPherson initialed above his typed signature.

236. National Security Decision Directive 156¹

Washington, January 3, 1985

*U.S. THIRD WORLD FOOD AID:
A "FOOD FOR PROGRESS" PROGRAM (U)*

NSSD 1–84 established the terms of reference for a study aimed at producing new, effective initiatives to address Third World hunger problems; that is, both emergency situations and long-term problems, and how U.S. and donor country food aid programs affect these cases.² The NSSD 1–84 study of emergency food aid was completed in July 1984 and resulted in a ten-point program to better respond to grave food crises, as articulated in NSDD 143.³ Today's food emergency reemphasizes the need to tackle the underlying structural problems of agricultural stagnation in the Third World. (U)

The study of non-emergency food aid has focused on how U.S. food aid could be used as an incentive for Third World countries to increase their food production through agricultural reform, noting that an adequate agricultural sector is a prerequisite for development in Third World countries. This study has considered the economic and political conditions in many Third World countries experiencing chronic food shortages. (U)

Socialist economic systems, prevalent in underdeveloped countries, have failed to achieve economic growth. As a result of this, and insufficient aid by the USSR, an increasing number of Third World countries once dominated by the socialist model are experimenting with free market approaches. (C)

There are currently two major programs designed to support economic and agricultural policy changes in Africa:

- The *African Economic Policy Initiative*, a 5-year, \$500 million program intended to support economic reform in Africa. First-year funding of \$75 million was provided by the Congress in the Economic Support Fund in 1985. (U)
- Title III of the *P.L. 480 food aid* program, which has thus far not generated meaningful agricultural policy reform in Africa. (U)

¹ Source: Reagan Library, Rosenberg Files, Food for Progress—Keating Group (Famine), 12/07/1984–01/07/1985. Confidential.

² Document 218.

³ See Document 221.

In response to this policy context, the United States Government will begin a new foreign aid initiative to be called "Food for Progress."⁴ This initiative will use American food resources to support key Third World countries which have made commitments to agricultural policy change in four basic areas:

- agricultural price policy;
- marketing reform and liberalization;
- input supply and distribution policy; and
- private sector involvement. (C)

American resources will support the implementation of policy changes over a medium-term transition period in Third World countries—initially those in Sub-Saharan Africa. This judicious use of aid—on a multi-year basis—will reduce the political risks to leaders of Third World countries committed to undertaking agricultural reform during a transition period of economic hardship. This initiative will be designed to increase the USG's ability to vary annual food deliveries in accordance with the changing needs and performance of recipient countries. (C)

The "Food for Progress" initiative's initial duration will be 4 years. The program's composition will be up to 500,000 metric tons of grain per year to be dispersed to six to eight Sub-Saharan African countries in the first year of the program. Country selection criteria will be based, in part, on the decision analysis methodology developed by the NSSD 1-84 study group. This methodology will also be used to help determine those policy changes within a country to which "Food for Progress" will be targeted as an instrument for change. (C)

In contrast with other existing aid programs with comprehensive and multiple objectives, this initiative will have as its sole objective the achievement of agricultural policy reform in Third World countries. "Food for Progress" may benefit from co-financing with the World Bank and other financial institutions.⁵ (U)

The NSC staff will chair, and OPD will vice-chair, an interagency group with representatives from State, Treasury, USDA, DOT, OMB, CIA, CEA, AID, the Peace Corps, and the White House Congressional Affairs Office to further define the "Food for Progress" initiative and to develop an appropriate implementation plan for this initiative.⁶ (U)

⁴ In a January 4 memorandum to McFarlane, Keating provided a brief summary of the steering group's ideas, including the "Food for Progress" initiative. (Reagan Library, African Affairs Directorate, NSC: Records, AF Famine [01/01/85-01/04/85])

⁵ An unknown hand highlighted this paragraph.

⁶ An unknown hand highlighted this paragraph.

Priority consideration will be given to implementing this initiative within current programs and budgets. Prompt and positive Congressional action, however, is to be considered a significant concern in preparing the final implementation action—which may include changes in existing laws and authorities or new legislation. Implementation of “Food for Progress” through use of a Section 416 mechanism or as part of the PL 480 program will be considered by the interagency group. (U)

This interagency group will also consider and report on the following related subjects:

- Certification of the NSSD 1–84 working group’s country eligibility criteria and resource response analysis for recipient countries, or appropriate options.

- Administrative and programmatic details with regard to “Food for Progress.” (C)

The interagency group should forward the implementation plan, with options as appropriate, to the Assistant to the President for National Security Affairs 20 working days from the date of this memorandum, noting agency and Congressional views. This implementation plan will be decided upon through the NSC and budget process. (U)

Ronald Reagan

237. Memorandum From the Counselor of the Department of State (Derwinski) to Secretary of State Shultz¹

Washington, January 22, 1985

SUBJECT

Troubleshooting African Food & Disaster Relief

Activities. After you asked me to look at coordination of our response to the African food emergency, I examined these activities:

- Public Diplomacy
- Food for Progress
- Falasha

¹ Source: Department of State, Deputy Assistant Secretary of State Subject Files, Edward Derwinski, 1984–1985, Lot 87D326, Famine Relief in Africa—1985. Confidential; Not for the System. A stamped notation on the document indicates that Shultz saw it.

- Defending “constructive engagement”
- Private sector involvement
- FY 85 African Supplemental
- FY 86 Budget Request
- the Veep’s Africa trip
- The NSC proposal for a Bonn Summit agenda item on food aid

Factors. Coordination of these activities is complicated by political and PR headaches. Africa has been made a domestic political issue by the media and the Democrats, who are questioning our generosity with food, attacking “constructive engagement,” and calling for rescue of the remaining Falasha.²

We are responding with a vigorous PR campaign, an attempt to coordinate the private sector response, and requests to the Congress for more money. The central importance of deficit reduction limits our resources for food aid. Consequently, our PR efforts risk getting out in front of our performance. For example, the NSC included the long-term “Food for Progress” idea in the January 3 White House announcement on our food aid to Africa,³ but the NSC cannot get any additional resources for this scheme from OMB and has not prodded the Departments hard enough to reprogram existing resources for it.

The President sought Bill Verity’s advice on using private sector leadership to coordinate public donations. Verity endorsed the idea, but declined the job, suggesting Peter Ueberroth instead. However, Ueberroth left so many scars as Olympic czar that Deaver said no.⁴ The NSC wants State and AID to find someone else.

Chet Crocker is directing his PR efforts to defending “constructive engagement” and shielding Nimeiri from the exposure of the Falasha operation, whereas Peter McPherson is developing a “Public Diplomacy Strategy” to protect his programs: Food for Peace, emergency food aid, and disaster relief.

Also, in view of Peter’s concern over his role (as the “President’s Special Coordinator for International Disaster Assistance,” etc), Ken Dam agreed that I would be better described as a “troubleshooter” than a “coordinator.”

My Views. We have not yet had any disasters as a result of this less-than-perfect coordination. However, I would prefer to see Public Diplomacy coordinated out of Chet Crocker’s shop so that key political issues—constructive engagement, Falasha, and other refugee programs—are woven into AID’s PR blitz on food aid. We need clear NSC

² Reference is to culturally Jewish communities in the Horn of Africa.

³ See footnote 2, Document 227.

⁴ Reference is to Ueberroth’s role as organizer of the 1984 Summer Olympics in Los Angeles.

leadership on the Food for Progress scheme, if we are to overcome interagency footdragging and thus have a solid public position. Private sector coordination is taking on a life of its own and we can let that happen.

Looking ahead, I think we need to evaluate our support on the Hill before:

—we outline a leadership role for the President during our first Summit preparatory meeting with the Allies in Berlin February 15–17,⁵ and

—we launch the Veep on his trip to Cape Verde, Niger, Mali, and Sudan, now tentative for February 15–22.⁶

I will be working along these lines over the next few weeks and hope to have some progress to report.

⁵ In telegram 53197 to Bonn, February 21, the Department provided a summary of the summit preparations. (Department of State, Central Foreign Policy File, D850120–0772)

⁶ In telegram 88850 to all African diplomatic posts and all OECD capitals, March 30, the Department provided a summary of Bush's visit to Africa. The Department wrote that Bush "traveled outside Khartoum to eastern and western Sudan to get a first-hand look at the refugee camps and drought victims," adding that "he emphasized not only U.S. assistance, but the private sector response as well; made clear that U.S. interests in feeding refugees and drought victims are overridingly humanitarian rather than political; and appealed to all parties, including the Ethiopian Government, to find some way of expanding relief to alleviate human suffering in areas not currently being reached." (Department of State, Central Foreign Policy File, D850201–0360)

238. Information Memorandum From the Assistant Secretary of State for Economic and Business Affairs (McCormack) and the Assistant Secretary of State for African Affairs (Crocker) to Secretary of State Shultz¹

Washington, January 23, 1985

SUBJECT

Implementation of the President's "Food for Progress" Initiative

President Reagan announced, January 3, a new U.S. food aid policy ("Food for Progress") intended to support selected African countries committed to agricultural policy reform.² The "Food for Progress" initiative was a key recommendation of Part II of Ambassador Robert B. Keating's Third World Hunger Study dealing with chronic food deficit problems.³ Preliminary reaction from the Hill and farm sector representatives has been positive.

"Food for Progress" envisages the donation of up to 500,000 tons of government held CCC commodities annually over a period of four years to provide selected Third World governments with food assurance during the transition to market oriented agricultural policies.

Keating is seeking an innovative approach to encouraging policy reform in food deficit countries which will:

- provide additional US resources for reducing the political risks of near term food shortages resulting from agricultural policy reform;
- permit multi-year programming, free of commodity interest group pressures and competing objectives inherent in the PL-480 allocation process; and
- demonstrate to the Congress and the public the Administration's willingness to match US owned food surpluses with Third World food needs.

Implementing Food for Progress using government-owned stocks would also avoid the "use or lose" budgetary constraint which has reduced the agricultural development impact of our other food aid programs. Most important, Ambassador Keating's concept would co-exist with present PL-480 efforts and not dilute limited Title I resources.

¹ Source: Department of State, Deputy Assistant Secretary of State Subject Files, Edward Derwinski, 1984-1985, Lot 87D326, Food for Progress. Limited Official Use. Drafted by Billo on January 22 and cleared in EB/TDC/OFP, EB/TDC, EB, NEA/ECON, ARA/ECP, AF, C, T, and AID/PPC. Sent through Wallis and Derwinski.

² See Document 236.

³ See Document 219 and the attachment thereto for Part I.

Details of the President's new food aid policy are discussed in NSDD-156 "U.S. Third World Food Aid: A "Food for Progress Program" (Tab 1).⁴ The NSDD leaves open, however, the crucial question of how to fund the President's initiative. As mentioned in the NSDD, the NSC staff recently established an inter-agency committee to develop options for the President on this subject by February 6. The inter-agency committee has begun work on a series of options papers, one of which will address the funding question, for eventual submission to the Budget Review Board.⁵

OMB, supported by USDA, opposes Keating's funding approach, mainly because it is more comfortable with current aid program methodologies and levels. OMB proposes funding "Food for Progress" from PL-480 resources. USDA has, thus far, reserved its opinion on funding methodologies.

We have argued that should "Food for Progress" be reduced to a PL-480 "re-allocation" exercise, it would no longer be viewed as a unique initiative with significant promise of achieving LDC agricultural policy reform. Because of the administrative barnacles built into PL-480 by law and agency practices, "Food for Progress" would lose many of its distinctive features, including operational efficiency and flexibility.

We conclude that "Food for Progress", if permitted to access CCC held stocks, could begin to address one of the underlying causes of periodic food emergencies in Africa and advance our interests in that area. Given OMB's current position that this new program must be funded from existing constrained foreign assistance resources, we may seek your intervention when this difference of opinion is raised to the Budget Review Board or the NSC for final adjudication. We believe "Food for Progress" will not prove to be an effective instrument without additive resources.

⁴ Attached, printed in Document 236.

⁵ See Document 244.

239. Telegram From the Embassy in Ethiopia to the Department of State¹

Addis Ababa, February 4, 1985, 1214Z

741. Subject: Summary of the Current Emergency Relief Situation in Ethiopia.

1. (C—Entire text)

2. Following is a summary of the current situation in Ethiopia, as I see it. While most of what follows has been reported in septels over the past several weeks, you may not have seen or read all of our traffic.² The Charge has cleared this message, and supports my comments on various aspects of the situation.

3. The basic numbers with which you are familiar remain unchanged: 7.7 million people are at risk of dying of starvation. (Chairman Mengistu used the figure of 9 million in a pep rally for rehabilitation Camp Cadre two weeks ago.³ But the donor community and the PMGSE itself continue to operate in terms of 7.7 million.

4. At least 1.3 million MT of food (1.2 million MT cereals, and 100,000 MT supplementary foods) are required over the 13-month period December 1984 through December 1985; that's an average of 100,000 MT a month. It now appears likely that the donor community will provide the required 1.3 million MT of food. UN Coordinator Kurt Jansson⁴ figures about a third of the total will come from U.S., another third from the EEC, and the remaining third from the other donors. Assuming Washinton approval of my proposal for an overall USG program level of 500,000 MT plus (including cross-border aid from Sudan), then we shall more than fulfill Jansson's expectations, as far as the USG share is concerned.

¹ Source: Department of State, Subject Files, Other Agency and Channel Messages and Substantive Material—United Nations Children's Fund (UNICEF), United Nations Disaster Relief Organization (UNDRO), United Nations Institute for Training and Research (UNITAR), 1985–1988, Lot 92D308, UNDRO 32, AF/Drought/Ethiopia. Confidential; Immediate. Sent for information to Nairobi. Sent to Rome, USUN Geneva, USUN New York, and Khartoum. In the right-hand margin, an unknown hand wrote: "Eureka! a readable cable."

² In telegram 59 from Addis Ababa, January 4, the Embassy reported on a visit by U.S. officials to a feeding and medical station where 6,000 victims of the famine resided. (Department of State, Central Foreign Policy File, D850007–0672) In telegram 349 from Addis Ababa, January 18, the Embassy reported on the PMGSE seizure of a food shipment. (Department of State, Central Foreign Policy File, D850039–0113)

³ Not further identified.

⁴ Reference is to Kurt Jansson, Assistant Secretary-General of the United Nations for Emergency Relief Operations in Ethiopia.

5. Massive donor food shipments are now arriving here—175,000 MT in January. The current estimate is for a total of 440,000 MT in the first three months of calendar 1985. This compares to 220,000 MT in the last three months of calendar 1984, and brings the monthly average for the six-month period to 110,000 MT.

[6. text missing from bottom of page] course, greatly taxing the capacity of the three available ports (Assab, Massawa, and Djibouti). Their maximum offtake is estimated to be 135,000 MT per month. The donor community (ably led by Jansson and his growing staff) is seized with the problem of unloading the ships and moving the food out of the ports. Various extra bagging equipment is being brought in, and by mid-March, Dutch-financed port improvements will have increased Assab's capacity. Unfortunately, the priority given by the PMGSE over the past week to the unloading of two Soviet ships bringing in arms has been a serious setback as far as the unloading of foodstuffs is concerned. We don't have final figures on the total amount of food and other relief goods unloaded in January. But it will certainly be less than we had hoped.

7. Of even more immediate concern than congestion in the ports, is the problem of finding enough trucks to move the food inland. An estimated 3955 heavy and medium trucks are needed to handle the expected inland transportation load over the near term. The government has 4005 trucks in its (civilian) inventory, but as many as 40 percent are normally down for repair and maintenance. New trucks are being provided in substantial numbers by various donors, particularly the West Germans and Italians. Many PVO's (e.g. CRS) are also bringing in new trucks. Jansson has discussed the truck situation with the number three man in the government—Fisseha Desta—who quote guarantees unquote that the government will provide enough vehicles to move the food inland, including trucks from the military. We shall see.

8. Also of grave concern to us all is the final step in the transportation/distribution process, i.e. actually getting the incoming food to those who need it in all parts of the country. This problem has two particularly difficult aspects:

A) Getting food to those people in government-controlled areas who are too far away from—or too weak to travel to—the hundreds of established feeding sites; and

B) Getting food into those northern areas not under government control. Various cross-border operations from Sudan are, of course, by no means sufficient to deal with the millions of drought-affected people in Eritrea and Tigray. The ICRC estimates that no more than 500,000 can be helped in this way.

9. Re the problem of people who can't make it to the feeding centers: Jansson is very pleased with his first experimental air drop

(January 27), involving RAF and West German planes, and Ethiopian Air Force helicopters. He hopes to soon organize regular air drops (only in government-controlled areas, however) involving RAF and FRG planes, and Polish repeat Polish helicopters, which are just arriving.

10. Re the second problem: You are, I believe, fully aware of: A) All the obstacles which the PMGSE is throwing in the way of our efforts to get food to the north; B) The lack of other donor support for a strong and united front against the PMGSE on this issue; and C) Jansson's recent failure to obtain approval for unarmed UN or ICRC food convoys into the north. It appears woefully clear that the only viable option at the present time is increased cross-border aid from Sudan.

11. To add to the overall misery, there appears to be a [text missing from bottom of page] fully defined. Recent outbreaks of cholera and measles in several parts of the country, and greater evidence of malnutrition among the affected famine groups, are matters of very serious concern. Thus far the government has refused to acknowledge the existence of cholera but many NGO's in the field are convinced of its presence.

12. The government's resettlement policy—which it seems determined to implement, whatever the cost—is an issue which divides the donor community. The Embassy and AID continue strongly to believe that the USG policy of not assisting the Ethiopian Government's hastily organized, and politically motivated, resettlement program is correct. But other donors, particularly some Europeans and the Australians, are inclined to support resettlement, as quote the only long-term answer unquote.

13. In this connection we noted the stress placed on the search for long-term solutions at the recent SFRC hearings on Africa. The USG, of course, is constrained from any long-term development activities in Ethiopia by the Hickenlooper amendment.⁵ Many people passing through here (including Codels and representatives of the media)⁶ seem to believe that if only the Hickenlooper issue were settled, the U.S. would: A) Move right in with a massive development assistance program; and B) Suddenly have a dramatic and positive impact on Ethiopia's economic condition. We have sought discreetly to disabuse those who have voiced such high expectations.

⁵ Reference is to the Hickenlooper amendment of 1962, which prohibited foreign aid to countries that seized U.S. assets or levied discriminatory taxes against the United States.

⁶ See Blaine Harden, "U.S. Law Bars Aid That Could Develop Ethiopian Agriculture," *Washington Post*, December 1, 1984, p. A1.

14. Even sans Hickenlooper, and even if the USG would want to reopen a regular USAID Mission in this Soviet-supported, Marxist-oriented, military dictatorship, there is no reason to suppose that the PMGSE would want to establish a long-term aid relationship with the USG at this point. Some elements in the PMGSE would like to settle claims, but Mengistu has been reluctant to move, possibly because he doesn't want to face the issue of possible long-term aid from the U.S. Moreover, as you correctly pointed out in the SFRC hearings, we consider the PMGSE's current economic policies (particularly in the agriculture sector) to be completely contrary to the kind of long-term development strategy which we would espouse.

15. In sum, the overall situation here appears more positive than it was just two months ago, particularly in terms of food commitments and arrivals. But, given the food distribution problems—and the apparently growing health problems—none of us here is very upbeat. Moreover, we are being frustrated at almost every turn by the very government whose people we are trying to help. Not only is the PMGSE opposed to food shipments to the north, but it is consistently constraining us in various little ways from providing relief in the government-controlled areas as well. And then the PMGSE rubs it in by refusing to give public credit for the U.S. aid which it receives.

16. For example, for 10 days the PMGSE withheld permission for two of our AID people (TDYers from Washington) to visit the ports of Assab and Massawa, even though their purpose is to deal with the logistics problems associated with the arrival this month of the first 40,000 MT of our government to government program. I myself am having serious problems in securing permission to travel outside of Addis. The January 24th *Ethiopian Herald* (the official English-language newspaper) had an article praising quote friendly countries unquote for providing cargo planes and helicopters for the internal airlift. All the countries that are providing aircraft are mentioned, except the U.S.

17. These kinds of actions by the PMGSE—which certainly seem calculated—are maddening to those of us stationed in Addis. But there doesn't seem much that we can do about them, short of threatening to withhold our aid. And that's a step we are strongly opposed to taking at the present time.

Korn

240. Memorandum From Richard Levine of the National Security Council Staff to the President's Deputy Assistant for National Security Affairs (Poindexter)¹

Washington, February 15, 1985

SUBJECT

Food for Progress Update

At my request, Dan Amstutz, Under Secretary of Agriculture, chaired a meeting today to finalize cost figures for the four "Food for Progress" funding options, consistent with the Administration's 1985 farm bill. State, OMB, Treasury and I participated. The final funding costs are as follows:

	<u>Four-year Budget Cost</u>
(1) <i>Keating option:</i> takes food from existing CCC stocks ² under expanded 416 program; fund transportation with new money.	\$405M
(2) <i>AID option:</i> seek all new money for food and transport.	\$391M
(3) <i>NSC option:</i> take food from Title I program, fund transport with new money.	\$160M
(4) <i>OMB option:</i> take food and transport money from Title I program.	0

These numbers are authoritative and consistent with the Administration's farm bill. Bob Keating's assertion of zero budget costs for his CCC option³ stems from a misunderstanding of how the Commodity Credit Corporation functions financially and the central theme of our new farm bill which is to remove the USG from rebuilding government food stocks.

The month I have spent on this study I feel has been time well used because it will allow us to choose far more efficient funding

¹ Source: Reagan Library, African Affairs Directorate, NSC: Records, AF Famine: [02/05/85-11/05/85]. Confidential. Sent for information. Copies were sent to McMinn and Ringdahl.

² CCC *must* be reimbursed for food given away that it otherwise *could* sell. [Footnote is in the original.]

³ See footnote 4, Document 236.

options. It has taken this long to come up with solid numbers because these derive from the farm bill's policy effects.

I expect the full "Food for Progress" implementation papers will be ready late next week, including sections on funding options, country selection criteria to be applied (there is interagency consensus on this) and administrative options.⁴ Also, my work on the Bonn Summit papers⁵ on food aid initiatives are now part of the Sherpa team papers.

⁴ See Document 244.

⁵ Not further identified.

241. Action Memorandum From the Assistant Secretary of State for African Affairs (Crocker) to Secretary of State Shultz¹

Washington, February 22, 1985

SUBJECT

Letter to Foreign Ministers in International Donor Community Regarding Food Crisis in Africa

ISSUE FOR DECISION

Whether to approve the attached letter in cable form to Foreign Ministers of donor countries² stressing the importance of the March 11 United Nations sponsored international conference in Geneva, and asking for additional assistance to drought-stricken African nations.³ The letter also underscores the urgent need for close coordination between donors, including international efforts to persuade the Ethiopian Government to permit help to reach the three million people in contested areas in Eritrea, Tigray and Welo provinces.

ESSENTIAL FACTORS

The United Nations Secretary General has called for an international conference on March 11 in Geneva to review progress in provid-

¹ Source: Department of State, Deputy Assistant Secretary of State Subject Files, Edward Derwinski, 1984–1985, Lot 87D326, Famine Relief in Africa—1985. Confidential. Drafted by Szymanski on February 21 and cleared in AF, C, and AF/EPS.

² Dated February 21, attached but not printed.

³ In telegram 78127 to Nairobi, March 15, the Department provided a summary of the conference. (Department of State, Central Foreign Policy File, D850176–0715)

ing assistance to drought-stricken African countries. The United States will give over \$1 billion in emergency relief to Africa this fiscal year (with passage of the \$235 million supplemental request currently before Congress).⁴ To date, we have supplied approximately half of the worldwide donor effort in the current African crisis. While other donors have also been forthcoming, we hope they will continue to join us in meeting remaining emergency needs. Your letter emphasizes to these other donors the importance we place on the upcoming conference, as does Vice President Bush's plans to address the opening session on March 11.⁵

Your letter also fits into our policy of internationalizing pressure on the Ethiopian government to allow safe passage of food into rebel-controlled areas of northern Ethiopia. As many as three million people, perhaps a majority of those affected by the current Ethiopian drought, are behind rebel lines and are receiving only marginal assistance through Ethiopian government feeding centers and through unpublicized cross border feeding operations from Sudan. The situation has deteriorated, with as many as 1700 people in insurgent areas dying per day, and mass migrations taking place to Sudan.

RECOMMENDATIONS

That you approve the attached letter to the Foreign Ministers of donor nations for transmittal as soon as possible to allow timely consideration in donor capitals before the Geneva conference.⁶

⁴ See footnote 3, Document 235.

⁵ In telegram 77422 to multiple recipients, March 14, the Department transmitted the text of the Vice President's March 11 speech in Geneva. (Department of State, Central Foreign Policy File, D850173-0645)

⁶ There is no indication of approval or disapproval of the recommendation. In telegram 63884 to all OECD capitals, Canberra, Wellington, Abu Dhabi, Riyadh, and Kuwait, March 2, the Department transmitted the text of the Secretary's letter. (Department of State, Central Foreign Policy File, D850144-0096)

242. Memorandum From Philip Ringdahl of the National Security Council Staff to the President's Assistant for National Security Affairs (McFarlane)¹

Washington, March 1, 1985

SUBJECT

AFRICA—Short Term Trends and Developments

[Omitted here is information unrelated to the African famine.]

Ethiopia: Two recent reports, one intelligence² and the other from our Chargé Korn in Addis,³ dovetail and reflect continued hard-line GOE attitudes concerning the U.S. and famine assistance. From Korn:

—The West is encouraged to feed Ethiopia's starving millions but the GOE's allegiance is to the Soviet Bloc; massive western assistance is not going to change this attitude;

—Policy is set by Mengistu, and policy reinforces ideology to cement Mengistu's ties to the Soviets; there is no sign that his ties to the East are any less close, or that he has any genuine intentions to improve relations with the West;

—Mengistu sees U.S. concern for feeding of starving people in Tigray and Eritrea as a pretext for helping the rebels.

From intelligence reporting:

—The West is trying to use the famine as a cover to sabotage and frustrate the revolution;

—Their Leninist system is in no way negotiable for economic or financial aid.

These two reports should put to rest, but probably won't, hope by some that our assistance would somehow change the attitude of Mengistu and other leaders and bring them to be more "realistic" in view of the shortcomings of the Soviet Bloc and the basic good will of the West concerning famine assistance. Mengistu is a totally committed Marxist who will respond only to force and "realpolitik," not good works or moral considerations.

[Omitted here is information unrelated to the African famine.]

¹ Source: Reagan Library, 1985 SYS 4 INT, 40201–40250. Secret. Sent for information. Soos initialed for Ringdahl. A stamped notation in the upper right-hand margin reads, "NOTED."

² Not further identified.

³ In telegram 821 from Addis Ababa, February 7, Korn provided an analysis of Mengistu's ideology and strategy. (Department of State, Central Foreign Policy File, D850087–0458)

243. Action Memorandum From the Assistant Secretary of State for African Affairs (Crocker) to Secretary of State Shultz¹

Washington, March 2, 1985

SUBJECT

Next Steps In Our Ethiopia Policy

Issue for Decision

In becoming the largest relief donor and perhaps the most active in pushing for food distribution in insecure areas, the U.S. has entered into a most extraordinary involvement with Ethiopia, one that, if well managed, could produce far-reaching political consequences. However, there should be no expectation of dramatic "conversions" of Ethiopia's Marxist leadership. Rather we will need to maximize the opportunities presented by the present situation for reducing Mengistu's support among the military and the population at large. Your approval is requested for several actions along this line.

Background

U.S. relations with Ethiopia have deteriorated steadily since 1974 when a Marxist-oriented military overthrew the Emperor. The situation became more worrisome in 1981 when Ethiopia signed the Tripartite Pact with Libya and North Yemen and began supporting and training insurgents against both Sudan and Somalia. While animosities within the region are deep and complex, with long historical roots, these actions of the Mengistu regime, backed by USSR and Libyan arms, pose threats to U.S. interests in the region and the stability of two of our friends. Efforts to open a serious dialogue with the Mengistu leadership have produced reluctant statements of agreement in principle, but there has been no concrete action. Mengistu is dependent upon Soviet support for his survival and his policies.

The recent drought and famine in Ethiopia have meanwhile changed our involvement there dramatically. Our emergency aid began to increase sharply during 1983–84 as reports of massive starvation came to us. At first, given the difficulty of working with the PMGSE, and its own refusal to acknowledge the problem to its own population, we channeled our aid through private voluntary organizations. By the fall of 1984, however, the problem was overwhelming the PVOs, and

¹ Source: Reagan Library, Papers of George P. Shultz, 1985 Ethiopia. Secret; Sensitive. Drafted by Lyman and cleared in S/P. Sent through Armacost. A stamped notation on the memorandum indicates that Shultz saw it.

the PMGSE was ready to acknowledge what the world was rapidly finding out—that tens of thousands of people were dying and millions were in danger of death. In September 1984, Ambassador Walters and I met in New York with the Ethiopian Foreign Minister and made two discrete offers:² (1) We renewed and defined in detail our readiness for a thorough and far-reaching political dialogue; (2) we offered, without condition regarding political differences or a dialogue, a massive relief effort including government-to-government assistance. The PMGSE accepted both offers in principle, but has only proceeded with the second. In November, their Relief Commissioner came to Washington to negotiate and sign an emergency program, including 50,000 MT of food on a government-to-government basis. Days later, American planes were flying food, an AID team was set up in-country and PVO programs further expanded. In FY85, our emergency aid to Ethiopia will be close to \$330 million.

Political Consequences

Several things have happened on the political plane as a result of our action:

—Our massive, lead involvement in the relief effort is widely known at all levels in Ethiopia, in spite of the refusal of the Ethiopian Government to publicize it. Our Embassy personnel, as well as other seasoned Ethiopia watchers, report warm, effusive expressions of appreciation from government officials and ordinary people alike, in Addis Ababa and in the countryside. Embassy working relations with the PMGSE have eased considerably, and there has been no objection to introduction of AID staff, monitors, etc. There has been a virtual cessation of attacks on the U.S. in the government-controlled press.

—The *top* levels of the PMGSE, however, have become defensive and at times antagonistic toward our role, making no political concessions at all. They cannot admit what everyone in Ethiopia knows, that the West—not the USSR—is saving Ethiopia at the time of disaster. The true magnitude of our aid is thus never publicized in the Ethiopian media. Moreover, they fear, rightly, that as the relief effort goes on, more people at home and abroad are questioning whether the PMGSE's policies are not in fact partly to blame for the disaster: internal agricultural policies that emphasized state farms and collectivization and a foreign policy dependence on the USSR that brought military but no economic aid. There is also the memory that failure to address quickly the drought of 1973/74 was the galvanizing cause behind the fall of

² In telegram 4576 from Addis Ababa, October 8, 1984, the Embassy mentioned an "informal readout" on the meeting among Walters, Crocker, and Goshu. (Department of State, Central Foreign Policy File, D840639–0679)

the Emperor. Thus the PMGSE takes pains to blame the donors, not the PMGSE, for responding too late.

—The drought has meanwhile produced new issues between us. One is the PMGSE's proposal to relocate 1.5 million people from the drought-wracked north to other parts of the country. We have refused to participate in the scheme charging that it is poorly prepared, partly coercive and politically motivated (i.e., to deprive rebel forces of their popular base). The PMGSE has reacted sharply and trumpeted Soviet support for it.

—A more serious political issue arising out of the drought is in the north. Approximately 2.3 million of the 7 million persons at risk in Ethiopia are in areas contested by rebels and thus outside PMGSE control. Both the PMGSE and the rebels have resisted most of the cease-fire, safe passage, or other proposals to separate food distribution from the war and enable relief agencies to reach these people. As a result tens of thousands are fleeing to Sudan, creating an emergency there, and many more may just die. The U.S., like other donors, has responded by sending some food, through PVOs and the ICRC, across the Sudan border to rebel relief organizations. The PMGSE has strongly protested these programs,³ threatening to make it a major political issue with the U.S. and recently seizing Australian and German supplies⁴ bound for the same type of program. The U.S. meanwhile is becoming one of the most vocal in calling attention to this "northern problem" and urging the UN, the PMGSE, and the other donors to do more about it.

—The "northern problem" blurs the distinction between emergency aid and our political agenda with the PMGSE. The PMGSE's rabid reaction to aid across the Sudan border relates to its preoccupation with the Eritrean and Tigrean insurgencies for which it has sought and received massive Soviet arms but been unable to quell. The PMGSE is convinced that if only "enemy countries"—Sudan, Iraq, Saudi Arabia, but these seen as encouraged by the U.S.—would stop supporting the rebels, the insurgencies could be crushed. This is the PMGSE's stated justification for backing southern Sudan rebels against Nimeiri. Moderates within the PMGSE will also cite this problem, along with Somali irrendentism, as the basis for Ethiopia's closeness to the Soviets, i.e., a need for arms.

—Thus the northern famine issue goes beyond humanitarian concerns to fundamental political issues of the Horn. Nevertheless, the PMGSE continues to stall on a political dialogue with us in which such issues could be discussed.

³ See Document 229.

⁴ See footnote 2, Document 239.

In summary, the PMGSE is trying to ride the tiger of the famine, including the sudden and dramatic dependence on the West for help, without having to change political direction or admit its failures.

U.S. Policy and Opportunities

We should not expect any major change in the political outlook of Mengistu and his top cohorts. They are deeply committed to their present ideological and foreign policy positions, and deeply suspicious of the U.S. Our involvement in aiding Ethiopia will not therefore, unlike our early food aid to Mozambique, help bring about revisions in Mengistu's views.

The regime, however, is not shaky. Mengistu is too clever and too brutal to be easily overthrown. Soviet and Cuban presence also protects him. If change is to come, short of chance assassination, it will have to come about from major disaffection among the military and perhaps the internal security establishment, forcing either a change in leadership or a change in Mengistu's positions.

This will happen, we believe, only when these groups, risking Soviet and Cuban reaction, become convinced, (a) that Mengistu risks not only major famine but dismemberment of the country, and (b) that the West can offer not only economic help but some help or at least assurances on preserving national unity. It is the fear of chaos leading to dismemberment (as well as fear of retribution) that keeps the military elite loyal to Mengistu; without Eritrea, Ethiopia becomes a landlocked country and perhaps unravels altogether. Mengistu has played on this fear, using it along with ideology to justify the Soviet role, and it has been the rationale for elimination of each of his rivals since 1975.

[1 paragraph (10 lines) not declassified]

We are however, favorably positioned by the drought and our extraordinary involvement in aid to intensify public pressure on the PMGSE, increase disaffection, and discredit the PMGSE's policies. To do so, we must preserve a steady course, and not give in to pressures for sudden and ill-conceived reactions. For example, we are being pressed by some elements in Congress to negotiate rapidly solutions to Hickenlooper and Brooke Amendment problems⁵ which prohibit regular development assistance so that we can move beyond emergency aid to longer term assistance. This would give up one of the most important "plums" in our political dialogue. On the other side, some advocate punishing Ethiopia by a reduction in our emergency aid—this would only subject us to massive criticism at home and abroad,

⁵ The Brooke amendment placed restrictions on aid to nations behind in debt payments to the United States. Regarding the Hickenlooper amendment see footnote 5, Document 239.

with renewed media pictures of starving babies, etc., and deprive us of the unique position we have gained for spotlighting the PMGSE's gross policy failures.

There are also some who would advocate our lending support to the rebel groups, but this would only strengthen Mengistu's hand internally with his military which is the one group that can bring about political change. Furthermore, any aid we could give to separatists' organizations, for political or military purposes, would be marginal. They receive arms from Ethiopian defeats, refuge from Sudan and aid from Arab states—all sufficient to bleed the PMGSE. Military victory, however, is beyond their grasp.

The elements of a steadier course are:

1. Maintain the high ground we now have with our food and other emergency programs. Our involvement in the drought emergency has provided us a unique credibility with other donors, African states and the more pro-Ethiopian elements in Congress in criticizing PMGSE shortcomings.

2. Intensify popular and elites' knowledge in Ethiopia of the U.S. role in the current emergency and contrast it to the PMGSE's limited acknowledgement of it. One way will be to maximize visible U.S. assistance, e.g., we have offered the use of U.S. military medics for giving vaccinations and supplying emergency care to drought victims. Another would be a more concerted effort by VOA, USIS, private Americans and direct Embassy contacts to make known the importance and magnitude of the U.S. response. Third would be to be sure to provide U.S. emergency aid to the several regions of Ethiopia affected by drought.

3. Broaden knowledge among PMGSE elites, especially in the military, of our offer of dialogue, including issues relevant to Ethiopian unity. Make clear to important Ethiopians that the U.S. is prepared to develop more normal relations, including an aid relationship, with an Ethiopian government that is prepared to reconsider positions inimical to U.S. interests. Do not become a demandeur, but use occasions to remind PMGSE officials already knowledgeable that Mengistu has never taken up this offer. At a later date, we may wish to publicize our offer of dialogue, if we feel that there is no chance of responsiveness to quiet diplomacy.

4. While continuing emergency aid, and leaving the offer of dialogue on the table, do not negotiate any resumption of regular foreign assistance or other economic benefits outside the context of improved political relations. We are obligated, legally and under Congressional pressure, to respond to PMGSE offers to negotiate specific compensation cases. But we should not set aside our more fundamental objections to resuming a regular aid relationship.

5. Continue feeding programs to rebel relief groups across the Sudan border, in spite of PMGSE protests, but avoid supporting separatist aims of rebel organizations.

6. Stand firm on our public and private insistence on expanded feeding programs in the north, and on refusing assistance to resettlement. Make clear that PMGSE positions on these issues are divisive and cruel to elements of the Ethiopian population. Continue, as we are doing now, to internationalize pressures on the PMGSE on this issue, calling on the UNSYG and other donors to speak out. Broadening our base in this way avoids charges of U.S. bullying and gives us the high ground as well as the standing to speak out.

7. Make clear to the PMGSE leadership that without dialogue we feel free to (a) make public our criticisms of PMGSE shortcomings, (b) refuse regular development assistance, and (c) make no moves to dissuade Sudan or others from aiding Ethiopian rebel organizations.

These actions will have several effects. They will deepen our penetration into and contacts with Ethiopian society. They will contrast sharply Western aid with Soviet indifference and PMGSE policy failures. They will send a signal to alternative leadership that there are clear and tangible benefits to Ethiopia in an improved relationship with the West. And they will intensify Mengistu's defensiveness while continuing to tarnish his image. If there is prospect for political change in Ethiopia, these are the ways we can best promote it.

S/P Comment: We concur in this memo's objective—to "intensify public pressure . . . increase dissatisfaction and discredit the PMGSE's policies." But we do not think making the magnitude of U.S. relief assistance more visible throughout Ethiopia will be enough to accomplish this goal. We believe that in addition to a general appeal to the elites including an offer of dialogue, a more specifically tailored approach is needed to influence the security establishment.

We suggest that a small State/CIA group reassess on an urgent basis whether more can be done covertly or overtly to strengthen the memo's proposed next steps. Since any recommendations from this group would be supplemental, we recommend the Secretary's approval of the course of action in this memo.

Recommendation

That you approve the above course of action.⁶

⁶ Shultz initialed the approve option.

244. Memorandum From Richard Levine of the National Security Council Staff to the Executive Secretary of the National Security Council (Kimmitt)¹

Washington, March 11, 1985

SUBJECT

"Food for Progress" Implementation

Attached is a memo from you to the agencies forwarding the funding and management option papers for "Food for Progress." This is a *pro forma* step. With the concurrence of the Admiral,² I have already worked out a compromise with McPherson, Keel, Amstutz and Derwinski. OMB agreed to AID's managing this program by appointing a special Ambassador. In exchange, the funding issue will be left open for the time being, to see if we could rechannel any new money pushed on us by the Hill for food aid to the "Food for Progress" program. Al Keel will hold a meeting on March 22 where this deal will be formalized,³ and I will then write the implementing NSDD for the "Food for Progress" program. Future funding issues will be decided through the OMB interagency process.

Recommendation

That you sign the memo to the agencies at Tab I.⁴

¹ Source: Reagan Library, Rosenberg Files, Food for Progress—Keating Group (Famine) 03/07/85–09/30/85. Confidential. Sent for action. Soos and Portier concur.

² Reference is to Poindexter.

³ No record of this meeting has been found.

⁴ There is no indication of approval or disapproval of the recommendation.

Tab I

**Draft Memorandum From the Executive Secretary of the
National Security Council (Kimmitt) to Multiple Recipients⁵**

Washington, undated

SUBJECT

“Food for Progress” (U)

Attached for your comment are three papers pertaining to the President’s “Food for Progress” aid program. These papers were developed by the implementation group on “Food for Progress” set up by the NSDD on this subject. (U)

Attached at Tab A is the options paper for funding; at Tab B is the paper on country selection criteria on which there is interagency consensus; and, at Tab C is the management options paper. (U)

Agency views on these papers are requested in 5 working days from the date of this memo. Dr. Alton Keel will hold a senior-level meeting to consider the funding and management of the “Food for Progress” program on March 22. Invitations have already been extended to principals for this meeting. (U)

Robert M. Kimmitt

⁵ Confidential. Sent to the Executive Secretaries of the Departments of State; the Treasury; Agriculture; AID; the Associate Director for National Security and International Affairs, OMB; and the President’s Council of Economic Advisors.

Tab A

Paper Prepared by the Food for Progress Implementation Group⁶

Washington, February 19, 1985

Food for Progress
Funding Options⁷

<u>Summary of Options:</u>		Budget Cost to USG Over 4-years (\$ Millions)
<i>Option I:</i>	<i>Commodities</i> provided by CCC without appropriation ⁸	245
	<i>Transportation</i> financed by appropriation	<u>160</u> 405 ⁹
<i>Option II:</i>	<i>Commodities</i> financed by new appropriation	231
	<i>Transportation</i> financed by new appropriation	<u>160</u> 391
<i>Option III:</i>	<i>Commodities</i> allocated from Title I	0
	<i>Transportation</i> financed by new appropriation	<u>160</u> 160
<i>Option IV:</i>	<i>Commodities</i> allocated from Title I	0
	<i>Transportation</i> costs financed from Title I budget	0/0

Option I

Up to 500,000 tons per year of CCC-held cereals (wheat, corn, rice and sorghum) would be committed for the next four years (1986–89) to multiyear grant food aid programs for Sub Saharan Africa governments

⁶ Confidential.

⁷ An important feature of Food for Progress is multiyear program funding from FY 86 to 89–90 which would allow flexibility in programming and obligating resources. [Footnote is in the original.]

⁸ Under the Administration's 1985 Farm Bill, CCC stocks will diminish over time, therefore, in order to maintain CCC's assets, any release of CCC stocks must be accompanied by a reimbursement to the CCC. [Footnote is in the original.]

⁹ Alternatively, in the absence of new budget authority, transportation costs could be met through CCC outlay or Title I reserves. [Footnote is in the original.]

undertaking agricultural policy reform. An expansion of authority under Section 416 would be sought to provide the commodities and to authorize their use for this purpose. Transportation and handling costs would be financed by an appropriation.

Pros:

- Provides additional food aid resources with no on-budget outlays in the short/medium term, except transportation.
- Uses commodities already held in government-owned stocks and achieves storage cost savings estimated at \$89 million over four years.
- As a separate program from PL 480, Food for Progress would be less susceptible to the pressures of multiple, competing objectives.
- May lend itself to coordination with World Bank and other donor lending for LDC agricultural policy reform.
- Would use (for a transitional period) a portion of temporarily abundant U.S. food stocks to encourage important agricultural reform in key Third World countries.

Cons:

- Could create pressure to expand the program's size and duration in the out years.
- In longer-term there is a budget impact because future income is foregone; CCC assets are given away at rate of \$61 million per year.
- Understates cost of foreign assistance programs by using CCC resources, which are generally intended to support the U.S. domestic agricultural sector.
- The commodities held by the CCC in any given year may not be those most suitable for the Food for Progress program.

Agency Positions:

Hill Perspective:

Option II

For use in carrying out the provisions of Food for Progress, the Administration would seek an authorization of \$391 million in no-year funds and obligational authority to expire in FY 1989–90. Appropriations would be provided for up to \$98 million per year for commodities and transportation.

Pros:

- Ensures "additionality" consistent with the Food for Progress proposal.
- Distinguishes Food for Progress from existing USG aid instruments.

- Eases USDA concerns about encumbering CCC borrowing authority and shows cost of program on budget.
- May lend itself to coordination with World Bank and other donor lending for LDC agricultural policy reform.

Cons:

- Requires additional "on budget" appropriation and adds \$98 million per year to budget outlays.
- Inconsistent with budget freeze proposal.
- Unlikely Congress would agree to multiyear appropriation possibly leading to program difficulties.

Agency Positions:

Hill Perspective:

Option III

Restructure Title III to meet Food for Progress objectives. Allow up to \$58 million per year in Title I funds for purchase of commodities. Appropriate new money (\$40 million per year) for transportation costs.

Pros:

- Does not place additional transportation burden on Title I funds which would otherwise be used only for commodity purchases.
- Avoids adding to CCC's net realized losses.
- Saves budget outlays by using existing authorities for commodities and shows transportation cost of program.
- Provides President with an initiative with the objective of ensuring more effective use of existing resources.
- Reform of ineffective Title III will enhance Administration's credibility in administering the food aid program.

Cons:

- Provides no additional food aid resources.
- Food for Progress could become indistinguishable from existing U.S. aid instruments.
- New appropriation and \$40 million annual outlay is required.
- Disruptive effect on FY 86 Title I allocation process.

Agency Positions:

Hill Perspective:

Option IV

Restructure Title III to allow Title I funds up to \$98 million per year to be transferred for 4 years (including freight) to be provided on

a grant basis to support Food for Progress objectives. The amendment would provide for use of transferred funds and obligation authority on no-year basis to expire FY 89–90.

Pros:

- Gives highest priority to using existing resources and supports President's budget freeze proposal.
- Shows the actual cost of the program on-budget.
- Provides the President with an initiative with the objective of ensuring a more effective use of existing resources.
- Reform of ineffective Title III will enhance Administration's credibility in administering the food aid program.

Cons:

- Does not provide additional food aid for the President's new program.
- Part of PL 480, Food for Progress would be susceptible to the objectives which have limited achievement of LDC agricultural policy reform in the PL 480 programs; it could thus become indistinguishable from other aid instruments.
- Puts an additional freight cost burden on Title I budget at the expense of commodity purchases.
- Disruptive effect on FY 86 Title I allocation process.

Agency Positions:

Hill Perspective:

Tab B

Memorandum From the Deputy Assistant Administrator of the Program and Policy Coordination Bureau, Agency for International Development (Herrick) to Richard Levine of the National Security Council Staff¹⁰

Washington, February 19, 1985

SUBJECT

Report of Subgroup on Country Selection Criteria

1. The Subgroup concludes that Food for Progress should be a program separate from the African Economic Initiative for policy reform. However, as both programs are addressed to improvements in the policy environment for economic growth, they could very well operate in the same country. Food for Progress will be tied to reforms to stimulate agriculture; the Economic Initiative could address other reforms as well.

2. The Subgroup reviewed the following possible criteria for selection of participating countries.

- Strategic and foreign policy importance of the country
- Potential impact in the context of other donor programs (possibility for impact through co-financing)
- Potential to leverage additional development resources
- Need for non-emergency food aid
- Potential for trade development
- Existing policy climate
- Commitment to policy reform
- In-country capacity

3. Subgroup conclusions are set forth below.

Country Selection Criteria

U.S. strategic and foreign policy interests must be served by the Food for Progress program. Once these interests are deemed to be satisfied, the following criteria should be assessed for their relevance to individual proposed country programs. The criteria should be considered in the following general order of importance.

¹⁰ No classification marking

Criterion of ABSOLUTE importance:

- Commitment to reform and implementation of policy decisions

Criteria of HIGH importance:

- Need for non-emergency food aid
- In-country capacity to carry out reform
- Evidence of policies conducive to improvement in agriculture

Criteria of MEDIUM importance:

- The potential for economic growth that will lead to the country's ability to participate in international trade and to import U.S. commodities.
- The potential for or existence of other donor support for agricultural programs and agricultural policy reform (as indicator of potential for co-financing) and synergetic effect of influence on policy reform)

Tab C

Paper Prepared by the Food for Progress Implementation Group¹¹

Washington, undated

FOOD FOR PROGRESS

ALLOCATION AND MANAGEMENT OPTIONS

I. INTERAGENCY ALLOCATION THROUGH EXISTING FOOD AID COMMITTEE

Following existing allocation procedures for food aid, a new working group of the food aid subcommittee of the DCC would be established to allocate Food for Progress resources. AID would provide staff support and management of the program in-country. If the budget option to restructure Title III is selected, the existing Title III allocation process would be used. (No budget cost.)

II. CREATE SPECIAL AMBASSADOR POSITION AND STAFF

A special ambassador would be appointed by the President to run the program. A small staff would be necessary to provide support to

¹¹ No classification marking.

the ambassador. AID would provide management support. (Budget cost to provide new office with ambassadorial rank.)

III. AID ALLOCATION WITH INTERAGENCY CONSULTATION

Following the EPI allocation process, AID would consult with other agencies but have the authority to allocate and manage the program. (No budget cost.)

AID Recommendation for Administration of Food for Progress

AID recommends that the Secretary of State recommend and the President appoint an individual of ambassadorial rank with experience in foreign affairs as Special Administrator of Food for Progress.

—The Special Administrator would represent the President to present the Food for Progress program to other donors and cooperating countries.

—The Special Administrator would report to the Administrator of AID in day-to-day conduct of the program.

—An interagency group would support the Special Administrator by:

—Recommending a preliminary allocation of up to \$90 million per year among developing countries of Africa in accordance with MAUT principles and the country selection criteria established for the program;

—Reviewing proposals for participation in Food for Progress submitted by developing countries and recommending for or against negotiation of a country program.

—The Departments of State and Agriculture and AID would be represented on the interagency group.

—Final decisions on country selection and program levels would be made by the Special Administrator.

—Negotiation of an agreement with a participating country would be carried out by the AID Mission in country in accordance with guidance from the Special Administrator.

Factors Favoring this Recommendation:

—It would demonstrate the personal interest of the President through appointment of a high level administrator. The President could launch one of the early programs at the White House or through his Special Administrator.

—It would assign day-to-day responsibility within the Agency responsible for administering both emergency and non-emergency food aid and other economic aid programs.

—The Agency for International Development can ensure that the program retains its strong and unique focus on the objective of agricultural policy reform and that Food for Progress, the African Economic

Policy Initiative and regular AID programs directed toward such policy reform are mutually reinforcing.

—It would insulate the program from the sometimes cumbersome consensus process of the established PL 480 programming process and from the conflict of interests among agencies inherent in that process.

Issues Raised by this Recommendation:

—Additional staff may be needed to support the Special Administrator. AID believes that support staff of one person would be sufficient as AID has regular staff experienced in analysing agricultural policy and other economic issues and in administering food aid programs. AID would coordinate with USDA on such operational matters as establishing the Usual Marketing Requirement for the participating country and identifying the most appropriate commodity mix.

—OMB and Treasury, both very active in the Working Group of the Development Coordination Subcommittee dealing with allocation of food aid, may want to be represented on the interagency consultative group. The recommendation is intended to include the agencies responsible for actual implementation of food aid programs whose representatives overseas (Ambassador, Agriculture Attache, AID Director) are likely to be active in formulating and negotiating the Food for Progress agreement.

—A change in the authorizing legislation, the Agricultural Trade and Development Act of 1954 as amended, would be required if the program is funded by a transfer under Title I of the Act. The Development Coordination Committee is the designated administrative body for Title I.

**245. Paper Prepared in the Bureau of Intelligence and Research,
Department of State¹**

No. 1043-AR

Washington, March 28, 1985

(U) *AFRICAN DROUGHT ABATING?*

Summary

Large parts of Africa are getting relief from the major continent-wide drought. Above-normal rains have fallen in Africa south of the Equator during the current growing season, and the first estimate of Zimbabwe's corn and sorghum crops is "excellent." Rains have not yet returned to the famine-stricken regions north of the Equator; they are not due until June. However, the return of rain to the south offers reason to hope that the big African drought is ending. Nonetheless, the Sahel² may remain in the grip of its long dry cycle.

Even if rains return to famine areas in the north, food assistance will continue to be crucial in holding down the death toll until displaced populations can return to their land, crops are harvested, and food stocks rebuilt. Equally important, unless the productivity of Africa's primitive agricultures can be raised in the next few years, the continent's high population growth rate could make its next drought even more damaging than this one.

Weather experts now feel confident that the current drought was produced by a global weather disturbance which began in 1983—a severe "southern oscillation," or El Nino (a global change in normal weather patterns that often triggers drought in Africa). The continental drought was far too extensive to have been caused by such localized phenomena as deforestation and overgrazing, though these may have been accentuating factors in the Sahel subregion.

Climatologists see no strong evidence that the continent is undergoing a permanent climate change. Because Africa's rainfall has always been highly variable, with the average precipitation in many countries just enough to grow crops, African farm production has always been highly sensitive to marginal weather changes.

[Omitted here is the remainder of the report.]

¹ Source: Department of State, Intelligence Research Reports (IRR), 1953-1998, Lot 06D379, AR (and CA) 1041-1050 1985. Confidential. Drafted by Avery and approved by Lindstrom.

² Burkina, Cape Verde, Chad, Mali, Mauritania, Niger, Senegal, and The Gambia. [Footnote is in the original.]

246. National Security Decision Directive 167¹

Washington, April 29, 1985

FOOD FOR PROGRESS PROGRAM IMPLEMENTATION (U)

NSDD-156² established the Food for Progress program as a new means to use American food resources to support key Third World countries that have made commitments to agricultural policy change based on free market principles. This NSDD defines the implementation measures for the Food for Progress program. (U)

Management

The Secretary of State will recommend, and the President will appoint, an individual of ambassadorial rank as Special Ambassador for Food for Progress.

—The Special Ambassador will represent the President to present the Food for Progress program to other donors and cooperating countries.

—The Special Ambassador will report to the Administrator of AID in the day-to-day conduct of the program.

—The Food Aid Subcommittee³ of the Development Coordination Committee, in consultation with the Special Ambassador, or upon receipt of proposals from the Special Ambassador, will:

—Recommend allocations of up to 500,000 tons per year of food among developing countries (initially in Africa) in accordance with Multi-Attribute Utility Theory (MAUT) principles and the country selection criteria established for this program;

—Review proposals for participation in Food for Progress submitted by developing countries.

—Final decisions on country selection and program levels will be made by the Food Aid Subcommittee of the Development Coordination Committee in collaboration with the Special Ambassador.

—Unresolved issues regarding country selection or program levels will be decided through the interagency process in an expeditious manner.

¹ Source: Reagan Library, Rosenberg Files, Food for Progress—Keating Group (Famine), 03/07/1985–09/30/1985. Confidential.

² See Document 236.

³ Note: The Food Aid Subcommittee is composed of the Departments of State, Treasury, Agriculture, Commerce, OMB, NSC and AID. [Footnote is in the original.]

—Negotiation of an agreement with a participating country will be carried out by the AID Mission in country in accordance with guidance from the Special Ambassador. (U)

Country Selection Criteria

U.S. strategic and foreign policy interests must be served by the Food for Progress program. Once these interests are satisfied, the following criteria should be assessed for individual proposed country programs. The criteria should be considered in the following general order of importance.

Criterion of ABSOLUTE importance:

—Commitment to reform and implementation of policy decisions

Criteria of HIGH importance:

—Need for non-emergency food aid

—In-country capacity to carry out reform

—Evidence of policies conducive to improvement in agriculture

Criteria of LOWER importance:

—The potential for economic growth that will lead to the country's ability to participate in international trade and to import U.S. commodities.

—The potential for, or existence of, other donor support for agricultural programs and agricultural policy reform (as indicator of potential for co-financing). (C)

Funding

Food for Progress will provide up to 500,000 tons of farm products per year. This program will be funded from the Administration's 1986 budget request. To provide authority for the program, the Administration will propose legislation to restructure Title III of P.L. 480 to provide for the multi-year grant nature of the Food for Progress program. The program will begin in FY 1986. In future years, Food for Progress will be funded as part of the annual P.L. 480 budget process. The issue of separate funding for Food for Progress' transportation costs will be decided through the FY 1987 budget process. (U)

An interagency group, co-chaired by OMB and AID, will prepare all necessary changes in legislation or existing policy documents to enact the provisions of this NSDD and relevant sections of NSDD-156. (U)

Ronald Reagan

247. Memorandum From Philip Ringdahl of the National Security Council Staff to the President's Assistant for National Security Affairs (McFarlane)¹

Washington, June 21, 1985

SUBJECT

AFRICA—Short Trends and Developments

[Omitted here is information unrelated to the African famine.]

Ethiopia: Some disquieting moves, none which point to any prospect that Mengistu has seen the light. The drought and famine do not appear to have undermined Mengistu's military power base, which remains strong because of the strongly favored position of the military in Ethiopia—and the continuing military assistance they receive from the Soviets. After all, periodic famines have been with Ethiopia for centuries. Despite our food aid, official criticism of the U.S. remains strong and sometimes virulent. Mengistu recently announced a move toward establishing a "People's Democratic Republic of Ethiopia."² Ethiopia also is studying the advantages of joining CEMA. While the U.S. can take pride in its humanitarian impulse to save hundreds of thousands of Ethiopians from starvation, there is no evidence that our generosity has moved Mengistu and other hardliners one inch politically. As Ethiopian barriers and food diversion remain, we should consider reducing FY 86 programs.

[Omitted here is information unrelated to the African famine.]

¹ Source: Reagan Library, 1985 SYS 4 INT, 40651–40699. Secret. Sent for information.

² In telegram 2128 from Addis Ababa, April 9, the Embassy discussed Mengistu's April 8 report to the Central Committee of the Workers' Party of Ethiopia, which mentioned the formation of the People's Democratic Republic of Ethiopia. (Department of State, Central Foreign Policy File, D850243–0056)

248. Memorandum From Secretary of State Shultz to President Reagan¹

Washington, September 6, 1985

SUBJECT

Presidential Determination on Ethiopia

Section 812 of the recently enacted International Security and Development Cooperation Act of 1985 (the Act)² requires that you make a determination by September 7 on whether the Government of Ethiopia "is conducting a deliberate policy of starvation of its people and has not granted fundamental rights to its citizens."³ The determination and its justification must be reported to Congress. If you determine that *both* elements of the condition are⁴ met, and if Congress approves the determination by joint resolution, goods and services of Ethiopian origin may not be imported into the United States, and goods and services of U.S. origin may not be exported to Ethiopia (with an exception for emergency relief,⁵ rehabilitation, and recovery assistance).

While it is clear that the Ethiopian Government has pursued policies which result in acute human suffering, hunger and even starvation, particularly earlier Ethiopian Government policies opposing introduction of food into rebel-held areas, we believe that the available evidence does not justify a determination that the Ethiopian Government is at this time conducting a deliberate policy of starvation of its people. Accordingly, one of the two elements has not been met for⁶ an adverse determination potentially setting in motion a Congressional process

¹ Source: Department of State, Subject Files, Other Agency and Channel Messages and Substantive Material—United Nations Children's Fund (UNICEF), United Nations Disaster Relief Organization (UNDRO), United Nations Institute for Training and Research (UNITAR), 1985–1988, Lot 92D308, UNDRO 32 AF/Drought/Ethiopia. Limited Official Use. There is no indication that Reagan saw the memorandum.

² Reference is to P.L. 99–83, signed on August 8.

³ An unknown hand underlined the phrase "determination by September 7 on whether the Government of Ethiopia 'is conducting a deliberate policy of starvation of its people and has not granted fundamental rights to its citizens.'"

⁴ An unknown hand underlined the phrase: "If you determine that *both* elements of the condition are."

⁵ An unknown hand underlined the phrases "and if Congress approves the determination by joint resolution, goods and services of Ethiopian origin may not be imported into" and "and goods and services of U.S. origin may not be exported to Ethiopia (with an exception for emergency relief."

⁶ An unknown hand underlined the phrases "we believe that the available evidence does not justify a determination that the Ethiopian Government is at this time conducting a deliberate policy of starvation of its people" and "one of the two elements has not been met for".

for cutting off Ethiopia's imports and exports. With respect to the other element, we have detailed in the justification the fact that the Ethiopian human rights record is deplorable. However, because one of the two elements of this condition is not met, you would be justified in determining that the Ethiopian Government does not meet the condition specified in the section.

We recommend that you determine that the Ethiopian Government does not meet the condition specified in Section 812(c) (1).⁷ In doing so, we will avoid a formal finding that Ethiopia has not granted "fundamental human rights" to its citizens. This is consistent with our long-standing policy of avoiding where possible formal, adverse determinations of a country's human rights performance, since making such a determination would establish a precedent which would adversely affect Administration policy with respect to other countries.

I recommend that you sign the attached determination (Tab 1)⁸ before September 8, and thereby also approve the accompanying justification (Tab 2)⁹ to the Congress.¹⁰

⁷ An unknown hand underlined this sentence.

⁸ Attached but not printed.

⁹ Attached but not printed.

¹⁰ On September 7, Reagan signed Presidential Determination 85–20 regarding Ethiopia, which mirrored Shultz's suggestions.

249. Memorandum From Philip Ringdahl of the National Security Council Staff to the President's Deputy Assistant for National Security Affairs (Poindexter)¹

Washington, November 27, 1985

SUBJECT

Soviet-Ethiopian Relations

Attached is a well-sourced report on Mengistu's recent visit to Moscow, and Mengistu's interpretation that the Soviets remain solidly behind his regime, including Gorbachev's assurance that Ethiopia/The Horn would not be discussed with the U.S., and that the Soviets would increase assistance.²

Since Mengistu's return, he has moved to reenergize the largely coercive resettlement program (from the northern insurgent areas to the south), and to begin a forced "villageization", or collectivized agriculture scheme. Mengistu's domestic political and security priorities continue to far outweigh Western famine relief operations. You have seen collateral intelligence which shows that Ethiopia will be directly supporting a planned major offensive into Sudan later this year by John Garang.³

The U.S. is cutting food shipments to Ethiopia this year by about one-third (because of better rains), but we will still be providing about 300,000 tons, or one-third of Ethiopia's famine relief needs. I asked Frank Wisner last week to consider suspending all food relief shipments until Ethiopia has straightened out its port problems, caused largely by priority given to military deliveries (we had also pressed State hard for a formal demarche, to which they finally agreed).⁴ Some U.S. food is rotting owing to the slow off-take.

I still don't like indirectly subsidizing or making it possible for Mengistu, with Soviet support, to pursue coercive, collectivization policies. The government's northern offensive has been the most successful in 25 years and food aid has helped to keep the offensive operative through the rainy season. As you know, our Ethiopian food assistance programs are controversial, with strong proponents for and against. It is also politically sensitive on the Hill. We can't do much about the FY

¹ Source: Reagan Library, 1985 SYS 4 INT, 411354-41473. Secret. Sent for information. A stamped notation in the upper right-hand margin reads, "NOTED."

² Dated November 22, attached but not printed.

³ Garang de Mabior Atem (1945-2005) was a Sudanese politician and leader. From 1983 until 2005 he led the Sudan People's Liberation Army.

⁴ Not found.

86 program, although some downward adjustment is possible. But I believe we should begin thinking about terminating our food assistance programs to Ethiopia in FY 87, assuming the good rains continue. We can argue that Ethiopia's food deficits are caused by failed Marxist collectivist/agriculture policies which we refuse to support, rather than by the drought. The downside is that the NSC may take some heat publicly for advocating such a position, but policy adjustments are now necessary. We have little leverage on Mengistu, but we should not make it easier for him to pursue pro-Soviet goals.

250. Telegram From the Embassy in Ethiopia to the Department of State¹

Addis Ababa, April 10, 1986, 1145Z

1999. Subject: Charge's Policy Analysis, Assessment and Recommendation Concerning USG Food Assistance to Ethiopia in 1987.

1. S—Entire text.

2. Summary: This message contains my analysis and assessment of the situation in Ethiopia and our position here following eighteen months of massive USG emergency relief assistance and recommends what our policy should be concerning USG food assistance in 1987. It requests that a high level interdepartmental group composed of all involved and affected agencies be convened to consider the question of continuing a significant USG food assistance program in Ethiopia in 1987, taking fully into account the important, highly revelant considerations set forth herein. End summary.

3. Since its inception in late 1984 our large aid program in Ethiopia has had a single, consistent purpose drought relief, which we have done most effectively, bringing great credit to our country and people. Our current aid strategy assumes this purpose will be fulfilled by the end of 1986 and we will withdraw; presumably reverting back to the small, "regular" feeding program we have maintained in Ethiopia since terminating our aid development program in 1974.² If there is a need owing to drought for relief aid beyond CY 86 we are prepared to

¹ Source: Reagan Library, African Affairs Directorate, NSC: Records, Ethiopia [1986]. Secret. Sent for information to Djibouti. Sent to Khartoum, Mogadishu, and Rome.

² An unknown hand highlighted this sentence and wrote the word "Yes" to the right of it.

consider it. This strategy is fully consistent with our original, very limited objective of joining with other friendly donor governments, international organizations and NGOs in a purely humanitarian effort to meet the needs of millions of Ethiopians whose lives were threatened by the drought induced famine of the past two years.

4. In reality, though, our massive involvement and substantial aid presence here over the past two years has also served other important USG goals and objectives and interests, not just in Ethiopia but throughout the Horn of Africa. Thus a decision to terminate the program almost entirely has broader policy implications which should be addressed by the USG before we take definitive action. This message assesses these implications to provide a basis for interagency deliberations and decision making on the future of our aid program in Ethiopia.

5. To properly appreciate where we are now and where our relief aid has brought us in Ethiopia we need to first look back to where we were. From 1977 to 1984 the U.S. was virtually isolated from Ethiopia. Our presence here was confined essentially to limited [*less than 1 line not declassified*] information gathering under very difficult conditions and to occasional, pro forma diplomatic protest making. Our small official Mission, unable to travel outside of Addis Ababa (except for tours and recreational visits to Lake Langano), was out of touch with the people of this country and with what was happening in its vast, complex countryside. Despite the very friendly, almost affectionate, regard of most Ethiopians for our country we did not maintain with them the informational, educational and cultural ties that we have sustained even with the Soviet Union, Eastern Europe and other communist countries. Instead, we contented ourselves with condemning their brutal, totalitarian government, while living with our frustrations at being unable to influence or change it and striving to limit the damage it might inflict on our interests in this strategically important region of the world. Meanwhile, the Soviets and their allies greatly expanded their presence and activities here, especially in the military field. Some of our allies and friends (notably Italy and Sweden) contested the territory but with only our encouragement and not our assistance their modest efforts were no match for the Soviets. Not surprisingly, as we became isolated from Ethiopia the country and its people became increasingly isolated from us. In sum, we came to not account for very much in Ethiopia. To compensate for this we greatly increased our involvement in neighboring Sudan and Somalia trying to make these nations our new bastions in the Horn despite difficulties in insuring our presence and position in them over the longer term. This is where the USG stood in Ethiopia when the disastrous drought peaked in mid 1984.

6. Over the past two years our situation in Ethiopia and the Horn of Africa has altered significantly. Our massive assistance program has

enabled us to not only touch the lives of millions of Ethiopians but literally to save them. We responded quickly when they needed us with what they most needed and they know that: The Soviets did not and they also know that. To the chagrin of the Politburo hardliners, scores of official and NGO Americans are moving all over the country, not only observing relief programs but also gathering information on a variety of important subjects (such as resettlement, villagization, local government, the military, etc) and making valuable contacts with individuals and institutions, both governmental and non-governmental. (In eight months I myself have officially visited 28 cities and towns in all geographic areas.) Riding in the expansive wake of our relief program we have in a short time re-established the full range of USIA programs and begun to reforge solid cultural and educational links with key sectors of this emerging society. *[less than 4 lines not declassified]* Taking advantage of our position as the leading donor, we have been the driving force behind an alliance of more than a score of other friendly donors under UN/IO leadership which has influenced this government, not only on behalf of the relief effort (e.g. IBNET, port improvements, northern feeding) but also on other important issues such as resettlement, refugees and agricultural policies. Western donor reps in Addis are already expressing dismay at the prospect of our withdrawing from this alliance, which would disintegrate without us. In sum, we are no longer “isolated” from Ethiopia but are once again actively involved, on the ground, with the people in many important areas. While our enhanced presence and impact here falls far short of our past overwhelming prominence, it is nevertheless significant and productive in terms of our larger political, strategic and security interests, particularly over the longer run.

7. Although our return to Ethiopia has not yet led to tangible returns on the big issues that concern us, the picture is not totally bleak. Ethiopia remains in the grip of a small band of ruthless, Marxist ideologues, though this grip has been perforce loosened somewhat. Ethiopia is still solidly allied with the Soviet Union, though the past year has seen this alliance subjected to both internal and external pressures; and, the alliance with Libya, which troubled us so much in the past, is now a shambles. Although the Mengistu regime still threatens our Somali and Sudanese friends, these threats have been contained and some initiatives toward negotiations with them have been taken by Mengistu. Even internally there are some stirrings which give rise to hope for the future of this troubled land. Foremost among these is the agreement recently concluded between the EEC and PMGSE on agricultural policy reform which, if implemented, can have profound implications for economic, social and possibly political change.³

³ In telegram 1580 from Addis Ababa, March 21, the Embassy reported on the agricultural agreement between the EEC and the PMGSE. (Department of State, Central Foreign Policy File, D860220–0156)

8. We and our allies have had a limited but significant effect on these favorable developments by virtue of our greater presence and involvement in Ethiopia since late 1984. Even though we clearly are not running the show here, we are now more a part of it. Although the PMGSE does not respond as fully as we would wish, even on some relief related issues, it usually listens and seems increasingly to take us into account. Moreover, as the conflict in the PDRY demonstrated, the Soviets do not always call the tune here, especially when they encounter Ethiopian nationalism and plain stubbornness. In sum, while we certainly cannot be swept away by hope for the future, the situation is not hopeless. There is in Ethiopia room for maneuver, especially for those willing to be actively involved and to be flexible, pragmatic and imaginative.

9. Taking the foregoing fully into account, I believe it would be a mistake for us, at this juncture, to throw out the baby with the bath water, abruptly withdrawing from the food assistance field in Ethiopia and again isolating ourselves from this country and its people. I am not suggesting that we extend development assistance to Ethiopia, which clearly remains beyond the pale, nor that we continue a huge feeding program, unless such is required by drought conditions. But I do believe that a significant U.S. food aid presence here beyond CY1986 would be opportune in terms of the present and future situation in Ethiopia and would serve important USG political, security and strategic objectives as well as continuing to satisfy legitimate humanitarian needs. Fortunately, the ways and means for maintaining a food aid presence here sufficient to serve our broader interests are at hand.

10. To continue to further our strategic, political and security interests and advance our goals and objectives in Ethiopia and the Horn, I recommend that we undertake in 1987 a Food Aid Program which combines a moderately increased "regular" feeding program and a "residual relief" program. Briefly, these would consist of:

(A) Regular Program: We anticipate receiving from CRS, CARE, Save the Children, the Missionaries of Charity (MC) and the Ethiopian Orthodox Church (EOC) requests for a total of about 35 to 40 thousand metric tons of food for regular feeding. Funding these would allow us to support in Ethiopia three very capable American PVOs (one of whom, CRS, is linked with a superb local network), one of the world's most prestigious humanitarian organizations (the MC of Mother Teresa, who has clout even with Mengistu) and Ethiopia's most important NGO (the EOC, whom we wish to see strengthened as a counter to Mengistu's Marxists.) It would also give us a widespread presence in nine of Ethiopia's fourteen provinces (Eritrea, Tigre, Gondar, Wollo, Showa, Hararghe, Bale, Wollega and Kaffa) and, we would be serving

legitimate humanitarian needs. AID/Addis views on regular programs will be submitted shortly, by septel.⁴

(B) Residual Relief: There are an estimated 900 thousand “pastoralists” (mostly around the fringe of Ethiopia’s borders in Eritrea and Hararghe) who will remain drought victims even if the rains are good because little has been done to help restore the lost and debilitated herds on which they depend for their livelihood. As indicated in Addis Ababa 1978,⁵ we also anticipate continued drought and conflict related relief needs in the provinces of Eritrea and Tigre currently being served by the USG’s food for the north (FFN) and cross border initiatives, for which we have assumed a special responsibility. Finally, even if the Meher rains are very good, we can expect that there will remain drought affected pockets because (1) there will be some places where the rains will not be good and (2) other factors, especially inadequate and untimely availability of seeds, will prevent some areas from being able to fully recover from the drought. These “pockets” could involve up to one million people still in need of relief food. I believe we can count on other Western donors to help meet these residual relief needs which could total as much as 150 thousand MT. But there is no reason why we should not also continue to participate roughly providing the one-third share we have to date. This would not only serve our broader interests but also meet needs that are within our original drought relief mandate. Moreover, by continuing to work with other Western donors we will retain our membership and leadership role within their various coordinating groups, which have proved useful to us to date on a variety of issues, including resettlement.

11. Action requested: That a high level interdepartmental group composed of all agencies (including intelligence) be convened to consider the question of continuing a significant USG Food Assistance Program in Ethiopia in 1987, taking fully into account the important, highly relevant considerations set forth in this message. My strong recommendation is that we should continue such a regular/residual

⁴ In telegram 113861 to Addis Ababa, April 11, the Department summarized a meeting between McPherson and AID officials in which “McPherson opted to plan for continuing feeding in Ethiopia, albeit on a smaller scale.” (Department of State, Central Foreign Policy File, D860282–0532) In telegram 2110 from Addis Ababa, April 16, the Embassy expressed concern about McPherson’s strategy, stating: “If AID were to adopt a more pragmatic approach and ease up on its active implementation of its phase out strategy, then the need for an IG at this time might not be necessary. I hope that is the case. As I understood the situation, though, the purpose of the April 10 meeting [involving McPherson] was not ‘to discuss how to proceed with AID program in Ethiopia over the coming twelve months’ but rather was to consider tactics for keeping the phase out [of emergency feeding] strategy ‘on track.’” (Department of State, Central Foreign Policy File, D860291–0255)

⁵ Not found.

relief program in 1987 in the 90 thousand MT range and re-examine the question on an annual basis thereafter.

Cheek

251. Memorandum From the President's Assistant for National Security Affairs (Poindexter) and the Assistant to the President for Policy Development (Svahn) to President Reagan¹

Washington, June 11, 1986

SUBJECT

NSC/OPD Initiative to Help End Hunger in Sub-Saharan Africa

Issue

Whether the U.S. should act to end hunger in Africa by 1) re-orienting U.S. economic policies and programs to help end hunger through growth and private enterprise development; 2) re-invigorating donor coordination to this end; and 3) engaging the American public through a communications campaign and a Private Initiative for Africa.

Background

The United States needs to act more forcefully to help the countries of Sub-Saharan Africa to recover from the famine and the economic stagnation which can cause future famines. Unless African governments adopt growth policies which encourage food production and increase the purchasing power of the poor, the African people will face the threat of starvation, and the world will face festering political unrest which can breed communist insurgencies.

Africa is at a crisis point, with the aftermath of famine exacerbating the economic decline which helped to cause famine. Per capita income fell by about 20 percent since 1980, despite increased assistance beyond emergency relief. Every other region of the world—no matter how poor—has expanded its ability to feed itself. Ironically, most African countries possess the natural resources required to feed their people.

¹Source: Reagan Library, Rosenberg Files, Hunger Initiative (05/11/1986–06/18/1986). Secret. Sent for action. Drafted by Soos and Driggs. A copy was sent to Bush.

The principal causes of economic decline are policies which over-value currencies, set low producer prices, support public enterprise and state marketing boards and discourage private sector development. The effects of these policies are exacerbated by the pursuit of privilege and corruption. Some have estimated that the equivalent of all official development assistance to Africa is lost to corruption each year.

The major cause of hunger is poverty. African nations can overcome hunger only if their economic decline is reversed, and the private sector is encouraged to produce and market food and to undertake other income-generating activities. In Africa, agriculture should be an engine of growth, generating income and demand for secondary products among the majority of people. Transportation, retailing, services, education and finance all benefit from and contribute to a viable farm sector.

The American people sense Africa's need. Spontaneously, millions have responded generously to the African famine. But Americans know that the root causes of famine have not been addressed. The timing of this initiative is appropriate owing to the high degree of public interest, the continuing economic decline in Africa and the reduction of U.S. economic assistance to Africa by 20 percent this year.

Discussion

Why Past Aid Has Not Solved the Problem.

First, *donor efforts are fragmented by inadequate coordination and by competing internal economic and political objectives.* U.S. foreign aid is under pressure from many sides, including farm groups concerned with the disposition of surplus food stocks, universities for research grants and private voluntary organizations. Politically, the U.S. generally seeks good will and political support with less regard to the long term impact of our assistance. The result is mixed signals and little growth.

Second, *many African governments oppose change.* Generally socialist, with elite privileges for those in power, preservation of control is their over-riding interest. Many African governments see the private sector as a threat, and as a loss of opportunities for privilege and corruption. These tendencies reenforce the institutional bias of donors to provide aid to governments—not the people.

Third, *most aid goes to governments.* This aid fosters the growth of bureaucracies, not private enterprise. The government conduit weakens conditionality; when reform fails to occur, aid continues to flow for political reasons. A better balance between aid flows to the African people (for development) and to their governments (for political objectives) is needed.

How to Achieve a Turnaround.

Three areas must be mobilized to achieve a turnaround: federal programs, other donors and U.S. public opinion.

First, *focus federal programs*. Under the Baker Plan, the U.S. is pressing the IMF and World Bank to coordinate growth policies in Africa as a way to resolve the debt problem.² The U.S. also supports policy reform in Africa through the African Economic Policy Initiative of 1984 and the Food for Progress Act in the farm bill. These add-on programs have not overcome the inertia of "business as usual."

All U.S. assistance programs and policies, bilateral and multilateral, must be effectively targeted toward growth, with a balance between stabilization and private sector growth, and between medium and long term impact on growth, if economic independence in Africa is to become a reality. Current U.S. and other donor assistance programs are generally oriented projects and investments which favor governments and public enterprises.

We would achieve our objective by establishing a common goal for all federal aid efforts: *End hunger in Sub-Saharan Africa through economic growth and private enterprise development by the end of the century*. The level of aid provided to individual countries would be affected by their willingness to adopt incentive economic policies and private sector programs, with aid levels reduced for those unwilling to undertake meaningful reform or to support aid flows to the private sector. The implementation of this strategy would be worked out through a NSSD under White House direction.

Second, *promote donor coordination on comprehensive structural adjustment and policy reform as well as assistance projects*. Other donors provide more than 80 percent of non-emergency aid to Africa. Building on the Bonn and Tokyo summits³ and on the Baker Plan, we would invite other donors to join in a coordinated effort to help Africa achieve the goal of ending hunger through economic growth and private enterprise development by the end of the century.

Third, *mobilize U.S. public opinion to diminish the power of special interests and to channel private contributions toward productive ends*. Americans are eager to continue to help Africa, but that help needs focus and direction. Publicizing our efforts to end hunger through growth and private enterprise development would channel and expand public interest. The U.S. Private Initiative for Africa, which Private Sector Initiatives and the NSC is preparing, provides a medium for this.

Recommendation

Approve this initiative. A report on how to implement this initiative would be presented to you in 90 days.⁴

² Reference is to the Baker Debt Plan proposed in October 1985 in Seoul.

³ Reference is to the 11th G-7 Summit that took place in Bonn in May 1985 and the 12th G-7 Summit that took place in Tokyo in May 1986.

⁴ Reagan checked and initialed the "OK" option.

252. Action Memorandum From the Assistant Secretary of State for African Affairs (Crocker) and the Administrator of the U.S. Agency for International Development (McPherson) to Secretary of State Shultz¹

Washington, July 3, 1986

SUBJECT

Proposed NSSD on U.S. Support for Economic Growth in Sub-Saharan Africa

ISSUE FOR DECISION

Whether or not to prepare a National Security Study Directive (NSSD) reviewing U.S. economic programs and policies in Sub-Saharan Africa.

ESSENTIAL FACTORS

Following the recent African drought the President asked the White House Office of Policy Development and the NSC to look into U.S. responsiveness to growth and hunger in Africa.² These offices responded to the President last week³ proposing (1) an interagency review of U.S. assistance programs and instruments, (2) improved coordination of international donors and agencies to achieve better economic growth results and (3) the mobilization of greater U.S. public support for economic assistance as opposed to relief for Africa.

As a result of the President's interest the NSC is now proposing an NSSD to review and to develop further U.S. economic responsiveness to Africa's development. This would include a much greater effort for private sector involvement in and approaches to economic development in Africa. The timing for such an exercise would appear to be auspicious. We have just completed the very successful U.N. Special Session on Africa⁴ where those nations have candidly admitted that many of their past statist policies have failed and they accepted the need to make further market oriented policy reforms as a basis for enhanced growth. With the adoption of the U.S. sponsored IMF Struc-

¹ Source: Reagan Library, Executive Secretariat, NSC: NSSD File, NSSD 3–86 [US Support for Economic Growth in Sub-Saharan Africa] (1 of 2). Secret. Drafted by Stacy on June 26; cleared in AFR, EB/IFD, and AF. A stamped notation on the document indicates Shultz saw it. In the upper right-hand margin, Shultz wrote: "The draft NSSD should be sent over to the WH under a Platt-PDX memo."

² See Document 236.

³ See Document 251.

⁴ This Special Session on the Critical Economic Situation in Africa took place from May 27 until June 1.

tural Adjustment Facility and the prospect of closer IBRD/IMF cooperation on African growth strategies, and given two years of experience with our own ESF-funded economic reform program we should try to take advantage of the new policy realism in Africa by reviewing once again our own response. This would take the form of the NSSD, the draft outline for which is attached.⁵

It is our understanding that the President or Admiral Poindexter will want a meeting in the near future⁶ to discuss and approve this initiative. In our discussions with the NSC staff we have proposed some modification to the outline so that objectives are more clearly focused and that we not repeat background analysis already completed. We have also proposed that State co-chair the NSSD to ensure that our views are given an important weight in this interagency process.

RECOMMENDATION

That you approve an NSSD reviewing U.S. support for economic growth in Africa with the understanding that AF would co-chair the work. We would plan to work very closely with AID, EB and Treasury in that regard.⁷

⁵ Attached; printed as Document 255.

⁶ Not further identified.

⁷ Shultz initialed the approve option.

253. Memorandum From the Executive Secretary of the Agency for International Development (Meyer) to the Executive Secretary of the National Security Council (McDaniel)¹

Washington, July 11, 1986

SUBJECT

Food Aid for Ethiopia in FY 87

A few weeks ago you wrote asking about our food strategy for Ethiopia for the future.² I have reviewed the situation in Ethiopia and

¹ Source: Reagan Library, African Affairs Directorate, NSC: Records, Ethiopia [1986]. Confidential.

² Not found.

after considering various options have concluded that the following course of action best serves overall U.S. interests.

1. NO EMERGENCY REQUIREMENT FROM USG

It is unlikely there will be any requirement for US emergency food aid in FY 87. The weather in Ethiopia has been excellent. The recent small harvest was fine, and the major harvest is promising.

During the last six months, emergency feeding levels have been lower than anticipated. They will go up for the rest of the year, but there are huge stockpiles of relief food. Even with increased deliveries to those in need, we anticipate that at the end of this year there will be a carryover of non-US relief food of between 350,000 to 450,000 MT of food. This quantity should be adequate to meet all currently projected emergency needs. If there is a large unanticipated deterioration in the situation we will have sufficient time to respond. (This analysis does not cover our cross border feeding efforts which rely on a different pipeline. To the extent possible and as needed we will continue to provide food to the cross border operation.)

2. MODEST REGULAR PROGRAM FOR FY 87

A.I.D. will propose a modest regular feeding program of 18-22,000 MT for DCC consideration for FY 87. This program will be implemented by a number of Private and Voluntary Organizations (CARE, CRS, SCF, Ethiopian Orthodox Church, Missionaries of Charity and, possibly, WVRO). Before 1985 the regular feeding program with CRS was about 12,000 MT. To manage the program we will locate a personal services contractor who would be in place in Addis Ababa by March of 1987. The full A.I.D. mission will close at that time and the current United State Direct Hire (USDH) staff will not be replaced. Monitoring from our regional office in Nairobi will continue.

On developmental grounds, there is little justification for any regular program. The proposed program will achieve modest recovery and humanitarian objectives. It will allow PVOs to move away from emergency feeding and will serve other U.S. interests by enabling A.I.D. and Embassy staff to travel throughout Ethiopia to monitor the situation.

Under our proposal, all of the organizations, except CRS, are getting close to what they want. The CRS request for FY 87 was 28,000 MT. We propose they receive 6,000 MT, about half of the current regular program they have in Ethiopia this year. If they are the cooperating sponsor for Mother Theresa's Missionaries of Charity, CRS would also receive an additional 3,000 MT.

For their regular Title II programs, sponsoring agencies have traditionally paid internal transport charges. Some of the agencies consider-

ing programs within this framework have indicated an unwillingness to bear such costs in Ethiopia. Legislative prohibitions limit our flexibility on this issue. Therefore, those agencies unwilling to accept the internal transport burden can not participate in a regular program. There would be corresponding reductions in the level of the program.

We will monitor the situation. If there is a need to revise this strategy we will advise your staff.

Richard C. Meyer³

³ Gwendolyn H. Joe from the Office of the Executive Secretary at the Agency for International Development signed for Meyer.

254. Memorandum From the Assistant to the President for Policy Development (Svahn) and the President's Assistant for National Security Affairs (Poindexter) to Multiple Recipients¹

Washington, September 19, 1986

SUBJECT

U.S. Support for Ending Hunger in Africa

The President has determined that the U.S. should act more forcefully to help end hunger in Africa.² Unless African governments adopt growth policies, the African people will continue to face the threat of starvation, the world will face political unrest which can breed insurgency and the cost of relief and maintaining U.S. interests in Africa will increase. An economically stable and self-reliant Africa will promote U.S. national security interests as well as humanitarian objectives.

Sub-Saharan Africa has witnessed unparalleled economic decline in both food production and income per capita in recent years. This

¹ Source: Central Intelligence Agency, Office of the Deputy Director for Intelligence, Job 93T01142R: Policy Files (1982–1987), Box 1, Folder 14: Hunger in Africa. Unclassified. Sent to Bush, Shultz, Baker, Weinberger, Lyng, Baldrige, Miller, Casey, Yeutter, McPherson, Wick, Ruppe, Bohn, and Nalen.

² See Document 251.

decline has occurred despite increased economic assistance and resource flows over the past decade. The adoption of incentive policies by African governments can encourage broad-based growth, stimulate food production and alleviate the poverty which is the root cause of hunger in Africa.

The President's policy goal for U.S. economic assistance to Sub-Saharan Africa will be implemented by:

—*Establishing a common goal for U.S. bilateral and multilateral economic programs and policies: End hunger in Sub-Saharan Africa by the end of the century through economic growth and private enterprise development.* This goal is to be met by promoting the growth of the private sector and by orienting U.S. economic policies and programs to that end. Since the responsibility for adopting incentive policies and programs rests with governments, the level of aid provided to individual countries will be directly related to their willingness to adopt incentive policies and private sector programs.

—*Promoting donor coordination on comprehensive structural adjustment and policy reform as well as assistance programs.* Other donors provide more than 80 percent of non-emergency assistance to Africa. Building on the Bonn and Tokyo Summits,³ the IMF Trust Fund and the U.N. Special Session on Africa,⁴ the U.S. should invite other donors to join in a coordinated and concerted effort to help Africa achieve the goal of ending hunger through economic growth and private enterprise development.

—*Mobilizing U.S. public opinion.* Americans are eager to continue to help Africa. Publicizing efforts to end hunger through growth and private enterprise development would expand public interest and support for Africa. The U.S. corporate sector should be encouraged to become involved through a private initiative for Africa.

A Task Force to Help End Hunger in Africa has been established to implement the President's Africa Initiative. The Task Force will be jointly chaired by Peter Rodman, Deputy Assistant to the President for National Security and Michael Driggs, Special Assistant to the President for Policy Development.

The Task Force will prepare a report to the President on how to implement the Africa Initiative. The Task Force will consider actions already taken in response to the President's goal, as well as make recommendations for further action. A National Security Study Directive (attached at Tab A)⁵ will serve as the basis of the Task Force report. The Task Force report will be completed by December, 1986.

³ See footnote 3, Document 251.

⁴ See footnote 4, Document 252.

⁵ Not attached. Printed in Document 255.

You are invited to designate a member of your staff, of at least the level of Assistant Secretary, to serve on the Task Force to Help End Hunger in Africa. Please provide the name of your Representative to the NSC Directorate of African Affairs [number not printed] by COB, Thursday, September 25, 1986.

John A. Svahn

John M. Poindexter

255. National Security Study Directive 3-86¹

Washington, September 19, 1986

U.S. SUPPORT FOR ECONOMIC GROWTH IN SUB-SAHARAN AFRICA (U)

Introduction

This National Security Study Directive establishes the Terms of Reference for a review of U.S. economic programs and policies which will serve as the basis for implementing the President's goal of helping to end hunger in Sub-Saharan Africa. This goal takes into account factors such as (1) humanitarian interest in Africa; (2) concern for Africa's economic problems; (3) commitment to reform by African leaders at the UNGA Special Session on the African Economic Crisis; (4) declining levels of U.S. assistance to Africa; (5) the need to target assistance toward growth, stabilization and debt management; and (6) the review of overseas staffing levels for diplomatic security reasons. (C)

Objectives

The President has established a policy goal for the U.S. to help end hunger in Africa through economic growth and private enterprise development. The objective of the NSSD is to orient U.S. economic policies and programs to that end and to support the international effort to help Africa resume economic growth and manage its debts. (U)

¹ Source: National Archives, Collection RR-NSC, Numbered National Security Policy Papers 1981-1989, National Security Study Directives (NSSDs), 01/20/1981-1/20/1989 (accessed online). Confidential.

Scope

The Task Force Report will be based on existing USG, World Bank, IMF and other available analyses. No new written material will be requested unless gaps are identified. Working Groups will provide recommendations to the Task Force which will serve as the basis for a report to the President on how to implement his goal for Africa. The report will cover actions already taken as well as recommend further action. (C)

Please provide the name of the point of contact for this NSSD from your Agency to the NSC Directorate of African Affairs (395-3391) by COB, Thursday, September 25, 1986. (U)

FOR THE PRESIDENT:

John M. Poindexter

Attachment**National Security Study Directive Outline²**

*U.S. SUPPORT FOR ECONOMIC GROWTH
IN SUB-SAHARAN AFRICA (U)*

The Task Force will address the following, within the context of U.S. political, strategic and economic goals for Africa: (C)

1. Economic Assistance. Identify African government policies needed to promote growth through private enterprise; identify policies to improve the impact of stabilization programs on private enterprise and economic growth; identify options or strategies for broadening the benefits of policy reform for the majority of the people; assess role of government and U.S. support to the public sector; identify policies and programs to stimulate local private sector response to growth opportunities and rural linkages; identify optimal blend of assistance, e.g. program/project/PVO/food aid/central programs, for different country debt/growth situations. (U)

2. Debt Management. Develop programs and policies whereby U.S. actions on outstanding and new debt are leveraged to reenforce growth and private enterprise; identify programs and policies to support African efforts to manage their debt; identify policies for rescheduling, new lending, grant vs. loan assistance and arrears; identify structural causes of budget deficits and policies and programs to address these; identify

² Confidential.

financial management tools for alleviating the debt burden; develop a strategy to enlist the support of other creditors. (U)

3. Food Aid Policy. Determine how U.S. agricultural resources can be used as incentives for economic growth; maximize food aid and current food stocks to generate resources for Sub-Saharan Africa, consistent with the President's goal of regional food self-sufficiency; consider monetization of food aid, food for work, use of local currency generation, policy dialogue, and role of food aid in promoting intra-regional trade; determine which food aid vehicles (Titles I, II, III, Food for Progress, Section 206) are appropriate to specific development objectives. (U)

4. Private Sector Trade, Investment and Role in Economic Assistance. Identify optimal contribution of U.S. private sector for growth in Africa; identify policies to increase U.S. trade and investment with Africa, including consideration of special trade incentives for low-income countries; identify options for U.S. government agencies to better support U.S. private business involvement in Africa; identify administrative and legislative adjustments needed to improve the contribution of the U.S. private sector to Africa's growth. (U)

5. Multilateral Diplomacy and Implications for U.S. Foreign Policy. Identify a framework for enhanced donor coordination on broad policy and program issues; assess relative priority of economic growth with other U.S. political and strategic objectives in Africa; given that economic pluralism is a prerequisite for political pluralism and democracy, identify options for U.S. support to political regimes which do not foster private sector growth policies leading to equitable growth; identify strategy for making shift to countries which support private enterprise and growth. (C)

6. Budget Allocation. Develop a structure of budget presentation and implementation that will ensure that 1) budget allocations for the region are evaluated on the basis of the President's goal by both the Administration and the Congress; and 2) the administrators of this program are given the needed flexibility to implement their tasks in accordance with the goal; identify legislative changes needed to meet the President's goal for the region. (C)

7. Administration: Organizing the USG. Assess administrative changes and follow-up procedures to ensure that the President's goal for Africa is implemented for the remainder of this century, including orientation of all Executive Branch economic efforts for Sub-Saharan Africa; inter-agency coordination for implementation of growth-oriented policies and programs; continued monitoring and evaluation of the results of the program; policy directives for U.S. agencies and representations; administrative changes, employee training and hiring needed to enhance the capacity of the agencies to implement this policy; and legislative requirements to implement the program. (C)

256. Memorandum From the President's Deputy Assistant for National Security Affairs (Rodman) and the Special Assistant to the President for Policy Development (Driggs) to the Task Force To Help End Hunger in Africa¹

Washington, March 18, 1987

SUBJECT

Presidential Approval of the Task Force Report

The President has approved the Task Force report as submitted. A copy of the report which he reviewed and the White House press release are enclosed for your information.²

When we started this project last fall, the task seemed overwhelming. Many of us wondered whether we would be able to cover so many areas in such a short period of time—and still produce something of benefit. We have. The implementation plan we developed, if followed, will create a structure that will be the framework of U.S. economic policy for Africa for years to come. This could be a true turning point.

If so, it is because of the spirit of commitment and compromise displayed by everyone on the Task Force. We thank you for making this a rewarding and successful enterprise.

The next step to implement the President's decision is to prepare the Executive Order that will empower the new Coordinating Committee for Sub-Saharan Africa. A draft, based directly upon the Task Force report, is also enclosed for your review.³ *Please provide any comments you might have to Steve Farrar, 395-3543, by c.o.b. Wednesday, March 25.*⁴ Upon receiving your comments, we will send the order to OMB for formal clearance before submitting it to the President.

¹ Source: Central Intelligence Agency, Office of the Director of Central Intelligence, Job 90B01013R: Policy Files (1981–1988), Box 4, Folder 3: U.S. Third World Hunger Relief. No classification marking.

² The report is printed in the enclosure. The undated press release is attached but not printed. See *Public Papers: Reagan*, 1987, Book I, pp. 236–237.

³ Undated, attached but not printed. See Executive Order 12599 issued on June 23, 1987.

⁴ In the right-hand margin, Wetters wrote: “done NIO/AF 25 Mar 87.”

Enclosure

Paper Prepared by the Task Force To Help End Hunger in Africa⁵

Washington, undated

An Implementation Plan for the President

ENDING HUNGER IN SUB-SAHARAN AFRICA: The Challenges and Opportunities

INTRODUCTION

In June 1986, you established a goal⁶ for all U.S. economic policies and programs for Sub-Saharan Africa: *"end hunger in Sub-Saharan Africa through economic growth and private enterprise development by the end of this century."* As components of this goal, you directed that the level of aid provided a given country be directly related to its willingness to promote the private sector, that the help of other donors be coordinated toward the same goal, and that the U.S. private sector and public opinion be mobilized.

This report constitutes the implementation plan you requested the National Security Council and the Office of Policy Development to prepare. A National Security Study Directive was issued and an inter-agency task force, consisting of 15 departments and agencies, developed this plan under a joint NSC–OPD chairmanship.⁷

Your initiative is the first comprehensive, systematic U.S. program for Sub-Saharan Africa which has been designed to focus donor, recipient, and multilateral economic activities on the same goal. In short, there has never before been a program presented to the Congress which—if adopted by Africans and donors alike—would give such assurance that the tragic problems of that region might be significantly eased. This report outlines such a program. The Task Force believes that a comprehensive program would be more saleable and popular than any individual proposal.

The goal of the Task Force was to develop a *policy structure which would improve the effectiveness of our programs regardless of the level of funds available*. Even at current resource levels, the program will enhance

⁵ No classification marking.

⁶ See Document 251.

⁷ See Document 255.

the effectiveness of U.S. and other donor assistance and has the potential for saving future expenditures which would be required for relief in the event future famine occurs.

It is important to note that the other donor nations and the African governments in the region tend to judge the seriousness of the American commitment by the level of our funding and not the level of our rhetoric. Today, Sub-Saharan Africa needs both policy reform and more resources, but those resources can be generated in many ways—from export earnings, foreign investment, foreign aid, or in other ways. The World Bank projects that the region needs an additional \$1.5 billion per year—other estimates are as high as \$4 billion—beyond the \$8 billion now provided in total foreign assistance, if there were no increase in the effectiveness of aid, no increase in exports, and no easing of its debt problem.

All agencies participating in the Task Force agree, however, that just giving Sub-Saharan Africa more food and money without policy changes would cause more harm and human suffering. We believe that foreign assistance can and must be made more effective in stimulating economic growth and income generation among the region's poor. To be effective, any policy focused on growth will require substantial policy reform. Countries undertaking difficult reforms will be able to generate additional resources and use those resources more effectively to speed up the development process.

FINDINGS OF THE TASK FORCE

Finding 1.

Without policy reform, the economic base of many African countries in the region will continue to erode for the foreseeable future, thereby increasing both the risk and the severity of future climatic impacts.

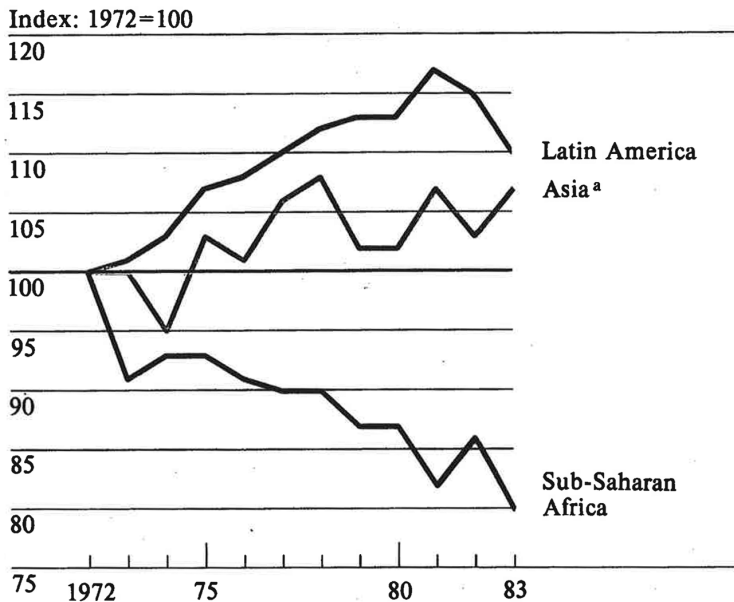
Sub-Saharan Africa is the poorest and least developed region in the world. Its economic problems, however, are not just a result of the region's poor physical endowments but have been exacerbated by government policies which served to stifle, not promote, economic growth. Policy decisions kept exchange rates too high and interest rates too low—often below the rate of inflation. Government bureaucracy became the vehicle for allocating credit and access to foreign exchange. Trade barriers proliferated. Government pricing policies and marketing boards forced the farmers to subsidize urban populations. In short, government entered virtually every phase of economic activity, foreclosing opportunities for private sector enterprise and growth.

High commodity prices masked the effects of these policies for years. But, when the inevitable price cycle turned downward, the results of these misdirected policies were predictable. Low-income Sub-Saharan Africa invested an average of 19 percent of GDP through the 1970s. Rather than produce growth, as it did elsewhere, investment in

the region produced decline. The 1960's growth rate of 3.6 percent fell to 2.3 percent in the 1970s and 0.7 percent in the 1980s. Agriculture was particularly hard hit. Per capita food production fell by 3 percent a year from 1973 onward, while the rest of the world was increasing food output. Finally, exports dropped by 14 percent *in real terms* at a time when world trade increased 7 percent annually.

The sad truth is that Sub-Saharan African countries as a whole, and low-income nations of the region in particular, are less able to feed themselves today than they were at independence. Indeed, over the past two decades, per capita food production has plummeted by about 20 percent in contrast to Asia and Latin America where per capita food production has been steadily increasing as illustrated in Graph 1. The daily calorie supply in low-income Sub-Saharan African countries as a percentage of requirements was 13 percent below that of all low income countries worldwide before the recent famine.

Food Production, Per Capita, 1972-83

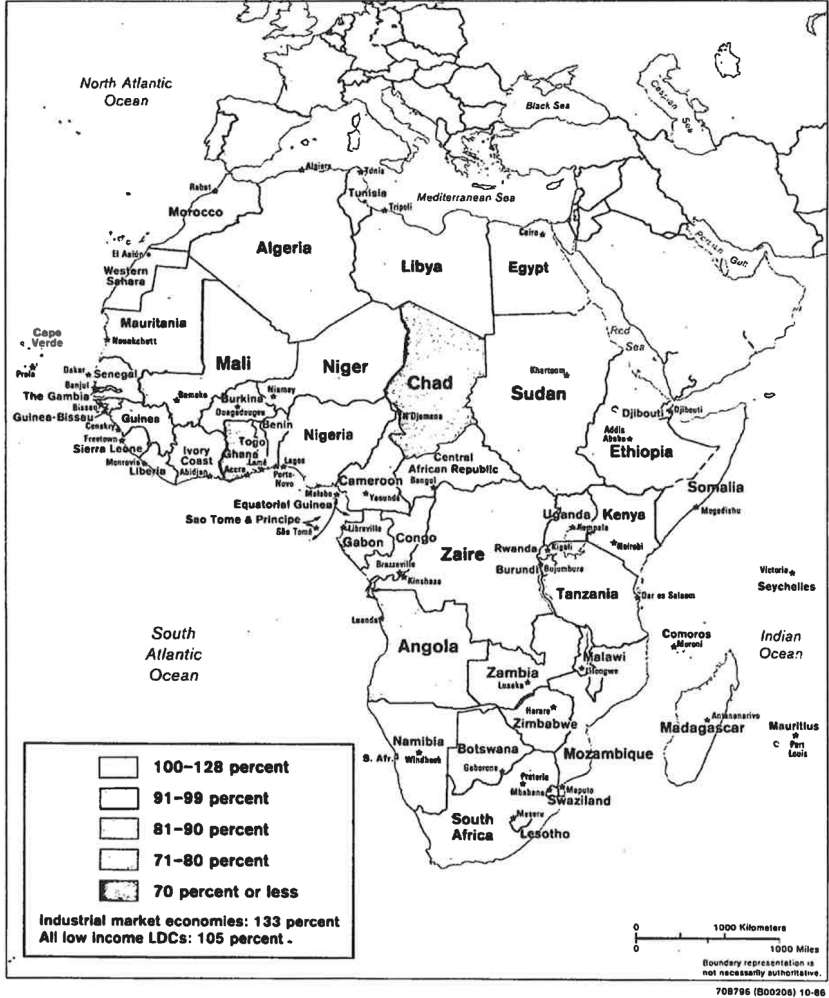


^a Asia excludes Japan and China

Source: UN Food and Agricultural Organization

Map 1 shows that all but 10 countries in the region were existing on less than 100 percent of daily food requirements in pre-famine 1982 even when food aid was included. The actual impact was much worse in rural areas, given the propensity to support urban areas and the poor distribution system in most countries. By comparison, industrial market economies averaged about 133 percent of required daily caloric intake. Even before the famine, some 44 percent of all Africans consumed fewer calories each day than the UN Food and Agricultural Organization thinks necessary to sustain an active working life.

**Sub-Saharan Africa:
Daily Calorie Supply as a Percentage of Requirement, 39 Countries, 1982**

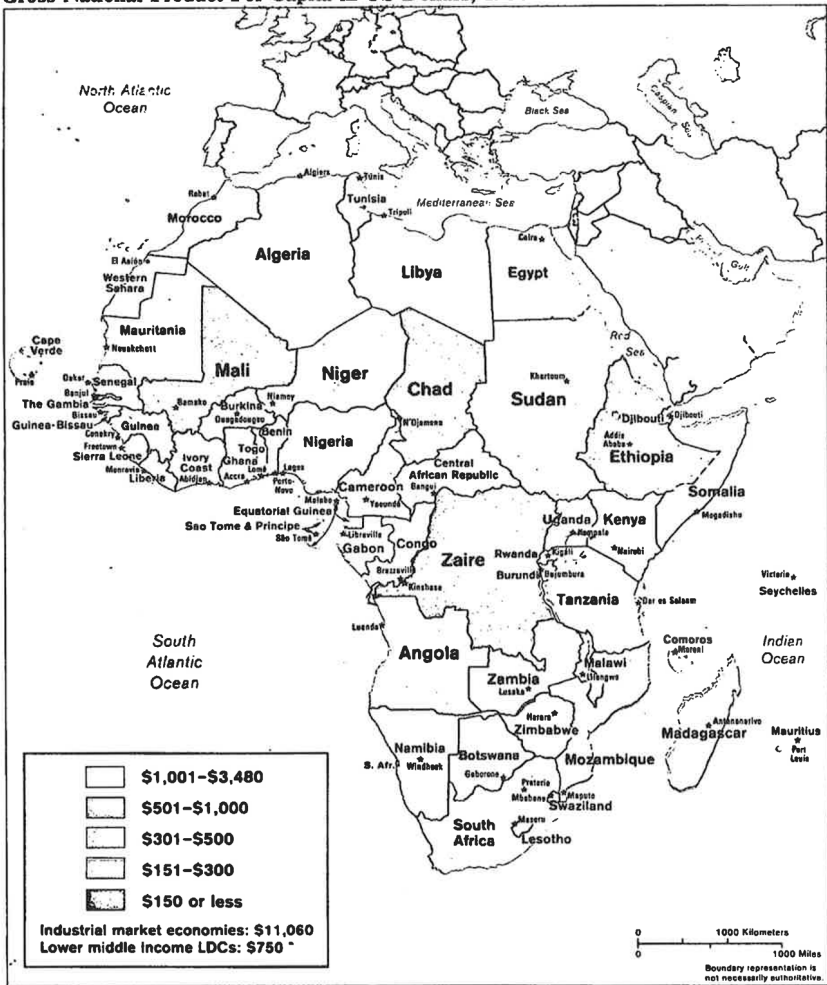


This poor performance, however, has begun to turn around. Improved agricultural policies and incentives, encouraged by the U.S.

and the World Bank, have combined with better post-drought weather to improve agricultural production in 1985 and 1986. While data are still incomplete, at least 10 countries show a surplus in coarse grains in 1986. Zambia has increased agricultural output by about 30 percent over the last three years.

Map 2 presents GNP per capita in U.S. dollars in 1984—the year that the most recent famine began. As can be seen, at least 19 countries had per capita GNPs below \$300 per year, as compared to an average of \$11,060 for all industrial market economies for the same period. However, even these figures understate the actual poverty of rural areas since most of the wealth is concentrated in the cities.

**Sub-Saharan Africa:
Gross National Product Per Capita in US Dollars, 1984**



Although solid data are yet to be aggregated, informal indications are that the underlying economic base in Sub-Saharan Africa has weakened since the famine. Indeed, Sub-Saharan African countries will have to do a great deal just to stay in the same place they find themselves in today. At the current population growth rate of 3.2 percent a year, food supply for the region would have to double in less than 22 years and quadruple by the year 2025 just to maintain the current level of food availability and caloric supply.

Even the most optimistic forecasts anticipate a decline in per capita income for the region over the next 10 years. In addition, according to the World Bank, the region's debt burden prior to rescheduling will continue to grow, with most of its available financing dedicated to stabilizing current arrearages, not promoting growth.

Thus, while the average Sub-Saharan African today has a standard of living which is no better than experienced by his father a generation ago, his children will be worse off in the absence of dramatic change.

Finding 2.

Mere increases in donor assistance will not solve the problem. Blank checks and overly zealous food shipments are neither helpful nor acceptable.

Inadequately conditioned budget support and food aid result in subsidies which reduce the pressure for reform and escalate the need for additional foreign assistance. Thus, mere increases in donor assistance can cause more harm than good, if the effect is only to substitute for rather than to support reform. In fact, inadequately conditioned assistance can create totally dependent states with ever-weakening economies, increasing political instability, and increasing threats to our national security.

Finding 3.

To be effective, any strategy to end hunger in Sub-Saharan Africa must overcome the barriers to investment, growth and intra-regional trade.

The first barrier to economic growth is *political*. Upon independence, many Sub-Saharan African governments adopted centralist policies in a misguided attempt to gain control of their economies and to redistribute income. They set prices, subordinated economic considerations to ideology, and focused on placating urban populations at the expense of rural areas. This type of political barrier has only just begun to break down throughout Sub-Saharan Africa as governments have begun to adopt reforms based on free-market, private sector prescriptions.

Another political barrier to growth is *instability*. For many Sub-Saharan African governments, recent economic troubles are only the latest in a line of problems threatening weak governments struggling

with the politics of multi-tribal states, internal dissidents or hostile neighbors, and young, growing, and restless populations. Over the last 20 years, a Sub-Saharan African government has been overthrown on the average of once every six months. Moreover, during this same period, only Mauritius has experienced a change of government through a democratic election. Today, six countries in the region are experiencing active insurgencies, and numerous others have residual dissident groups. In this climate, the tendency of the typical Sub-Saharan African government is to resist any weakening of central control.

Policy reform implies major shifts in rewards and opportunities throughout an economy. It means new standards of accountability within the public sector. It brings an end to monopolies and the introduction of market disciplines of profit and capital formation. Rapid economic change, particularly if pursued under conditions of continued hardship, can threaten to upset existing political order.

Those countries willing to consider change in spite of the political risks confront very real *financial* barriers. Scarce foreign exchange is consumed by debt servicing. Paying for past mistakes leaves little to produce economic growth. Without rescheduling, debt service on existing obligations will consume some 40 percent of all export earnings through 1990 for the low-income Sub-Saharan African countries. For seven countries (Sudan, Somalia, Madagascar, Mali, Zambia, Tanzania, and Guinea-Bissau), the debt service burden without rescheduling will be greater than 50 percent of export earnings. Even some countries with a much lower debt service ratio have difficulty meeting their obligations. For both Zaire and Liberia (debt service ratios of 24.1 and 20.8 percent, respectively) servicing past debt consumes more than 50 percent of their national budgets. Proportionally, for these countries, this is a greater challenge than the one confronting either Brazil or Mexico.

The debt burden seems even greater when one realizes that the source of hard currency—*exports*—is a weak base. The simple fact is that Sub-Saharan Africa is heavily dependent on commodity exports to generate foreign exchange for debt servicing. Approximately 87 percent of its total export revenues are generated by commodities such as copper, gold, oil, coffee, and cotton. By comparison, the other low-income countries of the world are able to generate more than 50 percent of their export earnings from manufactured goods. Thus, the region has been especially vulnerable to developments in primary commodity markets. Continued weakness in these markets has translated into a prolonged decline in the overall volume of exports from the region. It has also meant an erosion of profitability in the export sector; average unit value for Sub-Saharan Africa has dropped 18 percent since

1980. Moreover, not only did world commodity markets weaken over the period 1973–1983, but Sub-Saharan Africa as a whole lost ground to other producing nations and regions in fully 19 of 25 major commodities.

Finding 4.

Increasingly, Sub-Saharan African countries are coming to the conclusion that policy reform is the sine qua non for finding new growth and the resiliency to repulse famine.

The desperateness of their economic condition has forced many Sub-Saharan African leaders to seek changes in their economic policies. The U.S., the World Bank, and the IMF have played a major role in this process of economic policy reevaluation both with an expanded analysis of the economic situation, increased dialogue with African policymakers, and a start at redesigning assistance programs. At the U.N. General Assembly Special Session on the Critical Economic Situation in Africa in May 1986,⁸ leaders in the region uniformly accepted responsibility for failed economic policies (many for the first time). They committed themselves to reforms designed to promote the growth of the productive private sectors of their economies, especially agricultural development.

These commitments were not made lightly. The price of economic reform can be high in political terms. Gambia, for example, has just begun to streamline its bloated bureaucracy—by reducing its civil service by 24 percent. Thus, some of the best educated citizens have been dumped without pensions, unemployment insurance, or a private sector to provide jobs. In the U.S. this would equate to about 500,000 federal employees. Zaire, Somalia, and Zambia have taken similarly difficult actions to devalue currency, realign exchange rates, and ease internal price controls and regulations. Austerity measures in Zaire have been so stringent, that it has had negative growth for the last five years. While this report was being written, Zambians were rioting due to a 160 percent increase in the price of corn meal.

The fact that the Sub-Saharan African countries are willing to take such drastic steps is, in many ways, a recognition of what the Administration and the World Bank have been saying and doing for the past six years. The Administration has put into effect the Baker Plan, the African Economic Policy Reform Program, the Food for Progress Program, and, in general, has shifted resources to the better economic performers in Africa to spur reform efforts.

But now the Africans are calling our bet. They have said: we will listen; how serious are you about supporting our commitment to eco-

⁸ See footnote 4, Document 252.

conomic reform and growth through the private sector? Will the resources and the resolve to support us be there?

Finding 5.

Before any economic growth strategy can win the lasting commitment of African governments in the region, it must meet four tests:

1. It must sustain and reward performance, while penalizing the lack of it.

2. It must represent a truly long-term commitment from both the donors and Sub-Saharan Africans. It cannot be a short-term fad. It must be a mature development partnership.

3. It must allow the cooperating governments to get through their cash and political crises as austerity measures hit home.

4. Reform must proceed at a pace that, although meaningful, is not politically destabilizing.

Implicit in these four tests is a fifth: the bulk of the donors must speak as one. That is, they must conduct their programs to a common purpose in a common structure.

Finding 6.

The conduct of Western economic assistance to Sub-Saharan Africa cannot meet these tests today. It will not induce growth in the region.

The international system of providing aid to Sub-Saharan Africa has grown significantly since independence. However, this assistance is largely government-to-government aid with little common purpose and often feeble conditionality. By and large, it is not yet equipped to deal with the crisis confronting Sub-Saharan Africa today.

The U.S. program has expanded assistance to the private sector both directly and, most importantly, through pushing for liberalized economic policies that unfetter the private sector. However, there are still too many special interests and concerns reflected in the U.S. program. These markedly reduce our flexibility to respond fully to the rapidly evolving environment in Africa.

In too many cases, we still find support programs whose dominating concerns reflect the needs and capacity of the donor and creditor agencies, rather than the demands of the reform process. To cite only a few examples:

—Food assistance programs have by and large tended to reflect donor needs and commercial interests with scant attention to their impact on recipient country reform and development programs. As a consequence, real agricultural incentives for production are undercut. In response to this evolving situation, the USG has cut its FY 1987 food aid program in Somalia in half and is looking to substitute commodities

which do not compete with Somalia's newly reinvigorated agricultural sector. Other food donors have been less responsive.

—Debt management policies have remained focused almost exclusively on short term financial crises, to the exclusion of any consideration of longer term solutions for creditor nations. The unfortunate truth is that for most debtor countries, debt reschedulings remain the only debt management tool, even in cases where it is plain that countries will never be able to retire their debt. Zaire's debt, for instance, has increased substantially, almost entirely as a result of regular repeated reschedulings. For Zambia, Sudan and Somalia, the problem is much the same.

—Bilateral programs have at times been poorly focused, dominated by short term political considerations, and/or offered on terms and in forms inappropriate to the adjustment efforts underway in these Sub-Saharan African countries. In Sudan and Liberia, for instance, U.S. assistance was offered in support of clearly insubstantial adjustment programs. Similarly, Italian and European Community aid to Ethiopia has tended to substitute for, rather than to support, reform. But, largely with U.S. and World Bank leadership, there are also a growing number of programs, such as in Zambia and Malawi, which have been focused clearly and directly on adjustment and growth efforts.

—Multilateral institutions have had difficulty in dealing with Sub-Saharan Africa's circumstances. Africa's combination of macroeconomic and structural difficulties cuts across institutional responsibilities. Close collaboration among international financial institutions has, in many cases, just begun in an effective way. Enhanced collaboration is needed if the financial system is not to become a drain on resources in Sub-Saharan Africa, especially in countries such as Sudan, Liberia, Zambia, Zaire, and Ghana.

In other cases, institutional rigidities have blocked effective action. Inflexible budgetary processes, for instance, have often left us and other donors locked into bilateral aid commitments and programs whose justification has been lost or, more often, overtaken by higher priority needs. Functional accounts within the development assistance budget, for instance, are a product of the "basic human needs" strategy of the 1970s.⁹ Unfortunately, such a structure is completely inappropriate for the 1980s, undercutting our capacity to deliver timely and appropriate assistance to countries undertaking major policy reforms, even in cases where those reforms are geared to redressing policy abuses which have punished the poor.

Finally, aid coordination has remained a problem. Too often, bilateral and multilateral programs have run at cross purposes. The U.S.

⁹ Reference is to the congressional focus on "basic human needs" that began in 1973.

has been less guilty of this than other donors. In fact, we have done more over the past five years to promote donor coordination than any other donor. Nevertheless, even in our own programs, incidents have occurred where coordination has broken down. For instance, attempts to privatize food marketing in Kenya failed in part because of poor coordination between the United States, the World Bank, and the IMF. Similarly, in Somalia, efforts to develop an efficient and effective public investment program were frustrated by Italian refusals to adapt their aid programs to the overall context defined by the World Bank.

The consequence of these factors—inefficient programs, inflexible institutional arrangements, and poor aid coordination—has been to leave us crippled when facing the multitude of problems in Sub-Saharan Africa today.

Finding 7.

The U.S. bilateral economic policies and programs for Sub-Saharan Africa as currently structured cannot meet your goal, nor induce the necessary changes from other donors in the absence of a commitment to coherent economic principles and more effective delivery of economic assistance.

Over the last six years, this Administration has made great strides in increasing the effectiveness of economic assistance. It has more and more become an investment for growth and not a subsidy of the *status quo*, especially in Africa. This has built the base which makes a new initiative possible.

In spite of the progress of the last few years, U.S. economic policies and programs, like those of other donors, are still focused on a multiplicity of purposes. Beginning in 1973, U.S. assistance was dominated by a Congressional philosophy of “basic human needs.” Yet, when the need was so great, it was too easy to focus only on easing the suffering of the moment. With each need and new fad, another special interest group was formed and yet another program was developed. Many now operate inefficiently with limited coordination between programs or to the national economy. The result has been to limit flexibility in setting or reaching a goal of ending hunger based upon economic growth.

Ironically, the system created in the name of human needs has become self-serving. It is not now responsive to the needs of the Sub-Saharan African people. For the past 15 years, approximately 90 percent of all U.S. assistance to the region went to governments. While this percentage has begun to decline somewhat in recent years, much more needs to be accomplished to enhance the environment for a stronger private sector.

Finding 8.

Your goal of ending hunger is ambitious but essential.

The Task Force believes that a bold and concerted international effort is needed if we are to have a prospect of ending hunger in Sub-Saharan Africa by the end of this century through economic growth and the development of private enterprise. Ending hunger in this context means an economy sufficiently strong that it can meet the food needs of its citizens through local food production and, as necessary, commercial purchases of food on the world market. An economy which meets this test need never fear a famine.

Qualifications, however, are necessary. Vanquishing the specter of famine in Sub-Saharan Africa will require that:

—governments in the region actively promote the private sector, ease their control of the economy, and sustain their recent efforts at economic reform;

—major donors, led by the U.S., place economic growth as their first priority, and focus their efforts toward that end; and

—we recognize that the fight to end hunger will not be won in every case but, rather, in the overall context of what can be achieved on a regional basis. The condition of individual countries will continue to vary widely with some progressing more rapidly than others.

A Program for Implementing Your Policy Goal

In crafting a comprehensive program to implement your policy goal, the Task Force concluded that only a special effort for Sub-Saharan Africa could capitalize on the opportunity now present and overcome the barriers to growth. The heart of the special effort would be to erect a policy and budget fence around Sub-Saharan Africa for all U.S. assistance programs and activities. Outside the fence, this region would compete on the basis of strategic and budgetary considerations with all claimants. Inside the fence, however, economic growth geared to the elimination of hunger would be the priority and the standard by which all U.S. actions are judged.

The specific proposals discussed below are presented in that context. They are intended to create a special policy for Sub-Saharan Africa without affecting our policies and programs for any other region of the world. Each of the proposals is designed to contribute to at least one of the four program characteristics we believe necessary to achieve your goal:

1. All U.S. economic policies and programs for Sub-Saharan Africa should be consistent with your goal.

2. The policy, budget, and program structure available to the U.S. for each Sub-Saharan African country should be tailored to the exact needs of that country to optimize achievement of the goal.

3. The level and form of U.S. policies and programs should be directly related to the degree of active policy cooperation from the Sub-Saharan African countries.

4. The U.S. should "speak with one voice" in its dealing with the multilateral organizations, with Sub-Saharan African governments and with other donors on economic issues for the region.

Consistent with these characteristics, the Task Force has developed a comprehensive program designed to have the maximum impact on the other donors and African countries in the region. This program envisions a refocusing of objectives to ensure more effective use of existing resources to reach your goal; it also proposes forthright actions and solutions. It will, however, require recognition that there is a projected continuing resource gap that must be narrowed either through increased exports, debt relief, enhanced aid and investment, or some combination of those factors if we are to achieve growth for the entire region. None of these areas presents easy choices.

A PROGRAM FOR ENDING HUNGER IN SUB-SAHARAN AFRICA

Action 1.

Negotiate through the IMF/IBRD policy process long-term compacts with each Sub-Saharan African country that establishes long-term structural adjustment and reform programs.

These compacts would have a uniform and consistent goal for all donors and recipients: ending hunger in Sub-Saharan Africa by the end of the century through economic growth and private sector development. Essentially, these compacts or agreements would emphasize longer-term cooperation tied to progress toward achieving economic reforms; non-project lending and assistance where possible; reduction of tied aid requirements among the donors; support for the indigenous private sector (including privatization of government managed corporations and central planning boards); and an explicit understanding that we are not offering to cover expanded public investment programs or to fill all gaps and shortfalls. Moreover, donors would agree to provide technical advice in areas of capital markets and flight, trade promotion, and domestic resource mobilization.

Since Secretary Baker proposed the IMF/IBRD policy framework in Seoul,¹⁰ significant progress has been made toward developing compacts where all donors agree with interested Sub-Saharan African governments on an overarching macroeconomic structural adjustment

¹⁰ Reference is to the Baker Debt Plan.

framework, coordinated through the Bank and Fund, the UNDP, or other appropriate mechanisms, to establish country targets for growth and economic reform. It is important to strengthen this process. Policy Framework Papers and Public Investment Programs would be based on these general agreements, and would provide the operational building blocks for donor cooperation with Sub-Saharan African nations. Existing donor project portfolios would be adjusted to support agreed country strategies. The final report of the United Nations General Assembly special session sets forth such a long-term framework for the African continent as a whole. This effort is remarkably consistent with our vision of where Sub-Saharan Africa development should go at the country level. In this regard, it is encouraging to note that Kenya has already developed a 15-year development framework. Finally, donors must be willing to cut back aid when recipient countries do not meet objectives in these compacts.

Action 2.

Create a separate budgeting account for Sub-Saharan Africa in order to better focus U.S. assistance programs on economic policy reform and private sector development.

As proposed in the 1988 budget, a special Development Fund for Sub-Saharan Africa should be created. It will combine development assistance and growth-related economic support funds under the management responsibility of the Administrator of the Agency for International Development.

Legislation creating this Fund would also eliminate the current functional account breakdowns. This action will provide the flexibility necessary to continue to reward progress in countries which have already embarked upon incentive economic reform programs at considerable political risk, as well as expand these incentives to other countries willing to undertake such market-oriented prescriptions and approaches. This consolidation will also facilitate the shifting of resources from project-specific assistance to program funding. In addition, it would permit the carry-over of obligational authority from fiscal year to fiscal year. (Legislation would be required.)

Finally, the Administration would present to Congress a single statement that would outline strategies to meet your goal in Sub-Saharan Africa. (Coordination of this report is discussed in Action 7.)

Action 3.

Strengthen multilateral arrangements to address Sub-Saharan Africa's crushing debt burden.

The U.S. should lead an international effort to encourage donors to increase the funds directly associated with the International Monetary Fund's Structural Adjustment Facility (SAF) for the 1986–91 period. Innovative approaches should be actively pursued, including seeking

greater contributions from such countries as Japan, Italy, and the Federal Republic of Germany. Additional funds would be used by the IMF and eligible countries to replace the current high-cost, short-term exposure of the IMF in Sub-Saharan Africa. In addition, we should urge that creditor nations of the Paris Club permit the rescheduling of official debt for the region on the basis of IMF Structural Adjustment Facility programs where appropriate.

The United States should also continue to encourage a longer-term, growth-oriented focus on the part of both the International Monetary Fund and the World Bank in the preparation of Policy Framework Papers for African countries. Moreover, we should work with both the IMF and the World Bank to strengthen formal training programs for upgrading debt management capabilities. Such programs should include the provision of technical assistance to develop better accounting and data systems, as well as advice on loan structure, currency exposure, and possible fund raising techniques.

Finally, the Secretary of the Treasury should actively seek solutions to the growing problem of IMF arrearages in Sub-Saharan Africa that will not exclude reform-minded countries in arrears from the international financial system, threaten the financial integrity of the IMF, or compromise funding for growth in Sub-Saharan Africa. All sound solutions to this problem should be explored.

Action 4.

Increase U.S. bilateral efforts to ease Sub-Saharan Africa's debt burden.

U.S. creditor agencies should, within their legislative mandates, seek to reschedule their non-concessional debt at rates no higher than current cost of funds plus administrative costs. The Secretaries of State and Treasury should also explore other ways to alleviate the African debt burden, including possible amendments to the Foreign Assistance Act where appropriate. The U.S. should also encourage the development of secondary markets for Sub-Saharan African debt, with OPIC support as appropriate.

Action 5.

Align U.S. food assistance programs in accordance with your goal.

Food assistance activities for countries with per capita income below \$550 per year should be converted to grants for those recipients willing to undertake appropriate economic reform within the framework of a long-term compact. The United States should pay for ocean transportation of food commodities for these same countries to the port of entry where a clear inability to pay exists. The new Coordinating Committee for Sub-Saharan Africa (proposed in Action 7) shall advise appropriate agencies on the selling of grant-financed food aid in local markets. Food commitments should be made on a multi-year basis

for countries undertaking economic reform. Appropriate food barter programs such as triangular transactions should be encouraged. U.S. food assistance activities should take place in the context of country-specific development strategies, which would orient individual country programs to the goal of ending hunger in Sub-Saharan Africa. In this regard, the Coordinating Committee should also consider food aid programs which incorporate incentives for food aid recipients to work on community or individual programs, as well as those which generate local currency for use in development or credit to the private sector. (Legislation would be required.)

Action 6.

Promote continued and improved access to world markets for exports from low-income Sub-Saharan Africa to reward good performance.

In anticipation of increased exports from the region as economic policy reform takes hold, the U.S. should work with other donors to ensure that markets remain open, and that protectionist pressures are not allowed to stymie the process of economic development. In addition, the United States should encourage countries in the region to fully exploit current opportunities under the Generalized System of Preferences. Moreover, the United States should highlight to the U.S. private sector those African countries which provide adequate investor protection. OPIC insurance and financing programs, including the proposed Africa Growth Fund, should be used to support direct investment in Sub-Saharan Africa for those countries which comply with U.S. investment policy principles.

Action 7.

The interagency administrative structure should be strengthened to ensure that all U.S. assistance programs and policies for the region are consistent with your goal, each country has a comprehensive program tailored to its specific needs, the U.S. Government is united in its dealings with other donors and potential recipients, and the overall level of aid we offer is related to a country's continued performance or willingness to undertake additional economic reform.

A formal, high-level coordinating committee should be established within the Executive Branch and be responsible for implementation of your program for the region. Although statutory authorities of agencies would remain unchanged, a strong coordination and monitoring mechanism within the Executive Branch created by Executive order will assure compliance with your goal over the 13-year implementation period. This new Coordinating Committee for Sub-Saharan Africa should be under the policy direction of the Secretaries of State and Treasury. Senior officials of the Agency for International Development and the Department of the Treasury should serve as Chairman and Co-Chairman, respectively. The Secretaries of State and Treasury

should make a joint status report to you annually. This report would highlight progress being made in the region, as well as affirm whether all U.S. economic programs and policies conform with and support the goal of ending hunger in Sub-Saharan Africa through economic growth and private enterprise development. (An Executive Order would be required to assure continuity.)

In addition, any budget proposal designed to have a positive impact on achieving your goal will require much closer coordination among the various agencies in their Congressional presentations. Accordingly, a new committee should coordinate preparation annually of a unified justification for transmittal to the U.S. Congress (as discussed briefly in Action 2). This justification would encompass all Administration activities, strategies, and policies for the region.

Action 8.

Mobilize the U.S. private sector to complement African and donor efforts.

Private voluntary efforts and private business have contributed substantially to humanitarian relief and economic growth in Africa. This private involvement should be encouraged to expand to help meet your goal for Africa. The new Coordinating Committee on Sub-Saharan Africa should be tasked to mobilize expanded humanitarian and business involvement in Africa, both U.S. and international, through an outreach effort with appropriate Federal agencies. The Committee should seek ways to expand U.S. business involvement by targeting trade and investment missions, pre-feasibility and feasibility studies, sector and regional analyses, access to credit, and information on trade and investment opportunities on countries undertaking economic reforms. These programs should be coordinated through the Department of Commerce, the Agency for International Development, the Overseas Private Investment Corporation, the U.S. Trade and Development Program, and the Export-Import Bank.

ASSESSMENT OF THE PROGRAM

The Task Force believes that this program represents the best opportunity to assist countries in Sub-Saharan Africa to end hunger by the end of this century. It is a framework which will offer the greatest inducement to both the countries in the region and the other donors to promote economic growth. Even with optimal implementation of this program, hunger may not be eliminated in every country. Nevertheless, the past performance of several countries attests to the possibility of sustainable economic growth in Sub-Saharan Africa when the economic environment is conducive to such growth. Botswana's economic growth has exceeded 10 percent per year since 1963; growth in Rwanda and Swaziland has exceeded 5 percent per year. Even

countries with the most statist traditions have recently demonstrated that liberalization of their economies can have a strong and positive economic impact. Zambia's agricultural production has grown by almost 30 percent in three years after a decade of decline and industry grew by 9 percent last year. The prospect of widescale famine certainly can be eliminated.

The Task Force's implementation plan will position the U.S. to provide effective leadership for the donor community to focus economic policies and programs to more effectively support structural adjustment and economic growth in Africa. The program will provide greater flexibility in the application of resources committed to Africa while providing consistent criteria: reform, private sector development and economic growth. This is essential to stimulate broad-based growth, without which hunger cannot be overcome. At the same time, focusing our assistance efforts on those countries that are effectively helping themselves will have important demonstration effects in Africa, and here in Washington in the competition for scarce budgetary resources.

Finally, the program is predicated on a long term goal, which can be met only with a consistent commitment of resources. The separate account will help shield Sub-Saharan Africa from the effects of budget cuts imposed by Congress as long as economic growth in Sub-Saharan Africa remains a high priority. Currently, the bulk of funding comes from development assistance funds reserved for low-income countries. Therefore, this treatment does not distort aid funding in support of other U.S. foreign policy objectives.

257. Paper Prepared in the Agency for International Development¹

Washington, October 30, 1987

ETHIOPIA UPDATE #1

The U.S. Government tracks the food availability and emergency situation in Ethiopia continuously. As technical capability to monitor the agricultural situation improves our ability to anticipate Ethiopia's

¹Source: Reagan Library, Rosenberg Files, Food Aid to Ethiopia 09/25/1987–02/08/1988. No classification marking.

agricultural production and its impact on the indigenous population does too.

1987–88 harvest

The belg (early) rain, which accounts for approximately five to ten percent of the total crop but is significant in several regions, was much better than normal. The belg was an excellent prelude to the meher (major) season.

The meher season suffered from prolonged dry spells in many regions at various times. As a result, some provinces and regions are expected to have almost total crop failures for the 1987–88 harvest period. The most affected provinces are Eritrea, Tigray, Hararge, Showa and Welo.

The Ethiopian Government and the United Nations now estimate that approximately five million people will need emergency relief in CY 1988, and that that relief will encompass approximately 950,000 MT of imported relief food. This is a conservative estimate and is expected to rise, particularly in the northern Ethiopia (Eritrea and Tigray) where the drought was most intense and the crop failure percentage highest.

U.S. Actions

So far the U.S. has moved quickly and generously to respond to the problems. To meet the estimated emergency needs the U.S. has already approved:

- 115,000 MT of emergency food (valued at \$37 million, including internal transport, storage and handling—ITSH), which will be distributed through four American private and voluntary organizations in various regions of the country.

- \$1.8 million in disaster funds for spare parts and personnel to the United Nations transport fleet (WTOE).

- increased the A.I.D. staff in Addis from one person to five, two of whom will arrive in November.

Additional requests are under consideration.

258. Minutes of the End Hunger Initiative's Coordinating Committee Meeting¹

Washington, May 11, 1988

Attendees.

The meeting was chaired by A.I.D. Administrator, Alan Woods, and co-chaired by Deputy Secretary of the Treasury, Peter McPherson.

In attendance were: Walter Barrows (CIA), Carroll Bouchard (Peace Corps), Peter Cashman (Commerce), Michael Driggs (Spec. Asst. to President for Pol. Devel.), Philip DuSault (OMB), Eugene McAllister (State EB), Peter Myers (USDA), Leonard Robinson (ADF), Peter Rodman (Spec. Asst. to President for Nat. Sec. Affairs), Jon Rosenbaum (USTR), Roy Stacy (State AF), and Gerald West (OPIC).

Brooke Amendment.

Alan Woods opened the meeting by saying that its purpose was to consider reports by the working groups on the issues of the Brooke Amendment,² African food aid, and investment.

On the Brooke Amendment, Peter McPherson reported a decision by the informal Deputy Assistant Secretaries Africa debt group to take steps to speed up the U.S. Government's processing of rescheduling agreements after a Paris Club agreement,³ rather than to seek legislative change in the terms of Brooke. Such speeding up would help a country that is agreeing to a reform program to get out of arrears to the U.S. more quickly, thus allowing Brooke sanctions to either be avoided or ended sooner.

Mr. Woods asked who would oversee implementation of the proposed changes. William Milam of State said that was State EB's responsibility. Mr. Milam noted that work was already fairly far along on a short, standardized agreement for debt rescheduling, which would speed up the process considerably.

Mr. McPherson asked if EB could report in three months on progress made, and Mr. Milam agreed.⁴

¹ Source: Reagan Library, Rosenberg Files, Coordinating Committee 04/06/1988–05/11/1988. No classification marking.

² See footnote 5, Document 243.

³ Reference is to the Paris Club, a group of financial officials from creditor nations that discusses debt rescheduling and relief.

⁴ Not further identified.

Food Aid.

Walter Bollinger of A.I.D. reported on the work of the food aid working group chaired by A.I.D. He thanked the working group for a series of productive meetings. He reported that the group did not support a legislative option for an Africa food fund, analogous to the Development Fund for economic assistance. It did, however, agree to a package of management and allocation changes to the existing DCC food aid process, aimed at more effective use of African food aid for policy reform.

These changes include: 1) expedited decision-making for a priority list of countries; 2) development of policy reform criteria by which to determine priority countries; 3) greater concessionality (i.e., more use of Title III and Section 206); 4) multiyear programming; and 5) payment of ocean freight for the most debt-distressed countries.

The working group also agreed to develop specific targets or benchmarks, in many cases quantitative, for judging progress in the implementation of these changes.

Mr. Bollinger mentioned two other issues that had been discussed in the working group. One was the importance of quick approval of new simplified guidelines for Title III. The other was the trade-off between emergency and development uses of food aid in Africa, and the possibility of sharing the burden of African emergencies globally.

Mr. Bollinger proposed two actions for a follow-on meeting of the Coordinating Committee in June:⁵

1) The working group will develop benchmarks for the agreed changes in the current process, and present them to the Coordinating Committee for approval.

2) A.I.D. will develop a legislative proposal for food aid, which the committee can consider for possible recommendation to the next administration (e.g., for possible inclusion in the 1990 reauthorization of the farm bill).

Owen Cylke of A.I.D., who had chaired one of the food aid working group meetings, added two points to Mr. Bollinger's presentation. First, he felt that most of the potential for improvement was in Title I/III, because of the structural constraints in Title II (the mandated sub-minimum for private voluntary organizations). Second, he thought it was important to have the working group report to the Coordinating Committee on implementation of the proposed changes on an on-going basis.

⁵ Under a July 14 memorandum to Rodman, Woods forwarded the minutes from the June Coordinating Committee meeting. (Reagan Library, Rodman Files, African Hunger Initiative: 06/15/88-08/01/88)

Walter Barrows said that he felt that the working group's analysis of needed changes in the food aid program was excellent, and that he hoped the food fund concept⁶ would not be dropped.

Mr. Woods said that A.I.D. would pursue the food fund idea, but that there was not a lot of enthusiasm among others for the legislative option. As a practical matter, he noted, any legislative action would have to be in the next administration. He noted OMB's concern about earmarking, and said that he shared that concern. Mr. Woods said that he felt it was important to develop a legislative proposal for the next administration, and that A.I.D. would work on that.

Jon Rosenbaum raised the problem that a permanent food fund might conflict with trade agreements in the area of food security that are being considered in the GATT negotiations. Mr. Woods said that this should be looked into.

Philip DuSault said that, in his view, the review of food aid had been constructive, and that there were some things that could be done now. He stated that there were problems with the proposed use of non-food commodities, and that this issue was to be addressed at the subcommittee level of the DCC.

Michael Driggs said that the purpose of food aid changes should be to improve management and effectiveness, not just to increase resource levels. He asked whether the short-term option being considered covered everything that could be done to make food aid more effective without new legislation. Mr. Bollinger answered that, in his opinion, it did.

Mr. Driggs also suggested that it would be desirable to identify the constraints that the current legislation imposes. Mr. Bollinger said that A.I.D. would do that as part of its work on the longer-term option.

Mr. Woods said that there was one issue that was not definitively addressed in the proposed short-term option—the trade-off between emergency food and use of food for development. He felt that was an important problem to look at.

Mr. DuSault said that, in his view, the notion that there is a trade-off between use of food for emergency and development is a misperception. He cited figures showing that the share of food aid going for development has been fairly constant over the years, with both emergency and development levels increasing in FY85 and both declining since.

⁶ In a May 11 paper, a working group provided a report to the Coordinating Committee on a proposed food fund for Africa. (Reagan Library, Rosenberg Files, Coordinating Committee 04/06/1988–05/11/1988)

Mr. Bollinger argued that the 1985 figures are not representative because there was a substantial supplemental appropriation for emergencies that year. In years without emergency supplementals, he argued, there is a one-for-one trade-off between emergency and development dollars.

Roy Stacy said that the Initiative envisioned increased use of Section 206 in Africa, and that this will not be possible under the current system. This is one reason why a food fund is needed in the long term.

Mr. DuSault said that we are not out of money yet in FY88, that the Title II reserve is about \$40 million, and that emergency needs in Afghanistan should only take about half of that. Thus, if there is no further demand in Ethiopia, there could be additional resources available.

Mr. Cylke said that there are other problems with using this money in Africa. First, A.I.D. has to have predictability in food aid programs if it is to engage in serious policy dialogue with African governments. Development programs cannot be designed at the last minute. Second, there is a \$40 million shortfall in the PVO sub-minimum, which means that much of the remaining money will go to PVO projects, for the most part in other areas of the world.

Investment.

Rodney Bent of OMB, co-chair with Gerald West of the investment working group, reported on two proposals that had been examined by the working group:

1) An OPIC proposal for feasibility studies and other assistance to American firms interested in investing in Africa. (This issue was discussed at the last Coordinating Committee meeting.)

2) An OPIC proposal to develop, in coordination with A.I.D., an enterprise development zone (or free trade zone) in a single African country and to promote the concept in other African countries.

Mr. West added the following comments on the investment encouragement program:

—Policy reform is crucial for Africa to become an attractive investment environment, but positive inducements for policy reform are needed.

—The cost of the feasibility study program is only about \$750,000 in FY89, which is not a large amount, even if an offset is required in the 150 account.

—In the FY82–85 period \$58 million of new investment was generated worldwide for about \$2 million expended for investment encouragement programs like those being proposed for Africa. Ten percent of the programs resulted in actual investments. Given that those programs

were focused on small business and in the least developed countries, this was a good success rate.

Mr. Bent said that OMB's main objection to the investment encouragement program was to the additional budget cost, and that a trade-off within OPIC's existing budget would be a different matter. Concerning the proposal for an enterprise development zone, Mr. Bent noted that such zones had been tried unsuccessfully in several African countries, and that only Mauritius was a success story. He also suggested that such a program might be more appropriately pursued by A.I.D.

Mr. Gladson responded that several missions (Kenya and others) were looking at the free trade zone concept as part of A.I.D.'s private sector plan, and that A.I.D. would be happy to work with OPIC in this area.

Matt Hennesey of Treasury observed that both proposals seemed constructive, but raised a question concerning the relationship between a free trade zone and broader attempts to influence the policy environment: Could a free trade zone divert attention from reform of the system as a whole, which should be the main objective?

Mr. Woods responded that a free trade zone could have a demonstration effect, and thus support, rather than conflict with, broader policy reform. Mr. West reinforced this point, noting that selection of a country in which to create a free trade zone would be based in part on policy reform performance, thus creating some leverage for reform.

Larry Saiers of A.I.D. argued that the value of free trade zones in Africa is that they are simpler way to promote trade, compared to other methods such as rebates on export taxes or tariff changes, which are administratively complex.

Jon Rosenbaum said that he felt the free trade zone proposal was an excellent idea. He noted that similar programs in the Caribbean were working well, after initial problems. However, such programs have encountered political criticisms in the U.S. over the question of subsidizing foreign investment in countries where labor practices may be exploitative. Mr. Rosenbaum suggested that any Africa program should take account of this domestic concern.

Mr. Bent and Mr. West said that they would continue working on the investment encouragement and free trade zone issues. Mr. West said that he would consult with OPIC management on whether or not to bring the investment encouragement and enterprise zone issues before OPIC's Board of Directors, which is meeting on June 7.⁷

⁷ No record of this meeting has been found.

Report to the President.

The last issue discussed was the report to the President on the End Hunger Initiative due in June. Mr. Woods noted that this report is to be submitted by the Secretaries of State and Treasury, and suggested that those agencies prepare a draft, with the assistance of the A.I.D. secretariat of the Coordinating Committee and with comments from other agencies. This draft would be reviewed at the next meeting of the Coordinating Committee, tentatively scheduled for early to mid June.⁸

Mr. Woods said that he thought the report should be a public document, suitable for distribution to interested public groups.

Also at the June meeting, Mr. Woods said, A.I.D. would report on the Development Fund for Africa and policy reform, as requested by OMB and others at the last meeting.

Peter Rodman commended the working groups for their efforts, which he cited as a model of creative work with limited resources.

⁸ See footnote 5, above.

259. Letter From Acting Secretary of the Treasury McPherson to President Reagan¹

Washington, July 18, 1988

Dear Mr. President:

I am submitting herewith a report on the status of your Initiative to End Hunger in Africa and on Africa's economic situation and future prospects. This report was prepared by the Departments of State and the Treasury in accordance with Executive Order 12599 of June 23, 1987.

I would like to commend the outstanding leadership Alan Woods has provided in preparing the enclosed report and, more broadly,

¹ Source: Reagan Library, Rodman Files, End Hunger Initiative: 06/15/88-08/01/88. No classification marking.

as Chairman of the Inter-Agency Coordinating Committee for Sub-Saharan Africa.

Respectfully,

M. Peter McPherson

Enclosure

Report to the President Prepared by the Task Force To End Hunger in Africa²

Washington, undated

INITIATIVE TO END HUNGER IN AFRICA

Report to the President

Mr. President, in March 1987³ you announced an Initiative to End Hunger in Africa. You took this step in response to the famine of 1985, and a new spirit of economic reform on the part of Africa's leaders.

Your Initiative was based on the principles that:

1. Hunger has to be attacked at its roots, the lack of long-term economic development and growth.
2. To achieve real growth, African countries will have to reform their economic policies and develop their private sectors.
3. To support African reform, bilateral and multilateral aid donors have to follow a coordinated and long-term development strategy.

This is a report on the status of your Initiative, and on Africa's economic situation and future prospects.

Conclusions. Our principal conclusions are that:

—Africa must cope with severe economic problems, resulting from adverse external economic developments, droughts that have led to disastrous famines, deficient government economic policies, and a fundamental lack of physical and human resources.

—In recent years famines have been dealt with through substantial emergency assistance. Africa also faces a long-term food gap, however. Population and food needs are growing faster than production. If current trends continue, Africa will have a large food deficit by the year 2000. Food aid from the U.S. and other developed countries will help,

² No classification marking.

³ See footnote 2, Document 256.

but the only way to avoid this tragedy is to substantially increase agricultural productivity and economic growth.

—Because of its high rate of population growth (3% a year), Africa has to achieve high economic growth (5–6% a year) to make real gains in per capita income. This is much higher than past growth in Africa.

—Such growth cannot be achieved without fundamental economic policy reform in Africa and sustained financial support from the developed world.

—In the last few years African leaders have recognized the necessity of reform. Showing commendable courage, many have taken difficult steps to implement reforms, often with high political costs. For some countries, these efforts are beginning to pay off in increased economic growth.

—In 1987 the developed countries agreed to provide additional capital to Africa through international financial institutions to further support economic reform. This assistance should meet the financing needs of the heavily-indebted African countries that make a real reform effort, and provide for some real growth through 1990.

—We will reinforce these efforts and continue to help the Africans meet their longer-term development needs through our economic assistance.

Hunger in Africa.

Famine. People all over the world were shocked and horrified by the scenes of African famine in 1984–85. They responded with a generous outpouring of private donations and government aid, which significantly reduced the loss of human life.

In 1988 there is famine again in Africa, in Ethiopia, Mozambique, and other countries.⁴ This time the donor community is better prepared to deal with the crisis, but delivering relief may be more difficult, primarily because of political factors. In Ethiopia the government is denying access to relief workers and giving higher priority to fighting the civil war than to feeding the people. In Mozambique a virulent guerrilla war is blocking relief in parts of the country.

Africa's Long-term Food Gap. Beyond the current famine emergencies, Africa faces a long-term food problem, rooted in the perilous balance between population and food production.

⁴ In an unsigned memorandum on May 20 to Alison Fortier, Rosenberg discussed the food shortages in Ethiopia and stated: "The President is personally taken with this potential tragedy." (Reagan Library, Rosenberg Files, Aid to Ethiopia 02/09/1988–05/20/1988)

Africa's population has been growing faster than agricultural output for the last 20 years. Sometime in the 1970's Africa passed the point where it could meet its food needs from internal production.

It has the highest population growth rate in the world, about 3% a year. At this rate Africa's need for food will double in the next 22 years. However, if current trends continue, food production will not grow fast enough to keep up with demand, leaving a growing "food gap." Africa will become even more dependent on imported food—commercial imports and food aid.

The problem is that some African nations will soon need such large amounts of imported food that it is not clear where it will come from. Africa's economies are not growing fast enough to pay for the needed food on commercial terms, without diverting large amounts of foreign exchange from crucial investment. And no one, in Africa or in the West, wants to see Africa permanently dependent on massive food aid, even if the developed world could afford to provide it.

Thus Africa still faces a long-term food crisis. The scope of the problem is indicated by recent figures from the International Food Policy Research Institute (IFPRI). IFPRI estimates that, if past trends continue, Africa will have a food deficit of 47 million metric tons by the year 2000. This is four times the amount of food that Africa currently receives from outside.

The Imperative of Growth. In dealing with Africa's food problems, both immediate and long-term, it is important to attack the root of the problem—Africa's lack of development and growth. The only way to end hunger in Africa on a sustainable basis is to increase production and growth on the continent, so that Africans can feed themselves.

That is the aim of the End Hunger Initiative—to address the cause of hunger through growth. Our approach is to promote reform of Africa's economic policies, supported by coordinated assistance from the developed world.

To understand why this formula has been chosen, one must go back and look at the history of Africa's economic crisis and what it is going to take to deal with it.

Africa's Problems and the International Response.

Roots of the Crisis. Africa's economic crisis began in the 1970's with the oil price rises. The crisis worsened in the early 1980's, due to the global recession and a precipitous drop in the prices of primary commodities, Africa's main exports. These problems were compounded by the effects of widespread drought in 1984 and 1985, as well as long-term environmental degradation.

At first, the African countries relied on borrowing abroad for resources, but these funds were often used to maintain imports for

consumption or for unproductive investments. Eventually, the servicing of their debts became an additional burden on African countries.

Bad domestic economic policies and structures were also an important factor in the African countries' decline. Almost across the board, African governments after independence set up statist economic systems, which stifled economic production and growth. Government policies were characterized by state-controlled prices, excessive subsidies to urban consumers and burdens on rural agricultural producers, overvalued exchange rates, and inefficient parastatal corporations.

The people of Sub-Saharan Africa were hit hard by the economic decline. By the mid 1980's, the living standards of most countries in the region had regressed to the levels they had at the time of independence, nearly 30 years before.

One manifestation of this decline was a fall in per capita production of food. Because of high population increases, slow growth in agricultural production, and environmental degradation, per capita food production fell by an average of 3% a year from 1972 to 1983. This contrasts with the record in Asia and Latin America, where per capita food production rose over the same period.

The Policy Reform Movement. In the early 1980's there was a growing realization that substantive changes in government policies and economic structures of the African countries were required if they were to achieve real growth. This new thinking started in the donor community. It gave rise to a new approach to development, called "structural adjustment" or "policy reform."

The basic concept behind the structural adjustment/policy reform approach is that fundamental changes in economic policies and structures will result in more efficient use of resources and, in turn, greater economic growth. Reform measures are typically aimed at such objectives as making markets work better, correcting past biases against agriculture, and allowing the private sector to develop and function more freely.

Policy reform gained growing acceptance among the donors from 1980 on, with the United States playing a lead role. By 1986 African leaders themselves came to the conclusion that the old system was unworkable, and strongly endorsed the idea of reform at the UN Special Session on Africa of that year.

Difficulty of Reform. Implementation of reform has proven to be difficult. Part of the problem is that the changes needed are fundamental and far-reaching in scope. They often cause large dislocations with immediate costs.

Also, governments undertaking reforms generally have to operate under very adverse economic conditions resulting from past decline.

They face major constraints on domestic resources and foreign exchange, and sharply depressed levels of personal income. These conditions make reform much more painful.

Many governments have demonstrated, however, that they have the political courage to persist with difficult reform programs. They have met and withstood pressures from groups in their societies, including politically powerful interests.

In many cases, the commitment to reform is sustained by the recognition that failure to reform now will necessitate much larger adjustments later and that the short-term costs are outweighed by the long-term benefits.

Concerns have been raised about the short-term impact of reform programs on the poor in particular. Some have criticized policy reform as regressive. In fact, policy reform itself is overwhelmingly progressive—favoring small-holder farmers, who make up the majority of the poor in Africa, and focusing losses on government employees and urban elites.

Most of the costs to the poor have been due not to market-oriented reforms, but to cutbacks in consumption and government spending required to adjust to past depressed growth. Multilateral and bilateral donors are instituting programs to ameliorate the impact of such measures on the poor.

International Response. Recognizing both the imperative of economic reform and the reforming countries' need for financial support, the donor community agreed in 1987 to a number of initiatives to provide increased assistance to African countries pursuing reform programs.

Under its Special Program for Africa, the World Bank increased its allocation of concessional resources for 17 heavily-indebted African countries that are undertaking reforms. The bilateral donors also agreed to provide \$3 billion in additional program aid, to be extended in cooperation with the World Bank.

In addition, the African Development Bank received increased funding for Africa, and the IMF established an expanded \$8 billion soft loan facility that will go mainly to Africa, the Enhanced Structural Adjustment Facility (ESAF).

These programs combined will give these countries about \$3 billion more per year for the next three years, which will allow them to increase critical import levels for the first time in this decade.

Even before the recent steps to increase resources, there were signs that policy reform was paying off. Africa made modest economic gains in 1985 and 1986 (although there was back-sliding in 1987).

Countries which have sustained reform programs—such as Ghana, Guinea, Gambia, and Senegal—had significant economic growth of

some 4% a year during 1986–87. Countries not pursuing economic reform posted much lower growth rates, of less than 1% a year. Likewise, food production rose more rapidly in countries pursuing economic reforms than in those that did not.

Various factors, including improved weather and positive developments in the industrial countries, contributed to these gains, but the improved policy environment deserves a great deal of credit.

Africa's Prospects.

Continuing Problems. Today Africa is at an uncertain stage. The previous decline has been slowed, but a decisive turn-around has not been achieved. It is hoped that the new resources will allow Africa to make greater gains over the next five years, and the World Bank is predicting modest per capita income gains.

However, even if there is progress overall, problems will persist.

First, future gains will not be evenly distributed. The new resources will be targeted on countries that are making serious reforms. At present this leaves a number of countries outside the system, either because they haven't joined the reform movement, have fallen off the reform wagon, or are too far in arrears on debt to be helped. Thus we may have growing variation in Africa, with progress by some and continuing decline by others.

Second, even if there is general economic advance in Africa, there may be recurring periods of famine. Famine is going to continue in Mozambique as long as most of the country is engulfed in war. And in Ethiopia famine will continue, and probably get worse, as long as military conflicts persist and as long as the Ethiopian government continues to follow bankrupt agricultural policies. If Ethiopia doesn't change these policies, it will face a permanent and growing food deficit.

The Longer Term. Africa's long-term prospects are brighter now but also uncertain. With its population growth rate of 3% a year, the African countries have to achieve high economic growth (5–6% a year) to make significant gains on a per capita basis. And they will have to sustain this high level of growth for many years if they are to reach the levels of personal income that, in other areas of the world, have been associated with declining birth rates and a faster pace of development.

This is far above what African countries have achieved in the past (on average, 1–2% growth over the last 15 years). Clearly there will have to be a change in the way they do business, to achieve a major increase in productivity and growth.

This is why sustained commitment to reform on the part of Africa and a sustained program of assistance from the West, the precepts of the End Hunger Initiative, are so important. Nothing less will have a chance of success.

Even with reform and outside help, Africa will face a tough battle. Policy reform is not a quick fix. It involves fundamental and complex changes, and will have to be continued for many years. Greater attention will have to be paid in future years to improving the working of agricultural and financial markets, spurring domestic and foreign investment, and expanding Africa's export capacity.

Moreover, Africa will have to overcome some of the most daunting obstacles to development in the world: underdeveloped infrastructure, a shortage of educated people, worsening environmental deterioration, entrenched attitudes on family size, and the AIDS epidemic. All told, Africa is clearly the development challenge of our time.

The Hunger Initiative.

Content. Ending hunger in Africa through economic growth is a very ambitious goal. It will require determined efforts by Africa's leaders and its people and coordinated programs by Western donors for many years.

The End Hunger Initiative commits the United States to an active role in this effort. Although our own budget problems at home limit the additional resources we can contribute at this time, there are definite steps that the U.S. can and will take:

—First, we will continue to stress the importance of policy reform and private sector development in our own programs, and, to the extent we have influence, in the programs of the World Bank and other international financial institutions.

—Second, we will continue to work with the World Bank and others to improve the coordination of multilateral and bilateral assistance for Africa.

—Third, we are examining the full range of U.S. policies that affect Africa—aid, food aid, debt, and trade and investment policies—to ensure that they are contributing as much as possible to Africa's long-term development.

—Fourth, we are encouraging the involvement of U.S. businesses and private voluntary organizations in Africa.

A special inter-agency coordinating committee has been created in the Executive Branch to oversee the Initiative's implementation. This committee is chaired by the Administrator of A.I.D. and co-chaired by the Deputy Secretary of the Treasury; it includes senior representatives from all agencies that have programs affecting Africa.

The following actions have been taken, or are underway, to support the goals of the Initiative. (A detailed summary of actions taken under

the Initiative was provided to Congress in A.I.D.'s fiscal year 1989 Congressional Presentation.⁵)

U.S. Economic Assistance. The End Hunger Initiative called for a more flexible assistance tool to deal with Africa's problems. In fiscal year 1988 Congress established a new Development Fund for Africa, which will provide more constancy in Africa funding and allow A.I.D. greater flexibility in the management of its Africa programs. Congress also increased Africa funding moderately, in spite of a decline in foreign aid overall.

A.I.D. will use the flexibility of the Development Fund to:

- Make U.S. assistance more performance-based by shifting resources to countries and programs where results are being achieved.
- Integrate non-project and project aid in a more coherent package.
- Continue support for critical long-term programs in child survival and health, population, environment, and agriculture.

During fiscal years 1988 and 1989 significant changes will be made in the allocation of U.S. assistance, increasing aid to countries that are undertaking economic reform, and reducing aid to countries that are not.

The Development Fund will also allow A.I.D. to tailor its programs more closely to the needs of individual countries. This involves coordinating project and non-project aid, including food aid; addressing both policy problems and technological constraints in key sectors; and opening up opportunities for people and non-governmental organizations working at the grass-roots level.

A.I.D. will not duplicate the macroeconomic activities of the World Bank and the IMF. Instead it will focus its policy reform efforts on the sectoral level (especially agriculture), where policy changes have to be integrated with grass-roots development. This is an area where A.I.D., with its experienced in-country staffs, has a comparative advantage.

A.I.D. is also exploring methods for expanding private sector activity, particularly by improvements in financial markets.

Finally, because of their overwhelming importance for Africa's long-term development, A.I.D. is placing special emphasis on programs for family planning, natural resource protection, and sustainable agriculture.

Five new population projects will be started in Africa next year. Major new natural resource management activities have been begun.

⁵ See Alan Woods, *An Investment in Global Growth: The Administrator's Statement for the Fiscal Year 1989 Congressional Presentation*, Washington, DC: U.S. Agency for International Development (1988).

In agricultural research A.I.D. is playing a key role in funding national, regional, and international research institutions, and in cooperating with the World Bank in coordinating donor programs.

Debt. Various international actions have been taken to ease Africa's debt burden. These include extensive rescheduling of bilateral debt through the Paris Club, extension of grace periods and easing of repayment terms in the Paris Club, and forgiveness by some donors.

The greatest help in this area will be through additional resources, provided by the programs cited earlier for assisting debt-distressed, reforming countries (increased funds from the World Bank and African Development Bank, the new donor commitments of program aid, and the IMF ESAF).

At the recent Toronto Economic Summit the major developed countries agreed to ease debt servicing burdens of the poorest, most heavily indebted countries by allowing official creditors greater flexibility in Paris Club reschedulings. Under this approach, as part of a Paris Club rescheduling, creditors could write off debt, reschedule at concessional interest rates, or provide longer maturities.

Donor Coordination. U.S. assistance to Africa represents only about 8% of total developed country economic assistance to the region. Therefore, it is vitally important for the U.S. to work with other bilateral donors and multilateral lenders. For this reason, better coordination of programs and greater consensus on the need for policy reform are central elements of the Initiative.

Progress has been made in both areas. Coordination of regular donor programs has improved in the last year due to increased efforts by the World Bank and the UN Development Programme, actively supported by the United States. And the World Bank is taking a strong lead in coordinating the newly-committed program aid. Today the policy reform movement has achieved a broad consensus of support among the donors.

Food Aid. The United States made some progress in fiscal year 1988 in improving the use of food aid to support development and policy reform in Africa, although these efforts were hampered by the large levels of food required for emergency relief last year. The Coordinating Committee is looking at ways to increase the effectiveness of food aid in Africa in 1989 and beyond.

Conclusion. The goal of ending hunger in Africa is daunting, but not impossible. Twenty years ago people thought that hunger would never be ended in India, yet that country is now self-reliant in food.

The development challenge in Africa is a long-term one, but the End Hunger Initiative is an important first step. It will have to be continued by future administrations.

We hope that the Initiative will help mobilize and unite people around a truly worthy goal—the sustainable end to hunger in Africa.

John C. Whitehead
Acting Secretary of State

M. Peter McPherson
Acting Secretary of the Treasury

International Population Policy

260. Telegram From the Mission to the United Nations to the Department of State¹

New York, February 5, 1981, 0236Z

376. Subject: (U) UN Population Commission: Summary of Proceedings. Ref: A. USUN 365, B. USUN 314, C. USUN 270.²

1. (LOU) Entire text.

2. Twenty-first session of the twenty-seven member UN Population Commission ended today with achievement of U.S. objectives and passage of substantive resolution on strengthening actions concerned with fulfillment of the World Population Plan of Action (introduced by the U.S. and co-sponsored by France, Greece, Indonesia, Norway, and Thailand), and on convening a World Population Conference in 1984 (introduced by Egypt and co-sponsored by France, Greece, India, Indonesia, Japan, Morocco, Netherlands, Nigeria, Sierra Leone, Sri Lanka, and Zaire). A dominant theme of eight-day meeting was surprisingly strong and broadly based LDC emphasis on adverse effects of high fertility on economic and social development and need for actions to reduce excessive population growth; unexpectedly, a Nigerian Cabinet Minister was among the most eloquent and powerful speakers on these lines. In contrast, the Soviet Union, supported by the Ukraine and, less prominently by Hungary, made persistent efforts to remove reference to excessive population growth and fertility in commission reports and resolutions. In the end, the Soviet Union was, to its evident embarrassment, isolated with the Ukraine (Hungary not being present) in being formally recorded as not joining in the Commission's consensus on the two substantive resolutions.

3. As reported in ref. A, the resolution on the International Population Conference, together with the accompanying Commission report to ECOSOC, contained all U.S. points regarding magnitude and

¹ Source: Department of State, Central Foreign Policy File, D810054-0597. Limited Official Use; Priority. Sent for information to USUN Geneva.

² In telegram 365 from New York, February 4, USUN outlined a proposed resolution to hold an International Population Conference in 1984, stating that it contained key U.S. points. (Department of State, Central Foreign Policy File, D810052-0457) In telegram 314 from New York, January 31, USUN reported that U.S. statements in favor of the conference had been received positively by foreign delegations. (Department of State, Central Foreign Policy File, D810047-0120) In telegram 270 from New York, January 29, USUN transmitted the text of a statement made by Benedick. (Department of State, Central Foreign Policy File, D810047-0246)

urgency of population problem at national, regional, and global levels, emphasis on limitation of conference to selected population issues of highest priority, necessity for minimizing cost of conference, and role for UNFPA in conference. Resolution, as approved today, is virtually identical to text in ref. A, with omission of operative para. 5 at U.S. suggestion, in accordance with U.S. position on similar clauses from other UN subsidiary bodies.³ U.S. Representative (Benedick) delivered formal statement noting that U.S. support is contingent with the understandings relating to economizing the cost of the conference and the major focus on problems of population growth. He stressed that USG will monitor carefully all preparations for this conference in light of these criteria.

4. Resolution concerning strengthening of actions in fulfillment of the World Population Plan of Action, introduced at U.S. initiative, stressed (over Soviet objections) that the population factor is a central element to any strategy designed to improve quality of life. Resolution urged that relevant international conferences and international instruments give full consideration to population factors, and called upon WHO, FAO, World Bank, etc., to integrate population more fully into their work programs and deliberations. A new element in this resolution was an operative paragraph urging international organizations, including UNFPA and WHO, and national governments to give high priority to research on human reproduction and the development of more acceptable, safer, and more effective means of fertility regulation; this clause reinforces the mandate of UNFPA in this important, and relatively neglected, area.

5. The USSR Delegation, evidently acting on rigid instructions, clearly swam against the mainstream of the Commission. This was epitomized in a heavy-handed attempt this morning to block Commission consideration of the two substantive resolutions. A new spokesman replaced the Soviet and Ukraine demographer representatives and argued that the Commission had violated Rule 52 requiring 24-hour advance notice in submission of resolution texts. Chairman (W. Weerasooria, Sri Lanka), supported by the Secretary (Agbasyo, Nigeria, ECOSOC), reminded Soviets that Rule 52 had been suspended earlier by the Commission without debate. This had evidently slipped by the Soviets who, supported by the Ukraine and Hungary, continued to insist that they could not discuss the resolutions. Following interventions by Egypt, Netherlands, U.S., Norway, and Indonesia, the chairman ruled against USSR point of order. USSR explicitly avoided appeal of this ruling which would have resulted in formal vote. In his final

³ Operative paragraph 5 discussed the financing of the conference.

statement this evening, the Soviet Representative stated that the resolutions were “imposed upon” the Commission, a charge which brought strong reactions from both the Chairman and the Indian Representative.

6. Detailed report follows septel.⁴

Petree

⁴ In telegram 388 from New York, February 5, USUN transmitted a report on the activities of the Population Commission. (Department of State, Central Foreign Policy File, D810060–1041)

261. Action Memorandum From the Assistant Secretary of State for Oceans and Environmental and Scientific Affairs (Malone) to the Under Secretary of State for Security Assistance, Science, and Technology (Buckley)¹

Washington, May 20, 1981

SUBJECT

Appointment Request

The attached short paper provides a different perspective on world population growth which may interest you. Richard Benedick used it as a basis for discussion with Vatican officials last September and January and more recently with William Wilson.² The paper was prepared with the informal collaboration of moral theologians and other concerned Catholics.

¹ Source: Department of State, Country Files, Miscellaneous Population Files, 1974–1992, Lot 93D393, Background Papers 1980–1984. Unclassified. Drafted by Benedick. In the upper right-hand margin, Buckley wrote, “Please return to Mr. Malone,” and drew an arrow next to his comment. In the right-hand margin, an unknown hand wrote, “JLM—please see note on page 2 Steve,” and drew an arrow next to his name. In the right-hand margin, Malone wrote: “Steve I am agreeable to Buckley’s suggestion for the weekly sessions. I think we should start them effective July 1 however due to our respective schedules during June. JLM.”

² None of these meetings has been further identified.

The questions raised by Ben Wattenberg's recent Op-Ed piece in the *Post* (attached) also deserve serious attention because of possibly misleading implications of his analysis for U.S. policy.³

Richard and I would welcome about an hour of your time to discuss foreign policy implications of these issues and the role of the State Department in managing U.S. international policies in this area. For your further information, I am also attaching a memorandum summarizing the Department's role and some current major issues.

As a possible agenda for our talk, I would suggest the following items:

1. World population growth and implications for U.S. policy.
2. State Department role/interagency coordination/relations with AID.
3. United Nations Fund for Population Activities and private organization activities.
4. Biomedical research/natural family planning.
5. Vatican dialogue.
6. China—cooperative social science research.

Recommendation

That you agree to meet with Richard Benedick and me at your earliest convenience.⁴

³ Dated May 18, attached but not printed. See Ben Wattenberg, "What 'Population Explosion?'" *Washington Post*, p. A15.

⁴ On June 2, Buckley highlighted the date and time lines under recommendation, and drew a line to the bottom of the page. In the bottom margin, Buckley wrote: "Jim—This particular issue raises larger desirability that we schedule weekly 1 hour sessions to review O.E.S. concerns, including population—Suggest we begin after my trip to Pakistan (June 10–18) Jim."

Attachment 1

**Paper Prepared by the Coordinator of Population Affairs,
Bureau for Oceans and Environmental and Scientific Affairs,
Department of State (Benedick)**

Washington, September 1980

SOME NOTES ON WORLD POPULATION GROWTH

—There is no precedent in the history of mankind for the numbers being added to the world's population: between now and the end of the century, the world's population will probably grow from the current 4.4 billion to over 6 billion—an increase in only 20 years which is almost as much as the entire world population as recently as 1930. Ninety percent of this growth will occur in the low-income countries.

—These factors are condemning hundreds of millions of people—chiefly women and children—to lives of physical and spiritual degradation, and often mental retardation. World Health Organization studies demonstrate that the health of mothers and children is adversely affected by pregnancies too early and too late in life, by close spacing of children, and by higher numbers of births (beyond three). UNICEF reports that millions of unwanted children are being abandoned each year by parents—especially in Latin America—to lives of vice and misery on the streets.

—There is a built-in momentum to this population growth which compels a sense of urgency to attempts to address the problem. Consider, for example, Mexico, with a 1975 population of under 70 million: If a two-child family norm could be achieved by the year 2000, Mexico's population would still continue to grow for several decades, before stabilizing at around 175 million. If, however, the two-child norm were reached only 20 years later (i.e., by 2020), demographic momentum would carry the eventual stabilized population to approximately 270 million!

—It is open to question whether the population of this planet may stabilize at 9–10 billion, or at 12 billion or more. In a world characterized by growing scarcities and strains on biological and environmental systems, numbers such as these have portentous implications for the future of mankind—perhaps for the very survival of the human race. It is not primarily a problem of distribution; countries cannot achieve meaningful economic and social development when they are on a treadmill, struggling to provide the basic necessities of existence to constantly growing numbers of people.

—At this stage in human evolution, survival of the human race is no longer menaced, as in the historical past, by too few numbers.

Indeed, the wholly modern pressure of population begins to affect delicate balances in the environment, and to conflict with our responsibility for stewardship of the earth.

—Under these circumstances, moral issues of past centuries bear re-examination. It may, for example, be asked whether the human race, taken as a whole, has a moral right to continue procreating in a way which threatens the opportunity for future generations to achieve human dignity and justice and to realize their spiritual potential.

—As expressed by Pope John Paul II in *Redemptor Hominis*,⁵ the Catholic Church has a transcendent role in looking beyond the immediate future, to the coming millenium, in searching for ways to conserve the environment and to secure the dignity of man and the education of the generations to come. Therefore, the Church is in a unique position to offer a positive and realistic response to the major social and human issues of our day.

—The Catholic Church's position with respect to the modern phenomenon of population growth thus has important implications for its teaching mission, for its role in the ecumenical movement, for the conditions of life of hundreds of millions of women and children, and for future generations on this planet. In the sacrament of marriage, the conscientious choice of fewer children may be seen not as selfishness, but rather as responsible parenthood: increasing the capability of fathers and mothers to bestow more attention, spiritual guidance, education, time, and love on each individual child—as well as contributing to the greater good of humanity on a finite planet.

—Natural family planning, while an ideal method in many respects, may not be effective or feasible in every situation. It seems reasonable to respect the motivation and conscience of husbands and wives in choosing the number of their offspring, within a modern context of human dignity and reverence for life. Under these circumstances, as in other areas of morality recognized in Church teachings, scientifically approved means of fertility regulation may come to be regarded as the lesser of two evils.

—The United States, although a secular state, shares many of the concerns of the Church in looking toward a future of hope and better life for the coming generations. On a planet of finite resources, we will all face unprecedented dilemmas in the future. We welcome a dialogue on these fundamental issues, including economic and social development, maternal and child health, excessive population growth, rapid urbanization, problems of the aged, etc.

⁵ See John Paul II, *Redemptor Hominis*, Encyclical Letter, March 4, 1979.

Attachment 2

Paper Prepared in the Department of State

Washington, February 20, 1981

SUBJECT

The State Department Role in International Population Policy

In recognition of the serious implications of world population growth for U.S. foreign policy objectives of peace and stability, the State Department was assigned, by President Nixon, the central responsibility for (1) *formulation of U.S. international population policies*, and (2) *efforts to enhance the effectiveness of U.S., international, and national programs* in this area. This responsibility is exercised through the Coordinator of Population Affairs, reporting to the OES Assistant Secretary and assisted by a small staff of Foreign Service Officers. The intragovernmental framework for policy development is an eighteen-member committee, established under an NSC mandate and chaired by the Assistant Secretary for OES. Specific functions of the Coordinator in exercising these responsibilities include:

1) Directing activities of the interagency committee, and producing an annual report to the President which is the basic national policy document on international population matters.

2) Maintaining head-of-agency and senior policy-level contacts with AID, HHS, and with the United Nations Fund for Population Activities (UNFPA), World Bank, WHO, FAO, and other international institutions.

3) Participating in the AID budget process and providing testimony before Congress on U.S. international population policies and programs.

4) Representing the U.S. at the UN Population Commission, UNFPA Governing Council, and other international meetings.

5) Keeping population at the forefront of the world's agendas, and contributing to a strengthening of international consensus on population issues through:

—promoting and undertaking head-of-state and senior policy-level contacts on population with foreign governments;

—seeking appropriate treatment of population issues and action-oriented resolutions on population at relevant international conferences;

—public statements and speeches by senior Administration officials and by the Coordinator;

—briefings of U.S. Ambassadors and senior officials.

6) Maintaining liaison with nongovernmental organizations, universities and research institutions, and serving as spokesman for U.S. policy.

Attached for your further information are copies of (a) a recent memorandum to Secretary Haig on this subject, (b) testimony before the Senate Foreign Relations Committee, providing more details on U.S. policy and the linkage to national security, (c) the last NSC Annual Report, containing policy recommendations and a survey of world population trends and programs, (d) my recent statement at the United Nations, published by the National Catholic Documentary Service.⁶

Following are brief descriptions of current major issues.

1. *AID Population Assistance*

The AID population budget—which covers assistance to governments in establishing and implementing population/family planning programs, training, commodities, and research—has been stagnating since 1979 at around \$200 million annually, or about five percent of total U.S. foreign aid. This has meant serious cuts, in real terms, in many valuable programs, coming ironically at a time when LDC's are increasingly recognizing the need to limit population growth.

—In the current FY 1982 budget exercise, and in preparations for FY 1983, the Department should pressure AID to accord highest priority to population assistance, without which other aid is undercut by the effects of rapid population growth.

2. *UN Fund for Population Activities (UNFPA)*

The leading multilateral agency, with a current program of about \$150 million (\$32 million from the U.S.), faces similar problems of flagging donor support and inability to meet growing LDC requests for assistance. A problem here is within AID: at a time of budget stringency, there are strong pressures to divert resources from UNFPA to bilateral programs. A strong multilateral agency is important to us, because it can operate in countries where bilateral population programs might be too sensitive, and because of its multiplier effect as the major channel for other donors' support. We are currently engaged with AID in an appraisal of UNFPA, aimed at the Governing Council meeting in June which will consider the UNFPA's role for the 1980's. (I will be head of the U.S. delegation at this meeting.)

—We need to complete this exercise, ensure a fair share for UNFPA within AID's budget, continue efforts to improve effectiveness of UNFPA programs, and encourage support of other donors.

⁶ Not found.

3. *Biomedical Research*

Deficiencies of existing methods of regulating fertility from the standpoints of safety, acceptability, and effectiveness lead to high discontinuance rates, which substantially offset the efforts expended on motivation for smaller families and on provision of a service delivery infrastructure. Yet, global expenditures for research in reproduction—mostly in the U.S.—are also stagnating, and amount to only one or two percent of total biomedical research—which bears no relation to the potential benefits of a breakthrough in this field. It is imperative to increase research funding in order to expand the options, follow up on currently promising leads, adapt existing methods to the particular physiological and social circumstances of LDC's, and attract high-quality scientific talent to the field. Private industry cannot be expected to fill the gap because of the unprofitability of an "ideal contraceptive."

—In an effort to upgrade the international priority of product-oriented biomedical research, we have stimulated UNFPA to take first steps toward establishing a new international coordinating mechanism; we need to follow up on this initiative with the World Bank, WHO, foundations, and other potential donors.

4. *Venice Summit Follow-Up*

The U.S. was successful in placing the population growth problem in the agenda and communiqué of the Venice Summit last June. Follow-up activities, in preparation for the Ottawa Summit, are directed at raising the priority of population in the diplomacy and aid policies of our Allies, specifically:

—examining the adequacy of aid in this sector, related to growing interest by LDC's and potential for expansion of UNFPA;

—raising the priority for product-oriented biomedical research, possibly through the mechanism discussed above;

—appointment of a policy-level official within their governments to manage and promote diplomatic and aid activities in population (similar to OES/CP).

5. *China*

Establishment of formalized cooperation with China in the population field under the Science and Technology Agreement would be an important signal both to LDC's and other donor countries. There is much to learn from the Chinese experience which might be transferable to other LDC's. We would also hope to collaborate with China in keeping population high on the agendas of various UN forums; China's relations with the Third World, particularly Africa, are an important favorable factor.

Last fall, OES sponsored a one-day workshop at the National Academy of Sciences on population research in China, which attracted schol-

ars from throughout the U.S., and which resulted in a recommendation that population be included under the S&T Agreement. Social science research, demography, population policies, and program administration could be the subject of a new protocol involving the Department and the National Academy of Sciences. The Chinese Government has invited a Department-led mission in April to negotiate modalities of a cooperative research agreement. U.S. demographers/social scientists of international reputation have agreed to join this delegation, including Ansley Coale of Princeton, Parker Mauldin of the Rockefeller Foundation, Allan Rosenfield of Columbia, and Wendy Baldwin, head of Social Science Research at NIH's Center for Population Research.

6. *Vatican*

Over a year ago, with the support of U.S. Special Envoy Robert Wagner, and following careful preparations with Churchmen and moral theologians, I initiated a dialogue on population with Vatican officials. These discussions, which have reached high policy levels, including the Foreign Minister, Cardinals, and Bishops, have been cordially received, and the Vatican has welcomed exchange of demographic and scientific material and a continuation of contacts; last September, I also left with the Vatican an informal *aide memoire* on moral aspects of the population growth problem.⁷ I have also pushed AID to new activities in natural family planning—a fact which was favorably noted by the Vatican. Further cooperation with the Vatican could be useful in limiting their opposition in international forums (a recent example was the UN Population Commission), and should contribute to a better appreciation of the problem among Vatican policymakers. (The National Catholic Documentary Service recently published, with favorable commentary, the full text of my plenary statement at the UN Population Commission—attached.)

—We will need to discuss this issue with the President's new Special Envoy, William A. Wilson, and consider next steps in this relationship.

7. *International Consensus Activities*

a) *Proposed 1984 World Population Conference*: At the UN Population Commission this month, we succeeded in obtaining a resolution recommending an economical and issue-focused conference, which hopefully could be designed to avoid political polemics and concentrate on substantive matters.⁸ The broad support among LDC's at the Commission for this kind of conference was encouraging; the Soviet Union was isolated in opposition. We need to monitor preparations for the confer-

⁷ Not found.

⁸ See Document 260.

ence—including potential costs—and decide at this spring's ECOSOC whether to pass the recommendation on to the General Assembly.

b) *UN Agencies*: We will explore with IO opportunities to upgrade priority of population activities in such organizations as WHO, FAO, and UNICEF, through U.S. positions and statements at governing body meetings.

c) *Policy Statements*: We will seek occasions for appropriate statements in speeches by the Secretary and other Department principals; an early opportunity is the International Development Conference in May in Washington.

8. *Policy Development/Key Countries*

We have been promoting the AID RAPID project, a computerized video-screen presentation of the linkage between population growth and a given country's development objectives, as an effective way of reaching national leadership. Recently, Ambassador (Ret.) Marshall Green, as a consultant to the Department, made a RAPID presentation to President Sadat and elicited from President Zia a request for preparation of one for Pakistan. Nigeria and Kenya also appear to be at a watershed in their official attitude toward population growth; RAPID programs are under preparation. We plan to follow up on and reinforce these activities.

The CIA, at our request, has in preparation analyses of the linkage between population factors and potential political and economic instability in several areas of particular national security interest to the U.S. We will seek to use these analyses in foreign policy review exercises as well as in Congressional contacts in support of U.S. international population policies.

Richard Elliot Benedick

262. Telegram From the Department of State to AID Missions Worldwide, the Mission to the United Nations, and the Embassies in Nigeria and France¹

Washington, June 19, 1981, 1444Z

161544. Subject: AID's Population Program. For Ambassadors and Mission Directors from AID Administrator.

1. Summary: This statement reaffirms the commitment of the Agency to a strong population program.

2. A number of recent newspaper articles² have suggested that the U.S. will give less support for population programs in the future than it has in the past. I know that a number of you are concerned about the basis for and implications of such statements, and therefore I want to take this opportunity to assure you that the administration continues to place high priority on population foreign assistance programs.

3. The dangerous dimensions of prospective world population growth were highlighted by Secretary Haig in his March 18–19 testimony before Congress on security and development assistance.³ The basic continuity of U.S. policy in this critical area was underscored in my March 19 testimony, and in the January 24 statement before the United Nations Population Commission of Ambassador Benedick, the State Department Coordinator of Population Affairs.⁴ Further evidence of the interest and involvement of State Department in Population Affairs is contained in State 116496.⁵ The U.S. Government's concern about the modern phenomenon of population growth is based both on our traditional respect for human dignity and on our interest in economic and social development and political stability. We also recognize that the primary responsibility for addressing these issues rightly rests ultimately in the national will and actions of each sovereign country. An increasing number of national leaders from all parts of the Third World, as well as recent major resolutions of important international fora have reiterated these themes, contributing to a growing

¹ Source: Department of State, Files of the Deputy Secretary of State—William P. Clark, 1981–1982, Lot 82D127, Memoranda to Other Agencies. Unclassified. Drafted by Van Dusen; cleared in numerous AID offices; and approved by McPherson.

² Not further identified.

³ See Department of State, *Bulletin*, April 1981, p. A.

⁴ Reference is in error; Benedick delivered his opening remarks on January 27. In telegram 253 from New York, January 28, USUN transmitted the text of Benedick's statement. (Department of State, Central Foreign Policy File, D810046–0855)

⁵ In telegram 116496 to all diplomatic posts, May 6, the Department reaffirmed its commitment to population policies. (Department of State, Central Foreign Policy File, D810213–0292)

international consensus on population problems and programs to address them.

4. Rapid population growth is a major obstacle to social and economic progress in the developing world. Ninety percent of world population growth between now and the end of the century will occur in the less developed regions of the world. Concomitant with population growth are food scarcities and increasing malnutrition, depletion of natural resources and degradation of the productive environment, growing unemployment and underemployment, urban crowding and severe housing shortages, and the diversion of resources from investment to support the growing population.

5. A.I.D. has been the leader in developing and disseminating the most widely used contraceptive methods; in developing low-cost service delivery systems; in training personnel; in increasing interest in family planning among individuals, communities, and national leaders; and in promoting multilateral assistance for population through the UNFPA, and other institutions, which have attracted funds from other donors to this area. I feel strongly that we must continue to provide strong leadership, especially now when (1) demand for population programs from a wide range of countries far exceeds available resources, (2) diplomatic pressure from developing countries for more attention to population is rising, and (3) confidence in and demand for U.S. expertise in population programs is growing.

6. The basic objective of A.I.D.'s population program has been and will continue to be to encourage voluntary family planning. Over the past fifteen years we have developed a much sharper appreciation of the complex social and economic factors that encourage high fertility, of the negative impact that rapid population growth has on a country's economic development, and of the political, economic, social, and policy changes that are supportive of fertility declines.

7. In the past, A.I.D.'s major population programs have concentrated on those countries where the government has been strongly supportive of family planning and often where generally improving economic and social conditions have encouraged interest in smaller families. While funding will continue to be concentrated in those countries where the potential for successful family planning programs has already been demonstrated, we should be giving increasing attention to opportunities in other countries where birth rates remain unusually high. In looking to the challenges ahead, we will give greater attention to such innovative programs as:

—Delivery of services through (A) the private sector, including community-based distribution; (B) contraceptive retail sales; and (C) private voluntary organizations involved in population work.

—Efforts to encourage desire for smaller families as mandated by Section 104(d) of the FAA.⁶

—Greater attention to development of safer, more effective, and more acceptable methods of fertility regulation (including also non-medical methods ("natural family planning"), and their adaptation to differing social, cultural, and physiological conditions in different countries.

—Experimental delivery programs to test the cost-effectiveness of alternative ways of delivering not only family planning but also health, education, and other basic services.

—Programs for LDC policy makers and program planners, to disseminate up to date information on fertility behavior in order to encourage their support for voluntary family planning programs, to improve program management and to identify ways that development policies and programs can be better shaped to complement family planning efforts.

8. In summary, we are now at a point when the effects of rapid population growth are becoming increasingly obvious, and when we know, by and large, how to design effective population programs appropriate to different settings:

—Full-scale voluntary family planning programs where government commitment and private demand is high;

—Programs to encourage official support for voluntary family planning where government policies or legislation have not yet been developed;

—Flexible private sector programs where these can usefully supplement government programs;

—Use of the private sector and local distribution mechanisms where demand for family planning services varies widely from community to community; and

—Provision of family planning information in conjunction with health, training, and other needed services where social, cultural, or economic factors continue to discourage interest in smaller families.

9. In short, I urge you to reassure Mission staff working in all sectors, local population and family planning groups, and host country counterparts that the U.S. does not intend to diminish its commitment to and leadership in international population programs. The fact that this administration's FY 1982 budget request of dols. 253.4 million for population represents a one-third increase, at a time of severe budgetary stringency and cutback of many domestic and international programs, speaks for itself.

Stoessel

⁶ Reference is to Section 104(d) of the Foreign Assistance Act which advocated linking population growth to developmental assistance programs.

263. Memorandum From Michael A. Guhin of the National Security Council Staff to the President's Deputy Assistant for National Security Affairs (Nance)¹

Washington, July 21, 1981

RE

International Population Policies and Assistance

This memo responds to our further conversation on this subject.²

The study directed by President Nixon resulted in National Security Decision Memorandum 314, "Implications of Worldwide Population Growth for U.S. Security and Overseas Interests," issued in November 1975 under President Ford (copy attached).³ Among other things, the NSDM underlines the importance of international population policies and assistance to US interests. It remained in effect during the Carter Administration, but the interagency coordinating responsibility was transferred to an NSC Ad Hoc Group on Population Policy (Brzezinski memo also attached).⁴

I believe we have a continuing strong interest in international population programs, as outlined below, and do not believe any useful purpose would be served by opening up the NSDM for review. Also, as mentioned in my recent note to you, an IG on international population matters makes sense to me.⁵

The AID budget for population assistance was increased from about \$200M in FY 81 to \$250M for FY 82. However, this increase should be viewed in context. The AID budget remained essentially constant for FY 79, FY 80, and FY 81 under continuing resolutions in the absence of a Foreign Assistance Act for those years. All of AID has been increased in FY 82 to account for the steady decline in real terms over the last three years. The percentage increase for population assistance is slightly larger than the increase for AID as a whole, but these programs are still only a small percent of AID's effort (around 7%).

Why more money? As noted, it is not an increase in real terms over FY 79. Also, the problem is still growing. While the growth rate

¹ Source: Reagan Library, Guhin, Michael A.: Files, Population/Studies (1). Confidential.

² No record of this conversation has been found.

³ Dated November 26, 1975, attached but not printed. See *Foreign Relations*, 1969–1976, vol. E–14, Part 1, Documents on the United Nations, 1973–1976, Document 122.

⁴ Dated May 17, 1977, attached but not printed.

⁵ In a July 14 memorandum to Nance, Guhin outlined his initial thoughts on population policy. (Reagan Library, Guhin, Michael A.: Files, Population/Studies (1))

is down, there is a larger population base. Some key LDC's and others have a strong interest in population programs (e.g., Indonesia, Mexico, Thailand, Turkey, Egypt, Tunisia). An international consensus is growing on the importance of population programs to other interests, particularly development efforts. Finally, population assistance and programs can be effective when combined with other development efforts, as seen in some of the countries mentioned above as well as in China and South Korea.

What about domestic political implications? That is not my call. However, there has been support for this aspect of AID in Congress and, I understand, no significant opposition to the programs. (The FY 82 budget was increased in one house and decreased in the other, so it appears it may end up right around the Administration proposal.) Also, there is no abortion work. The Helms amendment a few years ago made clear that there would be no kind of assistance to abortion.⁶ Also, this year McPherson clarified that AID would drop any abortion-related research (e.g., how to deal with effects of bad practice). Finally, this is not "taking on" the "Catholic Church." In fact, there are ongoing consultations with the Vatican on these matters.⁷

My contacts in State are already aware that Buckley may be questioning the international population programs. This, combined with what they see as a decision by the Administration to avoid mention of population in the Ottawa Communique,⁸ is resulting in some concern about where the Administration is heading on international population programs.

My view is fairly simple. We need to get on with international population programs for our security and other interests, in conjunction with our other development programs. The increase makes as much sense as the AID effort overall, if not more sense than some aspects. If we do not want to give high political visibility to these programs, that is one thing and we can accommodate our public tactics accordingly. However, I believe that this concern should not affect the support for the programs and that it would be very unfortunate to create an impression that the Administration is not for international population assistance.

If you or RVA wish further information or a briefing on these matters, I would be happy to arrange for Dick Benedick (career FSO and Coordinator of Population Affairs) to come over for a briefing.

⁶ Reference is to the Helms Amendment to the 1973 Foreign Assistance Act, which restricted U.S. foreign assistance to programs that funded abortion.

⁷ See Document 261, Attachment 2, paragraph 6.

⁸ Reference is to the G-7 Summit held in Ottawa in July 1981.

264. Memorandum From the Deputy Secretary of State (Clark) to the President's Assistant for National Security Affairs (Allen)¹

Washington, August 13, 1981

Dick:

Attached is a rough draft of Jim Buckley's suggested language for an NSC Directive on Population Study—it is advisory only for your consideration and issuance.

In that Jim Buckley is out of the country at the moment, feel free to call me if I can be of assistance in rounding out Jim's thinking.

William P. Clark²

Attachment

Draft National Security Council Directive on Population Study³

Washington, undated.

President Nixon assigned the State Department the central responsibility for (1) formulation of U.S. international population policies, and (2) efforts to enhance the effectiveness of U.S. international and national programs in this area.⁴ This responsibility has been exercised through the Coordinator of Population Affairs who reports to the Assistant Secretary for OES. The existing intergovernmental framework for policy development is an 18-member committee chaired by the Assistant Secretary for OES.

Population control programs administered by AID are authorized by the Foreign Assistance Act, which states, (Sec. 104) (b), that "the President is authorized to furnish assistance [authorized by Sec. 104],⁵ on such terms and conditions as he may determine, for voluntary

¹ Source: Department of State, Files of the Deputy Secretary of State—William P. Clark, 1981–1982, Lot 82D127, Memoranda To/From White House. Unclassified.

² Printed from a copy that indicates Clark signed the original.

³ Secret.

⁴ See *Foreign Relations*, 1969–1976, vol. E-14, Part 1, Documents on the United Nations, 1973–1976, Document 113.

⁵ Brackets are in the original.

population planning." An executive order issued by President Carter delegated that authority to the Director IDCA.⁶

The population policies pursued by the U.S. Government in recent years have acquired a momentum of their own, and current programs may or may not reflect the views of this Administration. Moreover, they may ignore a growing body of evidence that challenges some of the premises on which current programs are usually justified.

All of this suggests the need to place State's existing international population programs on "hold" pending a reexamination by State in consultation with appropriate members of the White House staff to reexamine the broad area of population policy.

Accordingly, James Buckley is directed to chair a small group to include representatives of the Office of Policy Development, the NSC and others whom he may designate, to develop and define U.S. international population policy objectives for submission through you to the NSC.

That Peter McPherson be advised that AID population control programs involve sensitive matters of foreign policy direction, and that you will expect James Buckley to provide the necessary policy guidance.⁷

⁶ Reference is to Executive Order 12163 issued on September 29, 1979.

⁷ In a November 6 memorandum to Clark, Buckley wrote that he had commissioned two studies to investigate the cost effectiveness of "population control programs." (Department of State, Files of the Deputy Secretary of State—William P. Clark, 1981–1982, Lot 82D127, Memoranda to Other Agencies) In a December 12 memorandum to Clark, Buckley wrote: "AID's justifications for the population program contains some arguments which I do not believe jibe with the facts as developed in recent studies. It is these, of course, that I am trying to develop and weigh in my policy review. Nevertheless, taken as a whole, the justifications defend expenditures the Secretary has in fact requested in his original submission; and given time constraints, I see little choice at this stage but to let AID set forth its arguments in support of programs under its direct jurisdiction." (Department of State, Files of the Deputy Secretary of State—William P. Clark, 1981–1982, Lot 82D127, AID)

265. Memorandum From the Senior Assistant Administrator for Science and Technology, Agency for International Development (Brady) to the Administrator of the Agency for International Development (McPherson)¹

Washington, September 29, 1981

Attached is a memorandum Dr. Speidel prepared on the question of changing the title of AID's population program.² He cites a number of reasons for not doing so and I agree with his conclusion that the alternative titles which come readily to mind would tend to confuse, rather than elucidate, the purposes of U.S. assistance efforts in this area. Perhaps the most significant argument in favor of keeping the "Population" title is that it permits other governments to work cooperatively with our programs on important issues that relate to family planning without committing themselves specifically or solely to the provision of such services.³

¹ Source: National Archives, RG 286, USAID/O/Admin/ExecSec, Box 48, ADM-2 (Aug-Sep) FY 81. No classification marking.

² In a September 15 memorandum to Brady, McPherson wrote: "I think we should seriously consider changing the name of our population efforts to Family Services. The time to do this would be in the next few weeks, probably in connection with our Congressional presentation. Let's begin to staff-out such an idea of this name, or something else. We want to do this so as to distinguish what we are doing from any abortion-related activity." (Ibid.)

³ An attached September 24 memorandum from Speidel to Brady re "Proposed Change of Name for the Office of Population" is not printed.

266. Letter From the Coordinator of Population Affairs, Bureau of Oceans and International Environmental and Scientific Affairs Department of State (Benedick) to Director of Central Intelligence Casey¹

Washington, October 9, 1981

Dear Bill:

It has been a while since your visit to Athens,² and I am delighted that you are back in Government in such a vitally important role. Marshall Green has told me of the luncheon meeting with you last week, and of the discussion on the importance of global and regional population developments to U.S. foreign policy and national security.

As you may know, since Marshall's retirement in 1979, I have taken over the population policy portfolio, a fascinating job that has involved me in areas ranging from biomedical research to moral theology.

The recent CIA report, *Population Growth and Sociopolitical Tensions: Five Case Studies*, demonstrates impressively the linkage between rapid population growth and potential instability in key areas of interest to the U.S.³ The highly concentrated analysis and the excellent and imaginative graphics enhance the impact of the studies, which I intend to use in the Department to sensitize people to this often-overlooked factor in our national security.

I was also interested to see recently that Professor Jack Goldstone of Northwestern, in an NFAC seminar, traced rapid population growth as a contributing factor to revolutionary movements in Europe from 1500 to 1900.⁴ The UN also has an ongoing study, under Professor Nazli Choucri of MIT, of possible linkages between population factors and international conflict.⁵

As Marshall has probably told you, I and others are concerned that the "moral majority" issues may be exerting an unwarranted spillover on U.S. policies and programs in this area. Notwithstanding the excellent statement on population in the Ottawa Summit Declaration

¹ Source: Department of State, Subject Files, Population, 1961–1992, Lot 93D390, PREL—Population as a National Security Issue. No classification marking.

² Not further identified.

³ The CIA study, dated September 1981, is in the Bush Library, Vice Presidential Records, Domestic Policy Office, Garrett Files, Invitations/Correspondence, January–March 1981.

⁴ See Goldstone, "The Comparative and Historical Study of Revolutions," *Annual Review of Sociology*, vol. 8, August 1982, pp.187–207.

⁵ See Nazli Choucri, *Multidisciplinary Perspectives on Population and Conflict*, Syracuse, New York: Syracuse University Press, 1984.

(enclosed),⁶ there is a definite reluctance in some Washington quarters to recognize the importance of population factors, and the urgency for actions to address them—both in our aid programs and in biomedical research into better and safer methods of fertility regulation. We have not, for example, been able to include population as one of the points for the President in Cancun,⁷ even though we have information that a number of other world leaders—including Kreisky, Gandhi, Schmidt, Suzuki, Lopez Portillo and Zhao—will raise the subject.

Even in some academic circles, it has become suddenly fashionable to state that the “population problem” is an invention of doomsayers, that family planning is a form of left-wing “social engineering,” and that the world will somehow come up with a technological quick-fix (a new Green Revolution, space colonization, etc.). These arguments are seductive in their optimism and conducive to a “do-nothing” posture, especially in an atmosphere where budgets must be slashed.

The argument has weak intellectual underpinnings, ignoring the effects of population growth in diverting resources from investment to consumption, the costs of job creation, diminishing land productivity, and the political and social fallout from massive urbanization, unemployed youth, etc. One cannot effectively implement global “supply side economics” without paying attention to the demand side. Especially at a time of budget cutting, population assistance should stand out for its inherent cost-effectiveness in terms of the entire development process.

Experience has shown that population programs can work, even in the relatively short run, and a large number of LDC leaders have expressed themselves publicly on this issue. Even the Catholic Church does not have a closed mind; enclosed is a reprint from the National Catholic Documentary Service, *Origins*, of my plenary statement at the UN Population Commission earlier this year (the first time they have published anything on population from a non-orthodox source).⁸

I would welcome the chance to discuss informally with you and your staff specific ways in which we might work together on this issue, which underlies and exacerbates so many of our foreign policy problems. In this regard, also enclosed is a note on possible reactivation of an interagency group on this subject which is currently dormant; I

⁶ Not attached. See Ministry of Foreign Affairs of Japan, *Documents of Summit Meetings in the Past*, “7 Ottawa Summit Declaration.” (accessed online)

⁷ Reference is to the Cancun Summit on International Development Issues held in October 1981.

⁸ Not found.

would welcome your views on this proposal.⁹ In addition, I hope you might consider additional case studies, similar to the five just completed, for such countries as Pakistan, Morocco, Nigeria, Zaire, Zimbabwe, Mexico, and Brazil.

With warmest wishes,
Sincerely,

Richard Elliot Benedick¹⁰
Ambassador

⁹ Not found. In an October 30 letter to Benedick, Casey wrote: "I agree that insufficient attention is being given to US policies and programs in the population area. I welcome your proposal to reactivate an interagency group on international population policy and we would gladly participate." (Department of State, Subject Files, Population, 1961-1992, Lot 93D390, PREL—Population as a National Security Issue)

¹⁰ Benedick signed "Richard" above his typed signature.

267. Briefing Memorandum From the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs (Malone) to Secretary of State Haig¹

Washington, December 18, 1981

SUBJECT

Your Meeting with the President to Discuss the FY 1983 Foreign Assistance Budget

SUMMARY

The population assistance account was eliminated in the OMB FY 1983 passback of the Development Assistance Budget. The OMB proposal would completely reverse U.S. policy supported by six preceding Presidents and restated by President Reagan with other national leaders at the Ottawa Summit.² It comes at a time when many LDC's of key strategic interest to us have elevated voluntary family planning programs to a matter of national priority.

¹ Source: Department of State, Country Files, Miscellaneous Population Files, 1974-1992, Lot 93D393, Background Papers 1980-1984. Unclassified. Drafted by Yates and cleared in OES/CP, AF/EPS, ARA/ECP, EA, EB, IO, NEA, S/P, and INR/EC. Sent through Buckley. A stamped notation on the memorandum indicates that Bremer signed it into the Secretary's office.

² See footnote 6, Document 266.

The relatively small population account, which *comprises only about five percent of total security and economic assistance*, is among the most *cost-effective* component of our aid program. Small outlays for population programs at this time may save us the need to provide vastly larger sums for *emergency food assistance* and/or *military peacekeeping assistance* in the future. The *Assistant Secretaries of AF, ARA, EA, EB, IO, NEA*, and I strongly support restoration of the population assistance account.

OBJECTIVE

Restoration of the AID population assistance account which was eliminated in the OMB FY 1983 passback.

TALKING POINTS

—Program based on *voluntarism and free choice*. *No funds for abortion*, advocacy thereof, or even research on methods of abortion. Provides *humane and accessible alternatives* to traditional family planning methods, including abortion and infanticide.

—*Development alone cannot be relied upon* to bring down birth rates, as it did in industrialized nations. Starting from much lower economic base, *LDC's have been experiencing over the past thirty years much higher population growth rates* on a larger population base than in Europe or U.S. Population increases can greatly reduce economic gains and help perpetuate the *politically dangerous gap* in per capita GNP between more and less developed nations. *Significant successes* among countries in lowering population growth rates have only occurred in cases *where family planning programs accompany, not follow, social and economic development* and are regarded by government as part of development program.

—*CIA analyses point to growing potential for social unrest,³ extremism*, political instability, and emigration linked with rapid population growth in number of critical countries.

—Strong *broad-based support* within Congress including Senators Percy and Mathias and outside from such people as David Rockefeller and General Maxwell Taylor. Unlikely that foreign aid bill would get through Congress without population program.⁴

³ See footnote 9, Document 266.

⁴ According to the President's Daily Diary, on December 18, Reagan met with Haig from 9:33 to 9:35 a.m., and from 9:35 to 10:05 a.m., and held a budget meeting from 10:08 to 11:05 a.m. (Reagan Library, President's Daily Diary) The FY 83 budget request was reinstated to \$201 million and finalized at \$211 million.

268. Memorandum From the Under Secretary of State for Security Assistance, Science, and Technology (Buckley) to Secretary of State Haig¹

Washington, April 12, 1982

SUBJECT

Population, Policy and Foreign Assistance

SUMMARY

As requested some months ago by then Deputy Secretary Clark,² I have reviewed the basis for our present policy toward international population issues; assessed the policy itself; evaluated the nature and forms of foreign assistance devoted to such matters; and developed the recommendations below. These address policy, structure, and resources.

In brief, I conclude:

—that economic growth is a far more important factor in bringing about a decline in fertility than are specifically targeted population control programs of negative restraint;

—that foreign governments must, if population measures are to be effective, adopt and execute them of their own free will, and that one measure of the real priority they attach to such programs is their willingness to devote resources (including those derived from international donors) to them;

—that we should engage in no international programs in the population field which would be unacceptable here at home;

—that our policy should thus be directed at encouraging economic development broadly, with appropriate attention to the role of family planning in meeting maternal and child health goals, with the receiving government deciding on the emphasis, if any, to be given population control programs within that framework; and

—that the department's organizational structure should be changed to reflect this redirection of policy.

¹ Source: Reagan Library, Guhin, Michael A.: Files, Population/Studies (2). Confidential. Printed from an unsigned copy. Copies were sent to Clark, McPherson, and Malone. In an undated draft memorandum to Malone, Buckley noted that the memorandum was submitted to Haig on April 21. (Reagan Library, Guhin, Michael A.: Files, 05/07/1982–05/12/1982)

² Reference is presumably to Document 264.

BACKGROUND

Over the past fifteen years, the United States Government has expended over \$1.5 billion for advocacy and financing of population control programs overseas. This sum represents more than fifty percent of all population control expenditures from all sources. In fiscal year 1982 alone, \$211 million are budgeted for this purpose. This mammoth effort has helped to produce the present, widespread global consciousness of population issues. Insofar as that was our original objective, this effort has been enormously successful, to the point where AID states that the demand for this form of assistance exceeds the Agency's ability to provide it.

In recent years, however, the Government's direct financing of population control activities has become increasingly controversial. It has been challenged on ethical grounds by certain groups, and on far broader policy grounds by academicians and scholars who question the fundamental assumptions underlying those activities, and hence their effectiveness in achieving their stated goals. Whether the subject is the propriety or the effectiveness of our expenditures for population control, however, passions run high on both sides. On purely intellectual grounds, conclusive proof seems to be lacking either way.

At the very least, we should be more aware now than we were fifteen years ago that population control programs address what are, in essence, the symptoms of economic dysfunction. In the shorter run, they are not curative of economic ills, but palliative at best, although some critics would deny even that benefit. Some contend that larger family size is an incentive to the industry and investment which help a society achieve the economic breakthrough that, experience suggests, will be the most certain cause of a decline in fertility. Others argue that large numbers of children divert resources away from the kinds of investment which foster economic growth. Whatever else may be said about these controversies, U.S. Government policy cannot settle them.

Despite such profound disagreements, there is a broad consensus, including the less doctrinaire exponents of population control, concerning the following propositions:

—Development assistance provided by the U.S. Government is only part of the financial resources expended for economic and social advancement within a particular country. Therefore, a decision by the United States to limit or terminate a specific kind of assistance does not preclude the host country, or other aid providers, from expending funds for that purpose, if they really want to do so.

—As AID acknowledges, population control expenditures are wasted where the host country is not seriously committed to the reduction of fertility as a national priority.

—U.S. population control programs should not be forced on anyone, and should not directly or indirectly finance or support abortion or research or lobbying concerning abortion. In the past, U.S. aggressiveness in promoting population control has created a hostile backlash in certain societies. AID asserts this situation has been corrected. This is certainly the intention of the present AID administration, but the risk is pointless if the same objectives can be gained without it.

—Certain population control strategies supported by U.S. funds would be unacceptable in the United States. It is doubtful whether the public or their elected leaders would approve, on a case by case basis, U.S. financing of the Indonesian village system (using peer pressure to force couples to avoid births in order to protect bonuses awarded to cooperating villages) or indirect U.S. financing (through the United Nations Fund for Population Activities) of coerced abortion in China.

—U.S. development assistance must be justified either as advancing the economy of the host country or as advancing U.S. foreign policy objectives.

—There is general agreement that fundamental economic policy is the principal determinant of the rate at which a particular economy will grow; and that economic growth, rather than negative restraints, is the major cause of declines in fertility. Representative of this consensus are World Bank studies concluding that sixty percent of fertility reduction is attributable to economic expansion (and the greater sophistication, higher standard of living, and aspirations for one's children that accompany growth), while only fifteen percent can be traced to population control programs.³

CONCLUSIONS

These areas of consensus do not, of course, define the limits of debate. They nevertheless form a useful basis for public policy, especially as it pertains to foreign assistance. In the declaration of the Ottawa Economic Summit last July, President Reagan and the leaders of the other six major industrialized nations stated:⁴

"We are deeply concerned about the implications of world population growth. Many developing countries are taking action to deal with that problem, in ways sensitive to human values and dignity; and to develop human resources including technical and managerial capabilities. We recognize the importance of these issues, and will place greater emphasis on international efforts in these areas."

³ Not further identified.

⁴ See Document 267.

The concerns expressed at Ottawa have centered on the perceived impact of population growth on human welfare. In the words of the U.S. Coordinator of Population Affairs, Richard E. Benedick, "The fundamental objective of U.S. population policy is betterment of the human condition and economic and social progress, which will promote international peace and stability."

No consensus exists as to the totality of the means that should be applied globally in order to achieve these objectives. It is easier to define, however, how the United States can best deploy its own resources in helping developing nations achieve a "betterment of the human condition", and thus implement the purposes of the Ottawa statement.

Specifically, I have concluded that the United States should adopt the following approach to international population issues:

—U.S. development assistance should concentrate on helping recipient countries to cross the threshold to sustainable economic growth. Our expenditures can have the largest impact, dollar for dollar, if they are focused on what we should do best. And that is encouraging market-oriented policies and helping to build the infrastructure of skills and technology that can foster individual initiative and enterprise.

—The economic growth which is made possible by sound market policies is without question the most powerful factor in controlling population growth. In the long run, it is certainly the most effective means, short of an abhorrent coercion, to effect fertility decline.

—Because the population control movement is closely associated with no-growth attitudes at variance with the economic policies of the Administration, and, more important, because the fundamental assumptions of that effort are being challenged by a growing body of critical scholarship, the U.S. government should not appear to endorse assumptions about population growth which, like many other policy assumptions of the 1960's and 1970's, may prove to have been erroneous.

—U.S. involvement in family planning services within a particular country should be within the context of our broader programs to improve the health of its people. One purpose should be maternal and child health. Any population control objective in those same activities should be left to the host government. It may choose to stress fertility reduction, but U.S. participation should emphasize the goal of healthy families.

—A host government can be given the option of allocating, for family planning services in support of its population control programs, up to ten percent of the U.S. development assistance funds earmarked for that country, which is a ratio consistent with current allocation of

U.S. assistance. This will ensure that U.S. funding of such activities is based on the host country's voluntary assessment of its own priorities. It will also avoid the wasteful use of funds for population programs in those countries whose governments are not truly committed to them.

—U.S. Government expenditures, whether directly or through contractors and grantees, designed to convince public officials of developing countries to undertake population control efforts, should be terminated.

—As the U.S. Government more precisely focuses its development assistance funds and encourages their use according to sound principles of economic growth, the office of Coordinator of Population Affairs becomes an anachronism. At a time when respected authorities in the field of demographics disagree as to the relationship between fertility and development, that office represents an outdated Departmental public relations commitment to one set of controversial views in an uncertain debate. The State Department should abolish that office, and assign responsibility for the U.S. role in international population programs and agencies to the Bureau for International Organizations.

—To ensure that no U.S. funds are expended for abortions, contributions to private voluntary organizations or United Nations organizations in the field of family planning should be limited to those which do not finance or encourage abortion. Otherwise, the restriction legislatively imposed by the Helms Amendment will be evaded as U.S. funds simply supplant other moneys that are then used for abortion.

—As a matter of policy, no U.S. funds should be expended to support any population control program, or family planning campaign, that would be unacceptable or offensive in the United States. This especially applies to coercive measures.

—Finally, since the State Department's and AID's principal activities in the field of population control have been undertaken pursuant to directives issued from time to time by the NSC, any fundamental redirection of U.S. international population control policy, such as recommended above, should issue from that body.

269. Memorandum From Michael A. Guhin of the National Security Council Staff to the President's Assistant for National Security Affairs (Clark)¹

Washington, May 7, 1982

SUBJECT

US Population Policy and Foreign Assistance

Jim Buckley sent you a personal memo last month forwarding a copy of his memo to Haig on the above subject (Tab III).² His conclusions and recommendations for major changes in US policy and programs are on pages 4–6. His cover memo notes that current population policy derives from earlier NSC directives³ and that the “population buck stops with you.”

On May 5 Buckley sent another personal memo saying that he wants to move ahead in the immediate future because he is leaving for Nairobi next Wednesday and we will be attacked again by a prolife group (Tab II).⁴ Buckley proposes to send a copy of his review to Malone and McPherson covered by a memo instructing Malone in effect to institute all the changes in our policies and programs and keep it secret (see attachment at Tab II), recognizing that it will hit the street anyway.

Buckley's memo has some good points on redirecting our policy, *but* the issues warrant interagency review and consideration before new policy or programs are instituted. Therefore, I believe you should call Buckley very soon to tell him that we (1) should have a prompt interagency review, (2) should not take any steps to institute new policy or programs or surface his memo before completing that review, and (3) would like one of his staff to work with me on a memo directing such a review.

RECOMMENDATION

That you call Buckley on this as above (talking points at Tab 1).⁵

¹ Source: Reagan Library, Guhin, Michael A.: Files, Population/Studies (2). Confidential.

² Neither attached. Buckley's April 12 memorandum to Haig is in Document 268.

³ Possibly a reference to the NSC directive cited in the attachment to Document 264.

⁴ Attached but not printed.

⁵ Clark checked the approve option and wrote: “Have placed call—Told Buckley last week this would have to go through usual process. WPC. (But let's move out on it—let's decide approach.)” An unknown hand dated Clark's comments May 9, 1982.

Tab I**Talking Points⁶**

Washington, undated

*Talking Points**Conversation with Buckley on Population Policy*

- I have looked at your April 14 memo to me, forwarding a copy of your memo to AI on US population policy and foreign assistance.
- I appreciate your careful review of these issues and found much merit in your memo in terms of possible areas for redirecting policy and programs.
- Before taking *any* steps to institute a new policy approach or programs, however, we should have a prompt interagency review of the subject.
- Your memo need not surface anywhere in the process but we could ensure that the review addresses the issues and types of measures addressed in your approach.
- The interagency review might have some additional ideas or some different ones. At any rate, we should see what it produces before jumping. Even if it produces something largely the same, we will not be open for criticism of changing policy without process.
- Therefore, I do not believe you should send your memo to Malone or McPherson or instruct Malone to institute anything new at this stage (as you noted it would hit the street soon thereafter). I would like you to name someone on your staff to work with Mike Guhin on my staff on a memo directing an interagency review.

⁶ Confidential.

270. Memorandum From the President's Assistant for National Security Affairs (Clark) to Secretary of State Haig and the Administrator of the Agency for International Development (McPherson)¹

Washington, June 1, 1982

SUBJECT

United States International Population Policy, Assistance and Organization

You are requested to provide a report addressing the questions below related to United States policy, foreign assistance and governmental organization as they relate to international population issues.

- What major factors affect population growth and to what extent?
- What expenditures/programs does the U.S. have for analyzing the implications of population growth?
- What assumptions underlie U.S. policy and assistance and what are the bases for these assumptions?
- What are the objectives of U.S. international population policy and programs and their relationship to U.S. security, foreign policy and other interests?
- What are the present and prospective assistance programs with other countries and contributions to private and United Nations organizations in the population area?
- What have U.S. population assistance programs achieved?
- Are these programs and the activities of the organizations consistent with the U.S. Government's domestic programs, practices or approach in population matters, and would they in effect be acceptable or practiced in the United States? How is such consistency monitored and what actions are taken in the event of inconsistency?
- More specifically, are U.S. funds contributed to countries or to private or international organizations that finance or encourage coercive measures or abortion? If so, what is the rationale for such programs or contributions?
- Assuming economic growth is a major factor in affecting population growth, what kinds of trade-offs or considerations should be weighed in allocating financial assistance between such programs with other countries?

¹ Source: Reagan Library, Guhin, Michael A.: Files, Population/Studies (2). Confidential. Copies were sent to Bush, Weinberger, Schweiker, Stockman, Casey, and Harper.

- What are the interests, policies and activities or programs in the population area of those governments which the United States cooperates with or assists?

- Are U.S. cooperative or assistance programs entirely voluntary on the part of the foreign government? Does the U.S. in any way condition or link other forms of assistance to acceptance of assistance or programs in the population area? What expenditures does the U.S. have for promoting population programs in other countries and should we have expenditures for promotion?

- What policy and program changes have been made since January 1981, and what principles guide U.S. population assistance programs and contributions? How have the policy, programs and principles been articulated by Administration officials to date?

- Should National Security Decision Memorandum 314 of November 26, 1975,² and Mr. Brzezinski's memorandum of May 17, 1977 on this subject be revised and/or updated?³ What guidelines or alternatives for United States policy and assistance programs and other contributions in this area may be desirable or merit further consideration? How should the U.S. Government be organized for population matters and where should prime responsibility for international population affairs reside?

Your report addressing these questions should be forwarded for consideration by July 2.⁴

FOR THE PRESIDENT:

William P. Clark

² See footnote 3, Document 263.

³ See footnote 4, Document 263.

⁴ See Document 273.

271. Memorandum From the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs (Malone) to the Under Secretary of State for Security Assistance, Science, and Technology-Designate (Schneider)¹

Washington, August 30, 1982

SUBJECT

Population in the FY 1984 AID Budget

ISSUE

The proposed straightlining or cut in FY 1984 U.S. international population assistance is inconsistent with the Ottawa and Versailles communiques² and with recent statements of senior Administration spokesmen, including yourself,³ and creates potential Congressional and foreign policy problems. Population programs in the proposed FY 1984 AID budget are either straightlined at \$211 million, or reduced by 3.3 percent to \$204 million. In either case, this represents a diminished priority within an otherwise rising development assistance budget. Further, the allocation for the United Nations Fund for Population Activities (UNFPA) is slated to drop by 26 percent, from \$33.7 million in each of the Fiscal Years 1982 and 1983, to \$25 million.

A Potential Problem with Congress

Diminished priority for population assistance risks undercutting support for our economic and security assistance requests by provoking a reaction from the strong Congressional supporters of these programs. In its report on the 1982 foreign aid bill, the House-Senate Appropriations Conference Committee stated: "The conferees reiterate their belief that population and family planning measures are a vital component of Third World economic development."

In your letter to Senator Percy this month,⁴ you quoted the Presidential Summit communiques pledging "greater emphasis" and "special encouragement" for population programs, and indicated "vigorous personal support to the President's programs in the family planning and population area."

¹ Source: Reagan Library, Guhin, Michael A.: Files, Population/Studies (3). No classification marking. Drafted by Benedick on August 27 and cleared in NEA, EA, IO, EB/ODF, AF/EPS, and ARA.

² See *Public Papers: Reagan*, 1982, Book I, pp. 734–736.

³ Not further identified.

⁴ Not found.

Ambassador Kirkpatrick, in testimony May 4 before the House Appropriations Committee, stated that "there is a general view" that United Nations population programs (i.e., UNFPA) "are the most successful programs in the less developed world." In a New York statement, Ambassador Kirkpatrick said, "I personally am very enthusiastic about the work of UNFPA. It is one of the most important fields of activity in UN endeavors." She added, "Anyone who has studied development particularly understands that we cannot hope to significantly contribute to the well being of people unless we help them cope with the population growth problem . . . To do less would be like pouring water into a bucket with a hole in it."

Third World Interest in Population Aid

CIA and other analyses⁵ indicate potential dangers of social unrest, political instability, and migration pressures associated with rapid population growth in several areas of strategic interest to the U.S., including Kenya, Central America, Turkey, Indonesia, and Egypt. The leaders of many pro-Western countries have publicly stressed the importance of voluntary family planning programs as a national development priority; these include Marcos, Suharto, Lopez Portillo, Mubarak, Bourguiba, and others. The once-in-a-decade International Population Conference, scheduled for 1984 in Mexico City,⁶ has exceptionally strong support from the developing countries (in contrast to their attitudes at the 1974 Bucharest Conference); many LDC's are even contributing to financial support of the 1984 Conference.

Demand for external assistance in this area has never been greater. While the rest of AID development assistance is rising, the population proposal gives a wrong signal to the rest of the world concerning the relative priority accorded by the U.S. to efforts of developing countries to reduce their population growth rates. Despite budgetary stringency, other donor countries—notably Germany, Japan, Sweden, U.K., the Netherlands—are increasing their support of population programs, but even this cannot offset the impact of a U.S. decline or straightlining of this critical account.

RECOMMENDATION

Against this background, the proposed budget figures for population merit rethinking. *It would be regrettable if the U.S., which has been a leader in this field for 15 years, would decrease its assistance in the year of the International Population Conference.* In order to be consistent with the statements of the President and others and the urgent nature of the

⁵ See footnote 3, Document 266.

⁶ The conference took place August 5-13, 1984. See Documents 288-290.

problem, U.S. population assistance in FY 1984 should, at a minimum, increase *pari passu* with the rest of the development assistance budget. This would indicate \$233 million for the total population account (regional and central), including \$37.1 million for UNFPA. The additional \$22–28 million, which could be absorbed elsewhere, would not only support critically needed programs, it could also buy some security for the rest of our budget request.

272. Telegram From the Embassy in Italy to the Department of State¹

Rome, February 23, 1983, 1348Z

4271. Subject: Population Issues: Discussions with Pope John Paul II and Vatican Officials.

1. C—Entire text

2. Following high level consultations at the Vatican on US–Vatican cooperation in population matters, Ambassador Benedick, Coordinator of Population Affairs, was received by Pope John Paul II in a special audience on Feb. 16. Noting the implications of unprecedented population growth in the Third World for maternal and child health, quality of life, and the stability of nations, Benedick cited the spiritual and material degradation he had personally witnessed in many countries. He emphasized that US international population assistance is based on voluntarism and is consistent with family stability and local cultural and religious values. The Pope agreed on the gravity of the demographic problem. Expressing familiarity with the substance of Benedick's earlier conversations, the Pope stated that he was "profoundly moved by your concerns." He agreed that governments have a responsibility for the conditions of life of future generations. The Pope stressed the importance of human dignity, natural law, and discipline in implementing governmental policies, and referred to the encyclical *humanae vitae* and to his own 1981 exhortation on the family. It was agreed to continue the "cordial collaboration" represented by these consultations.

¹ Source: Reagan Library, Guhin, Michael A.: Files, Population/Studies (4). Confidential. Sent for information to USUN New York.

Benedick left an aide memoire with the Pope (text in separate telegram).²

3. In other meetings Feb. 15–17, Benedick, accompanied by me and/or my deputy, called on Cardinal Baggio, Prefect of the Sacred Congregation of Bishops; Cardinal Knox, President of the Pontifical Council for the Family; Archbishop Silvestrini, Secretary of the Council for Public Affairs; Bishop Rossano, Rector Magnificus of the Pontifical Lateran University; and several other Vatican officials. Purpose of discussions was to underline US view of the seriousness of the demographic situation for many countries, to explain US development and population policies, and generally to establish an atmosphere of mutual confidence and cooperation in preparing for the 1984 International Conference on Population in Mexico City.

4. The main elements of current Vatican position on population matters are:

(A) Recognition of grave consequences of rapid population growth in Third World;

(B) Promotion of “responsible parenthood;”

(C) Reliance on periodic abstinence—natural family planning (NFP) methods—as the only response currently acceptable under “natural law;”

(D) Encouragement of US–Vatican dialogue on population issues. Specifically, Bishop Cox (Sec. of Council for Family) suggested Benedick organize small, confidential bilateral meeting of experts in Washington to explore further technical areas of US–Vatican cooperation, while Msgr. Caffarra (President of newly established John Paul II Institute for Matrimony and Family at Lateran University) invited Benedick to participate in Vatican Conference on “responsible parenthood” in September.

5. The Vatican is not monolithic on this issue, however, and there are subtle nuances between what might be termed “abstract” and “realistic/pastoral” approaches. Representative of the former is Cardinal Knox, who asserts that no compromise is ever possible over the issue of contraception, considers the NFP methods of his Australian countryman Billings to be the final word,³ and couples this with criticism of US armaments outlays. Symptomatic of the strains is a current conflict between Caffarra and the Academic Senate of the Pontifical Lateran University, with the latter favoring free academic inquiry, while the former maintains that on this fundamental point of morality, his new

² In telegram 4463 from Rome, February 24, the Embassy transmitted the text of the aide-mémoire. (Ibid.)

³ Dr. John Billings, developer of the Billings Ovulation Method.

institute cannot admit differing theological or biological views. There is substantial (but not universal) agreement in the Vatican that *humanae vitae* was not intended as an infallible pronouncement, and that it explicitly opens a door for further scientific and philosophical research and possible evolution in light of changing world conditions.

6. Comment: Benedick's visit follows personal invitation from Vatican Secretary of State Cardinal Casaroli last August,⁴ and continues his earlier discussions with Vatican representatives in Rome, Washington, New York and elsewhere.⁵ Benedick has clearly impressed highest levels of the Vatican with the sincere concern of USG for human dignity and family values, while supporting voluntary family planning programs in countries requesting such aid. He has maintained the basic US view of the urgency of the demographic situation as it affects economic and social development in many countries, but has also demonstrated US sensitivity to Vatican concerns, especially in the past two years, through greater emphasis on human values and increased US support for natural family planning.

7. As a result of this extremely successful visit, there is clearly greater awareness by the Holy See that the US, in its development and population policies, shares important common values and objectives with the Roman Catholic Church. In light of past accusations against US policy, this demonstrates important progress.

8. I believe this important initiative has been handled with considerable sensitivity and tact. These discussions are especially significant in the context of preparations for the Mexico City conference, in contrast to the atmosphere of misunderstanding and acrimony that characterized US–Vatican relations on this subject at the 1974 Bucharest Population Conference.⁶ The warmth of Benedick's reception in Rome, and the readiness of the Pope to acknowledge the visit with a personal audience, are significant indications of Vatican desire to continue this dialogue, which I believe is contributing to improved understanding between the Holy See and the USG.

Wilson

⁴ Not found.

⁵ In telegram 101333 to Rome, April 15, 1982, the Department reported on Benedick's planned visit to Rome in May. (Department of State, Central Foreign Policy File, D820198–0325)

⁶ Reference is to the World Population Conference held in Bucharest, Romania, in August 1974.

**273. Memorandum From the Executive Secretary of the
Department of State (Hill) to the President's Assistant for
National Security Affairs (Clark)¹**

Washington, March 28, 1983

SUBJECT

United States International Population Policy, Assistance, and Organization

Attached please find the report requested in your memorandum of June 1, 1982.² This is a joint State–AID report.

Charles Hill³

Attachment

**Paper Prepared in the Department of State and the Agency for
International Development⁴**

Washington, undated

1. “What assumptions underlie U.S. policy and assistance, and what are the bases for these assumptions?”

Answer: One must begin with the demographic realities. Even with birth rates on the decline, the world's population will probably rise by nearly two billion people in the last two decades of the 20th century—the equivalent of adding 40 new countries of the current size of Egypt. Ninety percent of this growth will occur in the world's low-income countries. In most of these countries, the annual increments to population size are growing larger. Areas of strategic and economic importance, including Central America and the Caribbean, Egypt, Turkey, Nigeria, Kenya, Indonesia, the Philippines, Pakistan and India, face a potential doubling of population in the next 20–30 years. Unless birth

¹ Source: Department of State, Country Files, Miscellaneous Population Files, 1974–1992, Lot 93D393, Background Papers 1980–1984. Unclassified. Drafted by Benedick on March 17 and cleared in ARA, AF, EA, INR, NEA, IO, S/P, EUR, EB, E, AID/AA/PPC, AID/AA/S&T, P, and T. Copies were sent to Gregg, Cormack, Stanford, Lowe, Keel, Harper, Keyworth, and Pickford.

² See Document 270.

³ McManaway signed for Hill.

⁴ Confidential.

rates can decline more rapidly, many already crowded countries will triple their populations within the next three generations.

Underlying U.S. policy is the recognition that these unprecedented demographic changes have important political, economic, security, and human implications. Assistance to friendly countries in addressing population growth problems has been an important element of U.S. foreign policy for two decades. The Foreign Assistance Act (section 104) states: "The Congress recognizes that poor health conditions and uncontrolled population growth can vitiate otherwise successful development efforts," and that "... voluntary population planning programs can make a substantial contribution to economic development, higher living standards, and improved health and nutrition."

At Economic Summit meetings, the President joined the leaders of other major industrialized nations in declaring that, "We are deeply concerned about the implications of world population growth . . . We recognize the importance of these issues and will place greater emphasis on international efforts in these areas" (Ottawa, 1981);⁵ and "We will give special encouragement to . . . programmes to address the implications of population growth" (Versailles, 1982).⁶ In a December 1982 personal message to a conference of Western Hemisphere parliamentarians in Brasilia, the President expressed "concern over rapid population growth and its effects on the process of economic development."⁷

Secretary Shultz, in February 1983 testimony to Congress, stressed the importance of U.S. population assistance, noting that "rampant population growth underlies the Third World's poverty and poses a major long-term threat to political stability and our planet's resource base." In a recent telegram⁸ to all Ambassadors and AID Mission Directors, AID Administrator McPherson stated: "Family planning programs are an essential element of the U.S. development assistance strategy, and this Administration has reaffirmed a 20-year U.S. commitment to voluntary family planning efforts."

Behind these policy statements is a substantial body of analysis on the effects of modern population growth in the Third World and on the utility of voluntary family planning programs in reducing fertility and improving the health of mothers and children. These conclusions are based on empirical evidence gathered in numerous developing

⁵ See footnote 6, Document 266.

⁶ See footnote 2, Document 271.

⁷ Not found.

⁸ In telegram 2152 to multiple recipients, January 5, the Department transmitted McPherson's remarks. (Department of State, Central Foreign Policy File, D830007-0379)

countries, on both family and macroeconomic levels, by analysts of many nationalities, as well as by such institutions as the World Bank, United Nations agencies, and the National Academy of Sciences.

2. "What are the objectives of U.S. international population policy and programs and their relationship to the U.S. security, foreign policy, and other interests?"

Answer: Objectives of U.S. Population Policy and Programs

As with other forms of development aid, the general objective of U.S. population assistance is to promote economic development and political stability by improving the human condition in friendly countries which ask for our assistance. Population programs are designed as a necessary complement to other humanitarian development efforts aimed at reduction of poverty and improvement in the quality of life.

The U.S. and other donor countries cannot indefinitely provide the growing resources needed to feed, train, and create jobs for continually rising numbers of poor in the Third World. Thus, failure to help in reducing the pressure of population growth risks undercutting U.S. development and security assistance. Relatively small outlays for population programs at this time may save us much larger sums for emergency food assistance and/or military peacekeeping assistance in the future.

The specific objective of U.S. international population assistance is to aid countries requesting such help in the development and implementation of humane population policies and voluntary family planning programs. U.S. aid is directed at strengthening local institutions, including the private sector; training health, demographic, and other personnel; providing medically approved methods of family planning; assisting in demographic data collection and policy analysis; and supporting population-related biomedical and social science research.

Relationship to U.S. Security and Foreign Policy Interests

The historically unprecedented growth of population in many parts of the Third World represents a potentially destabilizing phenomenon. The proportion of industrialized countries' population in the world's total, which was one-third in 1950, will probably decline to only one-fifth by the year 2000. The number of young adults (ages 20–39) will increase in the North by 20 million between 1980 and 2000—in the South, by 600 million. (This is not a "projection," as these individuals are already born.) Within developing countries, there is a widening income gap between the rich, elite classes (who generally practice family planning) and the poor (who generally do not).

Population factors—including rapid urbanization and differential growth rates among a country's ethnic or social groups—complicate solutions to a range of other problems and can limit a government's

ability to meet changing social and economic demands. These demographic changes affect the prospects for economic development, diverting resources from investment to consumption, and exacerbating problems of malnutrition, overcrowded cities, unemployment among socially volatile young adults, deforestation and environmental degradation. Recent CIA studies of several key countries indicate related potential dangers of political instability, extremism, urban crime, mass migration, and possible conflicts over scarce resources.

Our interests in many of these countries include—in addition to our traditional concern for human welfare and dignity—such geopolitical factors as strategic location, military bases, supply of oil or other critical raw materials, and markets for U.S. exports and safety of U.S. investments.

In the Middle East, for example, the four most populous nations—Turkey, Egypt, Iran, and Pakistan—are experiencing in varying degrees the complex effects of rapid population growth. In each of these countries, dependence on food imports and unemployment/underemployment are already serious concerns, and the labor pool is growing at an alarming pace. Political instability in this region would imperil vital U.S. interests, weakening the southern flank of NATO and our Indian Ocean capability.

Other countries affected by demographic pressures include such key suppliers of U.S. petroleum imports as Indonesia, Mexico, and Nigeria—already heavily populated nations with high rates of population growth. They also include countries like Bolivia, Brazil, Morocco, the Philippines, Zimbabwe, and Thailand, which supply essential U.S. imports of minerals for defense production. Problems of unemployment/underemployment and wage differentials, aggravated by high population growth, also contribute to pressures for migration to the United States from Mexico, Central America, and the Caribbean.

3. “What major factors affect population growth and to what extent? Assuming economic growth is a major factor in affecting population growth, what kinds of trade-offs or considerations should be weighed in allocating financial assistance between such programs with other countries?”

Answer: Rapid population growth in the Third World is a post-World War II development directly attributable to substantial declines in death rates, resulting from widespread improvements in nutrition and health, while birth rates remained at traditionally high levels.

High fertility in less developed countries reflects such factors as economic benefits from larger families, cultural and religious mores, low status of women, and unavailability and/or ignorance of effective means of contraception. Traditionally, many societies have prevented

unwanted children through such practices as infanticide, abortion, and abandonment.

Economic growth is an important factor in reducing birth rates. In the now-industrialized countries, however, the "demographic transition" to lower fertility occurred over many decades, and under conditions of smaller population growth rates, higher income, and greater possibilities for emigration than is the case for the Third World. Moreover, the numbers involved today are much greater, and the youthful age structure—40 to 45 percent of a population under 15—means that there will be a dramatic increase in potential parents in the coming decades. For example, the number of women of child-bearing age in Mexico will grow from less than 6 million in 1960 to nearly 25 million by 2000. Even if these future parents have fewer children, there is a built-in momentum which prevents a rapid decline in population growth. Thus, for many developing countries, continued growth in numbers is itself proving a major obstacle to the kind of economic development which might theoretically lead to smaller family size.

Some aspects of the development process—e.g., urbanization, improved income distribution, education and employment of women—contribute to a desire for smaller family size. In order, however, for changed attitudes to be reflected in lower birth rates within a reasonable time-frame, it is essential that couples have access to modern methods of family planning.

Numerous research studies indicate that countries with improving socioeconomic conditions *combined with* family planning programs experience the greatest decreases in population growth rates. While population aid alone will not solve the problems of economic development, most observers agree that lasting progress can only be made when family planning and population programs are an integral element of national development efforts. The sheer logistics involved in reaching tens of thousands of rural villages with family planning information, services, and follow-up, and in training adequate numbers of medical and paramedical personnel, imply that most developing countries require some external support.

Therefore, as has been clearly expressed at many international meetings in an almost unprecedented consensus of North and South, an effective development strategy should include not only general development aid but also population assistance. The "trade-off" cannot be determined mechanistically: as with other development sectors, country allocations will be determined by the need for specific programs, governmental commitment, absorptive capacity, and popular interest and participation.

4. "What are the interests, policies, and activities or programs in the population area of those governments which the United States cooperates with or assists?"

Answer: A fundamental rationale for family planning programs (first enunciated at the 1968 International Conference on Human Rights),⁹ was ratified by virtually every country in the world at the 1974 World Population Conference: “All couples and individuals have the basic right to decide freely and responsibly the number and spacing of their children and to have the information, education and means to do so.”

Over the past decade, the number of developing countries with official policies supporting population and family planning activities has increased from 36 to 67. Over 90 percent of the developing world’s people live in countries with some kind of population policy: 79 percent live in 35 countries where the official policy is to reduce population growth, while an additional 14 percent live in countries where support for family planning is based solely on a human rights and health rationale. Developing countries are also devoting more of their own resources to this sector. A decade ago more than half of LDC population activities was financed by external donors; today, at least 60 percent is provided by the developing countries themselves.

The need for population policies and programs has been reiterated in such major expressions of international consensus as the UN International Development Strategy for the 1980’s,¹⁰ the Substantial New Program of Action for the Least Developed Countries (September 1981),¹¹ the International Conference of Parliamentarians on Population and Development (Colombo 1979), and in regional conferences of African, Asian, and Western Hemisphere parliamentarians in 1981 and 1982. LDC interest in population and family planning activities is being emphasized with increasing frequency and urgency by Third World leaders in such recent international fora as the June 1982 session of the UNDP Governing Council. Within the past two years, such world leaders as Soeharto of Indonesia, Marcos of the Philippines, Moi of Kenya, de la Madrid of Mexico, Bourguiba of Tunisia, Mubarak of Egypt, Ahidjo of Cameroon, Figueiredo of Brazil, Nyerere of Tanzania, Senenayake of Sri Lanka, Zia of Pakistan, Gandhi of India, Bagaza of Burundi, and the King of Nepal, have publicly called for increased domestic and international efforts to address population problems.

5. “What have U.S. population assistance programs achieved?”

⁹ Reference is to Resolution XVIII at the International Conference on Human Rights held at Tehran, Iran, April and May 1968.

¹⁰ See *Elements in an International Development Strategy for the 1980s. Report Prepared by the Secretariat*, New York: United Nations, 1979.

¹¹ Reference is to the First United Nations Conference on the Least Developed Countries, which took place in Paris, September 1981.

Answer: U.S. population assistance flows through multilateral, bilateral, and private channels to over 110 countries. U.S. programs have played a major role in about 30 countries and a complementary role in the remaining 80 countries, through projects of the United Nations and private organizations. This assistance has helped to improve the health and well-being of millions of individuals and families, while contributing to improved prospects for national economic development.

A growing body of data documents a correspondence between the practice of family planning and declining birth rates in a large number of countries receiving AID population assistance, as shown in the accompanying table. Declines have been particularly large in East/Southeast Asia and in Latin America, where U.S. aid has been concentrated. In South Korea, for example, the population of married women of childbearing age practicing family planning rose from nine percent in 1964 (before U.S. assistance) to 55 percent by 1980; in Colombia, from 23 percent in 1969 to 49 percent in 1980; in Thailand, from 15 percent in 1970 to an estimated 60 percent currently; in Indonesia, from ten percent in 1973 to an estimated 40 percent currently.

The high standards of U.S. assistance have also influenced population policies of other donors and host countries. This U.S. leadership role has contributed to increasing the LDC share of total program costs to at least 60 percent; establishing standards for humane implementation of family planning programs; strengthening the UN's multilateral efforts through encouraging greater support from other donors; developing safer, cheaper, and better methods of family planning; augmenting the private sector's role in delivery of services; improving program management; generating better demographic and population data; and upgrading the quality of medical and paramedical personnel engaged in maternal/child health and family planning programs.

6. "What are the present and prospective assistance programs with other countries and contributions to private and United Nations organizations in the population area?"

Answer: Current annual expenditures from all sources for population and family planning programs in the developing world (exclusive of China) are about one billion dollars annually. Approximately \$400 million of this total comes from external donors, the remainder from LDC's themselves.

In FY 1983, the U.S. allocated \$211 million for international population programs, or only *two percent* of total economic and security assistance. Of this, approximately \$91 million or 43 percent, is in bilateral government-to-government agreements, including \$12.4 million for Africa, \$15.0 million for Latin America, \$2.1 million for the Near East, and \$61.1 million for Asia; major Asian programs include \$24.8 million

for Bangladesh, \$16.6 million for India, \$6.0 million for Indonesia, \$6.0 million for the Philippines, and \$5.1 million for Thailand.

TABLE 1
 TWENTY MOST POPULOUS DEVELOPING COUNTRIES:
 CHANGES IN CRUDE BIRTH RATES 1965–1982, AND
 CUMULATIVE SHARE OF TOTAL LDC BIRTHS FOR 1982
 (Countries receiving significant amount of A.I.D. population
 assistance during 1965–1982 are underlined)

<u>Country</u>	<u>1982 Population (millions)</u>	<u>Crude Birth Rate</u>			<u>Estimated</u>	<u>1982 Country Births</u>	
		<u>1965</u>	<u>1982</u>	<u>Change</u>	<u>1982 Births (millions)</u>	<u>as Percent of Total LDC Births</u>	
				<u>Percent</u>		<u>Percent</u>	<u>Cumulative %</u>
China	1,000	33	18	–45.5	18.0	16.4	16.4
India	714	43	35	–18.6	25.0	22.7	39.1
Indonesia	151	45	34	–24.4	5.1	4.6	43.7
Brazil	128	40	32	–20.0	4.1	3.7	47.4
Bangladesh	93	50	47	–6.0	4.4	4.0	51.4
Pakistan	93	47	44	–6.4	4.1	3.7	55.1
Nigeria	82	51	50	–2.0	4.1	3.7	58.8
Mexico	71	44	32	–27.3	2.3	2.1	60.9
Vietnam	57	42	37	–11.9	2.1	1.9	62.8
Philippines	52	42	34	–19.0	1.8	1.6	64.4
Thailand	50	43	28	–34.9	1.4	1.3	65.7
Turkey	48	40	33	–17.5	1.6	1.5	67.2
Egypt	45	42	43	+2.4	1.9	1.7	68.9
Iran	41	46	44	–4.3	1.8	1.6	70.5
S. Korea	41	36	19	–47.2	0.8	0.7	71.2
Burma	37	41	39	–4.9	1.4	1.3	72.5
Ethiopia	31	50	50	0.0	1.6	1.5	74.0
Zaire	30	48	46	–4.2	1.4	1.3	75.3
Colombia	26	42	28	–33.3	0.7	0.6	75.9
Morocco	22	50	45	–10.0	1.0	0.9	76.8
1 LDCs std	2,812	40	30	–25.0	84.6		
1 LDCs	3,434	40	32	–20.0	109.9	100.0	100.0
1 World	4,585	36	28	–22.2	128.4		

Centrally funded projects amount to \$120 million, or 57 percent of the total. This includes \$33.8 million to the United Nations Fund for Population Activities (UNFPA) and \$11.5 million to the International Planned Parenthood Federation (IPPF). The central budget also funds biomedical and social science research; policy development and demographic data projects; and training, education, and service delivery

activities provided by private organizations to many LDC's, including a large number not covered under bilateral agreements—such as Mexico, Brazil, Nigeria.

Support of population programs from other donor countries has increased considerably, from under one-third of total population aid in the early 1970's to about half at present. The U.S. share of UNFPA's budget has declined, from 35 percent between 1967 and 1970, to 25 percent in FY 1983. Other major donors to UNFPA include Japan, Germany, Canada, the Netherlands, the U.K., and the Scandinavian countries; in addition, over 40 developing countries add their own voluntary contributions to the work of this organization. World Bank loans in this area amount to less than one percent of total annual lending, but President A. W. Clausen has expressed an intention to expand the Bank's role in addressing population growth issues.¹²

With regard to prospective assistance, LDC's have greatly increased requests for population aid. There is now a backlog of over \$100 million in requests to AID which cannot be funded from current budgets. Substantial additional assistance will be essential because of an anticipated doubling in the number of child-bearing women between 1975 and the year 2000, coupled with a decline in buying power of donor support. For example, AID's FY 1983 program of \$211 million, although \$88 million more than the FY 1972 level, is actually \$31 million lower in constant dollars, or a one-quarter reduction in buying power.

7. "Are these programs and the activities of the organizations consistent with the U.S. Government's domestic programs, practices, or approach in population matters, and would they, in effect, be acceptable or practiced in the United States? How is such consistency monitored and what actions are taken in the event of inconsistency?"

Answer: U.S. international population assistance operates under the same principles as domestic family planning programs. These include voluntary participation, provision of high-quality services, and offering of a wide variety of family planning methods, including natural family planning, in order to maximize individual choice. AID regulations on such specific matters as ensuring informed consent for sterilization, and the prohibition of abortion-related activities, are incorporated into all grant and contract documents. It is also AID's general practice to provide to other countries only those contraceptives which have U.S. Food and Drug Administration approval for use in the U.S. After a grant or contract is awarded, it is closely monitored by AID through administrative review and post-audit, to ensure full compliance with

¹² Not further identified.

policies. AID will not support programs where these standards are not followed.

8. "More specifically, are U.S. funds contributed to countries or to private or international organizations that finance or encourage coercive measures or abortion? If so, what is the rationale for such programs or contributions?"

The U.S. does not support programs where there is any coercive element or compulsion to accept a particular method of family planning. Recognizing that a given contraceptive method may not be suitable for every couple under every circumstance, AID-supported programs are required to provide information to prospective clients on various methods of family planning, and to refer them if necessary to other organizations in order to ensure a free and informed choice.

AID policy, in pursuance of Section 104(f) of the Foreign Assistance Act, prohibits support for abortion or abortion-related activities, including research on methods of abortion, procurement or distribution of abortion-related equipment, payment of fees or training of individuals to perform abortion, and support for information or communication programs which promote abortion as a method of family planning.

All AID-funded population contracts and grant agreements with private and voluntary organizations (PVO's) and with host governments incorporate language to prohibit use of AID funds for abortion-related activities; PVO subgrant agreements also incorporate such prohibitions. In the few instances where private organizations directly or indirectly support abortion-related programs with other donor funding, AID contractual agreements, administrative reviews, and audit procedures ensure that no U.S. funds are utilized for prohibited purposes. In the case of UN organizations, it is clearly understood by these organizations that no U.S. funds will ever be used for activities prohibited under U.S. law, and in 1982, UNFPA assured the U.S. Government that it was not then supporting abortion activities, nor did it plan to in the future.¹³

At least 98 percent of the total program of these organizations is devoted to health and family planning activities; the United States supports this element of their programs because it represents the primary objective of our international population assistance program. Furthermore, evidence from several developing countries shows that abortion rates generally decline when effective methods of family planning are provided as an alternative to couples who desire to limit family size.

¹³ Not found.

9. "Are U.S. cooperative or assistance programs entirely voluntary on the part of the foreign government? Does the U.S. in any way condition or link other forms of assistance to acceptance of assistance or programs in the population area? What expenditures does the U.S. have for promoting population programs in other countries, and should we have expenditures for promotion?"

"What expenditures/programs does the U.S. have for analyzing the implications of population growth?"

Answer: Acceptance of population programs by a host government is not a precondition for AID development assistance. U.S. population assistance is subject to conditions similar to those applied to other sectors of development—namely, needs and desire for assistance, voluntarism, sociocultural acceptability, and absorptive capacity.

The U.S. does not promote programs contrary to the policies of sovereign countries. AID has worked with LDC government agencies, universities, research institutes, and private organizations, at their request, to study and analyze development problems, to explore factors that contribute to these problems, and to assist in developing appropriate responses. Activities supported include provision of population information and access to scholarly work on population, research, training, and computer models. AID also supports social science research, demographic data collection, vital registration, censuses, and sample surveys—all necessary for the analysis of implications of population growth, the study of social and economic determinants of fertility, and the evaluation of family planning and development projects.

In FY 1983, about \$30 million, or 14 percent of the AID population budget, is allocated for demographic, social science, and operations research and population policy analysis, while \$17 million, or 8 percent, goes for information and education activities.

10. "What policy and program changes have been made since January 1981, and what principles guide U.S. population assistance programs and contributions? How have the policy, programs, and principles been articulated by Administration officials to date?"

Answer: The Administration has, in various fora detailed on page 1 of this response, reaffirmed the U.S. commitment to support humane population policies and voluntary family planning programs in friendly countries requesting such aid, as an essential element of U.S. development assistance strategy in addressing the implications of continuing rapid population growth in the Third World.

In October 1982, AID issued a "Population Assistance Policy" paper,¹⁴ similar to those approved for other development sectors, which

¹⁴ See "USAID Policy Paper—Population Assistance," U.S. Agency for International Development, September 1982.

sets forth the current policy emphases. This Administration places particular value, in its population assistance, on principles of voluntarism and informed choice, and on support for programs which are consistent with human dignity, local religious and cultural values, and stability of the family.

New program emphases articulated in the Policy Paper, in regulations and program guidance, in Congressional testimony, and in messages to overseas missions, include the following:

—Since 1981, the major focus of U.S. population programs has been defined as delivery of voluntary family planning services, fully integrated into general U.S. development assistance.

—Concerning voluntarism and informed choice, AID will not support programs in which there is any element of coercion to practice family planning or to accept any particular method of contraception. In fact, AID-supported programs must include a description of the effectiveness and risks of all major methods of family planning and an agreement either to provide other family planning methods if requested or to refer couples to programs offering other methods.

—In consonance with Section 104(d) of the Foreign Assistance Act, AID has reemphasized efforts to integrate or coordinate development programs and policies in various sectors, including population, so as to maximize their combined impact.

In January 1981, AID discontinued funding of research on methods of abortion as a means of family planning. AID continues to gather epidemiological data to assess the incidence, extent, or adverse consequences of abortion. All U.S.-funded population contracts and grant agreements with private organizations and with host governments incorporate language to prohibit AID funding for abortion-related activities.

—New policy guidance to all missions emphasizes the importance of integrating natural family planning training and services into population programs.

—Relatively greater program emphasis is being placed on transfer of technology through private sector research into safer and better methods of fertility regulation.

—The Agency-wide emphasis on policy dialogue with governments will include population and demographic issues where appropriate.

—AID has reaffirmed its policy of supplying other countries only those contraceptives approved by the Food and Drug Administration for use in the United States.

—In February 1981, additional AID program guidance concerning voluntary sterilization was issued, further clarifying the requirements for informed and voluntary consent by acceptors of such services.¹⁵

—AID does not advocate any specific population growth rate or size for countries it assists.

11. "Should National Security Decision Memorandum 314 of November 25, 1975, and Mr. Brzezinski's memorandum of May 17, 1977,¹⁶ on this subject be revised and/or updated? What guidelines or alternatives for United States policy and assistance programs and other contributions in this area may be desirable or merit further consideration? How should the U.S. Government be organized for population matters, and where should prime responsibility for international population affairs reside?"

Answer: NSSM-200, "Implications of Worldwide Population Growth for U.S. Security and Overseas Interests," submitted in December 1974, and NSDM-314 were developed under Presidents Nixon and Ford and reviewed and reaffirmed in May 1977. The fundamental findings and policy determinations of these documents have proven a workable basis for U.S. policy. The growing population problems in many key countries, combined with the strengths and experience of U.S. programs, have led this Administration to maintain U.S. leadership in this field. We believe that it would be appropriate and useful to have updated and revised policy guidance, based upon existing statements on this subject by the President, Secretary Shultz, AID Administrator McPherson and other Administration spokesmen, as well as the material presented in these responses.

Concerning the organizational framework for international population matters, the currently shared primary responsibility of the Department of State and the Agency for International Development, with the collaboration as appropriate of such other agencies as NIH, CIA, and Census Bureau, has proven effective over many years. Solution of population problems is an essential part of the development process; therefore, responsibility for program implementation should continue to reside primarily in the Agency for International Development. There are, however, foreign policy and national security implications connected with implementation of population strategy, as well as various diplomatic activities which can enhance the effectiveness of U.S. and international efforts. For these reasons, the Department of State's role in population policy development and coordination, diplomatic activities, and representation remains appropriate.

¹⁵ Not further identified.

¹⁶ See footnotes 3 and 4, Document 263.

274. Memorandum From Michael A. Guhin of the National Security Council Staff to the President's Assistant for National Security Affairs (Clark)¹

Washington, April 22, 1983

SUBJECT

International Population Policy and Assistance Programs

State and AID have now responded to your questions of last June on the above subject (Tab II).²

I have prepared a draft NSDD (Tab I) drawing from the response.³ In brief, the NSDD would (1) note the importance of and our continuing support for these programs, consistent with statements in summit communiques⁴ and by Secretary Shultz and Peter McPherson;⁵ and (2) make clear at the highest levels what principles would guide US programs (e.g., sensitivity to human dignity and values, freedom of choice or no coercion, and no abortion or abortion-related activities).

I believe the draft should be run by State, AID, HHS, OMB and OPD (Boggs) to ensure no objection before being forwarded for the President's consideration. Since this is a matter that we have not addressed in detail previously, I would appreciate your review and guidance before I proceed to see if there are any objections and prepare a package for the President.

RECOMMENDATION

That you provide guidance on the attached draft NSDD.⁶

- _____ Approve as basis for proceeding as above.
- _____ Let's discuss.
- _____ Need study directive or memo to State/AID
- _____ Send to Buckley who began exercise
- _____ Next step?

¹ Source: Reagan Library, Guhin, Michael A.: Files, Population/Studies (6). Confidential. Sent for action. A stamped notation in the upper right-hand corner reads, "SIGNED."

² Not attached. Printed in Document 273.

³ The draft NSDD is in the Reagan Library, Guhin, Michael A.: Files, 04/22/1983–04/24/1983.

⁴ See footnote 2, Document 271.

⁵ See Department of State, *Bulletin*, January 1982, pp. 82–84, and Department of State, *Bulletin*, March 1983, pp. 68–75.

⁶ There is no indication of approval or disapproval of the first two recommendations. Following those, Clark added the last three action items and checked them all.

275. Memorandum From the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs (Malone) to the Under Secretary of State for Management (Spiers)¹

Washington, January 16, 1984

SUBJECT

Coordinator of Population Affairs

I am concerned that we attract the right person for this position and find an appropriate onward assignment for Richard Benedick. The Coordinator has high visibility outside the Department, and Congress and public interest groups will be watching the transition. As you know, Benedick's performance, for five years at ambassadorial rank, has been superlative.

This is the senior position in the USG dealing with international population matters, an especially sensitive aspect of foreign policy with implications for our national security and the effectiveness of U.S. development assistance and diplomacy in many key countries. Following the 1979 retirement of Marshall Green, the first incumbent, the position was established at the deputy-assistant-secretary level, with Senate-confirmed rank of ambassador.

The Coordinator of Population Affairs is responsible for developing and guiding U.S. policy, and engages in a wide range of activities to improve the effectiveness of this policy through U.S. bilateral programs, multilateral institutions, private sector activities, and in negotiations with developing and donor countries. The position has grown in recent years, as more LDC's have recognized the importance of population issues: e.g., the Department has taken a larger role in AID's budgetary process; provided leadership in stimulating international biomedical research; opened sensitive discussions with the Vatican;² introduced population issues into Economic Summits, CIA national security analyses, and the Carlucci and Kissinger Commissions' reports;³ and assumed the leadership in coordinating new multilateral assistance strategies for Nigeria and Turkey.

¹ Source: Department of State, Chronological Files, 1984-1985, Lot 86D362, January 1984 #1 Completed Items. Limited Official Use. A copy was sent to Atherton.

² See Document 272.

³ References are to the Commission on Security and Economic Assistance and the Kissinger Commission on Population and Development in Central America, respectively.

The Coordinator must consult or negotiate with other governments—often at head-of-state or ministerial level, with heads of several UN organizations, and with the top managements of U.S. agencies, private foundations, and NGO's. As principal spokesman for U.S. policy, he represents the U.S. at international conferences and speaks before Congress, public interest groups, and the media in the U.S. and abroad. He is also currently serving as Interagency Coordinator for the U.S. delegation to the decennial International Conference on Population to be held in Mexico City in August.

276. Memorandum From the Deputy Director of Chinese Affairs, Bureau of East Asian and Pacific Affairs (Howarth) to the Principal Deputy Assistant Secretary of State for East Asian and Pacific Affairs (Brown)¹

Washington, May 2, 1984

SUBJECT

Your Meeting on the US Contribution to UNFPA, 2:00 PM, Wednesday, May 2²

OBJECTIVES

1. To elicit from Derham a review of how AID is approaching the question of the US contribution to UNFPA, particularly as it pertains to the China program.³

2. To sensitize Derham to the repercussions of any procedure that would discriminate against the Chinese.

3. To request that AID proceed no further in discussions with UNFPA toward a "special trust fund"⁴ until we have had opportunity to review the merits of the UNFPA proposal.⁵

¹ Source: Department of State, Country Files, Miscellaneous Population Files, 1974–1992, Lot 93D393, China/UNFPA 1984. Confidential.

² No record of this meeting has been found.

³ Reference is to China's birth control policies.

⁴ In telegram 154100 to Beijing, May 24, the Department wrote: "AID had sought to ramrod through its original proposal—establishment of a special trust fund which would have the effect of denying U.S. money to any UNFPA program in China—without including EAP officers in the key meetings and without benefit of prior consultation with Ambassador Kirkpatrick." (Department of State, Central Foreign Policy File, D840340–0008)

⁵ In telegram 124190 to Beijing and New York, April 27, the Department discussed the UNFPA proposal. (Department of State, Central Foreign Policy File, N840006–0316)

4. To fix on an approach toward final resolution of this issue. If Derham does not agree today to drop the “special trust fund” concept, we should suggest that another meeting be convened after working levels have had opportunity to review the merits of the UNFPA China program.

BACKGROUND

You agreed to meet with AID Acting Assistant Administrator Dick Derham, at his suggestion, to discuss the US contribution to UNFPA—particularly as it relates to the China program. A chronology of developments that led up to this meeting and a brief discussion of the issue follow.

Chronology

1. Wednesday, April 25. AID Acting Administrator Richard Derham met with OES Ambassador Richard Benedick and IO Assistant Secretary Gregory Newell at Newell’s office to discuss handling of the US contribution to the United Nations Fund for Population Activities (UNFPA), including the China program. We requested an invitation to the meeting but were refused by Derham’s office.

(We have been informed that this meeting focused primarily on adverse media reaction that has appeared in the last several weeks to the AID contribution to UNFPA (*WSJ* editorial attached at Tab 1).⁶ It examined secondarily the impact on our UN participation of setting up any kind of “special trust fund”. It ignored totally, according to our sources, any discussion of the diplomatic fall-out from the Chinese that such a fund is certain to provoke.)

2. Wednesday, April 25. AID Administrator Peter McPherson met privately with UNFPA Executive Director to discuss the UNFPA proposal, particularly the difficulty AID expects to encounter on the Hill in defending the China program. Derham later joined in that discussion.

3. Thursday, April 26. You called AID Administrator Peter McPherson to express our concern about reports that the AID contribution to UNFPA might be placed in a “special trust fund” that would insulate the US contribution from support of China’s family planning activities.

4. We sent out a cable to Beijing, info USUN,⁷ which alerted the Presidential party to these developments in the event that the Chinese might already have gotten wind of them through the UNFPA staff. AID cleared this cable (attached at Tab 2).⁸ Other major objectives of this cable, along with your telephone call to McPherson, were to educate

⁶ Not attached. See “Paying for Abortions,” *Wall Street Journal*, April 9, 1984, p. 34.

⁷ See footnote 5, above.

⁸ Not attached.

AID to the diplomatic dimension of the issue, to emphasize our concern about the action already taken by AID without informing us, and the importance of working together toward a mutually satisfactory resolution of the problem.

Discussion

The UNFPA program proposal calls for a \$50 million contribution to China for the period 1985–89. UNFPA is presently completing its first major package of assistance to China—also for \$50 million—begun in 1980.

In addressing concerns raised by Senator Helms last spring,⁹ we informed the Senate Foreign Relations Committee that the UNFPA does not encourage projects in abortion-related fields, was not involved in financing any abortion-related activity in China, and had never been involved in any programs of coerced abortions.¹⁰

⁹ Not further identified.

¹⁰ In a May 15 memorandum of conversation with Salas, Mousky, and Benedick, Derham stressed “that either AID must examine every UNFPA project in detail in order to certify that there is no support for abortion or forced sterilization, or the U.S. contribution to UNFPA must be segregated in a separate trust fund account.” (Department of State, Country Files, Miscellaneous Population Files, 1974–1992, Lot 93D393, China/UNFPA 1984)

277. Memorandum From the Administrator of the Agency for International Development (McPherson) to Secretary of State Shultz¹

Washington, May 29, 1984

SUBJECT

UNFPA Contribution Procedures

I wanted to provide you some background on current discussions with the United Nations Fund for Population Activities (UNFPA). We are discussing procedures with them for assuring that U.S. funds are not used by them to fund abortion and involuntary sterilization. In

¹ Source: Department of State, Country Files, Miscellaneous Population Files, 1974–1992, Lot 93D393, UNFPA—General—1982–1985. No classification marking.

fairness to UNFPA, they have made representations to us that they are not funding such activity.

I should note that we view this as an issue applicable to the entire UNFPA program, not as limited to or targeted at any specific country. Because Congressional and public interests have high-lighted UNFPA work in China, we are trying to be very careful in our discussions to keep the focus on country programs which we support.

Our contribution to UNFPA is a Congressionally earmarked portion of AID's population account. Congress routinely earmarks more than we propose. This year the earmark is \$38,000,000. AID's contributions are commingled with all other contributions into a common fund and support UNFPA's programs in a large number of countries. Although we "attribute" our commingled funds to projects not involving abortion, critics continue to argue that U.S. financial support does result in a share of U.S. funds supporting each of UNFPA's projects.

Since AID, as a general matter, is prohibited by law from funding abortion and involuntary sterilization, we believe that we should avoid such funding, when practical, even when done through multilateral organizations.

Accordingly, we are trying to devise a mechanism whereby we can avoid sitting in judgment over each national program conducted by UNFPA, and yet assure that AID funds do not flow to prohibited uses.

One mechanism would be to establish a separate bank account which would fund activities the U.S. clearly supports. Other mechanisms might be possible and we are anxious to look at all options. In the meantime, we have not sent the latest check to UNFPA.

We will keep you advised.

M. Peter McPherson²

² McPherson signed his initials above his typed signature.

278. Memorandum From the Executive Secretary of the National Security Council (Kimmitt) to the Executive Secretary of the Department of State (Hill)¹

Washington, May 30, 1984

SUBJECT

International Conference on Population

Attached is a draft position paper for the International Conference on Population in Mexico City, August 6–13, 1984. The paper was prepared by the White House Office of Policy Development, in coordination with our staff.

Please provide your comments or concurrence by Wednesday, June 13. Please respond jointly to Robert C. McFarlane and John A. Svahn, Assistant to the President for Policy Development.

Robert M. Kimmitt

Tab A

Draft Position Paper Prepared in the National Security Council²

Washington, undated

DRAFT Statement

For many years, the United States has supported, and helped to finance, programs of family planning, particularly in the less developed countries. This Administration has continued that support but has placed it within a policy context different from that of the past. It is sufficiently evident that the current exponential growth in global population cannot continue indefinitely. There is no question of the ultimate need to achieve a condition of population equilibrium. The

¹ Source: Department of State, Country Files, Miscellaneous Population Files, 1974–1992, Lot 93D393, Background Papers 1980–1984. No classification marking. A copy was sent to Svahn. Forwarded to McFarlane under a June 6 covering memorandum from Hill which reads: “We have received your draft position paper for the International Conference on Population, and are preparing comments. We have passed the draft to AID, to Ambassador Kirkpatrick, and to Ambassador Gavin for their comments. In addition, we recommend that you circulate the draft to the Bureau of the Census, CIA and Defense for their clearance.” (Ibid.)

² No classification marking.

differences that do exist concern the choice of strategies and methods for the achievement of that goal. The experience of the last two decades not only makes possible but requires a sharper focus for our population policy. It requires a more refined approach to problems which appear today in quite a different light than they did twenty years ago.

First and most important, in any particular society today, population growth is, of itself, a neutral phenomenon. It is not necessarily good or ill. It becomes an asset or a problem only in conjunction with other factors, such as economic policy, social constraints, need for manpower, and so forth. The relationship between population growth and economic development is not a negative one. More people do not mean less growth; that is absurd on its face. Indeed, both in the American experience and in the economic history of most advanced nations, population growth has been an essential element in economic progress.

Before the advent of governmental population programs, several factors had combined to create an unprecedented surge in population over most of the world. Although population levels in many industrialized nations had reached or were approaching equilibrium in the period before the Second World War, the baby boom that followed in its wake resulted in a dramatic, but temporary, population "tilt" toward youth. The disproportionate number of infants, children, teenagers, and eventually young adults did strain the social infrastructure of schools, health facilities, law enforcement and so forth. It also sustained strong economic growth and was probably critical in boosting the American standard of living to new heights, despite occasionally counterproductive government policies.

Among the less developed nations, a coincidental population increase was caused by entirely different factors, directly related to the humanitarian efforts of the United States and other western countries. A tremendous expansion of health services—from simple inoculations to sophisticated surgery—saved millions of lives every year. Emergency relief, facilitated by modern transport, helped millions to survive flood, famine, and drought. The sharing of technology, the teaching of agriculture and engineering, the spread of western ideals in the treatment of women and children all helped to drastically reduce the mortality rates, especially infant mortality, and to lengthen the life span.

The result, to no one's surprise, was more people, everywhere. This was not a failure but a success. It demonstrated not poor planning or bad policy but human progress in a new era of international assistance, technological advance, and human compassion. The population boom was a challenge; it need not have been a crisis. Seen in its broader context, it required a measured, modulated response. It provoked an overreaction by some, largely because it coincided with two negative factors which, together, hindered families and nations in adapting to their changing circumstances.

The first of these factors was governmental control of economies, a pathology which spread throughout the developing world with sufficient virulence to keep much of it from developing further. As economic decision-making was concentrated in the hands of planners and public officials, the ability of average men and women to work towards a better future was impaired, and sometimes crippled. Agriculture was devastated by government price fixing that wiped out rewards for labor. Job creation in infant industries was hampered by confiscatory taxes. Personal industry and thrift were penalized, while dependency upon the state was encouraged. Political considerations made it difficult for the economy to adjust to changes in supply and demand or to disruptions in world trade and finance. Under such circumstances, population growth changed from an asset in the development of economic potential to a peril.

The worst consequence of economic statism was that it disrupted the natural mechanism for slowing population growth in problem areas. The world's more affluent nations have reached a population equilibrium without compulsion and, in most cases, even before it was government policy to achieve it. The controlling factor in these cases has been the adjustment, by individual families, of reproductive behavior to economic opportunity and aspiration. Economic freedom has led to economically rational behavior. As opportunities and the standard of living rise, the birth rate falls.

That historic pattern would already be well under way in many nations where population growth is today a problem, if short-sighted policies had not disrupted economic incentives, rewards, and advancement. In this regard, localized crises of population growth are evidence of too much government control and planning, rather than too little.

The second factor that turned the population boom into a crisis was confined to the western world. It was an outbreak of an anti-intellectualism, which attacked science, technology, and the very concept of material progress. Joined to a commendable and long overdue concern for the environment, it was more a reflection of anxiety about the unsettled times and the uncertain future and disregard of human experience and scientific sophistication. It was not unlike other waves of cultural anxiety that have, over the centuries, swept through western civilization during times of social stress and scientific exploration.

The combination of these two factors—counterproductive economic policies in poor and struggling nations and a pseudo-scientific pessimism among the more advanced—provoked the demographic overreaction of the 1960's and 1970's. Doomsday scenarios took the place of realistic forecasts, and too many governments pursued population control measures that have had little impact on population growth, rather than sound economic policies that create the rise in living stan-

dards historically associated with decline in fertility rates. It was the easy way out, and it did not work. It focused on a symptom and neglected the underlying ailments. For the last three years, this Administration has sought to reverse that approach. We recognize that, in some cases, immediate population pressures may make advisable short-term efforts to meliorate them. But this cannot be a substitute for the economic reforms that put a society on the road toward growth and, as an aftereffect, toward slower population increase as well.

Nor can population control substitute for the rapid and responsible development of natural resources. In responding to certain Members of Congress concerning the previous Administration's Global 2000 report,³ this Administration in 1981 repudiated its call "for more governmental supervision and control. Historically, that has tended to restrict the availability of resources and to hamper the development of technology, rather than to assist it. Recognizing the seriousness of environmental and economic problems, and their relationship to social and political pressures, especially in the developing nations, the Administration places a priority upon technological advance and economic expansion, which hold out the hope of prosperity and stability of a rapidly changing world. That hope can be realized, of course, only to the extent that government's response to problems, whether economic or ecological, respects and enhances individual freedom, which makes true progress possible and worthwhile."

Those principles underlie this country's approach to the United Nations Conference on Population to be held in Mexico City in August. In accord with those principles, we reject compulsion or coercion in family planning programs, whether it is exercised against families within a society or against nations within the family of man. The United Nations Declaration of the Rights of the Child (1959) calls for legal protection for children before birth as well as after birth; and the United States accordingly does not consider abortion an acceptable element of family planning programs and will not contribute to those of which it is a part. Nor will it any longer contribute directly or indirectly to family planning programs funded by governments or private organizations that advocate abortion as an instrument of population control. Efforts to lower population growth in cases in which it is deemed advisable to do so must, moreover, respect the religious beliefs and culture of each society. Population control is not a panacea. It will not solve problems of massive unemployment. Jobs are not lost because there are too many people in a given area. Jobs are created by the conjunction of human wants and investment capital. Population growth

³ Reference is to the Global 2000 Report to the President released in 1980 by the Council on Environmental Quality and the Department of State.

fuels the former; sound economic policies and properly directed international assistance can provide the latter. Indeed, population density may make the latter more feasible by concentrating the need for both human services and technology. But as long as oppressive economic policies penalize those who work, save, and invest, joblessness will persist.

Population control cannot solve problems of unauthorized migration across national boundaries. People do not leave their homes, and often their families, to seek more space. They do so in search of opportunity and freedom. Reducing their numbers gives them neither. Population control cannot avert natural disasters, including famines provoked by cyclical drought. Fortunately, world food supplies have been adequate to relieve those circumstances in recent years. Problems of transportation remain; but there are far deeper problems as well, in those governmental policies which restrict the rewards of agricultural pursuits, encourage the abandonment of farmland, and concentrate people in urban areas.

It is time to concentrate upon those root problems which frequently exacerbate population pressures. By focusing upon real remedies for underdeveloped economies, the United Nations Conference on Population can reduce demographic issues to their proper place. It is an important place, but not the controlling one. It requires our continuing attention within the broader context of economic growth and of the economic freedom that is its prerequisite. Most of all, questions of population growth require the approach outlined by President Reagan in 1981, in remarks before the World Affairs Council of Philadelphia: "Trust the people, trust their intelligence and trust their faith, because putting people first is the secret of economic success everywhere in the world."⁴ That is the agenda of the United States for the United Nations Conference on Population this year, just as it remains the continuing goal of our family planning assistance to other nations.

⁴ See *Public Papers: Reagan*, 1981, pp. 937–944.

279. Letter From President Reagan to the International Conference on Population¹

Washington, May 30, 1984

I am grateful to Mexico, under the leadership of President Miguel de la Madrid Hurtado, for its gracious hospitality in hosting the International Conference on Population.

World leaders have come to recognize that the historically unprecedented growth of population now occurring in many countries affects economic and social development and presents a unique set of challenges and opportunities. It is for these reasons that the United States provides bilateral and multilateral assistance in population programs.

Recognizing the seriousness of environmental and economic problems and their relationship to social realities, the United States places a priority upon technological advancement and economic expansion which hold out the hope of prosperity and stability for a rapidly changing world. That hope can be realized to the extent nations respond to problems, whether economic or ecological, in ways that respect and enhance the freedom and dignity of the individual.

We believe population programs can and must be truly voluntary, cognizant of the rights and responsibilities of individuals and families, and respectful of religious and cultural values. When they are, such programs can make an important contribution to economic and social development, to the health of mothers and children, and to the stability of the family and of society.

Our concern over the dimensions of demographic change is inseparable from a concern for the welfare of children—who are the ultimate resource of any society. Together we must strive for a world in which children are happy and healthy. They must have the opportunity to develop to their full mental and physical potential and, as young adults, be able to find productive work and to enjoy a decent and dignified existence.

I wish the participants in this Conference good counsel and inspiration in addressing these issues. I am confident they will fulfill their responsibility to produce recommendations for action by the international community which will improve the well-being of generations to come.

Ronald Reagan

¹ Source: Reagan Library, WHORM: Subject File PR014-08, case 204713. No classification marking.

280. Memorandum From the Deputy Secretary of State (Dam) to Secretary of State Shultz¹

Washington, June 8, 1984

SUBJECT

International Conference on Population

On May 30, we received a draft position from the Office of Policy Development at the White House for the Conference on Population to be held in Mexico City August 5–13.² The paper seems substantially to alter long-standing foreign policy in the population field as expressed by the President in 1981 at Ottawa; 1982 at Versailles, 1983 in a message to the Conference on Population in Brazil, and as recently as May 30, 1984 in a message to the Mexico conference.³ It is substantially at variance with statements that Jeane Kirkpatrick,⁴ Peter McPherson and you have made.⁵ In effect, the proposed statement asserts that population growth is irrelevant to development. If we go to Mexico with such a position, we will seriously damage ourselves in the eyes of our allies and our friends in the third world, not to mention domestically with key Members of the House and Senate whose support we need today for foreign assistance legislation.

We are having a real problem managing this issue since it is so politically charged and the Office of Policy Development has in its own mind closed the book on the issue. We have been told that Jim Buckley has reviewed this statement, likes it, and on the basis of it, has agreed to head the delegation to Mexico. We are also told that the Office of Policy Development expects to put its paper before the President for approval next week upon his return to Washington. The objective, as we understand it, is to gain a seal of approval from the President on the paper as well as on a delegation list sympathetic to this new policy. This timeframe will not give us sufficient time to comment and make appropriate adjustments.

¹ Source: Department of State, Files of the Deputy Secretary of State—Deputy Secretary Kenneth Dam Official Files, 1982–1985, Lot 85D308, Memos to/FRM S—Jan/June 84. Secret.

² See the attachment to Document 278.

³ Reagan's message to the Mexico conference is printed in Document 279.

⁴ See Werner Fornos, "Stop Global Population Inflation," *Chicago Tribune*, September 21, 1983, p. 15.

⁵ See footnote 5, Document 274.

Accordingly, I suggest that you talk to Bud so that he can make sure the President isn't blindsided on this issue. Then, when you return, we will be in a position to resolve this in a more systematic manner.

I should note that John Gavin has written a note to Jim Baker expressing his concern although Jim may not yet have received it.⁶ I should also point out that a number of key committee chairmen have indicated that they want consultations on this matter before we lock in on any new position.

⁶ Not found.

281. Note From the Coordinator of Population Affairs, Bureau of Oceans and International Environmental and Scientific Affairs (Benedick) to the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs (Malone)¹

Washington, June 11, 1984

RE

U.S. position at Mexico City Conference

It is interesting that the Soviet position at the World Population Conference in Bucharest in 1974 (attached)² has surprising parallels with the draft U.S. position.

—It views population growth as a challenge to governments to improve welfare;

—It states "Population growth cannot be an obstacle to economic development";

—It rejects family planning as a contributor to economic development;

—It states that increasing industrialization and social factors will take care of population growth rates.

¹ Source: Department of State, Country Files, Miscellaneous Population Files, 1974–1992, Lot 93D393, Background Papers 1980–1984. No classification marking.

² Dated February 6, attached but not printed.

The Soviet view has traditionally been that the issue of rapid population growth is a capitalist ploy to divert the attention of Third World countries from the need for more aid and more radical economic policies.

Richard Benedick³

³ Benedick signed “Richard” above his typed signature.

282. Action Memorandum From the Administrator of the Agency for International Development (McPherson) and the Director of the Policy Planning Staff, Department of State (Rodman) to Secretary of State Shultz¹

Washington, June 13, 1984

SUBJECT

White House Position Paper on the International Conference on Population

ISSUE FOR DECISION

Whether to call Bud McFarlane and Jim Baker concerning a White House proposed position paper on international population programs, which would sharply shift our policy in this area.

ESSENTIAL FACTORS

The White House Office of Policy Development has prepared the attached draft position paper (Tab C)² for the International Conference on Population (August 6–13, Mexico City). This White House paper represents an abrupt change in the Reagan Administration’s posture and policies on international family planning programs.

The paper’s principal thrust is to criticize sharply the undue emphasis (of previous administrations) on “population control” programs to

¹ Source: Department of State, Files of the Deputy Secretary of State—Deputy Secretary Kenneth Dam Official Files, 1982–1985, Lot 85D308, Memos to/FRM S—Jan/June 84. Confidential; Sensitive. Drafted by Cohen on June 11 and cleared in S/P and OES/CP. Sent through Dam.

² Tab C, undated, is attached and printed as an attachment to Document 278.

the neglect of the underlying causes—unsound economic and social policies. The paper would also announce a new USG policy on abortion which would deny all population assistance to a number of LDCs and international organizations.

Peter McPherson is very concerned about the proposed position and has sent an interim response to John Svahn at the White House raising AID's concern that the paper is not in accord with this Administration's policies.³ You have received letters from the Senate (Percy, Hatfield and Inouye) and the House (O'Neill, Broomfield, Fascell and Long)⁴ raising Congressional concerns over possible shifts in our current policy and asking to be consulted on the preparations for the conference, including the composition of the U.S. delegation. Jim Buckley, who has agreed to lead the U.S. delegation reportedly favors the paper as currently written. We have prepared a formal response to the NSC (Tab B). We believe your personal intervention is warranted by the significant potential for adverse foreign policy consequences.

BACKGROUND

The White House paper reflects the reaction of some development theorists, most prominently Julian Simon, to what they consider the oversimplifications implied in past strategies that population programs by themselves would cause rapid declines in birth rates. They also argue against the doomsday scenarios which laced much of the rhetoric of earlier years. Simon and others contend that population growth does not necessarily inhibit economic development, pointing out that many of today's developed industrial countries experienced their most rapid population growth at precisely the time that their economies were most rapidly expanding. From this finding, they deduce that it is not population growth but something else—in the case of the White House draft, inappropriate economic policies—that has inhibited the economic development of Third World countries.

The critics of Simon's approach contend that his analytical model, which uses population and resource trends of the U.S. and other industrialized countries, is not relevant to today's LDCs. They argue that the unprecedented rates and absolute levels of population growth in many LDCs divert resources from investment to consumption, complicate other problems (such as malnutrition, illiteracy and unemployment), and impede the kind of economic development which over the long run could lead to fertility decline.

³ Not found.

⁴ None of these letters has been found.

The prevailing academic view is that while economic development may lead to lower fertility, rapid population growth generally retards the development process. There has emerged a broad consensus that, everything else being equal, economic growth will proceed faster when population growth is held in check; it is argued that the cases of Taiwan, Korea, Singapore, Thailand, Colombia and Costa Rica, among others, show that family planning programs and economic development are mutually reinforcing. Neither is a substitute for the other.

As you know, the Reagan Administration has moderated the more strident calls for population control, acknowledging that it is not a development panacea. Even more importantly, we have also have placed greater emphasis on a free market approach in delivery of family planning services and have taken strong steps to dissociate ourselves from abortion practices.

Conclusions

Technical arguments aside, we believe that such a marked change in our policies would have adverse political consequences, immediately and in the longer term. A shift in signals would attract criticism from our allies and important Third World governments which, at our urging, have placed a high priority on family planning. This criticism would be especially severe at a time of mounting U.S. interest rates and LDC debt. Finally, we run the risk of unraveling twenty years of U.S. efforts to convince the LDCs that family planning programs are in their own national interests.

For the longer term, we agree with CIA analyses⁵ which predict that, if unchecked, population growth will contribute to volatile economic and political conditions inimical to U.S. national security interests. Countries whose labor forces are increasing at a pace which, in the medium term, cannot be absorbed: Mexico, Turkey, Egypt, Pakistan, Central America and the Caribbean, may well face serious obstacles to political stability, as well as add to our immigration problems.

Of course, this cannot be prevented by declines in population growth rates alone. The real danger to our interests is that population pressures can only exacerbate the problems.

RECOMMENDATIONS:

1. That you discuss with Bud McFarlane and Jim Baker the foreign policy concerns with the draft White House position paper. (Talking Points at Tab A).⁶

⁵ Not further identified.

⁶ Shultz checked the disapprove option. Tab A is not attached.

2. That you approve the Department response to the White House on this matter. (Hill-McFarlane at Tab B).⁷

Tab B

Memorandum From the Executive Secretary of the Department of State (Hill) to the President's Assistant for National Security Affairs (McFarlane)⁸

Washington, June 15, 1984

SUBJECT

International Conference on Population, Mexico City, August 5-13, 1984

REF

Kimmitt-Hill Memorandum of May 30, 1984⁹

The draft position paper prepared by the Office of Policy Development has important foreign policy and national security implications. The State Department strongly believes that the U.S. position for this Conference should be carefully reviewed by the relevant agencies, including State, AID, Defense, and CIA, before any proposal is presented to the President.

The Reagan Administration has made some important adjustments in our international population policy by placing greater emphasis on a free market approach to the delivery of family planning services. We have also taken strong steps to dissociate ourselves from abortion practices. In addition we have moderated the more strident calls for population control.

Moreover, the White House draft paper's contention that population programs are not panaceas is well founded. However, economic development and population programs are mutually reinforcing. Neither is a substitute for the other.

Technical arguments aside, we believe that the change in U.S. policies proposed in the draft paper would have adverse political consequences, immediately and in the longer term. Indeed, the paper appears substantially to alter this Administration's foreign policy in the population field, as expressed by the President in his May 30 message to the

⁷ Shultz checked the approve option.

⁸ Confidential. A typed note in the top margin reads "Sent advance LDX 6/15 1530 CDJ S/S. Also by 4 pm courier CDJ."

⁹ Document 278.

Mexico City Conference, that “population programs . . . can make an important contribution to economic and social development, to the health of mothers and children, and to the stability of the family and of society”.¹⁰

It is also at variance with numerous public statements by George Shultz, Jeane Kirkpatrick, Peter McPherson and others,¹¹ which have stressed that rapid population growth creates problems for developing countries and that international population assistance is of high priority for U.S. foreign policy and development assistance strategy.

The marked shift in signals would attract criticism from our allies and important Third World governments which, at our urging, have placed a high priority on family planning. This criticism would be especially severe at a time of mounting U.S. interest rates and LDC debt. Finally, we run the risk of unraveling twenty years of U.S. efforts to convince the LDCs that family planning programs are in their own national interests.

For the longer term, we agree with CIA analyses which predict that, if unchecked, population growth will contribute to volatile economic and political conditions inimical to U.S. national security interests. Countries whose labor forces are increasing at a pace which, in the medium term, cannot be absorbed (Mexico, Turkey, Egypt, Pakistan, Central America and the Caribbean) will face serious obstacles to political stability as well as add to our immigration problems.

Of course, this cannot be prevented by declines in population growth rates alone. The real danger to our interests is that population pressures can only exacerbate the problems.

We are preparing an alternative paper for NSC review which, we believe, is more consistent with U.S. foreign policy objectives and is more in accord with the international family planning policies of this Administration.

Charles Hill¹²

¹⁰ See Document 279.

¹¹ See footnote 4, Document 280, and footnote 5, Document 274.

¹² McKinley signed for Hill.

283. Memorandum From Richard Levine of the National Security Council Staff to the President's Assistant for National Security Affairs (McFarlane)¹

Washington, June 15, 1984

SUBJECT

Population Conference Issue Paper

We are in a real box on the population issue paper question. I feel, however, that there is a course of action which will limit our losses and perhaps even make the Administration come out positively on this issue in the eyes of most people, whatever their perspective. The issue paper of course, is in wide circulation and the NSC's name is on it. The paper contains serious basic flaws. First it states that population growth in and of itself is never really a problem, rather lack of improving economic conditions and opportunities are the concerns we must address. This logic is equivalent to saying an American family living in a slum with ten kids is not suffering because of the size of the family but rather because the family doesn't earn \$80,000 a year and own two Buicks. Clearly the size of family wouldn't matter at all if they were well off economically, but it is ridiculous to think that free market based development alone can solve the problems of the Indias and Pakistans of the world.

Rapid population growth limits governmental options, retards economic growth, heightens youth and minority dissatisfaction, and leads to international disorder and the imposition of more repressive forms of government in the Third World. The Svahn paper² also states (I understand from Svahn that Jim Buckley wrote this) that the USG will not contribute "directly or indirectly to family planning programs funded by governments . . . that advocate abortion as an instrument of population control". In fact the USG has never condoned or supported the use of abortion for birth control. But to cut off our family planning funding to countries that do use abortion at times would serve the opposite purpose of removing birth control alternatives to abortion. Abortion is cheap and quick and will be used by states in the absence of available birth control alternatives.

I have discussed my concerns confidentially with Jim Malone who is drafting the State paper. Jim has stated that he will use my suggested

¹ Source: Reagan Library, Executive Secretariat, NSC: Subject File, [Population—too late to file] (2) (18 June 84). Secret. Sent for action.

² See Document 278.

language which he and his staff fully support. I have not yet seen his draft.

Since the Svahn paper is public,³ the *worst* thing we could do is to float another White House draft based on the State or AID rewrite,⁴ for it too would leak and the Svahn paper and the amended draft would be compared and various groups would criticize us for any and all changes.

Since the Svahn draft has leaked, we should state that it is in fact the "White House" first draft (this will of course earn us credit with fundamentalist groups). At the same time we should now secretly transfer the lead on this population conference and the issue paper to State. This way State would prepare the proper position papers and the FSO's, who are seen by many conservatives as outside White House control, would take the flak for the creation of a more moderate population policy.

Under this scenario, the White House would still receive credit from some fundamentalist groups for a fight well fought, while State would in fact present the proper position at Mexico City.

The Mexico City conference is not until August 7th so we should not rush our moves on this matter. Svahn told me today (Friday, June 15) that he is expected by Meese and Baker to prepare another population policy draft based on the State and AID papers. As I stated, the leak of another White House policy statement would be disastrous. I also am certain that the State and AID papers which are unclassified will also leak. Thus, Svahn's rewrite should be slowed down.

The question of Buckley chairing our delegation must also be decided. As stated, I believe we should make it seem as if the careerists at State have seized control of this issue after this matter has cooled down in the next few weeks.

Clearly, this strategy can only be adopted if Baker and Meese concur. I feel I could confidentially work with State to develop a balanced, hard hitting population paper, but if the White House is still viewed as having the lead on this issue, any new paper we author will only be unfavorably compared with the Svahn draft by the very groups we are attempting to please.

RECOMMENDATION

That you raise my plan with Meese and Baker for approval.⁵

NOTE: I will be in Indianapolis and New York until June 20.

³ See Rowland Evans and Robert Novak, "The Population Policy Battle," *Washington Post*, June 13, 1984, p. A23.

⁴ See the attachment to Document 284.

⁵ McFarlane checked the approve option.

284. Memorandum From the Executive Secretary of the Department of State (Hill) to the President's Assistant for National Security Affairs (McFarlane) and the Assistant to the President for Policy Development (Svahn)¹

Washington, June 18, 1984

SUBJECT

International Conference on Population

Further to my memorandum of June 6, 1984,² attached is the State Department draft scope paper for the International Conference on Population.

Charles Hill³

Attachment

Draft Paper Prepared in the Department of State⁴

Washington, undated

DRAFT U.S. SCOPE PAPER FOR THE
INTERNATIONAL CONFERENCE ON POPULATION
MEXICO CITY
AUGUST 5–13, 1984

Introduction

A demographic watershed occurring in many Third World countries of vital concern to U.S. interests has critical implications for political stability, economic development, and health and humanitarian concerns. For this reason, international population policy is of high priority to U.S. foreign policy.

¹ Source: Department of State, Central Foreign Policy File, P840131–0239. No classification marking. Drafted by Benedick and Malone and cleared by Dam, McPherson, Malone, and Kaplan. A typed message in the top margin reads: "Sent via LDX 6/19 1140. Also via 1400 courier 6/19." In a June 22 memorandum to Baker, McFarlane wrote that he had created a separate draft of the paper "based upon State and AID drafts." (Reagan Library, Executive Secretariat, NSC: Subject File, [Population—too late to file] (2) (18 June 84))

² See footnote 1, Document 278.

³ McKinley signed for Hill.

⁴ No classification marking.

The International Conference on Population (ICP) offers the U.S. an opportunity to strengthen the international consensus on the interrelationships between economic development and population which has emerged since the last such conference in Bucharest in 1974. Our primary objective will be to encourage developing countries to adopt sound economic policies and, where appropriate, population policies consistent with respect for human dignity and family values. As President Reagan stated, in his message to the Mexico City Conference:

“We believe population programs can and must be truly voluntary, cognizant of the rights and responsibilities of individuals and families, and respectful of religious and cultural values. When they are, such programs can make an important contribution to economic and social development, to the health of mothers and children, and to the stability of the family and of society.”

1. *National Security Concerns*

Conservative projections indicate that, in the sixty years from 1950 to 2010, many Third World countries of strategic or economic importance to the U.S. will experience four-, five-, or even sixfold increases in the size of their populations. Even under the assumption of gradual declines in birth rates, the unusually high proportion of youth in the Third World means that the annual *additions* to the populations of many of these countries will continue to grow larger for the next several decades.

Population growth—of such dimensions and over such a relatively short time-frame—is contributing to unusual economic, social, and resource pressures which threaten to undermine U.S. initiatives for peace, economic progress, and human dignity and freedom in many areas throughout the world. Intelligence analyses identify four destabilizing aspects of population change and demographic pressures that can be exploited by communism and extremist movements which breed on frustrated aspirations.

(a) *Fast-growing youth populations.* The numbers of youth requiring jobs, education, and housing are growing faster than most developing countries can absorb them. For example, even with an anticipated decline in the birth rate, the number of young men in Egypt in the 15-to-24 age group will rise from 4.6 million in 1980 to 7 million by 2000; most of these men are already born. It is men in this age group, increasingly frustrated and angry, ready recruits for a cause, who have fueled unrest in Kenya, India, Lebanon, the Philippines, Iran, and elsewhere.

(b) *International migration.* International labor migration, legal or illegal, and refugee movements, are creating growing political and social tensions in Africa, the Near East, Asia, and Central and South America.

(c) *Explosive growth of cities.* The combination of rural poverty and high birth rates is bringing unprecedented growth to cities in the Third World. If present trends continue, Mexico City may surpass 25 million by the end of the century; Tehran, Karachi, and Cairo may reach 11–13 million; and places like Lagos and Kinshasa, which contained 200–300,000 people as recently as 1950, are headed toward over 9 million. The combination of overcrowding, unmet expectations, and different ethnic, religious, and social groups makes a politically volatile mix. Violent demonstrations and mass riots over food or sectarian causes in the recent past in cities as varied as Tunis, Bombay, Sao Paulo, Cairo, Rabat, Karachi, and Rio de Janeiro, are manifestations of these growing pressures.

(d) *Ethnic tensions.* Shifts in ethnic and religious composition are an actual or potential destabilizing influence in many developing countries.

Although rapid population growth is only one factor contributing to rising dangers of social unrest, political instability, and potential international conflicts over land, water, or resources, its influence should not be ignored. Moreover, the next few years will see many more people entering their child-bearing ages than leaving: the number of young adults in the 20-to-39 age category will increase by 20 million in the North between 1980 and 2000—in the Third World, the increase will be 600 million, all of them *already* born. Thus, unless birth rates decline rapidly, demographic pressures in many countries will cumulate in the coming generations.

2. *Population, Development, and Economic Policies.*

Sound economic policies and a market economy are of fundamental importance to the process of economic development. Rising standards of living contributed in a major way to the demographic transition from high to low rates of population growth which occurred in the U.S. and other industrialized countries over the last century.

The current situation of many developing countries, however, differs in certain ways from conditions in 19th-century Europe and the U.S. The rates and dimensions of population growth are much higher now, the pressures on land, water, and resources are greater, the safety-valve of migration is more restricted, and, perhaps most important, time is not on their side because of the momentum of demographic change.

The problem is not that population growth in itself is bad. The problem is that rapid population growth compounds already serious problems faced by both public and private sectors in accommodating changing social and economic demands. It diverts resources from needed capital investment to consumption, and increases the costs and difficulties of economic development.

Population and family assistance policies and programs alone will not achieve economic miracles. They are no substitute for sound economic policies. Nevertheless, the governments of many developing countries now believe that rapid population growth has itself become, in many cases, an obstacle to the economic progress which should in time lead to smaller family size and slower population growth. A broad international consensus has emerged since the 1974 Bucharest World Population Conference that economic development and population policies are mutually reinforcing. This is why even LDC's with relatively sound, market-oriented economies have found it important to pursue voluntary programs to moderate population growth as part of their overall development strategy.

3. Health and Humanitarian Concerns.

Perhaps the most poignant consequence of rapid population growth is its effect on the health of mothers and children. Especially in poor countries, the health and nutrition status of women and children is linked to family size. Maternal and infant mortality rises with the number of births and with births too closely spaced. In countries as different as Turkey, Peru, and Nepal, a child born less than two years after its sibling is twice as likely to die before it reaches the age of five, than if there were an interval of at least four years between the births. Complications of pregnancy are more frequent among women who are very young or near the end of their reproductive years. In societies with widespread malnutrition and inadequate health conditions, these problems are reinforced; numerous and closely spaced births lead to even greater malnutrition of mothers and infants.

The World Population Plan of Action,⁵ adopted at the Bucharest Conference in 1974, states:

"All couples and individuals have the basic human right to decide freely and responsibly the number and spacing of their children and to have the information, education and means to do so; the responsibility of couples and individuals in the exercise of this right takes into account the needs of their living and future children, and their responsibilities towards the community;"

Yet, throughout the world, hundreds of millions of families lack the information and means to exercise this right to have the number of children they desire. Because of the unprecedented and growing numbers of people moving into and through their child-bearing years, the need for information and assistance is great. Even now, there is unmet demand for such services, and requests from developing coun-

⁵ See "World Population Plan of Action," United Nations, 1974.

tries for assistance from the U.S., UN, and other donors exceed current budgets (population assistance is currently less than two percent of worldwide Official Development Assistance). Because of the demographic momentum and the numbers involved, delays in offering voluntary programs may result in desperate governments resorting to measures which infringe upon human rights and dignity.

It is an unfortunate reality that in many countries abortion is used as a means of terminating unwanted pregnancies. This is unnecessary; voluntary family assistance programs can provide a humane alternative to abortion for couples who wish to regulate the size of their family, and evidence from some developing countries indicates a decline in abortion as such services are expanded.

4. *U.S. Population Assistance.*

It seems clear that ignoring demographic realities or delaying practical responses to these conditions runs the risk of perpetuating poverty and human degradation and undermining the stability of the family and of society. Hence, the U.S. has considered population to be one important component of a balanced development assistance strategy.

The basic objective of all U.S. assistance, including population programs, is the betterment of the human condition, improving the quality of life of mothers and children, of families, and of communities for generations to come. For we recognize that *people* are the ultimate resource—but this means happy and healthy children, growing up with an education, finding productive work as young adults, and able to develop their full mental and physical potential.

U.S. aid is designed to promote economic progress in developing countries through encouraging sound economic policies and freeing of individual initiative. Thus, the U.S. supports a broad range of activities in various sectors, including agriculture, private enterprise, science and technology, health, population, and education. Population assistance, while important in concept, amounts in monetary terms to only about ten percent of total development assistance.

As population factors had been neglected in early aid programs, the U.S. has in recent years taken an international leadership role in encouraging other donors and international organizations to support voluntary population programs as an important, cost-effective component of development aid. There is now substantial evidence, from countries with widely varying economic, social, and religious backgrounds, that relatively inexpensive family assistance programs can improve maternal and child health, bring down birth rates, and contribute to economic development.

Under this Administration, U.S. support for population programs abroad aims at strengthening family life and enhancing the freedom

of couples in the exercise of responsible parenthood by expanding access to a wide range of safe, effective, and acceptable family planning methods. The emphasis is on voluntarism, education and informed choice, and individual responsibility.

U.S. policy in this area is guided by certain basic ethical precepts:

- Aid will be provided in ways which are sensitive to human dignity and local cultural values;
- U.S. funds will not be used for abortion activities, for involuntary sterilization, or for population activities involving coercion;
- U.S. aid in other development sectors will never be conditioned on a country's acceptance of any particular population policy;
- U.S. population assistance will be provided only in the context of an overall development program.

5. *The U.S. at Mexico City.*

Because nearly all major LDC's have themselves adopted positions on population matters advanced by the U.S. and its Western allies over the past twenty years, the U.S. delegation need not be out front in Mexico City. Other countries will, however, look for our support in strengthening the broad consensus on population and development that has emerged over the past several years.

Based on the above discussion, the following principles should be drawn upon to guide the U.S. delegation at the ICP.

1. Population factors merit serious consideration in development strategy, although they are not a substitute for sound economic policies which liberate individual initiative through the market mechanism.

2. Population policies and programs should be fully integrated into, and reinforce, appropriate, market-oriented development policies; their objective should be clearly seen as an improvement in the human condition, and not merely an exercise in limiting numbers.

3. Access to family education and services needs to be significantly expanded, especially in the context of maternal/child health programs, in order to enable couples to exercise responsible parenthood. Consistent with local values and customs, the U.S. favors offering couples the widest practicable variety of medically approved methods, including natural family planning.

4. Respect for human life is basic, and any attempt to use abortion, involuntary sterilization, or other coercive measures in family planning must be rejected.

5. National and international resources addressed to population issues should be commensurate with the growing dimensions of the problem.

6. There should be higher international priority for biomedical research into safer and better methods of fertility regulation, including

natural family planning, and for operations research into more effective service delivery and program management.

7. Issues of migration should be handled in ways consistent with both human rights and national sovereignty.

8. The U.S., in cooperation with other concerned countries should resist intrusion of polemical or non-germane issues into Conference deliberations. In particular, a draft recommendation on disarmament and the arms race,⁶ proposed by the Soviet Union, should be rejected, although we can accept suitable language on the need for peace and disarmament in an appropriate preambular clause.

⁶ In telegram 100230 to multiple recipients, April 5, the Department discussed a session of the Preparatory Committee for the Conference, and mentioned the Soviet recommendation. (Department of State, Central Foreign Policy File, D840229-0096)

285. Memorandum From Richard Levine of the National Security Council Staff to the President's Deputy Assistant for National Security Affairs (Poindexter)¹

Washington, June 30, 1984

SUBJECT

Population Paper

Over the past few days—since Bud and Baker met and Shultz weighed in with Baker in support of the NSC paper—I have been meeting with Jim Cicconi.² Bud had asked me to meet with Cicconi in order to graft some sections of the Svahn paper to the NSC paper as a sop. This was per Bud's agreement with Baker. Cicconi and I are in agreement with the abortion language. I, in turn, grafted the first four pages of the Svahn paper to a shortened version of our draft. (I first, of course, had to edit those pages of the Svahn draft.) I gave this rough redraft to Bud and Cicconi. Bud thought it was excellent for it made

¹ Source: Reagan Library, Executive Secretariat, NSC: Subject File, Population—Too Late to File (18 Jun 84). Secret. Sent for action.

² In a June 26 memorandum to McFarlane, Levine provided criticism and corrections to the NSC paper. (Ibid.)

good policy sense, while at the same time made it look like the whole policy statement was derived from the original Svahn draft.

Cicconi, however, acting in a manner contrary to Bud's agreement with Baker, put back into his version 90 percent of what I cut from the Svahn draft, while at the same time removing all but one page of the NSC draft. Cicconi will present his redraft to Baker and Svahn on Monday, July 1 [2]. McPherson, I understand, is telling Baker that he can support any draft. McPherson just doesn't want to take any more flak from the conservatives.

We must ensure that this new Cicconi draft is not endorsed by the Administration as policy. By Monday afternoon I will forward to you my final effort at grafting as much of the Svahn paper unto ours as practical from any kind of policy perspective.

I recommend we delay a final decision by Baker on this matter until Bud returns. I do not feel Cicconi has dealt with me in good faith, but I realize that we (the NSC) must take more accommodating steps, in order that we not be branded as the liberals on this matter. (I see a lot of irony in this case.)

Recommendation

That you take appropriate action on this matter.³

³ Poindexter initialed the approve option. A stamped notation on an undated set of talking points, entitled "Talking Points for Baker meeting—Population Issue Paper," reads: "I am happy that we were able to work out appropriate language on abortion. Clearly, no U.S. funds should go to this practice," and "I thus can support use of Jim Cicconi's latest draft, with our noted changes." The July 3 revised draft statement is attached but not printed. (Reagan Library, Executive Secretariat, NSC: Subject File, Population [1])

**286. Paper Prepared in the Office of Policy Development,
National Security Council¹**

Washington, undated

**POLICY STATEMENT:
INTERNATIONAL CONFERENCE ON POPULATION****INTRODUCTION**

For many years, the United States has supported, and helped to finance, programs of family planning, particularly in developing countries. This Administration has continued that support but has placed it within a policy context different from that of the past. It is sufficiently evident that the current exponential growth in global population cannot continue indefinitely. There is no question of the ultimate need to achieve a condition of population equilibrium. The differences that do exist concern the choice of strategies and methods for the achievement of that goal. The experience of the last two decades not only makes possible but requires a sharper focus for our population policy. It requires a more refined approach to problems which appear today in quite a different light than they did twenty years ago.

First and most important, population growth is, of itself, a neutral phenomenon. It is not necessarily good or ill. It becomes an asset or a problem only in conjunction with other factors, such as economic policy, social constraints, need for manpower, and so forth. The relationship between population growth and economic development is not necessarily a negative one. More people do not necessarily mean less growth. Indeed, in the economic history of many nations, population growth has been an essential element in economic progress.

Before the advent of governmental population programs, several factors had combined to create an unprecedented surge in population over most of the world. Although population levels in many industrialized nations had reached or were approaching equilibrium in the period before the Second World War, the baby boom that followed in its wake resulted in a dramatic, but temporary, population "tilt" toward youth. The disproportionate number of infants, children, teenagers, and eventually young adults, did strain the social infrastructure of schools, health facilities, law enforcement, and so forth. However, it also helped

¹ Source: Department of State, Country Files, Miscellaneous Population Files, 1974–1992, Lot 93D393, Background Papers 1980–1984. No classification marking. Document 288 indicates the policy statement was released on July 13.

sustain strong economic growth, despite occasionally counterproductive government policies.

Among the developing nations, a coincidental population increase was caused by entirely different factors. A tremendous expansion of health services—from simple inoculations to sophisticated surgery—saved millions of lives every year. Emergency relief, facilitated by modern transport, helped millions to survive flood, famine, and drought. The sharing of technology, the teaching of agriculture and engineering, and improvements in educational standards generally, all helped to reduce mortality rates, especially infant mortality, and to lengthen life spans.

This demonstrated not poor planning or bad policy but human progress in a new era of international assistance, technological advance, and human compassion. The population boom was a challenge; it need not have been a crisis. Seen in its broader context, it required a measured, modulated response. It provoked an overreaction by some, largely, because it coincided with two negative factors which, together, hindered families and nations in adapting to their changing circumstances.

The first of these factors was governmental control of economies, a development which effectively constrained economic growth. The post-war experience consistently demonstrated that, as economic decision-making was concentrated in the hands of planners and public officials, the ability of average men and women to work towards a better future was impaired, and sometimes crippled. In many cases, agriculture was devastated by government price-fixing that wiped out rewards for labor. Job creation in infant industries was hampered by confiscatory taxes. Personal industry and thrift were penalized, while dependence upon the state was encouraged. Political considerations made it difficult for an economy to adjust to changes in supply and demand or to disruptions in world trade and finance. Under such circumstances, population growth changed from an asset in the development of economic potential to a peril.

One of the consequences of this “economic statism” was that it disrupted the natural mechanism for slowing population growth in problem areas. The world’s more affluent nations have reached a population equilibrium without compulsion and, in most cases, even before it was government policy to achieve it. The controlling factor in these cases has been the adjustment, by individual families, of reproductive behavior to economic opportunity and aspiration. Historically, as opportunities and the standard of living rise, the birth rate falls. In many countries, economic freedom has led to economically rational behavior.

That pattern might be well under way in many nations where population growth is today a problem, if counterproductive govern-

ment policies had not disrupted economic incentives, rewards, and advancement. In this regard, localized crises of population growth are, in part, evidence of too much government control and planning, rather than too little.

The second factor that turned the population boom into a crisis was confined to the western world. It was an outbreak of an anti-intellectualism, which attacked science, technology, and the very concept of material progress. Joined to a commendable and long overdue concern for the environment, it was more a reflection of anxiety about unsettled times and an uncertain future. In its disregard of human experience and scientific sophistication, it was not unlike other waves of cultural anxiety that have swept through western civilization during times of social stress and scientific exploration.

The combination of these two factors—counterproductive economic policies in poor and struggling nations, and a pessimism among the more advanced—led to a demographic overreaction in the 1960's and 1970's. Scientific forecasts were required to compete with unsound, extremist scenarios, and too many governments pursued population control measures without sound economic policies that create the rise in living standards historically associated with decline in fertility rates. This approach has not worked, primarily because it has focused on a symptom and neglected the underlying ailments. For the last three years, this Administration has sought to reverse that approach. We recognize that, in some cases, immediate population pressures may require short-term efforts to ameliorate them. But population control programs alone cannot substitute for the economic reforms that put a society on the road toward growth and, as an aftereffect, toward slower population increase as well.

Nor can population control substitute for the rapid and responsible development of natural resources. In commenting on the Global 2000 report, this Administration in 1981 disagreed with its call "for more governmental supervision and control,"² stating that:

"Historically, that has tended to restrict the availability of resources and to hamper the development of technology, rather than to assist it. Recognizing the seriousness of environmental and economic problems, and their relationship to social and political pressures, especially in the developing nations, the Administration places a priority upon technological advance and economic expansion, which hold out the hope of prosperity and stability of a rapidly changing world. That hope can be realized, of course, only to the extent that government's response to problems, whether economic or ecological, respects and enhances

² Not found, but see footnote 3, Document 278.

individual freedom, which makes true progress possible and worthwhile.”

Those principles underlie this country’s approach to the International Conference on Population to be held in Mexico City in August.

POLICY OBJECTIVES

The world’s rapid population growth is a recent phenomenon. Only several decades ago, the population of developing countries was relatively stable, the result of a balance between high fertility and high mortality. There are now 4.5 billion people in the world, and six billion are projected by the year 2000. Such rapid growth places tremendous pressures on governments without concomitant economic growth.

The International Conference on Population offers the U.S. an opportunity to strengthen the international consensus on the interrelationships between economic development and population which has emerged since the last such conference in Bucharest in 1974. Our primary objective will be to encourage developing countries to adopt sound economic policies and, where appropriate, population policies consistent with respect for human dignity and family values. As President Reagan stated in his message to the Mexico City Conference:³

“We believe population programs can and must be truly voluntary, cognizant of the rights and responsibilities of individuals and families, and respectful of religious and cultural values. When they are, such programs can make an important contribution to economic and social development, to the health of mothers and children, and to the stability of the family and of society.”

U.S. support for family planning programs is based on respect for human life, enhancement of human dignity, and strengthening of the family. Attempts to use abortion, involuntary sterilization, or other coercive measures in family planning must be shunned, whether exercised against families within a society or against nations within the family of man.

The United Nations Declaration of the Rights of the Child [1959]⁴ calls for legal protection for children before birth as well as after birth. In keeping with this obligation, the United States does not consider abortion an acceptable element of family planning programs and will no longer contribute to those of which it is a part. Accordingly, when dealing with nations which support abortion with funds not provided by the United States Government, the United States will contribute to such nations through segregated accounts which cannot be used for

³ See Document 279.

⁴ Brackets in the original.

abortion. Moreover, the United States will no longer contribute to separate nongovernmental organizations which perform or actively promote abortion as a method of family planning in other nations. With regard to the United Nations Fund for Population Activities (UNFPA), the U.S. will insist that no part of its contribution be used for abortion. The U.S. will also call for concrete assurances that the UNFPA is not engaged in, or does not provide funding for, abortion or coercive family planning programs; if such assurances are not forthcoming, the U.S. will redirect the amount of its contribution to other, non-UNFPA, family planning programs.

In addition, when efforts to lower population growth are deemed advisable, U.S. policy considers it imperative that such efforts respect the religious beliefs and culture of each society, and the right of couples to determine the size of their own families. Accordingly, the U.S. will not provide family planning funds to any nation which engages in forcible coercion to achieve population growth objectives.

U.S. Government authorities will immediately begin negotiations to implement the above policies with the appropriate governments and organizations.

It is time to put additional emphasis upon those root problems which frequently exacerbate population pressures, but which have too often been given scant attention. By focusing upon real remedies for underdeveloped economies, the International Conference on Population can reduce demographic issues to their proper place. It is an important place, but not the controlling one. It requires our continuing attention within the broader context of economic growth and of the economic freedom that is its prerequisite.

POPULATION, DEVELOPMENT, AND ECONOMIC POLICIES

Conservative projections indicate that, in the sixty years from 1950 to 2010, many Third World countries will experience four, five, or even sixfold increases in the size of their populations. Even under the assumption of gradual declines in birth rates, the unusually high proportion of youth in the Third World means that the annual population growth in many of these countries will continue to increase for the next several decades.

Sound economic policies and a market economy are of fundamental importance to the process of economic development. Rising standards of living contributed in a major way to the demographic transition from high to low rates of population growth which occurred in the U.S. and other industrialized countries over the last century.

The current situation of many developing countries, however, differs in certain ways from conditions in 19th century Europe and the U.S. The rates and dimensions of population growth are much higher

now, the pressures on land, water, and resources are greater, the safety-valve of migration is more restricted, and, perhaps most important, time is not on their side because of the momentum of demographic change.

Rapid population growth compounds already serious problems faced by both public and private sectors in accommodating changing social and economic demands. It diverts resources from needed investment, and increases the costs and difficulties of economic development. Slowing population growth is not a panacea for the problems of social and economic development. It is not offered as a substitute for sound and comprehensive development policies which encourage a vital private sector, it cannot solve problems of hunger, unemployment, crowding, or social disorder.

Population assistance is an ingredient of a comprehensive program that focuses on the root causes of development failures. The U.S. program as a whole, including population assistance, lays the basis for well-grounded, step-by-step initiatives to improve the well-being of people in developing countries and to make their own efforts, particularly through expanded private sector initiatives, a key building block of development programs.

Fortunately, a broad international consensus has emerged since the 1974 Bucharest World Population Conference that economic development and population policies are mutually reinforcing.

By helping developing countries slow their population growth through support for effective voluntary family planning programs, in conjunction with sound economic policies, U.S. population assistance contributes to stronger saving and investment rates, speeds the development of effective markets and related employment opportunities, reduces the potential resource requirements of programs to improve the health and education of the people, and hastens the achievement of each country's graduation from the need for external assistance.

The United States will continue its long-standing commitment to development assistance, of which population programs are a part. We recognize the importance of providing our assistance within the cultural, economic, and political context of the countries we are assisting, and in keeping with our own values.

HEALTH AND HUMANITARIAN CONCERNS

Perhaps the most poignant consequence of rapid population growth is its effect on the health of mothers and children. Especially in poor countries, the health and nutrition status of women and children is linked to family size. Maternal and infant mortality rises with the number of births and with births too closely spaced. In countries as different as Turkey, Peru, and Nepal, a child born less than two years after its sibling is twice as likely to die before it reaches the age of five,

than if there were an interval of at least four years between the births. Complications of pregnancy are more frequent among women who are very young or near the end of their reproductive years. In societies with widespread malnutrition and inadequate health conditions, these problems are reinforced; numerous and closely spaced births lead to even greater malnutrition of mothers and infants.

It is an unfortunate reality that, in many countries, abortion is used as a means of terminating unwanted pregnancies. This is unnecessary and repugnant; voluntary family assistance programs can provide a humane alternative to abortion for couples who wish to regulate the size of their family, and evidence from some developing countries indicates a decline in abortion as such services become available.

The basic objective of all U.S. assistance, including population programs, is the betterment of the human condition—improving the quality of life of mothers and children, of families, and of communities for generations to come. For we recognize that people are the ultimate resource—but this means happy and healthy children, growing up with education, finding productive work as young adults, and able to develop their full mental and physical potential.

U.S. aid is designed to promote economic progress in developing countries through encouraging sound economic policies and freeing of individual initiative. Thus, the U.S. supports a broad range of activities in various sectors, including agriculture, private enterprise, science and technology, health, population, and education. Population assistance amounts to about ten percent of total development assistance.

TECHNOLOGY AS A KEY TO DEVELOPMENT

The transfer, adaptation, and improvement of modern know-how is central to U.S. development assistance. People with greater know-how are people better able to improve their lives. Population assistance ensures that a wide range of modern demographic technology is made available to developing countries and that technological improvements critical for successful development receive support.

The efficient collection, processing, and analysis of data derived from census, survey, and vital statistics programs contribute to better planning in both the public and private sectors.

THE U.S. AT MEXICO CITY

In conjunction with the above statements of policy, the following principles should be drawn upon to guide the U.S. delegation at the International Conference on Population:

—1. Respect for human life is basic, and any attempt to use abortion, involuntary sterilization or other coercive measures in family planning must be rejected.

—2. Population policies and programs should be fully integrated into, and reinforce, appropriate, market-oriented development policies; their objective should be clearly seen as an improvement in the human condition, and not merely an exercise in limiting births.

—3. Access to family education and services needs to be broadened, especially in the context of maternal/child health programs, in order to enable couples to exercise responsible parenthood. Consistent with values and customs, the U.S. favors offering couples a variety of medically approved methods.

—4. Though population factors merit serious consideration in development strategy, they are not a substitute for sound economic policies which liberate individual initiative through the market mechanism.

—5. There should be higher international priority for biomedical research into safer and better methods of fertility regulation, especially natural family planning, and for operations research into more effective service delivery and program management.

—6. Issues of migration should be handled in ways consistent with both human rights and national sovereignty.

—7. The U.S., in cooperation with other concerned countries, should resist intrusion of polemical or non-germane issues into conference deliberations.

287. Paper Prepared in the Central Intelligence Agency¹

Washington, July 16, 1984

INTERNATIONAL CONFERENCE ON POPULATION²Issues and Prospects [*portion marking not declassified*]*Summary*

Representatives from about 150 countries will meet in Mexico City in August to hammer out a consensus on global population and development issues. Regional preparatory meetings showed that African, Middle Eastern, and Latin American delegates view economic development as the key to reducing fertility, mortality, and international migration. Developing country delegates will pressure the OECD countries—as they did at the last world population conference ten years ago—to increase what they view as lagging financial support for both population and economic development programs. The Soviet Union will attack the United States position and posture for the Third World media on peace and disarmament resolutions. [*portion marking not declassified*]

The Conference in Brief

Delegates from United Nations member states are scheduled to meet at the International Conference on Population in Mexico City, 6–13 August. The meeting, pushed for by the developing countries, is to assess progress since the Bucharest conference in 1974 and endorse further action on population issues. Mexico's Interior Minister Manuel Bartlett will chair the official conference agenda which calls for delegates to address inherently contradictory issues such as:

—Reducing rates of population growth that developing nations view as detrimental to their economic goals while endorsing the right of couples to determine their family size.

¹ Source: Central Intelligence Agency, Office of Support Services (DI), Job 85T00287R: Production Case Files, Box 13, Folder 177: International Conference on Population Issues and Prospects. Confidential. [*text not declassified*]

² This memorandum was prepared by [2 names not declassified], Regional Issues Branch, South Asia Division, Office of Near Eastern and South Asian Analysis, and [name not declassified], Third World Issues Branch, Economics Division and [name not declassified], Geography Division, Office of Global Issues. It was coordinated with the Office of African and Latin American Analysis and the Office of Soviet Analysis. Information as of 2 July 1984 was used in its preparation. Questions and comments should be directed to Chief, South Asia Division, [*less than 1 line not declassified*]. [Footnote is in the original.]

—Managing rural-to-urban migration but protecting individuals' right to move freely.

—Affirming the preeminence of national immigration laws while urging that families of international migrant laborers and refugees be permitted to join family members for humanitarian reasons. [*portion marking not declassified*]

The 1974 Conference

The Bucharest conference was held at the behest of the developed countries to encourage developing countries to reduce high rates of population growth. Delegates from Algeria, Argentina, and Brazil, amid heated north-south and east-west rhetoric, turned the conference into a long acrimonious debate over whether resources should be put into restraining population growth or into accelerating economic development. [*portion marking not declassified*]

Many developing country delegates argued that only more rapid economic development—requiring a restructuring of the world's economic system—would bring about a reduction in their national population growth rates. At the end of the two-week conference, delegates agreed to a "World Population Plan of Action"³ that stressed investment in economic development. Conferees agreed that couples should have the right to decide freely and responsibly the number and spacing of their children and to have the information, education, and means to carry out their decision. [*portion marking not declassified*]

1974–84: A Decade of Change

The "either development or family planning" argument of the 1974 Bucharest conference has, for the most part, given way to agreement that both economic development and family planning programs must be successful if population growth rates are to continue to fall. Unlike 1974—the year of quadrupled oil prices and developing country optimism that OPEC leverage would propel them to prosperity and lower population growth—1984 is a year with a weak oil market and a growing sense in many developing countries that economic growth will be slow and difficult to sustain. Developing country statements in the 1980s, while continuing to stress that accelerated economic growth will stimulate demand for family planning services, more frequently have stated that rapid population growth is neutralizing per capita economic gains. [*portion marking not declassified*]

³ See footnote 5, Document 284.

The latest evaluations of global trends by the United Nations Population Division show that the world's population growth rate has only edged downward in desultory fashion from 1.9–2.0 percent in the early 1970s to the current rate of 1.7–1.8 percent (Table). The number of developing countries with organized family planning programs has increased, however, from 55 to 72 and most developing countries have sustained modest rates of economic growth during the 1970s. [*portion marking not declassified*]

—Much of the global progress reflects the change in China which halved its growth rate the past decade by advocating programs to limit childbearing to one or two children per family.

—In the developing countries, excluding China, the average annual growth rate has plateaued during the decade at about 2.4 percent.

—In Africa, population growth rates increased from 2.7 to 3.0 percent between 1974 and 1984, as death rate declines outpaced small birth rate declines. [*portion marking not declassified*]

Over three-quarters of a billion people have been added to the world's population since the Bucharest conference:

—Ninety percent of the increment live in the less developed regions—sixty percent of them in Asia.

—Despite China's progress in achieving dramatic declines in its rate of growth, seventeen percent (130 million) of the addition to the world's population have been in China.

—India and her South Asian neighbors accounted for 42 percent (317 million) of the increase in world population. [*portion marking not declassified*]

Bucharest to Mexico City:
A Decade of Population Change 1974–1984

<i>Geographic Region</i>	<i>Average Annual Population Growth Rate</i>		<i>Change in Population Growth Rate</i>	<i>Increment to Total Population during 1974–1984 (in thousands)</i>	<i>Percentage Share of World Growth</i>
	1974	1984			
<i>World</i>	2.03	1.67	–0.36	766,003	100.0
More Developed Regions	0.89	0.64	–0.25	78,012	10.2
Less Developed Regions	2.46	2.02	–0.44	687,991	89.8
<i>Africa</i>	2.74	3.01	+0.27	143,429	18.7
Eastern Africa	2.94	3.23	+0.29	44,009	5.7
Middle Africa	2.50	2.70	+0.20	14,856	1.9
Northern Africa	2.44	2.88	+0.44	31,132	4.1
Southern Africa	2.32	2.53	+0.21	8,084	1.1
Western Africa	2.98	3.11	+0.13	45,348	5.9
<i>Americas</i>	1.87	1.73	–0.14	109,173	14.3
Latin America	2.51	2.30	–0.21	84,587	11.1
Caribbean	1.98	1.51	–0.47	4,343	0.6
Central America	3.17	2.68	–0.49	25,650	3.3
Temperate So. America	1.56	1.55	–0.01	6,573	0.9
Tropical So. America	2.51	2.39	–0.12	48,020	6.3
Northern America	1.05	0.89	–0.16	24,586	3.2
<i>Asia</i>	2.35	1.73	–0.62	467,191	61.0
East Asia	2.25	1.14	–1.11	150,199	19.6
China	2.37	1.17	–1.20	130,108	17.0
Other East Asia	2.21	1.75	–0.46	20,091	2.6
South Asia	2.44	2.20	–0.24	316,992	41.4
Southern Asia	2.41	2.19	–0.22	212,383	27.7
Southeastern Asia	2.39	2.06	–0.33	76,991	10.1
Western Asia	2.91	2.85	–0.06	27,618	3.6
<i>Europe</i>	0.64	0.33	–0.31	17,607	2.3
Eastern Europe	0.55	0.57	+0.02	6,746	0.9
Northern Europe	0.33	0.09	–0.24	511	0.1
Southern Europe	0.98	0.58	–0.40	8,521	1.1
Western Europe	0.58	0.06	–0.52	1,829	0.2
<i>Oceania</i>	1.85	1.50	–0.35	3,621	0.5
<i>USSR</i>	0.95	0.93	–0.02	24,982	3.2

Regional Priorities

Discussions in UN-sponsored preparatory meetings indicate that the regional delegations have different priorities for the Mexico City conference:

Africa

Delegates to the Second African Population Conference identified rural-urban migration, and corollary problems of rural development and agricultural self-sufficiency, as their highest priorities for action at Mexico City. African delegates view the Mexico City meeting as a conference on rural economic development, not fertility reduction. In their plan of action, "The Kilimanjaro Objectives on Population," they affirmed support for child-spacing as a health measure and indicated interest in fertility reduction as a consequence of economic development. *[portion marking not declassified]*

Middle East

The "Amman Declaration on Population and Development" stresses the inseparability of population change and socioeconomic development. Conferees argued that families must experience improved economic circumstances before couples will decide to reduce family size. They specifically rejected family planning separate from economic development as a means for reducing population growth in the Arab world. *[portion marking not declassified]*

Latin America

Delegates to the Havana preparatory meetings emphasized the primacy of the family in population matters. Papers and discussions underscored the rights of individuals to freely decide the number and spacing of their children. The consensus of the delegates was that countries in the region suffering from problems caused by the depressed global economic situation could not fully implement social, population, or development programs. *[portion marking not declassified]*

Asia

Delegates to the Asian Forum of Parliamentarians drafted a declaration which—in contrast to other regional positions—calls for determined intervention by governments to reduce population growth and mortality rates. The legislators identified the following goals:

- A reduction in the overall Asian growth rate to one percent by the year 2000.

- A decrease in mortality rates, particularly infant mortality rates, by 50 percent by the year 2000.

- A balanced distribution of population through policies to accommodate planned urban growth as well as to retain population in rural areas. *[portion marking not declassified]*

Possible Disruptions

Despite efforts by the conference organizers to achieve wide-ranging consensus before the August meetings, several unresolved substantive and procedural issues threaten to disrupt the conference. The USSR is likely to present a major problem. *[portion marking not declassified]*

We believe the Soviets have maneuvered deliberately since their withdrawal from the Los Angeles Olympics to build a platform at Mexico City from which they can assail the United States. The Soviet Union has a resolution before the conference which states that the problems of population growth and economic development can only be resolved successfully under conditions of world peace, disarmament, security, and cooperation among nations. The Soviet and Eastern Bloc delegations emphasized in all preparatory sessions that East-West disarmament and security matters should override population and economic development issues. The United States and other conference organizers were unsuccessful in moving the Soviets' peace and disarmament language to the preamble of the conference document where formal debate and action would not be required. [*portion marking not declassified*]

Moscow, in our view, will try to dominate and manipulate developing country media coverage during the week of the conference. The Soviets and their Eastern bloc allies may commandeer large chunks of the scant 27–36 total hours available for debate to embarrass the United States with peace and disarmament speeches. The USSR successfully introduced language to weaken the organizers' plans to limit each delegation's remarks to seven minutes on all action items. Conference delegates will be told only that it is "desirable" that they limit their remarks to seven minutes. [*portion marking not declassified*]

Differences between the developed and developing country delegations in the relative importance that they attach to the two strategies for reducing population growth rates—economic development and family planning—may polarize the conference along North-South lines as in 1974. Moreover, conservatives representing major religions in the Middle East, Africa, North America and at the Vatican have indicated that they may urge Mexico City conferees to eliminate support for specific family planning programs that they view as state interference in private family decisions. [*portion marking not declassified*]

Outlook

Mexican hosts, with the support of the OECD and most developing country delegates, will successfully constrain Soviet disruptions so that a consensus on population issues can be achieved. [*portion marking not declassified*]

We expect the Mexican delegation to submit a "Mexico City Declaration" that:

- Calls on the developed countries to increase their bilateral and multilateral financial support for developing country population and economic development programs.

- Notes the urgent need for nations to accelerate declines in their population growth rates and increases in their economic growth.

—Finesses the politically sensitive conflict between individual rights and state authority by applauding both.

The Declaration will receive widespread support from conference delegates as well as substantial media coverage. [*portion marking not declassified*]

In our judgment, Asian delegates will stand alone in their call for specific national fertility-reduction targets. Countries will still be encouraged by the 1984 World Population Plan of Action to set such goals. [*portion marking not declassified*]

288. Action Memorandum From the Acting Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs (Horner) to Acting Secretary of State Dam¹

Washington, August 3, 1984

SUBJECT

Instructions for U.S. Delegation to the International Conference on Population

ISSUE FOR DECISION

Whether to approve a cable transmitting instructions to the U.S. Delegation to the International Conference on Population.

BACKGROUND

The United Nations International Conference on Population opens in Mexico City, August 6. The draft instructions attached (Tab A) task the U.S. Delegation to adhere to the White House-cleared U.S. policy statement on population policy released July 13, 1984.² On United Nations-related matters (e.g., Zionism-as-racism, NIEO, etc.), the Delegation is to be guided by established U.S. policy (U.S. Ambassador to ECOSOC Alan Keyes and IO Assistant Secretary Newell are members of the Delegation).³ On any matters falling outside the above matters,

¹ Source: Department of State, Central Foreign Policy File, P850025-0960. Confidential. Drafted by Glassman and cleared in AID, OES/CP, IO/D, and E.

² See Document 286.

³ In a July 25 letter to Gayoso, Benedick requested reassignment from the post of Coordinator of Population Affairs. (Department of State, Organization and Conference Files—Meetings/Governing Council 1984 Meetings/Governing Council, 1983-1984, Lot 87D37, U.S. Delegation ICP, Mexico City, August 1984)

the Delegation is instructed to consult with Washington. The cable also authorizes Ambassador Buckley to deliver the plenary statement attached. (Tab B).⁴ The statement and instructions have been cleared by E, OES, IO, and AID.

RECOMMENDATION

That you authorize the attached cable, which has also been sent to the NSC for clearance.⁵

Tab A

Draft Telegram From the Department of State to the Embassy in Mexico⁶

Washington, undated

Subject: International Population Conference—Instructions for U.S. Delegation.

1. The following instructions have been approved for the U.S. delegation to the United Nations International Conference on Population:

A. On all matters related to population policy, the delegation should be guided by the United States Population Policy Statement issued July 13, 1984. To the extent that population issues not covered in the policy statement arise, the delegation should consult Washington (info NSC).

B. On any matters arising during the conference that fall outside the scope of approved U.S. Policy on United Nations-related matters, the delegation should consult with the Department (info NSC).

C. The draft plenary statement of Ambassador Buckley is approved for presentation.

⁴ Undated, attached but not printed.

⁵ Dam initialed the approve option. In the margin above the approve option, an unknown hand typed: "8/4/84 (leb)."

⁶ Confidential; Immediate. Drafted by Glassman; cleared in AID, OES/CP, IO/D, E, and S/S; and approved by Dam. In the upper right-hand margin an unknown hand wrote: "Cable sent fm S/S 8/4 1145 MS."

289. Information Memorandum From Richard Benedick of the Office of Environment, Health, and Natural Resources, Bureau of Oceans and International Environmental and Scientific Affairs to the Deputy Secretary of State (Dam)¹

Washington, August 15, 1984

SUBJECT

International Conference on Population: "Occupied Territory"

In response to the request from your office,² the following is background on the genesis of the draft recommendation concerning occupied territory and U.S. treatment of it prior to the August 6–14 Mexico City Conference. In view of Ambassador Buckley's unusual statement at the August 14 plenary of the Conference, concerning "a misjudgment on the part of our representative at the preparatory committee," and referring to an "error" and a "hasty decision about a complex issue beyond his area of expertise, with predictable results" (Tab 1),³ and a further remark by him reported by Associated Press, that the recommendation "was overlooked by a U.S. delegate to a preparatory conference" (Tab 2),⁴ it is clearly essential to set the record straight.

I believe that Ambassador Buckley's statements were uncalled for:⁵ I know of no instance in which one U.S. Ambassador, speaking for the United States Government, publicly criticized the actions of another in front of an international meeting. Moreover, his charges are groundless;⁶ it is obvious that the difficulties encountered in Mexico over this recommendation would have occurred regardless of any action taken by the U.S. representatives at the preparatory committee. By taking a non-provocative stance in March,⁷ we in fact avoided specific condem-

¹ Source: Department of State, Organization and Conference Files—Meetings/Governing Council 1984 Meetings/Governing Council, 1983–1984, Lot 87D37, Conference Results (Recommendations) ICP, Mexico City, August 1984. Copies were sent to Armacost, Spiers, Malone, Kirk, and Draper.

² Not further identified.

³ Dated August 14, attached but not printed. In telegram 14083 from Mexico City, August 15, the Department transmitted the text of Buckley's final plenary statement. (Department of State, Organization and Conference Files—Meetings/Governing Council 1984 Meetings/Governing Council, 1983–1984, Lot 87D37, Reporting Cables, ICP, Mexico City, August 1984)

⁴ Dated August 14, attached but not printed.

⁵ Dam highlighted this sentence and underlined the phrase "uncalled for."

⁶ Dam underlined the word "groundless."

⁷ See footnote 6, Document 290.

nation of Israel.⁸ Ambassador Buckley's gratuitous statements are really no explanation for the ultimate vote of the Conference on this particular recommendation.

There was no mention of occupied territory either in the draft recommendations prepared by the Secretariat for the January 23–27 (first) preparatory committee meeting, nor in the debate at that meeting, nor in the revised draft presented to the March 12–16 second preparatory committee.

A recommendation (then numbered 34) was introduced, in writing and without comment, by Senegal on the last afternoon of the March meeting, under the section on "population distribution and internal migration." The U.S. was represented at that meeting by Harold Fleming of USUN, Phil Claxton, private sector consultant, and me, as head of delegation.

While we noted that the language potentially applied to Israel, it was clear that, in the *absence of any specific mention* of Israel, it could also apply to other international situations (as later admitted by Ambassador Buckley in an August 14 plenary statement). We also ascertained that the U.S. had, in fact, signed the Geneva Convention referred to in the text.

Our decision at this point was influenced by our experience with the disarmament recommendation, no. 5. We and others had objected to an original Secretariat draft recommendation. The Soviets then tabled even more objectionable language, which was followed by prolonged, useless, and inconclusive debate.

Our judgment on March 16 was that, if we now made an issue over recommendation 34, we ran the risk of attracting new language which *would* specifically mention Israel.⁹ Our decision was also influenced by the understanding that consensus actions of a preparatory committee are provisional and non-binding, and that all recommendations are *de facto* open for further review at the main Conference.

As no objection was raised by Israel to the Senegal proposal, we felt that the preferable U.S. course was not to interpret it as anti-Israel, thereby provoking a debate which would almost surely lead to specific mention of Israeli settlements (which, in the event, is what happened at Mexico City), but rather to review the matter in Washington in the course of preparing U.S. positions for the August Conference.

Subsequently, all of the recommendations were circulated for review by State and AID offices following their publication by the UN Secretariat in June, with recommendation 34 among others being

⁸ Dam underlined the phrase "avoided specific condemnation of Israel."

⁹ Dam underlined this sentence.

flagged for particular attention. In early July, formal position papers were requested, with recommendation 34 again being noted for special attention.¹⁰

On July 19, at Ambassador Buckley's request, Jon Glassman was assigned to him to coordinate preparations for the Conference. My office passed on to him all material relevant to the Conference, and I participated with him in a meeting on July 23, involving AID, IO, and other offices, concerning the position papers then under preparation, including specifically the paper dealing with recommendation 34.¹¹ Later on July 23, the U.S. delegation to Mexico City was announced by the White House.¹² I was not on it and, after consulting with Jim Malone, I withdrew from the process of coordinating the completion of the position papers.

I was never asked by Ambassador Buckley, during his week in Washington, for any background on the preparatory committee treatment of recommendation 34, and I find his subsequent public criticism incomprehensible and offensive.

¹⁰ A document, entitled "Recommendations for the Further Implementation of the World Population Plan of Action: Recommendation 34," is in Department of State, Organization and Conference Files—Meetings/Governing Council 1984 Meetings/Governing Council, 1983–1984, Lot 87D37, Position/Background Papers.

¹¹ No record of this meeting has been found.

¹² In telegram 218703 to Mexico, New York, Geneva, and Munich, July 25, the Department transmitted the White House list of delegates. (Department of State, Central Foreign Policy File, D840476–0277)

290. Telegram From the Department of State to All Diplomatic Posts¹

Washington, August 25, 1984, 0554Z

252992. Subject: International Conference on Population, Mexico City, August 6–14. Ref: State 241996.²

1. Summary: Representatives from 148 countries met August 6–14 at the International Conference on Population (ICP) to review progress since the 1974 World Population Conference in Bucharest and to chart a path for future action. After lengthy negotiation, delegates approved two documents: The Mexico City Declaration on Population and Development (text follows) and Recommendations for the Further Implementation of the World Population Plan of Action.³ Despite the inclusion of extraneous political references, conference demonstrated considerable agreement on substantive population issues. Conference reaffirmed support for the World Population Plan of Action (WPPA),⁴ which recognizes the problem rapid population growth poses for many developing countries and its interrelationship with economic and social development. End summary.

2. Delegates from 148 countries, approximately 150 non-governmental organizations, and over 700 reporters⁵ from the international press attended the ICP. Mexico's President De la Madrid, Jordan's Queen Noor, Kenya's Vice President Kibaki, UN Secretary-General Perez de Cuellar, and World Bank President Clausen were among the many dignitaries who addressed the conference.

3. National and international organization representatives presented statements throughout the plenary session, where all procedural matters were decided. The laborious review of the 85 "recommendations for further implementation of the WPPA" (drafted at UN prepara-

¹ Source: Department of State, Organization and Conference Files—Meetings/Governing Council 1984 Meetings/Governing Council, 1983–1984, Lot 87D37, Conference Results (Recommendations) ICP, Mexico City, August 1984. Unclassified. Drafted by Oveson; cleared in OES/CP, C, EAP, E, IO/ECO, AF/RA, NEA/RA, ARA/ECP, EUR/P, AID/PPC, EAP/RA, and AID/S&T/POP; and approved by Malone.

² In telegram 241996 to all diplomatic and consular posts, August 16, the Department provided press guidance regarding the conference. (Department of State, Central Foreign Policy File, D840521–1081)

³ See "Recommendations for Implementation of World Population Plan of Action," United Nations, 1984.

⁴ See footnote 4, Document 284.

⁵ An unknown hand underlined the phrase "and over 700 reporters."

tory committee meetings in January and March)⁶ took place in a separate main committee meeting, chaired by Fred Sai of Ghana, which met in 14 sessions.

4. Initial main committee sessions focused on lengthy procedural debates and minor changes in introductory text. By mid-week, only 12 introductory paragraphs had been reviewed, leaving 11 introductory paragraphs, the preamble, and 85 recommendations still to be examined. Pressures of short time frame and growing familiarity with the negotiating process helped subsequent meetings to move more quickly through the text, nevertheless, discussions of procedural questions and non-germane political issues continued to interrupt the sessions.

5. Main committee focused much time and energy on two extraneous issues, disarmament and illegal settlements in occupied territories, which appeared as recommendations in the text prepared at the PrepComs. The disarmament recommendation, supported by the Eastern bloc, was strongly opposed by the Western countries and Japan as inappropriate for discussion at a population conference. An informal working group of interested parties was established to reach a compromise. The issue was settled by moving less strident language on the links between peace and development to a new section entitled "Peace, Security and Population" which appears between the preamble and the recommendations.

6. The settlements recommendation, which interpreted Article 49 of the Geneva Convention as "condemning" the "illegal" establishment of settlements in territories occupied by force, proved more difficult to resolve. The recommendation's Arab supporters insisted upon retaining the offending language, even after the Secretariat and Conference President worked with interested parties on a compromise redraft. The U.S. and Israel, who objected strongly to the introduction of this divisive political issue and to the recommendation's interpretation of Article 49, insisted that the offending language be dropped from the text. With no compromise possible, the U.S. called for a vote on the competency of the conference to make such an interpretation. While considerable doubt on this issue was expressed (over half of the delegations abstained on this vote), only two countries voted "no" with the U.S. and the effort was defeated. The original language was approved by the main committee, with strong objections by the U.S. and Israel, and sent to the plenary with the other recommendations. The final plenary session again took up the issue with similar results—only the

⁶ In telegram 600 from New York, March 23, USUN reported on the March session of the Preparatory Committee and discussed the recommendations for the further implementation of the World Population Plan of Action. (Department of State, Central Foreign Policy File, D840195-0141)

U.S. and Israel opposed the recommendation. The U.S., although joining the consensus on the recommendations document, expressed formal reservation on this paragraph and insisted that its reservation be recorded in the document. FYI: The U.S. also formally clarified its interpretation of a recommendation concerning action on improving earnings from commodity exports and on increasing bilateral and multilateral lending, to underline that U.S. endorsement of the recommendations document did not change known U.S. positions on commodity agreements or future lending resources for international financial institutions. End FYI.

7. On population issues there was little disagreement. Delegates recognized that progress has been made in the past 10 years in pursuing the objectives of the WPPA to improve the quality of life of the world's inhabitants, but concluded that much remains to be done. Countries recognized that socio-economic development is essential to achieving national population objectives and that population and development programs are mutually reinforcing. Strong support for the basic rights of couples and individuals to decide freely, responsibly, and without coercion the number and spacing of their children was voiced. To this end, countries agreed that family planning information, education and means should, as a matter of urgency, be made universally available (with the exception of abortion, which countries stated in no case should be promoted as a method of family planning). The conference paid particular attention to the role and status of women; governments were urged to integrate women fully into all phases of the development process. Additional resources were called for in research on human reproduction and fertility regulation, in order to improve the safety and efficacy of existing family planning methods. Governments and multilateral organizations were urged to increase the level of assistance or, in the case of developing countries, allocate increased resources for population activities. Non-governmental organizations were urged to continue their pioneering role in the population field.

8. The new U.S. population policy and its perceived implications attracted considerable attention at the ICP. The U.S. Delegation, headed by Ambassador James Buckley, clarified the new policy, stating that it does not reflect radical change; rather, it signifies a sharpening of the focus of our foreign assistance program in this area. That policy does, however, combine U.S. population and economic development policies in a comprehensive whole, and stresses the critical role economic reform plays in achieving the stated goals of the WPPA.

9. Much of the concern focused on the new U.S. abortion policy. The delegation stated that it is U.S. policy to withhold funding from private organizations that perform or actively promote abortion abroad. Funds are not withheld from a nation which includes abortion in family

planning programs, provided American contributions are placed in segregated accounts. This policy will not affect the UN Fund for Population Activities with respect to the FY 1984 contribution since the U.S. has officially accepted the fund's affirmation that its policies support neither abortion nor coercive programs.

10. As evidence of its support for international family planning programs, the delegation pointed out that the U.S. will provide \$240 million for such programs in FY 1984 (or 44 percent of the total amount contributed by developed countries for such programs). In addition, the administration has requested from Congress an increase in international family planning funding for FY 1985.

11. Wide agreement on population issues at the conference is illustrated by the "Mexico City Declaration on Population and Development" which delegates approved by consensus, without reservation.

Begin text:⁷

1. The International Conference on Population met in Mexico City from 6 to 14 August 1984 to appraise the implementation of the World Population Plan of Action, adopted by consensus at Bucharest, ten years ago. The conference reaffirmed the full validity of the principles and objectives of the World Population Plan of Action and adopted a set of recommendations for the further implementation of the plan in the years ahead.

2. The world has undergone far-reaching changes in the past decade. Significant progress in many fields important for human welfare has been made through national and international efforts. However, for a large number of countries it has been a period of instability, increased unemployment, mounting external indebtedness, stagnation and even decline in economic growth. The number of people living in absolute poverty has increased.

3. Economic difficulties and problems of resource mobilization have been particularly serious in the developing countries. Growing international disparities have further exacerbated already serious problems in social and economic terms. Firm and widespread hope was expressed that increasing international co-operation will lead to a growth in welfare and wealth, their just and equitable distribution and minimal waste in use of resources, thereby promoting development and peace for the benefit of the world's population.

4. Population growth, high mortality and morbidity and migration problems continue to be causes of great concern requiring immediate action.

⁷ An unknown hand drew an arrow to the left of this phrase.

5. The conference confirms that the principal aim of social, economic and human development, of which population goals and policies are integral parts, is to improve the standards of living and quality of life of the people. This declaration constitutes a solemn undertaking by the nations and international organizations gathered in Mexico City to respect national sovereignty to combat all forms of racial discrimination including apartheid, and to promote social and economic development, human rights and individual freedom.

6. Since Bucharest the global population growth rate has declined from 2.03 to 1.67 percent per year. In the next decade the growth rate will decline more slowly. Moreover, the annual increase in numbers is expected to continue and may reach 90 million by the year 2000. Ninety percent of that increase will occur in developing countries and at that time 6.1 billion people are expected to inhabit the earth.

7. Demographic differences between developed and developing countries remain striking. The average life expectancy at birth, which has increased almost everywhere, is 73 years in developed countries, while in developing countries it is only 57 years and families in developing countries tend to be much larger than elsewhere. This gives cause for concern since social and population pressures may contribute to the continuation of the wide disparity in welfare and the quality of life between developing and developed countries.

8. In the past decade, population issues have been increasingly recognized as a fundamental element in development planning. To be realistic, development policies, plans and programmes must reflect the inextricable links between population, resources, environment and development. Priority should be given to action programmes integrating all essential population and development factors, taking fully into account the need for rational utilization of natural resources and protection of the physical environment and preventing its further deterioration.

9. The experience with population policies in recent years is encouraging. Mortality and morbidity rates have been lowered, although not to the desired extent. Family planning programmes have been successful in reducing fertility at relatively low cost. Countries which consider that their population growth rate hinders their national development plans should adopt appropriate population policies and programmes. Timely action could avoid the accentuation of problems such as overpopulation, unemployment, food shortages, and environmental degradation.

10. Population and development policies reinforce each other when they are responsive to individual, family and community needs. Experience from the past decades demonstrates the necessity of the full participation by the entire community and grass-roots organizations in the

design and implementation of policies and programmes. This will ensure that programmes are relevant to local needs and in keeping with personal and social values. It will also promote social awareness of demographic problems.

11. Improving the status of women and enhancing their role is an important goal in itself and will also influence family life and size in a positive way. Community support is essential to bring about the full integration and participation of women into all phases and functions of the development process. Institutional, economic and cultural barriers must be removed and broad and swift action taken to assist women in attaining full equality with men in the social, political and economic life of their communities. To achieve these goals, it is necessary for men and women to share jointly responsibilities in areas such as family life, child-caring and family planning. Governments should formulate and implement concrete policies which would enhance the status and role of women.

12. Unwanted high fertility adversely affects the health and welfare of individuals and families, especially among the poor, and seriously impedes social and economic progress in many countries. Women and children are the main victims of unregulated fertility. Too many, too close, too early and too late pregnancies are a major cause of maternal, infant and childhood mortality and morbidity.

13. Although considerable progress has been made since Bucharest, millions of people still lack access to safe and effective family planning methods. By the year 2000 some 1.6 billion women will be of childbearing age, 1.3 billion of them in developing countries. Major efforts must be made now to ensure that all couples and individuals can exercise their basic human right to decide freely, responsibly and without coercion, the number and spacing of their children and to have the information, education and means to do so. In exercising this right, the best interests of their living and future children as well as the responsibility towards the community should be taken into account.

14. Although modern contraceptive technology has brought considerable progress into family planning programmes, increased funding is required in order to develop new methods and to improve the safety, efficacy and acceptability of existing methods. Expanded research should also be undertaken in human reproduction to solve problems of infertility and subfecundity.

15. As part of the overall goal to improve the health standards for all people, special attention should be given to maternal and child health services within a primary health care system. Through breast-feeding, adequate nutrition, clean water, immunization programmes, oral rehydration therapy and birth spacing, a virtual revolution in child survival could be achieved. The impact would be dramatic in humanitarian and fertility terms.

16. The coming decades will see rapid changes in population structures with marked regional variations. The absolute numbers of children and youth in developing countries will continue to rise so rapidly that special programmes will be necessary to respond to their needs and aspirations, including productive employment. Aging of populations is a phenomenon which many countries will experience. This issue requires attention particularly in developed countries in view of its social implications and the active contribution the aged can make to the social, cultural and economic life in their countries.

17. Rapid urbanization will continue to be a salient feature. By the end of the century, 3 billion people, 48 percent of the world's population, might live in cities, frequently very large cities. Integrated urban and rural development strategies should therefore be an essential part of population policies. They should be based on a full evaluation of the costs and benefits to individuals, groups and regions involved, should respect basic human rights and use incentives rather than restrictive measures.

18. The volume and nature of international migratory movements continue to undergo rapid changes. Illegal or undocumented migration and refugee movements have gained particular importance; labour migration of considerable magnitude occurs in all regions. The outflow of skills remains a serious human resource problem in many developing countries. It is indispensable to safeguard the individual and social rights of the persons involved and to protect them from exploitation and treatment not in conformity with basic human rights; it is also necessary to guide these different migration streams. To achieve this, the co-operation of countries of origin and destination and the assistance of international organizations are required.

19. As the years since 1974 have shown, the political commitment of heads of state and other leaders and the willingness of governments to take the lead in formulating population programmes and allocating the necessary resources are crucial for the further implementation of the world population plan of action. Governments should attach high priority to the attainment of self-reliance in the management of such programmes, strengthen their administrative and managerial capabilities, and ensure co-ordination of international assistance at the national level.

20. The years since Bucharest have also shown that international co-operation in the field of population is essential for the implementation of recommendations agreed upon by the international community and can be notably successful. The need for increased resources for population activities is emphasized. Adequate and substantial international support and assistance will greatly facilitate the efforts of governments. It should be provided wholeheartedly and in a spirit of universal

solidarity and enlightened self-interest. The United Nations family should continue to perform its vital responsibilities.

21. Non-governmental organizations have a continuing important role in the implementation of the world population plan of action and deserve encouragement and support from governments and international organizations. Members of parliament, community leaders, scientists, the media and others in influential positions are called upon to assist in all aspects of population and development work.

22. At Bucharest, the world was made aware of the gravity and magnitude of the population problems and their close interrelationship with economic and social development. The message of Mexico City is to forge ahead with effective implementation of the world population plan of action aimed at improving standards of living and quality of life for all peoples of this planet in promotion of their common destiny in peace and security.

23. In issuing this declaration, all participants at the international conference on population reiterate their commitment and rededicate themselves to the further implementation of the plan. End text.

Dam

291. Information Memorandum From the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs (Malone) to Acting Secretary of State Dam¹

Washington, October 12, 1984

SUBJECT

Weekly Report of OES Activities, October 9–12, 1984

House-Senate Conferees Agree on Record Population Aid. In a demonstration of broad bipartisan Congressional commitment to international population assistance, House and Senate conferees have agreed to provide \$290 million in FY-85 for such programs. This is both a record high level and the largest one-time increase (\$50 million) in history. The agreed upon CR version also earmarked \$46 million for the United

¹ Source: Department of State, Chronological Files, 1984–1985, Lot 86D362, October 1984 #1 Completed Items. No classification marking. Drafted by OES staff. Marshall signed for Malone.

Nations Fund for Population Activities, one of the programs specifically targeted by opponents of population assistance. The House inserted apparently non-binding, convoluted language expressing the sense of the House's opposition to the policy of denying funds to multilateral and non-governmental organizations which have abortion-related programs.

[Omitted here is information unrelated to population matters.]

292. Action Memorandum From the Assistant Secretary of State for International Organization Affairs (Newell) to Secretary of State Shultz¹

Washington, October 26, 1984

SUBJECT

Reply to Letter from James L. Buckley Regarding the International Conference on Population held in Mexico in August 1984

ISSUE FOR DECISION

Whether to sign the attached reply.

DISCUSSION

James L. Buckley, head of the U.S. delegation to the International Conference on Population at Mexico City, has written to Jeane Kirkpatrick and you concerning his views on how the U.S. prepared for the conference and voted on the Mexico City final declaration. He criticizes the Department for its conference preparations and for the decision, reaffirmed twice by the President,² to join consensus on the final Declaration even though that document contained a paragraph on occupied territory which the U.S. had voted against.

We believe Mr. Buckley deserves a thoughtful reply that does not enter into polemics on these points. However, you should know that, in our opinion, his description of the Department's conference prepara-

¹ Source: Department of State, Central Foreign Policy File, P850012–1216. Unclassified. Drafted by Gayoso, Glazer, and Williams on October 15 and cleared in IO, OES, and IO/D. Sent through Armacost. A stamped notation on the document indicates that Shultz saw it.

² See *Public Papers: Reagan*, 1984, Book II, pp. 1135 and 1242–1246.

tions is incorrect. Under Tab 3 you will find a short explanation of the intense nature of these preparations.³

RECOMMENDATION:

That you *sign* the attached letter.⁴

Tab 1

Letter From Secretary of State Shultz to the President of Radio Free Europe/Radio Liberty (Buckley)⁵

Washington, November 5, 1984

Dear Jim:

I very much appreciate your August 31 letter recounting your experiences as Head of Delegation at the World Population Conference in Mexico City. Public focus on extraneous issues at that Conference has tended to obscure its record of achievement, including the 87 recommendations based on honest consensus.

Your letter discussed our role in preparing for future multilateral conferences, participation in preparatory committees, and backstopping in the Department. We have reviewed our preparations and current practices. The preparations for this conference involved careful work by many Department officials, including specialists in UN political issues, over a period of nearly three years. We take seriously the need for close political oversight of technical conferences of specialized UN agencies. The kind of difficulties you encountered in Mexico City are, unfortunately, not unusual in UN conferences. In this regard, we continue to update, and have reissued, our general guidance on political issues for U.S. delegations at all international conferences.

Finally, you raise a most interesting point about the dilemma we face in combatting non-germane political issues in essentially technical conferences. As you know, one of our major policy goals is to resist politicization of the UN system, and to eliminate it wherever possible. In pursuit of this goal, we have a range of options including whether to join or deny consensus or to abstain. Our review of precedent and practice suggests that an abstention does not necessarily mean acquiescence. Its significance depends on the context of the tactical situation

³ Undated, attached but not printed.

⁴ Next to this sentence, was written “/S/ 11/5/84” indicating Shultz signed the letter that day.

⁵ Confidential. Drafted by Glazer and Williams.

and our explanatory statement. There is no single strategy to protect USG interests. We must chart our course on a case-by-case basis, taking care to balance our domestic and our foreign policy concerns. That balance was, as you know, crucial to the President's decision to join consensus on the Final Declaration of the World Population Conference, after we had explicitly and repeatedly disavowed and voted against Paragraph 34.⁶

We continue to work hard at purging the UN system of extraneous politicization. All of us in the Department of State share your regret that so much time in Mexico City was consumed by extraneous issues, but we are firmly convinced that the final result was an advantage for the United States. You have my appreciation for the patience and tact with which you dealt with them.

I am sending Jeane a copy of this letter for her information.

With warm personal regards,

Sincerely yours,

George P. Shultz⁷

Tab 2

Letter From the President of Radio Free Europe/Radio Liberty (Buckley) to Secretary of State Shultz and the U.S. Representative to the United Nations (Kirkpatrick)⁸

Munich, August 31, 1984

Dear George and Jeane:

I would like to record a few observations on the recent Population Conference (and, by extension, the UN conference phenomenon) while my impressions are still fresh.

1. Preparatory Committee:

The preparatory work for the Conference was entrusted to a Preparatory Committee. After several weeks' work, the Committee produced 85 specific recommendations for consideration by the International Conference on Population in Mexico City. All but one were adopted

⁶ The reference is in error; the presumably anti-Israel language is in Recommendation 36 of the "Recommendations for Implementation of World Population Plan of Action."

⁷ Shultz signed "George" above his typed signature.

⁸ No classification marking.

by consensus. The exception (which was bracketed in the Committee text) was an irrelevant, politically loaded Soviet proposal concerning disarmament.

Unfortunately, Western delegates to the preparatory conference consisted largely of specialists on population and related subjects to the apparent exclusion of any with a sensitivity to the extraneous political issues endemic in the UN system. As a result, the United States and others failed to catch the political significance of a last-minute Arab recommendation dealing with settlements in occupied territories.

This consensus Arab recommendation and the bracketed Soviet recommendation were to plague the Mexico City Conference and consume an inordinate amount of the time and effort of our delegation and many others. We were ultimately able to neutralize the Soviet thrust. We failed in our efforts to defang the Arab recommendation in significant part because our less stalwart allies (that is to say, everyone except Israel) were able to assert that the Preparatory Committee had legitimized it.

While this was the most critical oversight of the U.S. representatives to the Preparatory Committee, there were others which we were able to defuse either through amendment or by taking specific reservations to the final text—e.g. a recommendation urging all nations to implement the International Code of Marketing of BreastMilk Substitutes which the United States had so strongly opposed two years earlier.

All this suggests the need to ensure that future U.S. teams preparing agendas for conferences of specialized UN agencies contain at least one member with the broader political knowledge required to prevent such oversights.

2. Conference Preparation:

When I arrived in Washington the week before the Conference opened, I found that precious little preparatory work had been done. The State Department briefing book contained competent papers on a few key issues,⁹ but there was nothing to suggest a detailed examination of the entire agenda. No amendments to the Preparatory Committee's recommendations were prepared, and we were provided with no analyses to back the U.S. policy. All of this work was done by our delegation and support staff which had its first full meeting in Mexico City the day before the Conference opened.

⁹ Briefing items for this conference are in Department of State, Organization and Conference Files—Meetings/Governing Council 1984 Meetings/Governing Council, 1983–1984, Lot 87D37, Position/Background Papers ICP, Mexico City, August 1984.

I have a feeling that conferences of this type may fall within a very large crack between the State Department and USUN. If so, I strongly recommend that something be done to make sure that future delegations have the benefit of the kind of thorough preparatory work I found so helpful when I was an Under Secretary.

3. The UN Conference Dilemma:

The Mexico City Conference (as well as the UN Conference on the Environment I attended in Nairobi in 1982) operated on two quite different planes, each with its own dynamics. The first involved the substance of the Conference—population, in the case of Mexico City, and the environment in Nairobi. In each case, most of the delegates were concerned with the substantive issues, and viewed their particular conference as a distinct and isolated meeting having large symbolic importance for the subject under review.

At the same time, and on the other plane, each conference was just one in a continuing stream of UN meetings in which American political interests of a wholly different order are very much engaged—usually in the form of extraneous, politically-charged matters introduced by the Soviets and members of the Third World.

Thus, at such conferences, the U.S. delegation is faced with twin agendas; and how it handles its responsibilities will have an impact not only on the substantive matters before the conference, but on the ability of other U.S. delegations to deal with extraneous issues at future conferences.

On the substantive plane, we accomplished far more at Mexico City than we had reason to expect. Our amendments were carefully selected and the majority found their way into the final text in one form or another. As a result, the final report reaffirms the primacy of parental rights, condemns coercion, and contains a far more balanced presentation of progress to date and problems remaining to be addressed than would otherwise have been the case. We even succeeded in insinuating the phrase “entrepreneurial initiatives” into a UN document! But on the other plane, the one important to our ability to be effective at future conferences, we lost ground and, I suspect, needlessly so.

In accordance with our instructions, we went all out in our efforts to eliminate or neutralize the Soviet and Arab intrusions. We hammered away at the theme that the UN system was in danger of destroying itself if it allowed such blatantly political side issues to disrupt fora intended for the sober discussion of basic human problems in which all nations had a common stake; and we could point to the enormous diversion of attention from substantive issues at Mexico City to prove our point.

But after we had expended considerable political capital, after we had gone to the mat and suffered public bruises in the attempt, we in the end voted against the Arab recommendation, recorded our stern reservations . . . and then joined the consensus. The first question asked me by a reporter after it was all over was, "Why did you cave?" His assessment was not unique.

This Administration may be the first in a couple of decades to truly take the UN seriously. But to be effective, we must also make sure that the UN takes us seriously. From everything I have been able to read and hear, we have been making headway over the last couple of years in this regard. After the Mexican experience, however, I would anticipate that at future UN conferences we will find the Arab and Soviet blocs even less willing to talk reason, our Western allies more reluctant to lean on Third World delegations, and the UN Secretariat itself more complacent. And here we must be willing to face up to the tensions that will inevitably appear between the two planes on which such conferences currently operate.

In Nairobi as well as Mexico, there was enormous pressure on the United States not to cause the conference to end in a "failure" by insisting on an important point of principle. This reflects the assumption (which I gather has assumed the status of a UN mystique) that the mere failure to achieve consensus on a final conference document somehow negates the agreement on all of the substantive matters that may have been achieved in the prior days. Yet if I understand UNese correctly, this is analytical nonsense. An abstention will deny consensus, but at the same time it is taken as an act of acquiescence in everything as to which a formal reservation has not been taken.

In the case of the Population Conference, and again as I understand it, a U.S. abstention would in practical terms have had the effect of a U.S. acceptance of every substantive recommendation that had been adopted by the Conference. Abstention would not have reduced by one hair America's continued undertaking to support voluntary family planning programs, nor would it have affected the obligation of other nations to honor the results of the Conference.

But because consensus holds such symbolic importance within the UN, had we been able to demonstrate that the United States will withhold consensus in support of a strong point of principle, we would not have lost any substantive ground, but we would have enhanced the ability of American delegations to future conferences to excise the kind of gratuitous mischief that increasingly plagues such meetings.

Given this experience, I would urge the two of you to hammer out some sort of policy to govern the conduct of U.S. delegations at whatever conference next comes over the horizon. It is my recommendation that if we do not intend to back an important U.S. position with the

only kind of action which will make an impression on the UN fraternity, the U.S. delegation should be instructed to do no more than make the necessary pro forma objections for the record, and to concentrate its time and political capital on more fruitful matters. On the other hand, if we are serious about being taken seriously, the delegation must be armed with the only ammunition that apparently counts.

With the best personal regards to you both,
Sincerely,

James L. Buckley¹⁰

¹⁰ Buckley signed "Jim" above his typed signature.

293. Action Memorandum From the Assistant Administrator for the Bureau for Program and Policy Coordination, Agency for International Development (Derham) to the Administrator of the Agency for International Development (McPherson)¹

Washington, January 8, 1985

SUBJECT

UNFPA

S&T POP has completed its program review of UNFPA and transmitted it to PPC for determination (through our Donor Coordination functions) of the compliance of UNFPA with U.S. policy. (See attachment)²

Governing Policy

Relevant provision of the policy statement (in addition to blanket prohibition for funding abortions) is as follows:

"With regard to the United Nations Fund for Population Activities (UNFPA), the U.S. will insist that no part of its contribution be used

¹ Source: Department of State, Country Files, Miscellaneous Population Files, 1974–1992, Lot 93D393, UNDP—Governing Council 1984/1985. No classification marking. Drafted by Derham on December 20, 1984, and revised on January 4, 1985.

² Dated January 3, attached but not printed.

for abortion. The U.S. will also call for concrete assurances that the UNFPA is not engaged in, or does not provide funding for, abortion or coercive family planning programs; if such assurances are not forthcoming, the U.S. will redirect the amount of its contribution to other, non-UNFPA family planning programs.”

UNFPA—Generally

UNFPA does not fund abortion and its assistance is always approved for specific activities. General support is never approved. (It is not clear whether funds are commingled or how UNFPA support may “displace” funds for other activities.)

UNFPA, at A.I.D.’s urging, adopted a policy excluding support for abortion or coercive activity.³ UNFPA funds may not be used for such activities. (Again, there may be displacement.)

The policy recognizes UNFPA’s role as a UN organization, subject to less U.S. scrutiny. These general practices of UNFPA appear to comply. However, there may, of course, be a difference between a general policy and the manner in which it is applied and enforced.

China Program

Because of special public attention to the China program in the media, I directed a careful review of the UNFPA–China program. In reading the project paper I had several questions about areas where more information was required:

(1) *Training and improvement of administration of the family planning councils at national and local levels.* Since the coercive aspects of the China program result from the way the family planning workers go about their business, this inevitably raises issues about indirect support of coercive activities. However, examination of the program makes it clear that training is on overall systems problem such as logistics and management information systems.

(2) *Training.* The medical training programs do not include abortion.

(3) *Public Education.* The staff study has concluded that UNFPA’s funds are used to promote the advantages of smaller families and the one child norm through films, posters and other instruction materials. Since “persuasion” is the essence of Chinese style coercion as demonstrated last year by the NOVA program, even broad general educational campaigns may serve to dignify and justify the message and thus to reinforce the coercive actions. However, UNFPA is not directly

³ In a November 28, 1984, memorandum to Sinding, Hemmer forwarded a review of the UNFPA program that detailed the policy change. (Department of State, Country Files, Miscellaneous Population Files, 1974–1992, Lot 93D393, UNDP—Governing Council 1984/1985)

involved in the coercion and therefore its funding is not part of specific program activities which involve coercion.

Whether this complies with the Population Policy turns on the meaning of the reference to “coercive family planning programs.” If China’s activities are viewed as a single “program” any support could be a disqualifying event. If each component is a separate “program” then most of the UNFPA funding for China raises no issue. The education component may or may not be a difficulty based on how the policy should be interpreted for “indirect” impact of activities.

Options

- (1) Refuse further funding of UNFPA. (Not recommended)⁴
- (2) Condition further funding on elimination of the education component involving persuasion of the desirability of the one-child norm.
- (3) Conclude that involvement is sufficiently indirect so that it does not constitute a bar.

⁴ There is no indication of approval or disapproval of any of the options.

294. Telegram From the Department of State to the Embassy in China¹

Washington, March 30, 1985, 1851Z

97012. Subject: Withholding of UNFPA China Funds.

1. EAP/C Director Anderson called in PRC Embassy Political Counselor Wang Li March 30 and passed him the following press release issued by AID Administrator McPherson’s office that same day. Following is text of the press release:

Quote:

M. Peter McPherson, Administrator of the Agency for International Development, today announced his decision to withhold dollars 10 million in U.S. support of the United Nations Fund for Population

¹ Source: Department of State, Country Files, Miscellaneous Population Files, 1974–1992, Lot 93D393, China UNFPA/1984. Confidential; Immediate. Drafted by Anderson; cleared in AID; and approved by Brown. Sent Immediate for information to Hong Kong. Sent for information to Shanghai and Guangzhou.

Activities (UNFPA). The remaining dollars 36 million appropriated by Congress for UNFPA has been disbursed today to that organization.

In announcing the decision, McPherson emphasized that it indicated no retreat from support of voluntary family planning. 'The administration's policy remains to support broadened availability of family planning services so that individuals can freely decide on the number of children they desire', McPherson stated. 'However, we will not associate U.S. funding, even indirectly, with coercion which the U.S. views as a violation of human rights.'

McPherson explained that the AID internal review of the UNFPA program had been completed and demonstrated satisfactorily that UNFPA neither funds abortions nor supports coercive family planning practices through its programs. However, McPherson stated, the practices in the family planning programs of one country is such that any support for that country's program is linked with and gives the appearance of condoning its practices. The amount the U.S. is withholding from UNFPA represents approximately the amount of UNFPA's budget scheduled to go to that country.

AID will ask OMB to request Congress for authority to reprogram the dollars 10 million withheld from UNFPA for use in other family planning activities through government-to-government programs or through private organizations. For 1985, McPherson said that AID would base 1986 funding decisions on actions taken by UNFPA to distance itself from coercive practices.

Unquote.

2. After passing him the press release Anderson explained to Wang the USG position drawing on the following talking points:

Quote:

1. Practices in China. U.S. recognizes the statements by PRC officials that all family planning in PRC is voluntary and that any acts of coercion are the actions of overzealous local officials.

—We also note substantial scholarly evidence² suggesting that coercion is widespread in practice.

—We understand difficulty of administering a country as vast as China.

—As we noted in the recent Human Rights Report, there have been few reports of prosecution of local officials for coercion.³

² Not further identified.

³ In telegram 20500 from Beijing, November 1, 1984, the Embassy transmitted the 1984 Human Rights Report for China. (Department of State, Central Foreign Policy File, D840699-0416)

2. U.S. Policy on Coercion.

—Various UN resolutions and the recent recommendations adopted at the International Conference on Population (Mexico City, 1984) recognize the right of all people to freely decide the number and spacing of their children.

—Coercion is inconsistent with U.S. values and culture that even indirect support for coercion could jeopardize our entire family planning program.

3. Further Concerns.

—As the major donor to UNFPA, we expect that public opinion in the U.S. and abroad will hold U.S. accountable for all actions of UNFPA from which we do not dissociate ourselves.

—We wish to avoid terminating U.S. support for UNFPA altogether.

4. Avoidance of Reference to PRC.

—Announcement avoided naming PRC.

—Policy is non-discriminatory. If we become aware of other programs inconsistent with U.S. values, similar action will be taken.

—However, we expect press reports will connect the action with China.

Unquote.

4. Following presentation of the talking points, Wang Li commented soberly that the decision apparently reflected some misunderstanding of the Chinese Government's position on coerced abortion and other abuses in China's family planning program which have got widespread press attention. Wang stated that the Chinese Government position on these matters was clear: While the government's policy was to promote and encourage the one-child-per family concept, it was adamantly opposed to coercion, regularly made known this opposition at a high level, and took measures to punish offenders. These principles had been spelled out in detail in Ambassador Zhang's letter to Secretary Shultz,⁴ and had been made known in other correspondence and discussions with UNFPA and the Congress.⁵

5. But in a country as vast as China, Wang commented, it was inevitable, undeniable, and unfortunate that abuses did occur from time to time. It was therefore all the more unfortunate that foreign journalists, relying principally upon material in the Chinese press intended precisely to underscore the government's strong opposition to family planning abuses such as female infanticide and forced abor-

⁴ Not found.

⁵ Not further identified.

tion, had exaggerated the scale of the abuses and left the mistaken impression that the government had tacitly supported such abuses.

6. In further discussion, Wang expressed the hope that the Department's press guidance be constructed so as not to single out Chinese programs for criticism. Anderson reiterated that the press release did not mention China, that our side would seek to make plain that our decision reflected a general policy rather than an effort to condemn any particular country, but that the media would predictably focus attention on China and Chinese family planning practices.

7. In probing for insights regarding reasons for the decision, Wang asked directly whether AID had responded to political pressure from the Congress. Anderson replied that the abortion issue was extremely difficult and emotional, and that the decision should be seen as reflecting a widespread sentiment in American society that US funds should not support, or be seen as supporting, any program where coercive measures were alleged. In making the decision to withhold funds from UNFPA, AID officials had been obliged to consider reports and judgments by objective outside specialists that raised questions about Chinese family planning practices.⁶

Shultz

⁶ In a June 19 information memorandum to Shultz, Wolfowitz forwarded a June 7 letter of protest from Xueqian regarding the decision to withhold \$10 million from UNFPA. (Department of State, Country Files, Miscellaneous Population Files, 1974-1992, Lot 93D393, China UNFPA/1984)

295. Paper Prepared in the Agency for International Development¹

Washington, June 1985

UN DECADE FOR WOMEN CONFERENCE

Forward Looking Strategies

Health and Family Planning

This Position Paper submitted by the Agency for International Development (AID) is reflective of *international* sectoral policies and is not to be confused with *domestic* sectoral policies

PROBLEM:

Women in developing countries are at high risk of developing health problems because of workload, exposure to communicable diseases, closely spaced pregnancies, and lack of access to health care. Women are also largely responsible for the health of their children (both preventive measures and curative care). Efforts must be made to improve women's access to, utilization of, and benefits from health care, including family planning.

RELATIVE IMPORTANCE OF THE ISSUE TO THE UNITED STATES:

Women's health is of major concern to the U.S. not only as an absolute good but also as a means to increased economic productivity and improved children's growth and development. The Conference is a unique opportunity for the U.S. to present a strong position and highlight the need for specific focus on women's health in LDC populations. The position paper complements and is consistent with the health and population positions stated in the U.S. documents "Forward Looking Strategies."²

¹ Source: Department of State, Organization and Conference Files—Other Federal Agency and Channel: Nairobi World Conference for Women, 1985, Lot 90D327, Papers for Nairobi Conf. 1985. No classification marking. Drafted by McGuire and cleared on June 28 in PPC/PDPR, S&T/PO, and SAA/S&T.

² A March 7 paper, entitled "Informal Working Paper on Agenda Item 3: Forward-Looking Strategies," is in Department of State, Organization and Conference Files—Other Federal Agency and Channel: Nairobi World Conference for Women, 1985, Lot 90D327, VI. E. Agenda Item 3 Forward Looking Strategies Classified 1985.

UNITED STATES POSITION:

If women are to achieve their potential as contributors to the economic development of their communities, regions, and nations, they must be freed from the burden of disease and disability that impinges on their performance. This means women must have economic, geographic, and social access to health care appropriate to their needs. Such care should include appropriate technologies, the proper mix of health care providers (including female medical personnel at all levels and upgrading the training of traditional providers like midwives), free informed choice of treatments, and availability of services for women when and where they can be used without jeopardizing women's economic or family responsibilities.

The U.S. delegation urges host countries and donors alike to improve training programs for women in health and family planning and to decrease barriers to their economic advancement in these areas. Because income, health, and opportunities for advancement are directly related to educational levels, the U.S. endorses education for girls and women as an integral part of this strategy.

BACKGROUND:

Women are particularly vulnerable to health problems because of pregnancy, especially closely spaced pregnancies. When the physiological load of pregnancy and lactation is superimposed upon heavy demands for physical labor (including productive work as well as carrying firewood and water), poor nutrition, and exposure to environmental contamination and contagious diseases, the end result is often a progressive deterioration of women's health and nutrition status over their reproductive years. This vicious circle can be broken in several ways—improving women's economic status, increasing the period between pregnancies, and improving health care. All three problems need to be addressed. One thread running through all three is the need for education for girls and women so that they can earn more income, control their own fertility, and demand and utilize better health care.

An analysis of the health constraints affecting women reveals that many are related to their roles as women, not the least of which is the role of water fetching and transporting. Many women spend from four to eight hours a day drawing, carrying, managing, and using water. Improvements in water supply and sanitation lighten the burden of women and children freeing energy and time for other productive tasks that produce income. Women should be involved in the planning and implementation of water and sanitation projects.

The United States continues to support primary health care, education and training for girls and women, economic opportunities for women, and informed choice about health and family planning.

BUDGETARY IMPLICATIONS: No need for additional budget. Proposed action programs should be incorporated into existing activities and over-all budget levels.³

³ In an August 26 information memorandum to Armacost, Newell provided an analysis of the outcome of the World Conference for Women held in Nairobi in July 1985. (Department of State, Organization and Conference Files—Other Federal Agency and Channel: Nairobi World Conference for Women, 1985, Lot 90D327, Miscellaneous World Conference)

296. Memorandum From the Executive Secretary of the National Security Council (Martin) to the Executive Secretary of the Department of State (Platt)¹

Washington, July 16, 1985

SUBJECT

Svahn Questions Re AID Funding for UNFPA

The President has received several letters from the public and Congress² regarding AID's decision to withhold 10 million dollars from UNFPA and provide them with \$36 million for the current year. Allegations have been made that the funding provided to UNFPA is not allowed under current law. Would you please review the UNFPA decision to determine whether the apportionment was valid under the statute and whether it conforms with this Administration's international population policy as presented in Mexico City.

Thank you.

William F. Martin

¹ Source: Department of State, Country Files, Miscellaneous Population Files, 1974–1992, Lot 93D393, UNDP–UNFPA Governing Council 1984/1985. No classification marking.

² Not further identified.

297. Memorandum From the Administrator of the Agency for International Development (McPherson) to Secretary of State Shultz¹

Washington, September 11, 1985

SUBJECT

FY 1985 Funding for UNFPA

You have received a memorandum from EAP, OES, IO and L.² I hope my views can be helpful.

1. *Background.* UNFPA has been the subject of congressional criticism as a result of the population program in China. The Kemp/Inouye amendment³ was passed a few weeks ago in response to AID's release of \$36 million to UNFPA and its withholding of another \$10 million from that organization. Before making the AID contribution, we determined that UNFPA does not include involuntary abortion in *its* program, even though the population control program of the Government of China does include such abortions. The Kemp/Inouye amendment provides, in effect, that UNFPA cannot receive the \$10 million if the President determines that UNFPA, "supports or participates in the management" of a foreign government's program of "coercive abortion or involuntary sterilization."

2. *Options.* EAP, OES, IO, and L favor the option of making no findings under Kemp/Inouye: in effect, they conclude that UNFPA does not support or participate in the management of a program of involuntary abortion or sterilization, or that China does not have a program containing such abuses. They favor granting the \$10 million to UNFPA, subject to conditions on disbursement described in their decision memorandum.

AID favors the option of making the findings under Kemp/Inouye and withholding the \$10 million. AID believes that the Kemp/Inouye

¹ Source: Department of State, Deputy Assistant Secretary of State Subject Files—Edward Derwinski, 1984–1985, Lot 87D326, Population 1985. Confidential. Copies were sent to Ball and Derwinski.

² Not attached. In an undated memorandum to Shultz, Armacost, McPherson, Sofaer, Wolfowitz, Negroponte, and Kauzlarich discussed possible options for funding UNFPA in FY 1985. (*Ibid.*)

³ Reference is to what is commonly known as the Kemp-Kasten amendment. The amendment provided the President the authority to determine whether an organization supported abortion or coercive sterilization. Reagan delegated the authority to Shultz on September 19, who in turn delegated it to McPherson on September 21. (Open Jurist, "Population Institute vs. M. Peter McPherson," (accessed online))

amendment clearly applies and that this option is the best hope for continued funding in FY 1986.

3. *Funding for UNFPA in FY 1986.* In deciding this issue, the overriding consideration should be to maintain flexibility for funding UNFPA in FY 1986. I believe that all interested members of Congress, including Senator Inouye, the population community and UNFPA *expect* the \$10 million to be withheld. (Senator Inouye, of course, does not favor this result.) UNFPA's primary concern is United States funding in 1986.

I believe a decision not to apply Kemp/Inouye and to make available the \$10 million, even if subject to the conditions proposed by State, would generate such an adverse reaction that Congress would enact greater restrictions on our contribution to UNFPA in 1986, probably in the FY 1986 appropriations bill. It would lead directly and immediately to the result State hopes to avoid. Conversely, if Kemp/Inouye is applied and Congress does not enact a more restrictive provision, we may be able to provide assistance to UNFPA in FY 1986, if it limits its program in China to providing contraceptives.

4. *Population Control in China.* Although the Chinese Government claims that its population program is voluntary and that coercion is neither encouraged nor condoned, there is no doubt that the China program includes coerced abortion and involuntary sterilization. The one-child-family policy is implemented by setting targets for authorized births at provincial and lower levels which are interpreted as quotas by zealous officials whose performance in meeting planned targets is reinforced, at all levels, by a system of incentives to reward success and disincentives to punish failures. These abuses have been extensively documented.

5. *Application of Kemp/Inouye.* Congressman Kemp intended his amendment to apply to UNFPA. He stated in the House Report "that the United Nations Fund for Population Activities would be immediately affected by this amendment".⁴ He also explained that participation in the management of a program of coercive abortion includes providing census data, training and other assistance to China's family planning agencies. UNFPA provides this general management assistance to the China population program.

AID's General Counsel believes that Kemp/Inouye does apply and the \$10 million should not be provided to UNFPA.

6. *Additional Problems with State Option.* Even if UNFPA were to accept such a conditional grant, it would be difficult for UNFPA to make the necessary changes in its China program in a reasonable timeframe. If the grant had to be deobligated, AID could not reprogram

⁴ Reference is to the House of Representatives Conference Report H.R. 99-142.

the funds for other voluntary family planning programs as it could under the AID option.

We believe it is extremely unlikely that UNFPA will accept the conditional grant. Since Kemp/Inouye is not applied under this option, our lawyers believe that the UNFPA refusal could either result in an impoundment or compel an unconditional grant to UNFPA.

7. *White House Consultation.* State and AID agree that you should consult with the White House regarding who should make the decision on this issue.

8. *Recommendation.* After consultation with the White House, that the AID option (No. 1) be chosen. I would be happy to discuss this with you.

298. Letter From the Under Secretary of State for Political Affairs (Armacost) to Secretary of State Shultz¹

Washington, September 12, 1985

Mr. Secretary:

Attached are two memos which address the issue of FY-85 funding for UNFPA.² The specific issue is whether we should withhold funds from UNFPA under the Kemp/Inouye amendment to the 85 Omnibus Supplemental which bars contributions to "any organization that supports or participates in the management of a program of abortion or involuntary sterilization." Most of AID's concerns on this issue are reflected in the State memo,³ although Peter McPherson wanted a separate vehicle for his comments.⁴

The decision you are asked to make involves sorting out the competing pressures of (1) avoiding conflict in our relations with the Chinese, (2) deciding the future of USG support to UNFPA's family planning programs, and (3) managing the pressures from a vocal and powerful domestic constituency. The two options have been distilled out of lengthy discussions on the subject as we have sought to weigh

¹ Source: Department of State, U/S Michael Armacost CHRON and Country Files, 1979-1989, Lot 89D169, MHA Chron September (December 1985). Confidential.

² Not attached, but see footnotes 3 and 4 below.

³ See footnote 2, Document 297.

⁴ See Document 297.

the foreign policy interests involved against the need to minimize the political dangers at home.

I am not in the best position to judge the domestic consequences, but on foreign policy grounds I come out strongly in favor of Option 2 which would obligate the \$10 million for UNFPA's China program but withhold its disbursement until UNFPA restructured its program in China to concentrate exclusively on provision of contraceptive devices, or until there was significant Chinese action to limit any abuses in the administration of their programs. I think this decision could be defended with the Right-to-Life people by the logical argument that aid to contraceptive programs diminishes incentives for abortions to which the critics here object.

AID has been pretty actively lobbying around town on behalf of option 1. You may want to call a few of the key players in to convey your decision and insist on some discipline in supporting it in conversations with people on the Hill.

A second issue is who makes the call. If we decide that the \$10 million should be withheld, the amendment states that the formal determination should be made by the President. L feels that this act can be in fact delegated to you or to Peter McPherson.⁵ If you choose option 2, no formal determination needs to be made. Judge Sofaer is concerned that the question of responsibility should be worked out first with the White House. I would think that this could be done informally in a discussion with Don Regan or the President.⁶

Michael H. Armacost⁷

⁵ See footnote 3, Document 297.

⁶ In a September 25 article in Reagan's evening reading, USAID announced that it was withholding \$10 million of UNFPA funds as per the Kemp-Kasten amendment. (National Archives, RG 286, USAID/O/Admin/ExecSec, Box 251, ADM-6 Unclassified [Night Notes] FY 85)

⁷ Armacost signed his initials above his typed signature.

299. Telegram From the Mission to the United Nations to the Department of State¹

New York, October 4, 1985, 2141Z

2523. Subject: UNFPA: Informal Donor Meeting. Ref: State 302371 Notal.²

1. Summary: In a well-attended but comparatively short meeting on October 2 UNFPA Executive Director Rafael Salas briefed Western donors on the implications of the withholding of \$10 million of the U.S. FY 85 pledge to UNFPA and the difficulty with the conditions set by AID for 1986 contributions. Salas maintained that the UNFPA program is an open book, and that AID has on several occasions cleared UNFPA of participation in coercive abortion or involuntary sterilization activities in China. He stressed that only the Governing Council and the Government of China, not the UNFPA administration, could address AID's conditions for FY 86. Several major donors voiced positive support for UNFPA, and Salas noted that he had received agreement in principle from several governments to increase their contributions next year. Although donors were deeply concerned about the possibility of U.S. withdrawal from UNFPA, the U.S. did not come under direct attack. End summary.

2. Representatives from 15 Western missions were briefed by ExDir Salas on the implications of the recent action to withhold \$10 million of its \$46 million FY 85 pledge to UNFPA and of the conditions set for continued funding in FY 86. Prepared briefing materials included pertinent quotations from various AID reviews of the UNFPA programs in China, indicating that the fund was in full compliance with U.S. law; quotations from various congressional presentations, from Chinese authorities and from UNFPA statements, documents and resolutions. Among the materials were also the AID press release, as well as a September 27 statement issued by the Chinese Mission to the UN criticizing the "U.S. attitude towards China's population policy."³

3. Salas traced the long history of family planning and contraception beginning with ancient Egypt, and noted that population programs

¹ Source: Department of State, Subject Files, Other Agency and Channel Messages and Substantive Material—World Health Organization (WHO), 1985, Lot 89D136, 85 HLTH WHO Program Population Jan-Jun. Limited Official Use; Priority. Sent for information to USUN Geneva and Beijing.

² In telegram 302371 to New York, October 1, the Department requested that USUN send a representative to the October 2 Western donors meeting. (Department of State, Central Foreign Policy File, D850699–0202)

³ Not further identified.

would always be controversial in that they deal with sex as well as with a range of religious and cultural views. Through the United Nations, governments had come a long way in recent years in providing almost universal endorsement to the world population plan of action and through the growing and significant resource commitment by recipient governments to population activities. Salas observed that only seven years ago China declined to participate in the UNFPA program, under the belief that it was overly influenced by Western countries.

4. UNFPA 1985 activities would not be significantly affected by the withholding of \$10 million, Salas repeated several times that, in anticipating the outcome, the money had not been programmed. The implications of the loss of U.S. funding in 1986 was far more serious, since AID had been providing in recent years up to a third of UNFPA's support. The two conditions set by the U.S. for further funding, namely the punishment of population program abuses by "the Chinese program," or a radical change in the program, "such as supplying only contraceptives," could not be feasibly met by the UNFPA administration. The central issue, as Salas perceives it, is that a major donor is attempting to negotiate program changes with international civil servants rather than with the appropriate body, e.g., the UNDP Governing Council.

5. While channels to the U.S. Government remain very much open, UNFPA had been talking with other donors, including the OPEC bloc, and private industry about filling the gap left by a possible U.S. withdrawal in 1986. He announced that commitments in principle had been made by the Netherlands, Japan, Norway, Denmark and the UK to increase their funding, although the representatives of the latter two countries quickly interjected that 1986 funding decisions had not yet been resolved by their respective governments.

6. The U.S. representative offered some clarification on the removal of the 16 earmarking of the AID population account, and on the end-of-fiscal year need to reprogram the \$10 million. Japan voiced concern that the law suit taken on behalf of the Population Institute and representatives Green and Kostmayer against AID on the reprogramming might serve to escalate feelings on both sides of the issue and result in further damage to UNFPA.

7. In a brief but pointed intervention, the Canadian Perm Rep stated that Canada and the U.S. were the two most litigious nations on earth, but nevertheless they differed on this issue for the following reasons:

—Canada's support for UNFPA's China program should be underlined.

—Canada found no evidence of UNFPA's involvement in coercive activities and in fact concluded that UNFPA is a moderating influence on such tendencies.

—The removal of pledged contributions by a donor from UNFPA had wider implications for support of multilateral organizations.

8. The FRG representatives, while realizing the need for UNFPA to make contingency plans, urged the UNFPA administration to keep talking to the Americans. Salas said he was doing just that, although he alluded to the lack of coherency in the U.S. position. AID, he added, was actively working with UNFPA to assume responsibility for fund programs affected by the cutback in U.S. contributions.

9. Finally, Salas explained to the Western group that concern for UNFPA funding would be raised undoubtedly during the November pledging conference;⁴ however, this would be too early to determine the U.S. decision with regard to 1986 contributions. The U.S. position should be clearer by January and a special session of the Governing Council is being tentatively scheduled during this month.⁵ Obviously, if funding is cut off, the Governing Council would have to agree to various contingency proposals calling for sharp reductions in field and headquarters activities.

10. Comment: While the tone of the meeting was straightforward and non-confrontational, clearly ExDir Salas believes he has been wronged by the "AID decision," in that several determinations by the U.S. appeared to have absolved UNFPA from any support of⁶ coercive abortion or involuntary sterilization activities in China. It is clear, too, that the conditions proposed by AID for 1986 funding are untenable in that UNFPA's administration cannot change the nature and direction of an agreed upon country program without the advice and consent of its Governing Council and of the government concerned. Given this key factor and the strong probability that the U.S. would receive little or no support for its actions in the Governing Council, UNFPA can do little further but be prepared for the consequences beginning with the planned January 1986 special session.

Walters

⁴ In telegram 3423 from New York, November 20, USUN reported on the November pledging conference and stated that pledges for the upcoming year were higher than pledges for the previous year, despite an absence of U.S. commitments. (Department of State, Central Foreign Policy File, D850833-0497)

⁵ In telegram 2713 from New York, October 15, USUN reported that the UNFPA had decided to defer calling a special session until the results of the November pledging conference were known. (Department of State, Subject Files, Other Agency and Channel Messages and Substantive Material—World Health Organization (WHO), 1985, Lot 89D136, 85 HLTH WHO Program Population Jan-Jun)

⁶ An unknown hand highlighted this paragraph and underlined the phrase "absolved UNFPA from any support" and placed a question mark in the left margin next to this phrase.

300. Editorial Note

On August 27, 1986, M. Peter McPherson, the Administrator of the U.S. Agency for International Development, wrote to Secretary of State Shultz regarding the U.S. contribution to the UN Fund for Population Assistance (UNFPA). McPherson stated: "Earlier this year, UNFPA told us that they thought China could be persuaded to have the UNFPA program in China changed to be only health activities. This looked like a good way to get out of the problem, and the President approved A.I.D.'s providing assistance to UNFPA if that could be worked out." McPherson continued that the Chinese rejected UNFPA's offer to change the program to health: "Without a change in what UNFPA does in China, I do not feel that A.I.D. can make a contribution to UNFPA in 1986. We will try again next fiscal year to negotiate changes which would enable us to resume support for UNFPA." (Department of State, Program Files, 1973–1988, Lot 91D356, 1985–87—Welcome Home: Pop Matters)

Subsequent reviews of the UNFPA's China program did not lead to a change in policy. In a March 31, 1988, memorandum to Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs-Designate Frederick Bernthal, Nancy Ostrander, Coordinator for Population Affairs of that bureau, wrote: "The UNFPA's China program and the PRC program are reviewed each year by AID to see whether significant changes have occurred that would permit the U.S. to contribute to the Fund up to now." She further stated: "If AID administrator Alan Woods opts against UNFPA once again (as he probably will), the set-aside amount is expected to be used for other family programs." (Department of State, Country Files, Miscellaneous Population Files, 1974–1992, Lot 93D393, Pre-1988 UNFPA Keep for Reference)

International Regulation of Whaling Practices

301. Editorial Note

In 1972, the United States participated in the UN Conference on the Human Environment, which took place in Stockholm, Sweden, June 5–16. During the Conference, the U.S. delegation pressed for “support for a 10-year whaling moratorium,” which began the U.S. effort to pursue an international ban on commercial whaling. (*Foreign Relations*, 1969–1976, volume E–1, Documents on Global Issues, 1969–1972, Document 324)

During the Ford administration, U.S. officials continued to try to restrict whaling at meetings of the International Whaling Commission (IWC). In 1975, U.S. efforts led to a reduction of whale-catch limits that represented “a partial fulfillment of the U.S. proposal for a 10 year moratorium on all commercial whaling which was adopted at the U.N. Conference on the Human Environment in Stockholm in 1972.” (Telegram 9980 from London, June 27, 1975; Department of State, Central Foreign Policy File, D750224–0350)

Carter officials also pursued a commercial whaling ban. In 1980, a U.S. effort to implement an immediate and outright ban on commercial whaling failed by a vote of 14 in favor, 9 against, with 1 abstention (passage required three-fourths majority). (Telegram 15898 from London, July 26, 1980; Department of State, Central Foreign Policy File, D820386–0931)

The Reagan administration adopted the policies of their predecessors. In 1981, President Ronald Reagan spoke in support of a whaling ban, urging the IWC “to support our proposal for an indefinite moratorium on commercial whaling.” (*Public Papers: Reagan*, 1981, page 634) The United States and Great Britain proposed “an indefinite moratorium on all commercial whaling” at the July 20–25 IWC meeting in Great Britain. The proposal was defeated narrowly by a vote of 16 in favor, 8 against, with 3 abstentions. (Telegram 13830 from London, July 22, 1981; Department of State, Central Foreign Policy File, D810342–0865)

A second proposal to ban commercial whaling was introduced at the 1982 IWC meeting. This proposal, which called for a commercial whaling moratorium after 1985 and an assessment of the moratorium in 1990, succeeded by a vote of 25 in favor, 7 against, with 5 abstentions. Thereafter U.S. policy shifted to enforcing the moratorium and negotiating with states that wished to continue whaling. (Telegram 16122 from London, July 26, 1982; Department of State, Central Foreign Policy File, D820386–0931)

302. Action Memorandum From the Assistant Secretary of State for East Asian and Pacific Affairs (Holdridge) and the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs (Malone) to Acting Secretary of State Stoessel¹

Washington, July 14, 1982

SUBJECT

State Department Position on IWC Strategy

ISSUE TO BE DECIDED:

Whether or not to *send the attached letter to Secretary of Commerce Mac Baldrige urging him to consider the foreign policy implications of certifying the Japanese as being in violation of the IWC conservation plans.*

ESSENTIAL FACTORS:

The IWC with the full support of the United States, has been *moving during the past several years towards a complete cessation of whaling throughout the world.*²

The Congress *has given its imprimatur* to the whale conservation movement, which enjoys broad public support, *by passage of the Pelly and Packwood-Magnuson amendments to the Fisheries Act and the Conservation act.*³ *The first empowers the president to embargo fish imports from a country certified to be "seriously impairing the conservation program of the IWC" and the second requires the president to withhold 50 percent of the annual fish allocations from a country so certified.*

*Japan last year filed objections to two IWC rules touching on conservation:*⁴ *the first is the so-called cold harpoon question, which for humane reasons forbids the use of harpoons without exploding heads in catching Minke whales; the second is the IWC-set quota for sperm-whale kills for this year. The IWC limit will be zero (compared with 890 last year) if dispute over the scientific data is unresolved. The Japanese have notified the*

¹ Source: Department of State, Central Foreign Policy File, P820108–1835. No classification marking. Drafted by Michalak on July 12 and cleared by Seligmann, Chapman, Schaffer, and Bernhardt. A stamped notation on the memorandum reads: "Ambassador Stoessel has seen."

² See Document 301.

³ The Pelly amendment was adopted in 1954 and was expanded in 1978 to provide greater protections for endangered species. The Packwood-Magnuson amendment was adopted in 1979.

⁴ In telegram 20187 from Tokyo, November 6, 1981, the Embassy informed the Department about Japan's decision to object to the IWC rules regarding harpoons and sperm whale kills. (Department of State, Central Foreign Policy File, D810527–0064)

IWC that they intend to continue taking sperm whales since their data and the IWC model show that the less than one-half of one percent of the sperm-whale stock that the Japanese would take would not make any difference in the conservation of the species.

Assuming Japan begins whaling this fall, in the absence of any change in the IWC regulations, it will be liable to certification as a country "seriously impairing the conservation program of the IWC."

The U.S. has consistently voted in favor of a complete cessation of whaling.⁵ Each year the entry into the IWC of more conservation minded states has improved the chances of a complete moratorium motion passing.

The threat of U.S. sanctions against non-complying nations has been useful in moving whaling nations closer to a complete ban but no whaling nation has agreed, even in principle, to a cessation for any species of whale. Thus passage of a cessation motion, even if only for Sperm Whales, will lead to the U.S. having to employ the sanctions set forth in the Packwood-Magnuson amendment.

If we were to employ Packwood-Magnuson, the Japanese would undoubtedly protest that we were being discriminatory since the effects of the amendment, though universally applicable, would harm only Japan in a significant manner.

Possible countersanctions by Japan could take the form of:

- increased reluctance to cooperate with the U.S. on joint-venture fisheries, a prime goal in our fisheries policy;*
- refusal to import U.S. fish, and increased reluctance to be forthcoming on tariff and trade matters in the fish and fish products area.*

The recent industry-to-industry agreement between U.S. and Japanese fishermen, which raises Japan's purchases of U.S. caught fish in U.S.-Japan joint ventures from the current 60,000 tons to 200,000 tons by 1984, increases the level of damage to the U.S. Pacific fishing industry that would result from Japan applying countersanctions to the U.S. in event of certification.⁶

A compromise which leaves Japanese whaling at lower levels than this year but something more than the current IWC regulations may be possible. In any event, should Japan turn down such a compromise, invocation of the Packwood amendment would at least appear more justifiable.

⁵ See Document 301.

⁶ In telegram 163118 to Tokyo, June 14, the Department reported that representatives from the U.S. and Japanese fishing industries had met in Seattle June 7-10 and reached agreement on issues regarding joint ventures. (Department of State, Central Foreign Policy File, D820309-1073)

RECOMMENDATION

That you sign the attached letter to Secretary Baldrige urging that we work toward a compromise if necessary.

Attachment

Letter From Acting Secretary of State Stoessel to Secretary of Commerce Baldrige⁷

Washington, July 14, 1982

Dear Mac:

I know you are aware of the impasse we seem to have reached on the issue of whaling with the Japanese and the significant problems that certifying the Japanese will cause us in trade and other fields of foreign affairs.

On the other hand, I am also aware of the conservationist pressure and White House interest that exists for a better managed whale stock. I would hope that our government could be sensitive to these pressures and still not decide to certify any country without due regard to the trade and foreign policy questions involved.

Accordingly, I would suggest that the Departments of State and Commerce, in the context of our present position or some modified position, explore the possibility for equitable compromise.⁸

Sincerely,

Walter J. Stoessel, Jr.

⁷ No classification marking.

⁸ No response from Baldrige has been found.

303. Memorandum From the Chairman of the Council on Environmental Quality (Hill) to the President's Assistant for National Security Affairs (Clark)¹

Washington, January 12, 1983

SUBJECT

WHALES AND THE JAPANESE

Yesterday I met with people from several U.S. conservation organizations about Japan's commercial whaling policy. The representatives requested that President Reagan raise this issue with Prime Minister Nakasone at their meeting next week.²

The President personally supported a cessation of commercial whaling in a letter to the International Whaling Commission (IWC) (copy attached).³ At its July 1982 meeting, the Commission adopted a three-year phase out. Four nations, Japan, the USSR, Norway and Peru, have announced their intentions to oppose the IWC's decision.⁴ Our Administration has warned the Japanese government that the United States may impose economic sanctions on Japan if it does not withdraw its objection. This position has been strongly supported by the Congress. In a December 3 letter, 16 Members of the Senate urged Acting Secretary Kenneth W. Dam to reduce fisheries allocations in U.S. waters on the whaling nations that do not withdraw their opposition.⁵ Acting Secretary Dam responded by noting that: "We are . . . prepared to use available laws and regulations beginning this spring, to prevent Japan from thwarting the IWC cessation."⁶

Former Prime Minister Suzuki filed the objection to the IWC ruling last November.⁷ Suzuki apparently feared that his successor, Prime Minister Nakasone, would support the IWC phase out. A recent Gallup

¹ Source: Reagan Library, Guhin, Michael A.: Files, Whales. No classification marking.

² Memoranda of conversation for the Nakasone visit is scheduled for publication in *Foreign Relations*, 1981-1988, vol. XXX, Japan; Korea, 1981-1984.

³ Not attached. See *Public Papers: Reagan*, 1981, p. 634.

⁴ In telegram 23493 from London, October 29, 1982, the Embassy informed the Department about objections from Japan, the U.S.S.R., Norway, and Peru. (Department of State, Central Foreign Policy File, D820560-1040)

⁵ The December 1 letter from Packwood et al. to Dam is in the Department of State, Central Foreign Policy File, P820180-0058.

⁶ Not found.

⁷ In telegram 301887 to Oslo, the Department informed the Embassy that the Japanese had lodged their objection. (Department of State, Central Foreign Policy File, D810537-0580)

Poll found 76 percent of Japanese favor acceptance of the decision by the IWC. The Suzuki action was opposed by Trade Minister Abe, who is now Foreign Minister and will accompany Nakasone next week. Both Nakasone and Abe have strong justification for reversing the whaling decision. Firm U.S. pressure during their visit will strengthen the case for support of the phase out.

Obviously, it is preferable to resolve our differences with Japan through diplomatic means. If it is not practical to schedule discussions of Japan's whaling policy between the President and the Prime Minister, perhaps it can be discussed in the Prime Minister's subsequent meetings with State Department officials. The environmental representatives have informed me that they will urge Congressional leaders to address commercial whaling when they meet with the Prime Minister.

Let me know if you need more information.

304. Memorandum From the Bureau of Oceans and International Environmental and Scientific Affairs to All State Department Participants in the International Whaling Commission Policy Formation¹

Washington, May 17, 1984

SUBJECT

Whaling Foreign Policy and U.S. Policy in the IWC, Potential Conflicts and Confrontations

U.S. whaling policy now concentrates upon securing effective implementation of the IWC commercial whaling moratorium decision which comes into effect for the 1985/86 whaling seasons.² We have indicated to both Norway and Japan the likelihood of application of the two forms of fisheries related sanctions³ which must be considered for nations which engage in activities which undermine the IWC conservation regime (whaling in contravention of an IWC regulation, not

¹ Source: Department of State, Chronological Files, 1984–1985, Lot 86D362, May 1984 #2 OES Completed Items. Confidential. Drafted By Kendrew on May 16 and cleared by Scully, Michalak, McKee, Wolfe, Flournoy, Lexit, and Malone.

² See Document 301.

³ An April 20 information memorandum from Wolfowitz, Malone, and Kelly to Shultz covering all aspects of the moratorium decision is in Department of State, Central Foreign Policy File, P840093–2272.

an objection by itself) if they maintain their objections to the moratorium and engage in actual whaling activities contrary to the moratorium after it takes effect. Although we have an indication from the Japanese that they are interested in avoiding fisheries sanctions and from the Norwegians that they want to avoid a bilateral confrontation, we have no indication that a complete termination of whaling activities would be acceptable. All the other whaling countries, except the U.S.S.R., have now indicated a willingness to abide by the moratorium decision, to differing degrees in response to U.S. pressure. In addition, within the IWC, the countries supporting the moratorium look to the U.S. as the only enforcer of the IWC action (through the sanctions available in the Pelly and Packwood Amendments).

In these circumstances there is a significant prospect of confrontation between the U.S. and Norway and the U.S. and Japan, respectively, when the moratorium enters into effect. Confrontation over this issue with Japan and/or Norway could have a significant negative impact upon our respective bilateral relationships. Recognition of the consequences of confrontation over whaling issues has led to the consultations between the U.S. and Norway, and the U.S. and Japan, to explore some form of compromise. The consultations have concentrated upon the possibility of developing a formula to permit continuation of limited whaling of a subsistence character which could be construed as not being subject to the IWC's ban on commercial whaling.

In recent bilateral consultations we have accepted as a framework for discussion confidential discussion papers⁴ from both Japan and Norway suggesting a possible IWC accommodation which would allow coastal whaling to continue at current levels with no import or export of whale products. Although Japan has also insisted that some pelagic whaling remain, to be justified as a research project without import restrictions (allowing Soviet whaling to continue), they have shown some flexibility already on numbers of whales taken in these operations which may be an indication of further flexibility.

The efforts to explore possible compromises can be expected to become more difficult in light of the lack of proposals from Norway or Japan that differ significantly from the status quo; the recent negative reactions from other IWC Commissioners consulted concerning a possible exception for Norway; and recent U.S. indications for a phase-out of whaling as a potential requirement for a compromise. In addition, any compromise is likely to be viewed as a betrayal by the environmen-

⁴ Not found. A Norwegian discussion paper is mentioned. (Ibid.) A Japanese discussion paper is described in a February 15 memorandum from Scully to Malone. (Department of State, Chronological Files, 1984-1985, Lot 86D362, February 1984 #1 Completed Items)

tal community which would attempt to muster support on the Hill and from the American public in calling for the State Department to stop activities which are undermining the moratorium.

Any such compromise in order to have any chance of IWC acceptance and avoid the U.S. setting whaling regulations bilaterally should avoid opening up the whaling moratorium decision with an exception that would allow all the whaling operations in other countries to continue. The Icelanders have already served notice that they would demand the same authorization to any special arrangement for continued Norwegian whaling,⁵ and we can also expect that the other whaling countries that did not object will apply pressure on the U.S. and within the IWC to also be given special consideration to allow continued whaling. Other IWC members who have taken a similar view to the U.S. concerning the importance of the IWC moratorium decision can also be expected to object to U.S. activities in support of a compromise which could undermine the IWC decision.

In order to continue consultations with the Japanese and Norway, all the U.S. participants recognize the necessity to try to determine some elements of a U.S. position soon if we are to have a position which allows any limited whaling to continue. All of the participants in the interagency discussions have seen the information memo that we prepared for the Secretary⁶ and are expecting the State Department to take a position.

It appears that requiring a phase-out in order for a compromise to be acceptable to the U.S. is not likely to give us the opportunity to discover if Japan and/or Norway will accept a major reduction in the level of their whaling and other controls, and is very likely to end the discussions. The Japanese and Norwegians have told us they cannot accept a phase-out provision. The moratorium was also called a phase-out and was rejected by the public and the Governments of both countries.

A more constructive approach might be to guide the discussions toward a major reduction in the level of coastal whaling and toward a structure which the IWC can oversee. This approach would have many of the advantages of a phase-out: disincentives and restrictions to limit applicability to other whaling countries and easier differentiation from the Commercial Whaling Moratorium decision yet would be easier for Japan and Norway to sell at home. This should not include a continuation of pelagic or research whaling because this does not offer

⁵ Telegram 1074 from Reykjavik, May 10. (Department of State, Central Foreign Policy File, D840308–0730)

⁶ See footnote 3, above.

any of these benefits, unless it's acceptable to the IWC. Such a position would offer us the time that we all agree is on our side and substantially reduced whaling which will result in the eventual acceptance of the end to whaling in these countries.

At this time it would not be helpful for the U.S. to take the initiative within the IWC, but our position should allow us to keep our options open. Informal discussions with other Commissioners concerning possible structure of a proposal would be useful. There is no assurance that the IWC would accept any compromise but certainly U.S. support would be critical. On the other hand the impression that the U.S. and Japan and Norway respectively have cut a deal without IWC involvement could easily result in a backlash. In order to take into account U.S. foreign policy concerns and the U.S. commitment to the IWC as well as the implementation of the commercial whaling moratorium decision, the State Department should advocate this approach in our discussions with the Department of Commerce.⁷

⁷ Not further identified.

305. Memorandum From the Director of Oceans and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs (Scully) to the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs (Malone)¹

Washington, October 11, 1984

SUBJECT

The joint State/Commerce working group meeting for developing USG positions on the whaling issue with Japan, to be held today at 4:00 P.M. in Main Commerce, Room 5230²

Over the last few days Japanese Government officials called on Under Secretary Wallis and Dr. John Byrne to propose consultations

¹ Source: Department of State, Chronological Files, 1984-1985, Lot 86D362, October #1 1984 Completed Items. No classification marking. Sent through Wolfe. Drafted by Kendrew.

² No record of this meeting has been found.

on the “life estate” concept as a possible compromise on the sperm whaling problem.³ These consultations will take place October 15–16 in Main Commerce, Room 5230.⁴ The tentative schedule for bilateral discussions are October 15: 9:30–11:00 A.M. and 3:00–4:30 P.M.; October 16: 10:00–12:30 and 2:30–4:30. Unfortunately, Under Secretary Wallis will be traveling with the Secretary on those days but John Byrne has postponed a trip and will head the U.S. delegation. A tentative list of attendees for the consultations is attached.⁵

The GOJ indicated that under the “life-estate” concept that they are studying, there would in the future be no building of new whaling vessels and no increase in the number or tonnage of whaling vessels. Consequently, sperm whaling will be diminished as whaling vessels now being employed become superannuated and the persons who are engaged in whaling retire. However, should there be a revival of commercial whaling as a result of the IWC’s Comprehensive Assessment by 1990 (part of the moratorium decision), the life estate concept would be discontinued. The Japanese also stressed that if Japan was certified during negotiations it would be totally impossible for Japan to make the necessary concessions to accept such a concept. As you know, we are in the process of agreeing on the text of a letter to send to Secretary Baldrige conveying our positive reaction to this movement by the Japanese and requesting that certification be avoided in order to accomplish a negotiated compromise to avoid the immediate problem.⁶ There appears to be agreement in the State Department that we would be unable to reach a compromise on the sperm whale problem if certification were to occur during our negotiations.

Although we are all encouraged by the Japanese interest in the “life estate” (phase-out) concept to be discussed next week as a possible compromise to avoid the sperm whale problem, we will be discussing what items to consider in the negotiations. We will probably also want

³ In telegram 304378 to Tokyo, October 13, the Department summarized the October 5 meeting with Murazumi: “Under the ‘life estate’ concept being studied by the GOJ, there would in the future be no building of new whaling vessels and no increase in the number or tonnage of whaling vessels. Consequently, sperm whaling will be diminished as whaling vessels now being employed become superannuated and the persons who are engaged in whaling retire. However, should there be a revival of commercial whaling as a result of the IWC’s comprehensive review by 1990, the life estate concept would be discontinued.” (Department of State, Central Foreign Policy File, D840652–0851)

⁴ An undated report entitled “U.S.-Japan Whaling Discussions—Confidential,” which summarized the meeting, noted the U.S. suggestion to merge the “life estate” concept with a policy that would “show significant initial reductions in sperm whaling, continued reductions, and a reasonable assessment of when sperm whaling would end.” (Department of State, Chronological Files, 1984–1985, Lot 86D362, November #3 1984 Completed Items)

⁵ Attached but not printed.

⁶ See Document 306.

to discuss what response we will give concerning the Japanese request that no certification be made while we are negotiating. We understand that Dr. Byrne has told Japanese Government officials that the certification process would begin as soon as one whale was taken but that there would be no certification before the discussions next week. When asked how soon certification could take place once the taking of a sperm whale was verified, he reportedly said within a few days.

Of course, we will be able to assess the Japanese approach only after it is presented to us next week, but at this joint meeting we will want to discuss what the GOJ specific proposal might involve and which items we should consider for the negotiations. Some items which might be brought up at this joint meeting are:

What is the basis for providing the guarantees requested by the GOJ for no certification? Why, for how long, how to assess significant progress

How much will be covered in the present "life estate" proposal? All coastal (sperm, Bryde's and minke), sperm whaling only, pelagic minke; Import and export restrictions

Long-term application to other Japanese whaling?

Application to whaling by other countries?

Duration of phase-out? Retirement of boats, fixed dates, retirement of people

What specific data we want from GOJ on current operations?

How will size of quota change over the phase-out period?

Will such a phase-out be reported to or approved by the IWC? Consultations with IWC, IWC Members, actions of IWC

Plans for IWC Comprehensive Assessment by 1990?

What form would an agreement take? Exchange of letters, MOU, etc.

What could be required from U.S.? Commitment to get IWC agreement, no certification, etc.

How long it might take to reach agreement with Japan?

306. Letter From Secretary of State Shultz to Secretary of Commerce Baldrige¹

Washington, October 13, 1984

Dear Mac:

I am writing to suggest steps that might be taken to advance the President's objective of ending commercial whaling.

The International Whaling Commission (IWC) has established what amounts to a *de facto* zero quota for sperm whaling beginning this year.² Japan has objected formally to the IWC decision and apparently intends to continue sperm whaling under its objection, as it is entitled to do under IWC rules.³

The Japanese Government strongly believes that the IWC decision is unsound, was taken improperly, and is unfair to Japan. Nevertheless, senior officials have told us that they recognize that the end of Japanese whaling is inevitable. They stress, however, that whaling is a major emotional issue in Japan. There is a serious risk that this issue could so inflame public opinion in Japan as to erode our efforts to assure compliance with the conservation program of the IWC, regardless of the penalties we would impose under the Packwood-Magnuson and Pelly Amendments.

Dr. John Byrne, Administrator of the National Oceanic and Atmospheric Administration, who is the U.S. Commissioner to the IWC, has proposed a way to resolve this issue that I believe would advance our objective of strengthening the IWC, take into consideration the sensitivity of the whaling issue to many in the Congress and in the environmental movement, and provide the Japanese a way for dealing with their domestic political problem. This is the so-called "life estate" approach, under which whaling would be phased out as current Japanese sperm whalers retire. Since the number of Japanese sperm whalers is small and their average age high, this would end Japanese sperm whaling in the not too distant future. Representatives from Japan will be meeting next week in Washington with representatives of our Departments to discuss this approach.⁴

¹ Source: Reagan Library, Papers of George P. Shultz, Whaling. Confidential. Drafted by Reis on October 12 and cleared by Sherman, Brazeal, Anderson, Kendrew, Wolfe, Flournoy, Larson, Sloan, and Itoh.

² See Document 301.

³ See footnote 4, Document 303.

⁴ See footnote 4, Document 305.

There is no question that the threat of certification of Japan under the Packwood-Magnuson Amendment provides an incentive for the Japanese Government to work with us to resolve this issue. At the same time, Japanese officials have stressed that certification itself would inflame the issue and eliminate the Government's ability to fashion a compromise acceptable to public opinion in Japan. It would appear that we can achieve maximum leverage if we begin the certification process as soon as the Japanese begin sperm whaling, but delay making a final decision on certification so long as we are making satisfactory progress in negotiations with Japan. After the meeting next week, we can assess the acceptability of the Japanese program.

In my view this would be the best way to achieve a compromise that would enhance the effectiveness of the IWC and the likelihood of achieving our goal of eliminating whaling.

I appreciate very much indeed the cooperative relationship that has developed between our Departments on the whaling issue and the leadership that has been displayed by Dr. Byrne. You can count on our continued constructive support.⁵

Sincerely yours,

George P. Shultz⁶

⁵ In his November 2 reply, Baldrige wrote: "In the interim, any sperm whaling could complicate our efforts to assure compliance with the conservation program of the International Whaling Commission (IWC)." He further wrote: "Unfortunately, the Government of Japan has waited until what seems the very last moment before beginning to discuss possible compromises in detail, while newspaper reports suggest that sperm whaling has begun. If we find these reports to be true then we must immediately begin the certification process." (Department of State, Chronological Files, 1984-1985, Lot 86D362, November #1 1984 Completed Items)

⁶ Shultz signed "George" above his typed signature.

307. Letter From the Japanese Chargé d’Affaires ad Interim (Murazumi) to Secretary of Commerce Baldrige¹

Washington, November 13, 1984

Dear Mr. Secretary:

I am writing to you concerning the recent meetings² between the representatives of the Government of Japan and the Government of the United States on the subject of commercial sperm whaling in the western division stock of the North Pacific.

As you know, the Government of Japan is keenly aware that the whaling issue poses a threat of friction between our two countries. The Government of Japan wishes to resolve this issue as quickly and amicably as possible to avoid a confrontation which might be caused by the application of United States domestic statutes, namely Section 8(a) of the Fishermen’s Protective Act (the Pelly Amendment) and Section 201(e) (2) of the Magnuson Fishery Conservation and Management Act (the Packwood-Magnuson Amendment).³

Unfortunately, while both Governments are Parties to the International Convention for the Regulation of Whaling (the Convention) and while we both share the concern for the general objectives of the Convention, there are certain differences between our two countries which arise from our different cultural and domestic situations.

As you know, footnote 1 added in 1981 to Table 3 of the Schedule to the Convention prohibits the commercial harvest of sperm whales from the western division stock of the North Pacific unless the International Whaling Commission affirmatively decides otherwise. The Government of Japan has lodged an objection to footnote 1, in accordance with the provision of paragraph 3 of Article V of the Convention, and is therefore not bound by the footnote.⁴

The Government of Japan, recognizing the need to take measures including the withdrawal of the objection mentioned above in order to avoid a confrontation between our two countries, seeks an additional period of time for the purpose of minimizing the economic and social hardship of those who are engaged in commercial sperm whaling. The

¹ Source: Department of State, Dumping; Arctic; Whaling; Antarctic; Scientific Research, 1976–1987, Lot 94D419, U.S.-Japan Nov. 13th Agreement. No classification marking.

² See the attachment below.

³ See footnote 3, Document 302.

⁴ See footnote 4, Document 303.

Government of Japan endeavors to take appropriate measures in order to meet this purpose.

I therefore request that, as long as Japanese commercial whaling is conducted in a manner as indicated in the arrangement set forth in the Summary of Discussions attached to this letter, you not consider that the whaling will diminish the effectiveness of the Convention or its conservation program and not certify such whaling as provided for in the Pelly Amendment or the Packwood-Magnuson Amendment.

Sincerely yours,

Yasushi Murazumi

Attachment

Summary of Discussions on Commercial Sperm Whaling in the Western Division Stock of the North Pacific, November 1–12, 1984, Washington, DC⁵

Washington, November 13, 1984

Dr. John V. Byrne, United States Commissioner to the International Whaling Commission

Mr. Hiroya Sano, Director-General, Fisheries Agency, Ministry of Agriculture, Forestry and Fisheries, the Government of Japan

The latest in a series of bilateral discussions between Japan and the United States were conducted in Washington, D.C., November 1–12, 1984, in an effort to determine whether it would be possible, in accordance with the laws and regulations in effect in each country, to develop an arrangement whereby the United States Secretary of Commerce might refrain from “certifying” sperm whaling by Japanese nationals, if they take sperm whales under the objection of the Government of Japan to footnote 1 to Table 3 of the Schedule to the International Convention for the Regulation of Whaling, 1946 (the Convention). The heads of the delegations shared the view that such an arrangement might be possible, subject to satisfactory resolution of certain details and to approval and implementation by the cognizant authorities of each Government. The essential points of such a possible arrangement would be the following:

1. (A) The Government of Japan may permit a catch of 400 sperm whales during each of the 1984 and 1985 coastal seasons, subject to the

⁵ No classification marking.

provisions on by-catch of females as set forth in footnote 2 to Table 3 of the Schedule (dated November, 1983) to the Convention.

(B) If, by December 13, 1984, the Government of Japan withdraws its objection, lodged November 9, 1981 under paragraph 3 of Article V of the Convention,⁶ effective on or before April 1, 1988, the United States would not consider sperm whaling permitted under sub-paragraph (A) above to diminish the effectiveness of the Convention or its conservation program, and would therefore not certify such sperm whaling as provided for in Section 8(a) of the Fishermen's Protective Act (the Pelly Amendment) or Section 201(e)(2) of the Magnuson Fishery Conservation and Management Act (the Packwood-Magnuson Amendment).

2. If, by April 1, 1985, the Government of Japan withdraws its objection, lodged November 4, 1982,⁷ to paragraph 10(e) of the Schedule, effective such that Japanese commercial coastal whaling will cease following the 1987 coastal season and Japanese commercial pelagic whaling will cease following the 1986/87 pelagic season, the United States would not consider that whaling specified below would diminish the effectiveness of the Convention or its conservation program and would not certify such whaling under the Pelly Amendment or the Packwood-Magnuson Amendment, if such whaling were limited to the following species and catch limits:

1986 and 1987 Coastal Whaling Seasons

Western Division, North Pacific sperm whales—200 per season, subject to the provisions on by-catch of females as set forth in footnote 2 to Table 3 of the Schedule (dated November, 1983) to the Convention;

Okhotsk Sea-West Pacific minke whales—catch limits acceptable to the Government of the United States after consultation with the Government of Japan;

Western North Pacific Bryde's whales—catch limits acceptable to the Government of the United States after consultation with the Government of Japan; and

1985/1986 and 1986/1987 Pelagic Whaling Seasons

Southern Hemisphere minke whales catch limits acceptable to the Government of the United States after consultation with the Government of Japan.

⁶ See footnote 4, Document 302.

⁷ See footnote 4, Document 303.

**308. Letter From Secretary of Commerce Baldrige to the Japanese
Chargé d'Affaires ad Interim (Murazumi)¹**

Washington, November 13, 1984

Dear Mr. Murazumi:

Thank you for your letter about the recent bilateral consultations between representatives of our governments on the Japanese harvest of sperm whales from the western division stock of the North Pacific and the possibility that I, as Secretary of Commerce, may certify any confirmed harvest of sperm whales by Japanese nationals.²

After consulting with the United States Commissioner to the International Whaling Commission (IWC), I have concluded that commercial harvests of whales by Japanese nationals within the limits and under the circumstances set forth in the Summary of Discussions attached to your letter would not diminish the effectiveness of the International Convention for the Regulation of Whaling, 1946, or its conservation program.

The reports of the IWC's Scientific Committee, as well as the IWC's 1982 decision to permit quotas of 450 and 400 whales for the 1982 and 1983 coastal sperm whaling seasons, respectively,³ indicate that sperm whaling in accordance with paragraph 1 of the Summary of Discussions attached to your letter is not inconsistent with the IWC's essential conservation purposes. Moreover, in deciding that Japanese commercial whaling in accordance with paragraph 2 of that Summary of Discussions would not thwart the essential conservation purposes of the IWC, I have noted the apparent purpose of the IWC in having itself provided for a delayed effective date of paragraph 10(e).

This arrangement does not insulate from certification any Japanese whaling in excess of the 1984–85 quota for Southern Hemisphere minke whales. I urge that the Government of Japan comply with that quota. Furthermore, the withdrawals of your government's objections to footnote 1 to Table 3 and paragraph 10(e) of the Schedule would be irrevocable, notwithstanding their prospective effective dates.

Finally, in judging whether the Government of the United States would accept the catch limits for the 1986 and 1987 coastal seasons

¹ Source: Department of State, Dumping; Arctic; Whaling; Antarctic; Scientific Research, 1976–1987, Lot 94D419, U.S.-Japan Nov. 13th Agreement. No classification marking.

² Document 307.

³ In telegram 16122 from London, July 26, 1982, the Embassy reported on the IWC's sperm whale catch limits. (Department of State, Central Foreign Policy File, D820386–0931)

and 1985/86 and 1986/87 pelagic seasons as contemplated in paragraph 2 of the Summary of Discussions, the Government of the United States would be guided by the most recent quota voted by the IWC prior to those seasons.

Our purpose in recent consultations with the Government of Japan has been to encourage adherence by the Government of Japan to all provisions of the Convention's Schedule. We regard the provisions of paragraph 10(e) of the Schedule to be of central importance to the rational conservation and management of the world's remaining whale stocks. This is reflected in President Reagan's 1981 letter to each of the IWC Commissioners encouraging them to take action along the lines now reflected in paragraph 10(e) of the Schedule.⁴

Sincerely,

Malcolm Baldrige

⁴ See footnote 3, Document 303.

309. Night Note to President Reagan¹

Washington, December 20, 1984

Japanese Whaling

On December 19, State Department Under Secretary Wallis, Commerce Secretary Baldrige, and U.S. Commissioner to the International Whaling Commission (IWC) Dr. John Byrne provided Senator Packwood a detailed briefing on the U.S.–Japan arrangement concerning whaling. Senator Packwood expressed welcome support for the November 13 agreement which he described as the best that the U.S. could get.² The Senator was pleased that the first stage of the agreement was implemented on December 11 with Japan's withdrawal of its objec-

¹ Source: Department of State, Chronological Files, 1984–1985, Lot 86D362, December #1 1984 Completed Items. Confidential. Drafted by Kendrew on October 24 and cleared by Scully, Wolfe, Malone, Flournoy, Reis, Larson, Kelly (H), and Kelly (EAP).

² See Document 308.

tion to the IWC prohibition on sperm whaling.³ All agreed, however, that the second stage is more critical. This provides that if Japan withdraws its objection to the IWC moratorium on commercial whaling by April 1, 1985 (effective in 1988),⁴ Japan could continue limited whaling until 1988 without the U.S. invoking sanctions provided under our fisheries legislation (the most stringent of which Packwood himself sponsored in Congress).⁵

³ In telegram 25499 from Tokyo, December 13, the Embassy reported that the Japanese had dropped their objection to the sperm whaling moratorium. (Department of State, Central Foreign Policy File, D840796-0671)

⁴ In telegram 103579 to Tokyo, April 5, 1985, the Department provided press guidance to the Embassy regarding Japan's plans to withdraw its objection "as soon as the United States demonstrates its ability to uphold its end of the November 13 agreement between the U.S. and Japan. The agreement has been challenged by a lawsuit in the U.S." (Department of State, Central Foreign Policy File, D850237-0698)

⁵ See Document 302.

310. Information Memorandum From the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs (Malone) to Secretary of State Shultz¹

Washington, March 5, 1985

SUBJECT

Court Decision Concerning Japanese Whaling

On March 5, 1985 United States District Court Judge Richey ruled against the United States Government on all aspects of the lawsuit filed by several environmental organizations challenging the United States Government's right to make the November 13, 1984 agreement with Japan on whaling (*American Cetacean Society, et al. v. Malcolm Baldrige*). The Department of Justice has filed for an immediate stay of the decision, pending an appeal.

In the order Judge Richey opined that the Secretary of Commerce and the Secretary of State do not have any discretion under the Pelly

¹ Source: Department of State, Chronological Files, 1984-1985, Lot 86D362, March #2 1985 Completed Items. Confidential. Drafted by Kendrew and Flournoy and cleared by Blumberg, Hoyle, Arnaudo, Reis, Anderson, Larson, and Verville on March 6. There is no indication that Shultz saw the memorandum.

Amendment to the Fishermen's Protective Act (Pelly) or under the Packwood Amendment to the Fishery Conservation and Management Act (Packwood) not to certify Japanese sperm whaling, in excess of the International Whaling Commission's (IWC) zero sperm whale quota, as diminishing the effectiveness of the International Convention for the Regulation of Whaling (Convention) and its conservation program.

Therefore, Judge Richey orders the Secretary of Commerce to certify Japan under both Pelly and Packwood. The implication of his order to certify Japan under Pelly is that the President will have to exercise his discretion under that statute as to whether to restrict the importation of Japanese fishery products consistent with provisions of the General Agreement on Tariffs and Trade (GATT).² The implication of his order to certify Japan under Packwood is that the Secretary of State will have to reduce (no discretion) Japan's directed fisheries allocation by at least 50%.

Under the Federal Rules of Procedure (Rule 62) no proceeding to enforce the order can be brought until the expiration of ten days after its entry, i.e., before March 15, 1985. The Justice Department will appeal this decision and seek a stay of the order pending appeal. In the first instance a request for stay will be submitted to the District Court, Judge Richey. It is probable that he will deny it. Next the request for stay will be presented to the Appellate Court. Justice has indicated that it is not possible to predict what the Appellate Court will do until the composition of the Appellate panel is known.

If the decision is not overturned and/or the stay is denied, the actions required by this order would overturn the November 13 arrangement between the United States and Japan which provided that if the Government of Japan withdraws its objection to the IWC sperm whaling prohibition by December 13, 1984, to be effective no later than 1988, the United States would not certify Japan and apply sanctions under the Packwood-Magnuson or Pelly Amendments for the taking of up to 400 sperm whales each in the 1984 season and the next season. This condition was met by Japan's withdrawal of its objection on the sperm whale prohibition on December 11, 1984. The decision would require the immediate certification of Japan for diminishing the effectiveness of the IWC Convention and its conservation program for the taking of sperm whales (approximately 270 have been taken to date as allowed under the agreement).

The decision would also nullify the second and most important part of the U.S.-Japan agreement which provides that if Japan notifies the IWC by April 1, 1985 that it withdraws its objection to the IWC

² Article I of the GATT prohibits certain forms of trade discrimination.

moratorium on commercial whaling, such withdrawal to be effective in 1988, Japan may take 200 sperm whales in the 1986 coastal season and in the 1987 coastal season and not be certified for such whaling. Also Japan may whale for, at most, two years beyond the dates contemplated by the IWC commercial moratorium for other whales which it currently takes without the U.S. invoking sanctions. Catch limits for other whales are to be established by the U.S. in consultation with Japan, using as a guide the last quotas voted by the IWC. Although we have not been told whether the Japanese Government has made a decision, there have been many indications that it is likely that Japan would have withdrawn its objection to the IWC moratorium.

The U.S.-Japan fishing relationship is an important part of our bilateral economic relationship, benefiting both the U.S. and Japan. Beyond the major economic consequences if this decision were upheld, there are serious legal and political ramifications.

311. Information Memorandum From the Acting Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs (Marshall) and the Acting Assistant Secretary of State for European and Canadian Affairs (Kelly) to Secretary of State Shultz¹

Washington, March 18, 1985

SUBJECT

Soviet Whale Certification

Summary

The Soviet Union will soon be certified under the Packwood and Pelly Amendments because its harvest of Southern Hemisphere minke whales has resulted in the International Whaling Commission's quota being exceeded.² Certification under the Packwood Amendment will require at least a 50 percent cut in the Soviet fishing allocation in

¹ Source: Department of State, Chronological Files, 1984-1985, Lot 86D362, March #2(2) 1985 Completed Items. Confidential. Drafted by Kendrew on March 11 and cleared by Blumberg, Flournoy, Arnaudo, Snead, Dembski, Pascoe, and Palmer. There is no indication Shultz saw the memorandum.

² In telegram 65290 to Moscow, Tokyo, and Brasilia, March 5, the Department informed the Embassies that the quota for 1985 was 4,224 whales. (Department of State, Central Foreign Policy File, D850148-0031)

U.S. waters, while the Pelly Amendment could require a ban on the importation of Soviet fisheries products into the U.S. Certification will severely damage the U.S.–Soviet fishing relationship and could adversely affect overall U.S.–Soviet economic relations. Once certified, the Soviets will need to revise their whaling practices in order for the sanctions to be rescinded.

Background

Although we have raised the issue of certification with the Soviets on several occasions, including your meeting with Ambassador Dobrynin on February 13,³ and Secretary Baldrige's meeting with Gosbank Chairman Alkhimov on March 4,⁴ the Soviets have not responded to our concerns. The Commerce Department is considering a letter, prepared by EUR, to Trade Minister Patolichev following-up on Secretary Baldrige's meeting with Alkhimov to explain the operation of the certification process and to cushion the blow slightly.⁵ We expect a response from the Department of Commerce by March 20.⁶ In our discussions with the Soviets, we have emphasized the declining importance of the whaling industry, noting that the Japanese plan to restrict their market for whale products (the only one for the Soviet whale catch).

Southern Hemisphere minke whales are caught primarily by the Soviet Union and Japan; in the past the Japanese and the Soviets have negotiated agreements allocating the IWC quota between the two. This year the two countries did not negotiate such an agreement and both have objected to the sharply reduced IWC overall quota for Southern Hemisphere minke whales (4,224 whales down from 6,655 last year). According to information provided by the Bureau of International Whaling Statistics (BIWS), the Soviets caught 2,403 whales as of March 9, while the Japanese had caught 1,888, totaling 4,291. In mid-February, we informed the Soviets that, in the absence of an agreement allocating the 1984/85 Southern Hemisphere minke whale quota between Japan and the Soviet Union, we would look to past practice to determine what level of Soviet and Japanese minke whaling is consistent with

³ No record of this meeting has been found.

⁴ Not found. Briefing material for this meeting is in the Department of State, Chronological Files, 1984–1985, Lot 86D362, March #2 1985 Completed Items.

⁵ In telegram 105845 to Moscow, April 8, the Department transmitted a letter from Baldrige to Patolichev that outlined the rationale for certification of Soviet whaling. (Department of State, Central Foreign Policy File, D850241–0468)

⁶ Not found.

the current IWC quota (1,941 for each country).⁷ Japan has notified the BIWS that on March 12 all Southern Hemisphere minke whaling ceased for this season after 1,904 whales were taken.

Soviet failure to hold their catch to 1,941 means that Commerce will begin the certification process now that the overall IWC 1984/85 Southern Hemisphere minke whale catch limit of 4,224 has been exceeded. A decision by the Secretary of Commerce to certify the U.S.S.R. under Pelly requires that the President exercise his discretion under that statute as to whether to restrict the importation of Soviet fishery products (\$16.6 million in FY 1984) consistent with provisions of the General Agreement on Tariffs and Trade (GATT). Certification of the Soviets under Packwood requires that the Secretary of State reduce (no discretion) the Soviet Union's directed fisheries allocation by at least 50% (we estimate this to be about 70,000 metric tons for the 365 day period). Reduction of the Soviet directed allocation could adversely affect Soviet participation in joint ventures. This would have an adverse effect on an existing West Coast joint venture, and could hamper current plans by U.S. fishermen to develop new joint ventures. It could also hinder proposed efforts to renegotiate the existing U.S.-U.S.S.R. fishing agreement, as well as a potential access agreement to Soviet waters.

Certification can be lifted if "the reasons for which certification was made no longer prevail." The Commerce Department review of available facts for possible termination of certification would include any change in Soviet compliance with the IWC non-explosive harpoon ban, and in particular Soviet compliance with the IWC 1985/86 commercial whaling moratorium. Therefore, Soviet agreement to withdraw their objection to the moratorium such that they would cease all commercial whaling and comply with the moratorium could meet Commerce's criteria for lifting a certification. If the certification is not lifted within a year from the date of certification, all remaining allocations must be rescinded and no more allocations can be made until the certification is terminated.

⁷ In telegram 2044 to Moscow, February 15, the Embassy transmitted a summary of a February 14 meeting with lower-level Soviet officials regarding whaling. (Department of State, Central Foreign Policy File, D850107-0919)

312. Letter From Secretary of Commerce Baldrige to Secretary of State Shultz¹

Washington, April 1, 1985

Dear Mr. Secretary:

Under the Packwood-Magnuson Amendment to the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1821 (1983 Supp.), and the Pelly Amendment to the Fishermen's Protective Act of 1967, 22 U.S.C. §1978 (1983 Supp.), I have certified to the President that nationals of the Soviet Union are conducting whaling operations that diminish the effectiveness of the International Whaling Commission's (IWC) conservation program.

Upon certification under the Packwood-Magnuson Amendment, the Secretary of State, must in consultation with the Secretary of Commerce, reduce allocations to the certified country by not less than 50 percent. This reduction applies to any unharvested allocations and to all allocations to be made within 365 days from the date of certification, until decertification may be warranted. Certification may be terminated and allocations restored once the condition has been corrected. No allocations may be made after the 365-day period if the condition that prompted certification is not corrected.

The Pelly Amendment provides that upon receipt of such certification the President may direct the Secretary of Treasury to prohibit the importation into the United States of some or all fish products from this country. The Department of Commerce is developing trade recommendations on fish import prohibitions to be forwarded to the President. The Pelly Amendment also provides that, within 60 days following the receipt of such certification the President must notify the Congress of any action he takes regarding the certification, and must inform the Congress of the reasons for any such action that falls short of prohibiting the importation of all fish products from this country.

As required by the Packwood-Magnuson Amendment, I will be providing you my recommendations for reduction of fishery allocations to the Soviet Union.² I recommend that the Department of State promptly notify the Government of the Soviet Union of the certification.³ In addition, I will suggest to the Soviet Minister of Foreign Trade

¹ Source: Department of State, Chronological Files, 1984–1985, Lot 86D362, April #1 1985 Completed Items. No classification marking.

² Not found.

³ In telegram 102729 to Moscow, April 5, the Department informed the Embassy of the Soviet whaling certification and provided the Embassy with talking points. (Department of State, Central Foreign Policy File, D850235–0575) In telegram 4346 from Moscow, April 5, the Embassy reported on conveying the news to the Soviets. (Department of State, Central Foreign Policy File, D850236–0553)

that we could discuss the certification of Soviet whaling at the meeting of the joint U.S.-U.S.S.R. Commercial Commission May 20–21 in Moscow, if he believes it would be useful.⁴

Sincerely,

Mac

⁴ In telegram 6772 from Moscow, May 22, the Embassy provided a summary of the negotiations at the Commercial Commission that did not include a discussion regarding whaling. (Department of State, Central Foreign Policy File, D850360–0467)

313. Telegram From the Embassy in Iceland to the Department of State¹

Reykjavik, June 27, 1985, 1304Z

1446. Subject: Fishing Minister Requests U.S. Response to Iceland's Proposal to Whaling for Scientific Purposes. Ref: Reykjavik 1278.²

1. (C—Entire text.)

2. Ambassador met with Minister of Fisheries, Halldor Asgrimsson, on June 24 to discuss his recent trip to the U.S.³ and Iceland's proposal for scientific whaling. Asgrimsson said that he felt his trip to Washington was productive and useful and that he had several good talks with U.S. officials during the course of his visit. However, he expressed some disappointment that during his meetings in Washington he had received no specific response to Iceland's draft proposal for scientific whaling over the next several years.⁴

¹ Source: Department of State, Dumping; Arctic; Whaling; Antarctic; Scientific Research, 1976–1987, Lot 94D419, Whaling: Iceland 1985–86 Including 1986 Agreement. Confidential.

² In telegram 1278 from Reykjavik, June 4, the Embassy reported it had received the Icelandic fishing proposal. (Department of State, Central Foreign Policy File, D850393–0270)

³ In telegram 1084 from Reykjavik, May 10, the Embassy reported on Asgrimsson's planned May visit to Alaska. (Department of State, Central Foreign Policy File, D850331–0347)

⁴ An unknown hand underlined the phrase "some disappointment that during his meetings in Washington he had received no specific response to Iceland's draft proposal for scientific whaling over the next several years."

3. Asgrimsson stressed that Iceland's proposal⁵ is entirely serious, that it was drafted in consultation with international scholars interested in whale habits and thus it was aimed at obtaining critical scientific data.⁶ Iceland is a nation which depends entirely on the resources of the sea for its livelihood, particularly its cod catch. Both cod and whale feed on capelin and krill.⁷ It was therefore essential for Iceland to have a clear understanding of what effect an increase in the whale population would have on Iceland's principal resource.⁸ Iceland, he said, plans to submit its proposal to the Scientific Committee of the International Whaling Commission (IWC) which meets before the main IWC meeting scheduled for July in Bournemouth, England.⁹ He requested USG reaction to the draft proposal. Iceland needs the research findings from such a study, but if these can be obtained by means other than those presented in the proposal, Iceland was open to suggestions and would modify the proposal accordingly.¹⁰ Asgrimsson stressed the need to receive the USG response as soon as possible so that modifications can be made before the Scientific Committee meets.

4. Comment: Asgrimsson made clear at several points his willingness to modify Iceland's proposal if good scientific rationale exists for such modification.¹¹ He implied particular flexibility on the number of whales¹² to be killed. Embassy believes we thus have a good chance to influence Iceland's proposal in any way which best suits our interests. We should, however, of course avoid the pitfall of in any way committing ourselves to defend against charges and possible actions by environmentalists who may consider the proposal as simply a subterfuge in an effort on the part of the Icelanders to continue GOI whaling. The

⁵ In telegram 1226 from Reykjavik, May 29, the Embassy transmitted a press release that outlined the Icelandic proposal. (Department of State, Central Foreign Policy File, D850376–0235)

⁶ An unknown hand underlined the phrases "drafted in consultation with international scholars interested in whale habits" and "aimed at obtaining critical scientific data."

⁷ An unknown hand underlined the phrase "both cod and whale feed on capelin and krill."

⁸ An unknown hand underlined the phrase "essential for Iceland to have a clear understanding of what effect an increase in the whale population would have on Iceland's principal resource."

⁹ In telegram 224444 to multiple diplomatic posts, July 23, the Department summarized the proceedings of the IWC meeting and mentioned that the Icelandic proposal had been submitted to the Scientific Committee. (Department of State, Central Foreign Policy File, D850520–1061)

¹⁰ An unknown hand underlined the sentence "Iceland needs the research findings from such a study, but if these can be obtained by means other than those presented in the proposal, Iceland was open to suggestions and would modify the proposal accordingly."

¹¹ An unknown hand underlined the phrase "willingness to modify Iceland's proposal if good scientific rationale exists for such modification."

¹² An unknown hand underlined the phrase "flexibility on the number of whales."

language of our response should be carefully crafted with that point in mind. Considering their vulnerability, the Icelanders clearly are playing with fire at this point in terms of risking action against their important economic interests in the U.S. for the sake of catching more whales, for whatever purpose. What way to an effort to insulate them from the fire that may [garble].

5. Action requested: Please provide a USG response to the proposal that can be passed to the Minister of Fisheries.¹³

Bremont

¹³ Not found. Shultz visited Iceland on November 6. A memorandum of the Shultz-Hermannsson meeting is scheduled for publication in *Foreign Relations*, 1981–1988, vol. VIII, Western Europe, 1985–1988.

314. Telegram From the Embassy in Norway to the Department of State¹

Oslo, July 10, 1985, 0843Z

3888. Subj: International Whaling Commission Annual Meeting, July 15–19. Ref: State 201312.²

1. (C—Entire text.)

2. Begin summary. Norwegian IWC Commissioner Tressert gives no indication that Norway's position on commercial whaling, the moratorium and Norway's reservation will be any different than it has been in the past. He notes it is not Prime Minister Willoch's style to bow to outside pressure, either from governments or special interest groups, if Norway is living up to its international obligations and a matter of principle is at stake. Tresselt also doubts sanctions under the Pelly

¹ Source: Department of State, Dumping; Arctic; Whaling; Antarctic; Scientific Research, 1976–1987, Lot 94D419, Whaling—Norway 1985–86. Confidential; Immediate. Sent Immediate for information to London. Sent for information to Moscow, Reykjavik, and Tokyo. An unknown hand wrote in the upper right-hand margin, "What is the issue/answer? Thanks [illegible initials]."

² In telegram 201312 to multiple diplomatic posts, July 1, the Department asked the Embassies to convey U.S. views on issues to be discussed at the IWC to their host governments. (Department of State, Central Foreign Policy File, D850465–0256)

Amendment would be consistent with USG obligations under the GATT. It could be a cause for concern, he noted, if the USG attempts to treat its close ally Norway more harshly than it does the Soviet Union. Tresselt says the U.S./Japan arrangement is not a matter for IWC consideration, and agrees with our concerns on IWC finance and administration. He is “hopeful” for final instructions which will enable him to go along with recommendations from the Technical Committee subcommittee on the U.S. catch of bowheads,³ despite some sentiment to hoist the USG with its own petard. Tresselt sees no pressing need for interpretative guidelines for the scientific catch of whales, and says Iceland has a great deal of legal leeway under the basic 1945 agreement.⁴ Action requested: Department evaluation of consistency of USG obligations under the GATT with Pelly Amendment sanctions (see paragraph 10). End Summary.

3. Emboff first described points in reftel concerning U.S./Japan arrangement to local Japanese Embassy Officer responsible for whaling; he was generally aware the USG would be seeking to smooth the way for the IWC meeting, but provided no details about his own demarche. Emboff then discussed the upcoming IWC meeting and Norway’s thoughts with MFA Legal Advisor (and Norwegian IWC Commissioner) Per Tresselt, who will lead the GON Delegation. Tresselt was pleased Byrne will head USDel.

4. Commercial Whaling. Despite intense probing, Tresselt parried all attempts to determine whether the GON’s approach to this annual IWC meeting, the last before the moratorium takes effect for Norway, would differ from known policy and what USG would expect. Emboff noted that some Norwegian politicians have informally indicated it is only a matter of time before Norway would have to phase out its limited whaling. Tresselt responded that Norway is on solid legal ground and has always complied with the recommendations of the Scientific Committee. He noted the result of the recent USG certification of the Soviet Union—fishing rights were affected (Norway has not fished in U.S. waters), but Soviet exports of fish products to the U.S. were not.⁵ He said it would cause some concern if the USG were to treat one of its closest allies more harshly. Noting that significant pres-

³ In telegram 224444 to multiple diplomatic posts, July 23, the Department provided the Embassies with a summary of the IWC meeting and mentioned that the United States had requested permission for 35 Inuit Bowhead strikes yearly, but received permission “for 1985, 1986, and 1987 26 strikes, with the provision that any strike not used in any one year can be carried over with no more than 32 strikes in any one year.” (Department of State, Central Foreign Policy File, D850520–1061)

⁴ Reference is to Article VIII of the International Convention for the Regulation of Whaling, which discusses the taking of whales for scientific purposes.

⁵ See Document 312.

sure might be brought to bear on the USG to do something, Emboff expressed concern that U.S./Norwegian bilateral relations—so trouble free—could be in for tough sledding next year. Tresselt said Prime Minister Willoch has shown on other occasions that he does not believe it is in Norway's long-term interest to bow to outside pressure if Norway has consistently lived up to its agreements and important interests are at stake. Tresselt added that President Reagan had also shown he could resist pressure if he thought he was right. When Emboff asked about the threat of private boycotts in the U.S. against Norwegian fish imports, Tresselt responded that if a matter of principle were at stake, the Prime Minister would not be easily swayed.

5. Both Emboff and Tresselt expressed some regret that Norway and the U.S. had not been able to work out a bilateral arrangement earlier, agreeing that the U.S./Japan agreement would probably make it more difficult to do so now. Tresselt reiterated that the "Japanese model" is not a good one for Norway; the situation is just too different. Emboff wondered aloud if the GON might be in a position to show more flexibility about the future of Norwegian whaling after the fall parliamentary elections. As expected, Tresselt did not concede this would be the case. Finally, Tresselt said there is considerable doubt the USG is on firm footing concerning its GATT obligations if it seeks to restrict legitimate trade in fish products under the Pelly Amendment. He said the USG has looked into this question, and may well have come to the same conclusion.

6. U.S./Japan Arrangement. Tresselt agrees that the arrangement is not a matter for IWC consideration. He noted, however, that it could raise a question about our bilateral relations. It would "be noticed" for example, if Japan continues to whale after 1986 and is not "punished" for this by the USG but Norway is.

7. Finance and Administration Matters. The GON agrees with reftel points on this topic. Tresselt said Norway has run out of patience with Peru, and the special circumstances which excused it before no longer apply.

8. Aboriginal/Subsistence Whaling. Tresselt noted that the Technical Committee subcommittee had not yet made a decision. He said there was some sentiment in Norway to hoist the USG with its own petard. He "hoped", however, for instructions which would enable him to be flexible enough to take into account the interests of both our governments.

9. Future Activities of the Commission. Tresselt foresaw no major differences with the U.S. Emboff specifically asked about Icelandic intention to take whales under scientific permits, and noted last sen-

tence of talking point on this issue in reftel.⁶ Tresselt said he saw no pressing need for interpretive guidelines. The issue has been discussed in the Scientific Committee, with mixed reactions. Nevertheless, Iceland has a great deal of legal leeway under the basic 1946 agreement.

10. Action requested. Embassy has attempted for some time to obtain information on USG interpretation of consistency of its obligations under the GATT with sanctions under the Pelly Amendment. We understand the Department has looked into this issue; we know Tresselt is generally aware of it; and would appreciate a readout, if only for our own internal guidance.⁷

Stuart

⁶ The sentence reads, "In this connection, USG may suggest that the working group recommend that the Technical Committee consider drafting a set of interpretive guidelines that may be of use to contracting governments that may be contemplating the exercise of their authority under Article VIII of the Convention to issue scientific permits involving the taking of whales."

⁷ Not found.

315. Action Memorandum From the Assistant Secretary of State for European and Canadian Affairs (Ridgway) to Secretary of State Shultz¹

Washington, January 23, 1986

SUBJECT

Icelandic Scientific Whaling proposal

Issue for Decision

Whether to send a letter from you to Icelandic Foreign Minister Hallgrímsson highlighting the Department of Commerce's inability to assure his government or the government of Japan that US sanctions

¹ Source: Department of State, Dumping; Arctic; Whaling; Antarctic; Scientific Research, Lot 94D419, Whaling; Iceland 1985–86 Including 1986 Agreement. Confidential. Drafted by Horsey on January 22 and cleared by Wilkinson, Wenick, Wachob, Smith, Flournoy, Kendrew, Sofaer, and Verville. A typed notation in the upper right-hand margin reads: "Cable dispatched 1/24 0830."

would not be forthcoming should Iceland resume whaling for scientific purposes without appropriate action by the International Whaling Commission (IWC) and trade in whale products from that program with Japan.²

Essential Factors

In the 1985 May meeting of the International Whaling Commission (IWC) Iceland submitted a proposal to resume whaling for scientific purposes.³ The GOI asked for our opinion on its proposal but, as is normally our practice on such questions, we deferred to the IWC which has under consideration the general question of whaling for scientific purposes as well as the specific Icelandic proposal. The IWC is expected to comment on the Icelandic proposal at its 1986 meeting which will occur at about the same time that the Icelandic whaling season would start. U.S. environmentalists have opposed the Icelandic proposal since it became public in early June 1985 and the major US purchasers of Icelandic fish products have expressed concern to GOI officials about commercial pressures which would be applied to them by these groups should Iceland pursue its proposed scientific whaling program without appropriate action by the IWC.

When you stopped in Reykjavik in November Prime Minister Hermannsson and Foreign Minister Hallgrímsson objected to the probable negative effects of the Pelly and Packwood-Magnuson amendments on Iceland's ability to undertake a scientific whaling program in 1986.⁴ Under these amendments the GOI proposal, if initiated before the IWC completes its consideration of scientific whaling, would require USG review for certification and sanctions against Iceland and Japan for diminishing the effectiveness of the International Convention for the Regulation of Whaling or its conservation program.

The Icelanders handed you a memorandum (Tab C) which summarized the GOI's views on this issue.⁵ In essence the GOI would like the US to ensure Iceland's ability to undertake its scientific whaling program and to sell resulting whale by-products to Japan by addressing both the issue of US sanctions as well as that of environmentalist pressures. You assured the GOI leaders that we would study and comment on this memorandum.

On January 21 we received written comments on the Icelandic proposal from the Administrator of the National Oceanic and Atmos-

² In the margin next to the sentence, Shultz wrote, "OK but don't they have a new Foreign Minister now."

³ See Document 313.

⁴ See footnote 13, Document 313.

⁵ Attached but not printed.

pheric Administration (NOAA) in the Department of Commerce (Tab B).⁶ The NOAA/Commerce position is clear: they will abide by commitments made to Congress to do everything including certification to encourage compliance with the IWC moratorium on whaling and discourage trade in whale products. We can therefore provide no assurances to the GOI that the Congressionally mandated sanctions would not be applied to Iceland and Japan if they proceed with Iceland's current plans before the IWC completes its review of Iceland's proposal.

We have prepared a letter for your signature to Foreign Minister Hallgrímsson which explains the NOAA position.⁷ We have also pointed out that as a separate question from that of USG sanctions, the ineffectiveness of USG influence on environmental groups in the past (even if we wanted to weigh-in on Iceland's behalf in this case) does not augur well for commercial consequences for Iceland should Iceland undertake its proposed whaling program. The letter notes that regardless of the USG sanctions possibility the potential damage to Iceland's US fisheries export trade (\$180.7 million) vs. the value of its trade in whale products with Japan (\$10.4 million) would seem to offer compelling reasons not to undertake any whaling program before appropriate action is taken by the IWC.

The Prime Minister and Foreign Minister seem to have a realistic appreciation for the potential impact of negative environmental group pressure which would have a more defined, immediate and financially more significant impact on the Iceland economy than sanctions. On January 15, Iceland's leading newspaper, *Morgunblaðið*, closely associated with Hallgrímsson's Independence Party and with him personally, published an editorial strongly criticizing the GOI's approach and pointing out the dangers for Iceland's marine trade with the United States. The Minister of Fisheries, who is the prime architect of the present GOI position, seems increasingly isolated on this issue.

Recommendation

That you authorize the transmittal of the telegram at Tab A⁸ which conveys a message from you to Foreign Minister Hallgrímsson regarding the USG position on Iceland's scientific whaling proposal.

⁶ Attached but not printed.

⁷ See Document 316.

⁸ Attached but not printed. The text of the letter is in Document 316.

316. Telegram From the Department of State to the Embassies in Japan and Norway¹

Washington, January 28, 1986, 0210Z

23608. Addressees should not raise with host government. Following State 23608 dtd Jan 24 86. Sent action Reykjavik being repeated for your info: Quote: Subject: Letter from Secretary to FM Hallgrímsson on Whaling.

1. (C—Entire text)

2. Charge is requested to deliver the following letter to Foreign Minister Hallgrímsson at earliest opportunity. There will be no signed original.

3. Begin text: Dear Geir:

When we met in November, I promised you that we would study possible U.S. reaction to the proposed undertaking by Iceland of a scientific whaling program without appropriate action by the IWC.²

We have now obtained the view of the Secretary of Commerce, who is responsible under the Pelly and Packwood-Magnuson amendments for reviewing the activities of other nations to determine whether such activities would diminish the effectiveness of the International Convention for the Regulation of Whaling (Convention) or its conservation program.³ The Secretary of Commerce cannot provide any assurances that the Icelandic proposal for scientific whaling and the resulting trade in whale by-products with Japan during the moratorium would not be found to diminish the effectiveness of the Convention or its conservation program. The Department of Commerce is also of the view that whaling by Iceland under its proposed scientific program, without appropriate action by the IWC, and trade in whale by-products with Japan would be likely to require certification of Iceland and Japan under the Pelly and Packwood-Magnuson amendments. Certification under the Packwood-Magnuson amendment and the resulting legislatively mandated reduction of fisheries allocations in the U.S. exclusive economic zone would not have an immediate impact on Iceland since Iceland does not presently receive such allocations. However, it would affect allocations that Iceland might receive in the future under the U.S.–Iceland governing International Fisheries Agreement. However, sanctions under the Pelly amendment would most likely affect both

¹ Source: Department of State, Central Foreign Policy File, D860061–0044. Confidential. Drafted and approved by Thayer and cleared in EAP/J, EUR/NE/IR, and S/S.

² See footnote 13, Document 313.

³ See Document 315 and footnote 6 thereto.

Iceland and Japan and result in restrictions on fisheries exports to the United States.

Regardless of the effect of any U.S. Government sanctions, the active opposition by U.S. private environmental groups would seem likely to have a severe effect on the Icelandic fisheries trade with the U.S. Should Iceland proceed without the IWC's having taken appropriate action, it could well find itself in the position of having jeopardized a major source of foreign exchange earnings.

We have reviewed your memorandum carefully, but in light of our legislation we cannot give the assurances which you seek. In the years we have worked together, wherever possible we have tried to accommodate Icelandic interests to the extent permissible by U.S. laws because of the special value we attach to our friendship with your country. You are no doubt aware of the most recent example of this in the question of Icelandair traffic rights in the United States.⁴ It would seem that the best resolution of this matter would be to work closely with the IWC and postpone initiation of any program until the IWC has taken appropriate action.⁵

Sincerely yours, George P. Shultz. End text. Shultz Unquote.

Shultz

⁴ In telegram 2009 from Reykjavik, September 10, 1985, the Embassy described Icelandic efforts to reduce the noise from Icelandair aircraft in order to meet FAA specifications. (Department of State, Central Foreign Policy File, D850643–0183)

⁵ In telegram 209 from Reykjavik, January 29, the Embassy reported that Hermannsson was disappointed with the content of the letter. (Department of State, Central Foreign Policy File, D860324–0480)

317. Telegram From the Embassy in Norway to the Department of State¹

Oslo, March 24, 1986, 1507Z

1923. Subj: Norwegian Whaling. Ref: Oslo 1692.²

1. C—Entire text.

2. Summary and action requested: Norwegian IWC Commissioner Tresselt has predicted privately that the GON will authorize a modest northeast Atlantic minke whale hunt in 1986, hinting the quota will be in the range of 150–350 animals. Tresselt said that the Norwegian scientific studies will be presented to the IWC Scientific Committee in May. He described the IWC decision last fall to protect the northeast Atlantic minke whale as unreasonable and expressed doubt the IWC would act differently if the issue were reopened. Tresselt claims to have received indications that the USG will not object to Iceland's plans for continued whaling, and he opined that any USG effort to apply stricter standards to Norway would not be understood here. Embassy infers from Tresselt's remarks that the GON intends to authorize a very small whaling quota at about the time of the IWC Scientific Committee meeting in the expectation that the USG will decide that such a small quota does not justify invoking Pelly Amendment sanctions against Norway.

3. Foreign Minister Stray will visit Washington April 3–4.³ If Tresselt's understanding that the USG will not object to Iceland's continued whaling and his expectation that the USG would not invoke Pelly Amendment sanctions against a very modest Norwegian whaling quota this year are incorrect, Embassy recommends strongly that Foreign Minister Stray be given an authoritative explanation of USG views. We would also reiterate our recommendation that the USG offer to support the GON reopening the issue at the IWC. End summary and recommendation.

¹ Source: Department of State, Dumping; Arctic; Whaling; Antarctic; Scientific Research, 1976–1987, Lot 94D419, Whaling—Norway 1985–86. Confidential; Immediate. Sent for information to the Department of Commerce, Copenhagen, Reykjavik, Tokyo, Moscow, and Ottawa.

² In telegram 1292 from Oslo, October 23, 1985, the Embassy reported that the Government of Norway had filed a reservation to the IWC decision to list the minke whale as a protected stock with a zero quota. (Department of State, Central Foreign Policy File, D850757–0517)

³ In telegram 116227 to Oslo, April 15, the Department reported that neither Stray nor Shultz raised the issue of whaling during their meeting. (Department of State, Central Foreign Policy File, D860286–0561)

4. In an informal conversation at a reception, Per Tresselt, MFA Legal Advisor and Norway's IWC Commissioner, told DCM that domestic pressures would in all probability require the GON to authorize a whaling quota for 1986. The GON-sponsored scientific study clearly justified a modest quota. In addition, a second private Norwegian study indicated that even a substantially larger quota would not harm the stock. Tresselt commented that the findings of this second study appeared to be very soundly based. The Whaling Conference in Svolvær showed strong local support for continued whaling in north Norway, a strategic area which had been steadily losing population because of its declining economy.⁴ (Comment: The communities in north Norway which are the center of the whaling activity have been hit this year by the twin blows of a disastrous fish catch and declining prospects for offshore oil development, resulting from the drop in oil prices.) Tresselt said he expects that any GON decision to overrule the Norwegian scientific conclusions by not authorizing a quota would be severely criticized within the government and Storting.

5. When asked, Tresselt said the GON did intend to present its scientific data to the IWC's Scientific Committee which meets next in May. However, he said that the whaling season usually begins in late April or May and that the government would be under pressure to authorize a quota in time for the hunt to commence as usual. When it was noted that if the quota were very small, delaying longer would not prevent completion of the hunt, Tresselt did not respond. DCM said that Norway had thus far adhered to IWC decisions and expressed the hope that the GON would not authorize a quota in defiance of the IWC. Tresselt then noted that the IWC had decided to protect the northeast Atlantic minke whale despite the Scientific Committee's approval of a modest quota of about 350 for 1986. He termed the protection unreasonable. Tresselt asked whether the US expected the IWC would be more reasonable if the issue were raised again. When DCM demurred, Tresselt commented that he did not see much hope that the IWC could be expected to be more reasonable. Tresselt was quick to add that the GON had appreciated the USG attitude when the issue was discussed at the IWC last fall.

6. Tresselt then said that one question for the GON was how big a quota to authorize. Speaking personally, he said that if Secretary Shultz should indicate to Foreign Minister Stray next week that the USG would not object to a quota of 150 and would be prepared to see such a quota continue indefinitely, such views would reinforce those

⁴ In telegram 1576 from Oslo, March 11, the Embassy noted that the Government of Norway had publicized a study on the minke whale stock at a conference in Svolvær. (Department of State, Central Foreign Policy File, D860186–0867)

who were calling for a very low quota. DCM said that he did not see how the Secretary would be in a position to do this, particularly in the context of an indefinite continuation of Norwegian whaling.

7. Tresselt then said that he had received the very strong impression that the USG would not object to Iceland's plans for a quota of about 200 whales per year. He also interpreted the USG's decision to appeal the Japanese whaling issue to the Supreme Court as an indication that the USG was optimistic about winning that case.⁵ In this context, Tresselt said that any decision by the USG to single out its ally Norway for particularly stringent treatment would simply not be understood or accepted in Norway. DCM replied that he could not comment authoritatively on Iceland, but that there were considerable risks to Norway's fishing interests implicit in any assumption that the USG would in fact have the flexibility not to invoke Pelly sanctions if Norway hunted in disregard of an IWC decision.

8. Tresselt said such a modest hunt might be described as being necessary in order to protect other species or to avoid a growing whale stock becoming a danger to fish farming along the Norwegian coast. He noted that the US-Norway talks in 1984-5 about the possibility of defining Norwegian whaling as non-commercial coastal whaling had broken down and said he would be prepared to resume these talks if the USG wished.

9. Tresselt said he recognized there were risks but that the issue was an emotional one in Norway. He noted in particular that Prime Minister Willoch had decided views on the matter, and that Willoch was a man of conviction who would not back down under pressure if he was convinced that his position was justified. The conversation was then interrupted, and Tresselt ended by saying he would have no objection to his personal views being reported to Washington.

10. Comment: Tresselt is a careful diplomat who acts quite deliberately. Embassy infers from his remarks that the GON will present its scientific data to the IWC Scientific Committee in May and that, at about the same time and almost certainly before the IWC itself meets in June, the GON will approve a modest quota (probably in the 150-350 range) for 1986, in the belief that there is no hope of favorable IWC action and the expectation that neither the USG nor the environmentalists will take effective action against Norway for doing so.

11. Concern that either USG or environmentalists actions in response to continued Norwegian whaling would harm Norway's eco-

⁵ In telegram 211037 to all East Asian and Pacific diplomatic posts, July 4, the Department reported that Japan had dropped its objection after a June 30 5-4 Supreme Court ruling in favor of the agreement. (Department of State, Central Foreign Policy File, D860516-0588)

nomically more important fishing exports to the US has not figured prominently in recent discussions of the Whaling issue. This probably reflects the perception that neither the USG or the environmentalists will react in a way that will harm Norway. The GON has everything to gain domestically from authorizing a modest quota and it perceives that it has little to lose internationally from doing so. While we have urged the GON not to expect USG flexibility under the Pelly Amendment, it is clear that the GON believes we will exercise the discretion which is available under the amendment.

12. The GON also believes there is a scientific basis for a modest hunt, a view that was endorsed by the IWC Scientific Committee last fall. We are not aware what basis there is for concluding that such a modest quota would “diminish the effectiveness of the International Convention for the Regulation of Whaling.”

13. Whatever the merits of a hunt, we believe it essential in light of Tresselt’s assertions, that Foreign Minister Stray be given an authoritative statement of the USG attitude toward Iceland’s plans for continued whaling and of the degree of flexibility that we may be able to exercise under the Pelly Amendment should Norway authorize a modest quota this year. Given Tresselt’s comments, we believe MFA will interpret an absence of comments to Stray as an indication of USG acquiescence in a modest Norwegian quota. As recommended previously, we believe the USG should also offer to support a GON effort to reopen this issue at the IWC.

Stuart

318. Telegram From the Embassy in Norway to the Department of State¹

Oslo, April 28, 1986, 1414Z

2724. Subj: Appropriate U.S. Responses to Norwegian Whaling. Refs: (A) Oslo 2306 and previous; (B) State 113933 and previous; (C) Oslo A-10; (D) Oslo A-11.²

1. (C—Entire text.)

2. Summary, recommendation and action requested: The whaling issue looms as a major irritant in US-Norwegian relations, despite the minimal economic significance of the hunt and despite (or perhaps here because of) the uncertain scientific justification for the conservationists' position. Whaling is an emotional issue, particularly in Norway, and will require careful diplomacy in order to avoid unnecessarily harming US-Norwegian relations.

3. The GON has opted to go ahead with a reduced 1986 harvest from the IWC-protected northeast Atlantic minke whale stock. The GON has reacted to political and economic pressures in north Norway in the belief that (A) such a minimal harvest is justified on biological grounds, and (B) that the United States will certify Norway under the Pelly Amendment, but will not apply sanctions against Norwegian fish exports to the United States.

4. The Embassy recommends that State and USDOC consider the USG's options and agree now on what recommendation they will make to the President concerning certification and sanctions. If a recommendation in favor of sanctions is chosen, we believe this planned recommendation should be conveyed to the GON before the hunt starts in late May.³ Notification of our intention to recommend sanctions could provide a basis for bilateral negotiations aimed at a phased end to Norwegian whaling. Minimizing the damage to US-Norwegian

¹ Source: Department of State, Dumping; Arctic; Whaling; Antarctic; Scientific Research, 1976-1987, Lot 94D419, Whaling—Norway 1985-86. Confidential. Sent for information to the Department of Commerce. In the upper left-hand margin, an unknown hand wrote, "Norway 350 minke *not* scientific."

² In telegram 2306 from Oslo, April 11, the Embassy described a meeting regarding Norway's plans for the nation's 1986 hunt. (Department of State, Central Foreign Policy File, D860283-0102) In telegram 113933 to Oslo, April 12, the Department provided press guidance regarding the Norwegian decision to hunt whales. (Department of State, Central Foreign Policy File, D860281-0354) Airgram A-10 from Oslo was not found. In airgram A-11 from Oslo, April 16, the Embassy provided a report on whaling in northern Norway. (Department of State, Central Foreign Policy File, P860046-1854)

³ In telegram 3195 from Oslo, May 16, the Embassy reported that Stuart had requested that Norwegian officials delay their upcoming hunt. (Department of State, Central Foreign Policy File, D860384-0081)

relations requires that the USG pursue every avenue for a mutually satisfactory settlement with an important ally before imposing sanctions.⁴

5. We also request early, specific guidance on the consistency of Pelly Amendment sanctions with GATT obligations; vigorously rebutting GON assertions that any sanctions would violate the GATT is a way of underlining our will to impose sanctions, if that is to be the recommended response.⁵ End summary.

6. Now that the GON has announced a 1986 quota for the northeast Atlantic minke whale stock, contrary to the IWC ruling, the United States faces some difficult decisions. Since 1972, United States policy has aimed at ending commercial whaling. The Packwood Amendment to the Magnusen Fishery Conservation and Management Act and the Pelly Amendment to the Fishermen's Protective Act clearly manifest the congressional intent to give teeth to our support for an end to commercial whaling. The US must now decide whether to certify Norway under the above amendments and then whether to apply some level of sanctions against Norwegian fish exports to the United States. The circumstances of the IWC protection ruling, the size of the proposed harvest, the stock assessment data, and the wording of the above amendments leave wide open the question of whether the proposed harvest will diminish the effectiveness of either the IWC itself, or its conservation program. The legislative reference to appropriateness of sanctions under the GATT may complicate the issue. Further, the importance of our bilateral relationship requires that the US refrain from a single dimensional analysis of Norway's decision to go against the IWC.

7. We see three basic options available to the USG.

—(A) Do nothing

That is, withhold both certification under the Packwood and Pelly Amendments and any sanctions that might otherwise have resulted from such certification. In true biological and conservation terms, this option is justified by the low level of the proposed harvest, the lack of scientific data indicating that such a harvest would harm the stock, and the difficulty of establishing that such a low harvest would, in fact, diminish the effectiveness of either the IWC or its conservation program. This option would clearly be the option of choice in terms of US-Norway relations, socioeconomic considerations, and the strategic importance of north Norway, for the following reasons.

⁴ In the margin next to this sentence, an unknown hand wrote, "Can't do this before Supreme Ct. ruling—?"

⁵ Not found.

Refs A through C have tracked the process which culminated in the GON's April 7 Cabinet decision to allow a harvest of 350 minke whales from the IWC-protected northeast Atlantic stock. Ref D provided a more community-oriented view of this small-scale coastal whaling, showing the importance of this activity to individual communities in north Norway—a strategically important area that shares a common border with the Soviet Union. Despite common references to whaling as a dying tradition, the refs show that whaling represents the critical marginal income that sustains coastal communities in an area characterized by long-term depopulation trends. Whaling is, in fact, a profitable enterprise—one that in years such as this, when cod harvests have hit record low levels, sustains entire communities.

Further, the hunt is a cultural phenomenon. The coastal whale hunt is the last remaining vestige of a whaling tradition that stretches back to the pre-Christian era, while many of the whaling vessels are modern and whalers earn profits from the harvest, the cultural aspects of this hunt differ little from those of Alaskan Inuits whose subsistence depends on the harvest of other small whales. Direct financial support from the GON could alleviate the economic hardship resulting from a cessation of whaling, but such transfers are inadequate from a social/cultural point of view.

The GON has established a record of whale conservation by reducing over time, first its high seas whaling activities and now, its coastal whaling efforts. At each turn, the GON has reduced the harvest in compliance with the best scientific data available and in compliance with the IWC. As a result it has repeatedly reduced the number of whaling licenses and forced individuals to leave the fishery, thus inflicting economic harm on individuals existing in a marginal, albeit strategic environment. At this point, the whale harvest has been reduced to the minimum level that will allow its continuation. Elimination of whaling activities will cost jobs, and will run contrary to the USG's longstanding policy of support for GON efforts to maintain population levels along NATO's northern flank.

Finally, PM Willoch is personally involved in this issue. He is not persuaded that a moratorium on minke whale hunting is justified. He is by nature a man of principle, who firmly sticks by what he believes is right. During last September's national election, Willoch's non-socialist coalition lost votes in Norway's rural areas, particularly the north. The loss of votes to the opposition labor party cost the governing coalition its majority in the Storting and has repeatedly made life politically difficult for the PM. Willoch has tried to emphasize his coalition's support for the residents of rural Norway by increasing funding for infrastructure development and social programs. The GON decision to hold a hunt is an important attempt to show support for these isolated communities.

—(B) Certification, plus possibly token sanctions

Certify Norway but implement either no sanctions or extremely limited, token sanctions, reflecting the minimal and perhaps biologically insignificant impact that the 350-whale harvest will have on the protected northeast Atlantic minke stock. This is the option on which the GON is counting. GON officials have indicated that they anticipate certification under the Pelly Amendment, but are confident that actual sanctions will be withheld, because they are not in accord with the GATT, and because the President would exercise his discretion under the Pelly Amendment in any case. Unlike Option A, this option would satisfy to some extent anticipated domestic pressure for action against Norway by allowing the USG to clearly state through certification its opposition to Norway's continued whaling. By stopping short of significant sanctions, it would also show the GON that we recognize the depth of its whaling problem and show our understanding for a strong ally. On the other hand, this would remove any external pressure to encourage Norway to cease whaling and withdraw its reservation to the IWC moratorium. In the absence of such pressure, Norwegian whaling can be expected to continue indefinitely.

—(C) Impose a proportionate sanction

Certify Norway and implement meaningful but proportionate sanctions against specified Norwegian fish exports to the US, such as salmon, in order to deny Norway any economic benefits from continued whaling. A proportionate sanction could involve Norwegian fish products up to but not exceeding the value of the whales being harvested. Such a proportionate sanction would reflect a strong US commitment to seek an end to Norwegian whaling. Collateral action to certify any other nation buying whale meat from Norway, would reinforce the message by impacting Norway in the marketplace.

The GON clearly does not anticipate that this option will be implemented. The GON will react strongly and challenge the US action under GATT. The public reaction will be strong, and will be exacerbated by the perception that a super power is picking on "Little Norway" and doing so without an adequate scientific justification. This strong reaction might be tempered by the realization that the sanction was proportionate to the whale catch—an argument that may prove essential to avoid this issue seriously poisoning bilateral relations.

The GON will also be watching closely how the USG will treat Iceland's plans to hunt 200 whales for research purposes under these same amendments.⁶ Any perception that Norway is being treated less

⁶ See Documents 315 and 316.

favorably than Iceland would only further aggravate the Norwegian reaction to US sanctions.

8. Recommendation:

The Embassy believes that option B would be the most appropriate course, both in the interest of maintaining strong bilateral relations, and as an appropriate signal of US opposition to GON whaling. However, if it is decided that significant sanctions are necessary, we recommend that this be conveyed to the GON in forceful terms as early as possible and that this be coupled with an effort to engage the GON in a negotiated end to Norwegian whaling.

Specifically, we recommend that such a decision be conveyed to the GON in Washington and Oslo (by the Ambassador) before the hunt starts in late May. This timing would help forestall any Norwegian accusations that USG statements concerning sanctions were vague and imprecise.

9. The USG statement should contain a clear justification of the US action under the GATT. GON officials have already said that they consider such action contrary to the GATT and will likely lodge an objection in that forum if sanctions are undertaken. In deciding what sanctions to impose, we must also weigh the options which Norway has available under the GATT or otherwise to respond to or retaliate against US sanctions. The GON's emphasis on the GATT aspects suggests that they will be carefully assessing their options, though we have not yet heard any indications of possible retaliation. A strong, and early justification will help convince the GON that we are indeed serious in explaining our intention to recommend sanctions.

10. So far, the Norwegians have given no indication that they are willing to consider negotiating an end to whaling. Their reasons are clear. They believe whaling will be scientifically justified for the foreseeable future and, equally important, they simply do not believe that the USG will implement meaningful sanctions. That belief may change, however, if the GON is faced with a solid State-USDOC recommendation to the President to impose meaningful sanctions against Norwegian fish. Nor do they yet believe that the environmentalists will be able to organize an effective boycott.

11. After the GON has time to absorb the seriousness of our intent to recommend sanctions, the USG should offer negotiations similar to those conducted with the Japanese to phase out whaling activities by a set date. Our opening position could be an offer to withhold sanctions this year in return for a total ban on Norwegian whaling next year. The ongoing negotiations could justify a slight delay in implementing sanctions and give the GON time to back away from a difficult political problem. Should the negotiations fail, the USG would always retain the option of increasing the sanction pressure at a later date. While

notification of the State-USDOC recommendation should be made before the hunt, other opportunities to convey the message at appropriately high levels will arise. The early June visit to Washington by Nils Morton Udgaard, National Security Advisor to the Prime Minister, would be a prime opportunity to present the US position and propose negotiations.⁷ The IWC meetings in June could provide an opportunity to carry the negotiations forward and assess the prospects for success before deciding whether to proceed with a recommendation for sanctions.⁸

Brown

⁷ In telegram 181308 to Oslo, June 9, the Department summarized Udgaard's visit, during which whaling was not mentioned. (Department of State, Central Foreign Policy File, D860445–0200)

⁸ In telegram 181127 to Oslo, June 9, the Department reported that Baldrige had certified Norway. The IWC meeting was in session at the time. (Department of State, Central Foreign Policy File, D860444–0937)

319. Memorandum From the Director of Oceans and Polar Affairs, Bureau of Oceans and International Environmental and Scientific Affairs (Scully) to the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs (Negroponte)¹

Washington, May 30, 1986

SUBJECT

Norwegian Whaling

The Norwegian Government authorized minke whaling operations began May 26, but as of May 30,² only one vessel is operating and no whales have been taken.³ Commerce has had one inquiry from the

¹ Source: Department of State, Lot 92D228, Arctic, Antarctic, and Whaling, 1975–1987, Untitled. No classification marking. Sent through Wolfe. Drafted by Kendrew. An attached note on the first page reads: "Scully—Trust we are doing a good analysis of implications of this—JDN."

² Negroponte underlined the phrase "operations began May 26, but as of May 30."

³ Negroponte underlined the phrase "no whales have been taken."

press on the morning of May 30 alleging that a whale has been taken, but our embassy in Oslo, which is closely monitoring this situation, has no confirmation of this.

We have taken every opportunity to explain the USG position concerning Norwegian whaling under the IWC Moratorium in discussions with Norwegian Government officials in the past and current administrations. The Government of Norway has been well apprised of the potential risks it faces if it allows whaling under its reported schedule. The Secretary of Commerce has stated that he would have little flexibility given the current circumstances, in judging Norwegian whaling, despite Norway's objections, as diminishing the IWC conservation program and therefore subject to certification.⁴ Commerce has indicated that the attached decision memorandum regarding Pelly Amendment Certification of Norway will go forward as soon as we have verification that any whales have been taken.⁵ We expect that the GON will continue to be forthcoming on this matter and confirm the fact if any whales have been taken. The cable from Oslo (attached) provides an excellent overview of the current situation in Norway.⁶ There is some reason to believe that the Norwegian government may be using indirect means (delays in providing explosive harpoons) to avoid the taking of whales before the IWC annual meeting plenary session begins on June 9.⁷

The certification decision memorandum for NOAA Administrator Calio has been informally reviewed and cleared by OES/OPA, L/EB, EUR/NE and L/OES. As indicated in the letter from Secretary Baldrige to Secretary Shultz attached to the decision memo,⁸ State and Commerce officials will have close consultations regarding Pelly sanctions. NOAA General Counsel McGovern, Dave Colson, Liz Verville and L/EB lawyers have met and agreed that although there is no consensus on whether a GATT panel would find an embargo on fish products from Norway to be consistent with GATT, a credible argument could be made. An analysis by ITA of the question of Pelly Amendment consistency with GATT is also attached to the decision memo. Our information from informal Norwegian Government contacts is that the

⁴ In telegram 141306 to Oslo, May 5, the Department reported that Department of Commerce officials had met with Norwegian Embassy officials and had conveyed the point that the United States had little flexibility regarding certification. (Department of State, Dumping; Arctic; Whaling; Antarctic; Scientific Research, 1976-1987, Lot 94D419, Whaling—Norway 1985-86)

⁵ Attached but not printed.

⁶ Telegram 3371 from Oslo, May 28, is attached but not printed.

⁷ Negroponte underlined the phrase "IWC annual meeting plenary session begins on June 9."

⁸ Draft letter is attached but not printed.

Norwegian Government will challenge us in GATT if we implement the Pelly Amendment and embargo any Norwegian fish products. At present, Calio is very likely to recommend partial Pelly sanctions to Baldrige (probably the salmon imports which amount to about \$50 million as recommended in the letter from the six Senators),⁹ but everyone agrees that it is best to take advantage of the 60 days which Pelly provides before the President must notify Congress of any action regarding the certification. We have consulted very closely with the Norwegian desk, NOAA and our embassy in Oslo at every stage of this escalating situation.¹⁰ There is a very slight chance that something might happen at the IWC meeting, either as a result of informal US–Norwegian discussions or by action taken by the Commission, which will help to avoid a confrontation.

⁹ Negroponte underlined the phrase “probably the salmon imports which amount to about \$50 million as recommended in the letter from the six Senators.” In telegram 161530 to Oslo, May 22, the Department transmitted the text of the Senators’ letter.

¹⁰ See Document 318.

320. Letter From Secretary of Commerce Baldrige to Secretary of State Shultz¹

Washington, June 9, 1986

Dear Mr. Secretary:

Under the Pelly Amendment to the Fishermen’s Protective Act of 1967, 22 U.S.C. §1978 (1983 Supp.), I have certified to the President that nationals of Norway are conducting whaling operations that diminish the effectiveness of the International Whaling Commission (IWC) conservation program.²

The Pelly Amendment provides that upon receipt of such certification the President may direct the Secretary of the Treasury to prohibit the importation into the United States of some or all fish products from this country. The Department of Commerce is developing trade recommendations on fish import prohibitions to be forwarded to the

¹ Source: Department of State, Dumping; Arctic; Whaling; Antarctic; Scientific Research, 1976–1987, Lot 94D419, Whaling—Norway 1985–86. No classification marking.

² See footnote 8, Document 318.

President. The Pelly Amendment also provides that, within 60 days following the receipt of such certification the President must notify the Congress of any action he takes regarding the certification, and must inform the Congress of the reasons for any such action that falls short of prohibiting the importation of all fish products from this country.

I recommend that the Department of State promptly notify the Government of Norway of the certification³ and that officials of our two Departments remain in close consultation as sanction recommendations are developed.

Sincerely,

Malcolm Baldrige

³ In telegram 3625 from Oslo, June 9, the Embassy reported on a conversation with Norwegian officials regarding the certification. (Department of State, Central Foreign Policy File, D860443-0768)

321. Telegram From the Embassy in Norway to the Departments of State and Commerce¹

Oslo, July 3, 1986, 1723Z

4207. Subj: Norway To Stop Commercial Whaling After 1987 Season.

1. (U) Begin summary: The GON announced July 3 that it will stop all commercial whaling after the 1987 season and will implement an IWC-approved scientific whaling program after that date. MFA officials said the plan, which includes establishment of an independent committee of internationally recognized scientists to study the whale stock, was specifically designed to satisfy USG criteria for stopping the imposition of sanctions against Norwegian fish products. End summary.

2. (U) MFA State Secretary Kari Gjesteby invited DCM to the Ministry late July 3 to announce that the GON has decided to stop all commercial whaling following the 1987 hunt. The invitation immedi-

¹ Source: Department of State, Dumping; Arctic; Whaling; Antarctic; Scientific Research, 1976-1987, Lot 94D419, Whaling—Norway 1985-86. Confidential; Immediate. Sent for information to Moscow, Tokyo, Reykjavik, Copenhagen, and Stockholm.

ately followed a similar public announcement and press conference by Foreign Minister Frydenlund, Fisheries Minister Eidem, and Commerce Minister Mosbakk. Text of GON statement sent septel.²

3. (C) The GON program includes the establishment of an independent committee of internationally recognized whaling scientists to study the status of the whale stock and deliver its first report by November 15.³ That report will form the basis for establishment of the 1987 whaling quota. MFA Economics Division Director General Bjorn Barth, accompanying Gjestebby, said the 1987 quota will definitely be lower than the 1986 quota of 400 animals. He did not, however, specify a figure.

4. (C) Gjestebby noted that the GON decision included a statement that as part of its ongoing scientific studies the GON envisaged authorizing a program for scientific whaling. Gjestebby went on to say that the GON had no intention of using such a scientific program as a subterfuge for commercial whaling. Whatever program was eventually developed would be fully consistent with the IWC provisions concerning scientific whaling.

5. (C) Gjestebby and Barth took pains, as did the Ministers in the press conference, to point out that the GON decision was made unilaterally and on the basis of the best scientific evaluation of available information. Barth said Norway is an environmentally conscious country and wants to maintain that posture. He added that the GON is “tired of being criticized.” The establishment of an independent scientific committee will be both a way to increase the overall body of scientific knowledge about this whale stock, and a means to assure that the GON is not in conflict with the best scientific opinion. In response to a question from the DCM, Barth said the actual makeup of the scientific committee had not yet been determined, but he reiterated that it would be composed of experts working independently of any institutions which have previously been involved in this debate.

6. (C) Barth said the overall program was specifically designed to meet what the GON perceives as the USG criteria for stopping the imposition of sanctions. He said the GON expects that Commerce Secretary Baldrige will take this GON decision into account.

7. (C) Barth also noted that the unilateral announcement of the GON’s plan perhaps deprived the two countries of an opportunity to negotiate the fine points of an agreement. He stressed, however, that it was important for the GON to be able to say that it acted on its own

² Telegram 4201 from Oslo, July 3. (Department of State, Central Foreign Policy File, D860514–0814)

³ Not found.

after lengthy and deliberate evaluation. Foreign Minister Frydenlund and Fisheries Minister Eidem struck a similar tone at the press conference. Asked to what extent the decision was the result of USG pressure, Eidem responded that decision was the result of further analysis of the best scientific data available and of Norway's longstanding belief that all living marine resources must be managed in the most scientifically responsible and defensible manner possible.

8. (U) Both the Ministers in the press conference and Barth and Gjestebj confirmed that the decision does not technically shut the door on a resumption of commercial whaling at some time in the distant future. In response to a direct question, Eidem told reporters that such a resumption could become a reality, subject to an increase in whale stocks, evaluation of newly developed data, and continued discussions within the IWC. When specifically asked for clarification of this point, Barth responded that such an answer was necessary to satisfy whaling interests. He added, however, that after a hunting ban of several years, the likelihood of a resumption was almost zero.

9. (C) Comment: Interministerial discussions leading to the decision continued until this morning, and until the last moment, it was feared that Fisheries Minister Eidem would resign rather than agree to stopping the hunt. The compromise decision to continue the hunt for another year and to implement a scientific whaling program allowed Eidem to remain in office. Foreign Minister Frydenlund reportedly played a central role in working out the compromise which avoided Eidem's resignation. Embassy believes that this politically courageous decision by the GON meets the criteria which the Ambassador presented to Gjestery last week that commercial whaling be terminated before 1988. End comment.

10. (U) Should we receive press and public inquiries about the GON decision, we plan to answer as follows, pending more specific guidance:

Q. Has the USG been officially informed of the GON decision?

A. Yes, the Embassy was called in by the MFA July 3 and informed of the GON decision to terminate minke whaling at the end of the 1987 season and to establish an international scientific commission to assess the whale stock.

Q. What impact will this decision have on the USG certification of Norwegian non-compliance with the IWC ban on minke whaling and the prospect of USG imposed sanctions?

A. The USG has already certified that Norway has not abided by the IWC decision. This certification was prompted by US legislation, particularly the Pelly Amendment to the Fishermen's Protection Act.

The USG has not yet decided what, if any, further actions will be taken. The recent decision by the GON will, of course, be taken into account in the ongoing USG deliberations.

Stuart

322. Telegram From the Department of State to the Embassy in Iceland¹

Washington, July 11, 1986, 2027Z

217976. Subject: U.S.-Iceland Consultations on “Scientific” Whaling—July 7–8, Washington, D.C. Ref: (A) Reykjavik 1357, (B) State 206688, (C) Reykjavik 1274.²

1. U.S. and Icelandic delegations led by Halldor Asgrimsson, Minister for Fisheries of Iceland, and Dr. Anthony J. Calio, Administrator of NOAA and U.S. IWC Commissioner, respectively, met July 7 in Washington to discuss Iceland’s “scientific” whaling. A small working group met on July 8 for more detailed discussions. The two sides presented differing interpretations of the paragraph in the IWC resolution on scientific permits which recommends that quote following the completion of scientific treatment the meat as well as other products should be utilized primarily for local consumption unquote. The Icelandic side held the view that Iceland’s small size and dependence on exports (90 percent of products are exported), particularly fisheries (76 percent of exports), require special consideration in interpreting this paragraph. A film was shown which underscored this dependence. The U.S. expressed the view that the intent of the resolution was to take commercial elements out of scientific whaling and to set a limit on the number of whales taken in order to avoid undermining the IWC commercial whaling moratorium. The meetings ended with commitment by GOI to provide USG with a “package” for consideration within the next few days.

2. The Icelandic side referred to the Secretary’s January 24 letter to Icelandic Foreign Minister Mathiesen³ which states that the best resolution of the matter concerning Iceland’s proposed scientific whaling program quote would be to work closely with the IWC and postpone initiation of the program until the IWC had taken appropriate

¹ Source: Department of State, Dumping; Arctic; Whaling; Antarctic; Scientific Research, 1976–1987, Lot 94D419, Whaling: Iceland 1985–86 Including 1986 Agreement. Confidential; Immediate. Drafted by Kendrew, cleared by Christenson and McGovern, and approved by Scully. Sent for information to Oslo, Tokyo, and Seoul.

² In telegram 1357 from Reykjavik, July 4, the Embassy transmitted the Icelandic Government’s initial thoughts on the topics to be discussed in the meeting. (Department of State, Central Foreign Policy File, D860515–0298) In telegram 206688 to Reykjavik, July 1, the Department transmitted a démarche to be delivered to Asgrimsson and Eirikson before the meeting. (Department of State, Central Foreign Policy File, D860507–0657) In telegram 1274 from Reykjavik, June 25, the Embassy transmitted the text of a letter from Ingvarsson to Shultz, which proposed arrangements for whaling talks. (Department of State, Central Foreign Policy File, D860490–0777)

³ See Document 316.

action. Unquote. They expressed the view that this request had been met.

3. On the issue of local consumption, it was explained that Iceland was different than large countries or those less dependent upon trade (exports contribute more than half of GNP). The Icelanders explained that there was a stockpile of lamb and ox (?) meat and therefore, with Iceland's small population, little hope of increasing consumption of whale meat significantly. The Icelanders emphasized that the purpose of the program was to contribute to scientific knowledge for the comprehensive assessment and to knowledge of the whales ecosystem because fish (which whales and fish consume in large quantities) are so very important to the Icelandic economy.

4. Gudmundur Eiriksson, Legal Adviser to MFA, pointed out there were three elements of this paragraph on local consumption in the resolution on scientific whaling that led the GOI to believe that its case-by-case approach was appropriate: 1) Begins with "recommends," 2) the use of "should" and not shall, and 3) the use of the word "primarily" and not all. In Eiriksson's view the Icelanders would be enhancing the effectiveness of the IWC in implementing its scientific whaling program.

5. In response to U.S. query, the Icelandic side indicated that approximately 10 percent of the whale meat would be consumed within Iceland (150 to 200 tons). The 120 great whales (80 Fin and 40 Sei) would produce about 1500 to 2000 tons. They stated that in the past, when more whales were taken, 3-5 percent of the whale meat was consumed. They further explained that they expect to increase utilization. The U.S. side responded that even with a 100 percent increase only 20 percent would be consumed locally. In the U.S. view, this was the reverse of the appropriate interpretation of the amount to be exported to meet the criterion for "primarily for local consumption."

6. The GOI on several occasions stressed that the Icelandic scientists had been under strict instructions to plan a scientific program with the bare minimum number of whales to be taken necessary to provide useful scientific results. The scientists would be asked again if the number could be reduced. The program was also designed to provide no profit for the whaling operation involved.

7. In response to USG demarche (ref B), GOI officials made presentation concerning minke whales. At the present time the GOI has only granted permits for great whales because the facilities for research are available and whaling is localized. The minke whaling on the other hand involves a small, scattered operation using 9 vessels of 15-30 tons. Plans now call for reducing the operation to 3 or 4 vessels and 2 landing sites to guarantee thorough expedited scientific processing of the whales. Until this is arranged, the permits will not be issued.

8. Icelanders confirmed U.S. understanding that minke whale meat was preferred by Icelanders. The blubber is pickled (soured) and eaten in the winter with, we were told, vast quantities of aquavit. If the meat from the 80 minke whales proposed to be taken was all consumed locally, then approximately 120 tons of meat would be eaten (about one and a half tons of meat per minke whale). (We observe that this will leave virtually all of the meat from the great whales for export.)

8 [9]. The GOI plans to implement the use of explosive harpoons in the minke whaling operation. They will use the same mechanism developed and currently utilized for Norwegian minke whaling operations, but no firm purchase order has yet been placed. Apparently a small firm in Switzerland makes the necessary trigger mechanism and will require a year to make delivery. It was also pointed out that in addition to the delivery problem, it will be necessary to teach inexperienced whalers to incorporate the necessary precautions and safety measures.

9. [10.] In the smaller meeting held on July 8, Mr. Eiriksson presented list of arguments that U.S. could use against assertions that Icelandic whaling was diminishing the effectiveness of the IWC: 1) Iceland's proposed research program is dedicated to science. 2) The GOI was not seeking to circumvent the IWC moratorium on commercial whaling. (Dr. Calio had indicated on July 7 that he was convinced that this was the case). 3) As requested by the U.S., the proposal as now drafted took account of IWC Scientific Committee comments (e.g. excluding any taking of blue or humpback whales). 4) Research is mandated by the IWC. It is part of the comprehensive assessment which is incorporated in the IWC commercial whaling moratorium decision. Iceland considers its research proposal as necessary to provide information for the comprehensive assessment which the GOI interprets as necessary by 1990. 5) Iceland's program is consistent with the terms of the resolution. 6) The question of local consumption should be treated on a case by case basis. Iceland's special situation discussed above would justify the 10–20 percent level of consumption.

10. [11.] U.S. responded that a large segment of the U.S. population and many members of Congress are carefully observing Iceland's activity and the U.S. reaction. While aspects of Eiriksson's argument could be persuasive, in the U.S. view the IWC resolution on scientific whaling does not allow such a broad interpretation. Our interpretation of primary requires that substantially more than 10 percent of the whale meat be consumed in Iceland.

11. [12.] The Icelandic side pointed out that if the U.S. had the desire to interpret U.S. regulations favorably, then there certainly was a basis for deciding that the Icelandic scientific whaling proposal actually enhanced the IWC Convention. As an example of this "if there is a

will there is a way scenario" it was explained that the U.S. base in Iceland has been the beneficiary of many favorable interpretations of Icelandic law, often requiring great effort by GOI officials. (At a lunch hosted by the GOI on July 8, a USG official was told that if the US threatens Iceland's fisheries (even if certified without sanctions), the US base would no longer be welcome).

12 [13.] Fisheries Minister Asgrimsson telephoned Administrator Calio on the evening of July 8 and indicated that a "package" would be forthcoming soon, probably before the end of the week. (To date no such package has been received.)

Shultz

323. Telegram From the Department of State to the Embassy in Norway¹

Washington, July 24, 1986, 0113Z

231252. Subject: Norwegian Whaling.

1. Commerce in consultation with the Department on July 23 recommended to the President that trade sanctions not be imposed for Norway's whaling, but that the certification for exceeding an International Whaling Commission (IWC) quota remain in place until its commercial whaling has ceased.² This recommendation is on the premise, based on the GON's July 3 announcement, that commercial whaling will not be resumed after 1987 unless the IWC authorizes such a resumption.³ By August 8, the President is required by law to notify the Congress of his action concerning this matter.⁴

2. In a letter to Norwegian Ambassador Eliassen dated July 23, Secretary of Commerce Baldrige made the following points:⁵

—On June 9, 1986, the Secretary of Commerce certified to the President, under the Pelly Amendment to the Fishermen's Protective

¹ Source: Department of State, Dumping; Arctic; Whaling; Antarctic; Scientific Research, 1976–1987, Lot 94D419, Whaling: Iceland 1985–86 Including 1986 Agreement. Confidential. Drafted by Kendrew, cleared by Rogers and Busuttil, and approved by Blumberg.

² Not found.

³ See Document 321 and footnote 2 thereto.

⁴ See *Public Papers: Reagan*, 1986, Book II, p. 1051.

⁵ Not found.

Act of 1967, that Norwegian nationals were conducting whaling operations that diminished the effectiveness of the International Whaling Commission (IWC) conservation program.

—Under the Pelly Amendment, when the Secretary of Commerce determines that a foreign country is conducting a fishing operation that diminishes the effectiveness of an international fishery conservation program, he will certify this determination to the President. After receiving a certification, the President may direct the Secretary of the Treasury to embargo the offending country's fishery products to the limits of the General Agreement on Tariffs and Trade. Within 60 days following the certification, the President is required to notify the Congress of any action taken under the certification.

—On July 3, 1986, the Government of Norway announced that, *inter alia*, it would suspend commercial whaling after the 1987 season and that 1987 catch limits would be lower than this year's 400.

—The Secretary of Commerce has made a recommendation to the President concerning trade sanctions under the Pelly Amendment on the premise, based on the Government of Norway's announcement, that commercial whaling will not be resumed after 1987 unless the IWC authorizes such a resumption.

—The premise mentioned above is essential to the recommendation of the Secretary of Commerce. The President is expected to act on this recommendation by August 8, 1986.⁶

Shultz

⁶ In telegram 2046 from Oslo, March 22, 1988, the Embassy reported that Norway had announced a plan to begin scientific whaling, jeopardizing the existing whaling agreement, which included certification, no trade sanctions, and a commercial whaling ban. (Department of State, Pacific Fishery Issues, 1974–1988, Lot 94D542, Whales: Other Norway, Iceland, USSR, etc.) In a July 14, 1988, paper entitled "U.S.-Norwegian Whaling Consultations," U.S. officials considered further sanctions against Norway. (Department of State, Dumping; Arctic; Whaling; Antarctic; Scientific Research, 1976–1987, Lot 94D419, Whaling—Norway 1985–86) In an August 31, 1988, memorandum from Verity to Reagan, the Department of Commerce announced "Norway's 1988 research program involving the taking of whales in conjunction with its commitment to work within the IWC process does not diminish the effectiveness of the IWC conservation program, and therefore no recertification is warranted at this time. Further, we do not believe that this 1988 research program warrants imposition of any sanctions pursuant to the 1986 certification." (Ibid.)

324. Telegram From the Embassy in Iceland to the Departments of State and Commerce¹

Reykjavik, August 15, 1986, 1301Z

1639. Subject: Whaling Dispute: How Much Damage? What Next?

1. (C—Entire text.)

Summary:

2. Apart from the cod wars, nothing in Iceland's history as an independent nation has aroused such strong emotion and inflamed nationalism here to the extent that the whaling dispute with the U.S. has. Indeed, in the case of the series of cod wars in 1958, 1972, and 1975, in which the U.K. resisted, unsuccessfully, Iceland's successive expansions of its exclusive fisheries zone to 200 miles, everyone here recognized that the British, who are also a NATO ally, had a conflicting economic interest of its own at stake. In the case of the whaling dispute, the point has been made by contacts to every officer in this Embassy that Icelanders are outraged by the perception that the U.S. appointed itself as the judge and jury on whaling issues and, in so doing, assumed the authority for telling Iceland how to conduct its scientific whaling program in its own waters and how to market the resulting products. The political impact of this in Iceland is of considerable long-term importance. This is an episode which will be remembered and discussed in political circles for years to come. While Icelanders may differ in their views over how the GOI should have handled this problem and, indeed, whether the scientific whaling program should have been launched in the first place, they are remarkably united across the entire political spectrum in their sense of outrage. It is too early to predict how the nationalistic sentiments which have been unleashed will play out or which political leader will prove most skillful at exploiting this. However, it is clear that there has been a shift in perceptions of the U.S. As a result, we now have to work very hard to ensure that our actions in the future avoid inflaming this nationalism and, to the extent possible, reassure Iceland that we are a reliable friend and ally.

3. To do this we need a coherent policy. Initially, this means a clear explanation of what the USG did and why so that we can begin getting our side of the story across because Icelanders are presently getting a very one-sided account of the whaling dispute. But much more is needed if we are to stem the damage to the U.S. position here. In particular,

¹ Source: Department of State, Dumping; Arctic; Whaling; Antarctic; Scientific Research, 1976–1987, 94D419, Whaling: Iceland 1985–86 Including 1986 Agreement. Confidential; Immediate. Sent for information to the Office of the Secretary of Defense and Naval Air Station Keflavik.

we must: (A) avoid giving the impression that the U.S. is interfering in any way with Japanese purchases of Icelandic whale products, (B) do our best to avoid a replay of the whaling dispute next year, and (C) convey the view that we are moving as quickly and as forcefully as possible to resolve our other dispute with Iceland over the transportation of military cargo. End summary.

4. The nature and scope of the damage: We have reported on the depth of emotion and nationalism aroused by the whaling dispute. However, there has also been a perceptible shift in positions and views in Iceland as a result of this dispute. For example, PolOff had a revealing conversation with Styrmir Gunnarsson, editor of *Morgunbladid*, Iceland's most widely read and influential paper. PolOff has known Styrmir, who is a key figure in the Independence Party (IP), well for a little over a year. In both editorials and personal conversations, Styrmir has been a staunch supporter of Iceland's defense relationship with the U.S. and repeatedly opposed the notion that the GOI should link the U.S.-manned NATO base at Keflavik to other issues and use the leverage to get its way in disputes. This appears to have changed. In an August 13 conversation, after describing at length the very high level of emotions and nationalism inflamed by this issue, which are "like nothing experienced here in recent years," he went on to say that if the USG continues to treat Iceland the way it has in the whaling dispute, Iceland would have to use the presence and strategic importance of the base for leverage. When PolOff expressed his dismay at this statement in view of his past position and clear understanding of the base's importance, he simply replied that U.S. behavior made it impossible for Iceland to deal with the U.S. "without using this card."

5. The point has also been made to a number of us that the military cargo dispute,² which remains unresolved despite over two years of diplomatic effort, worked in a pernicious way throughout the whaling dispute to intensify Icelandic frustrations. There is a widely held view here that "Washington" has been unwilling to come to grips with the military cargo issue because the IP, which has always advocated a close defense relationship with the U.S. and opposed linking the base to other issues, is unwilling to play Iceland's strongest card, the base. This view has made many in the IP very nervous, especially since there

² In telegram 1810 from Reykjavik, September 10, the Embassy reported, "During the period 1967–1984, Icelandic vessels carried supplies for the defense force in Iceland. This activity proved to be reliable for the U.S. military and important to Iceland by utilizing available space on the return voyage of Icelandic vessels carrying fishery products to the United States market. Then, suddenly, in 1984 an American company, Rainbow Navigation, Inc., entered this route claiming preferential treatment on the basis of a 1904 Cargo Preference Act, which provided that American Government property should be carried on U.S. vessels." (Ibid.)

is about a fifty-fifty chance of parliamentary elections this year. This, in turn, seems to be an important factor in the shift in position by Styrmir Gunnarsson and others in the IP leadership.

6. This shift in views is not limited to the IP—it spans the entire political spectrum in Iceland apart from the leftists in the People's Alliance who are using the episode to show that they have been right all along in saying that Iceland cannot rely on the U.S. Indeed, these disputes have provoked numerous calls from all quarters here for greater self-reliance in foreign affairs and for the need to reduce Iceland's dependence on U.S. fish markets. With regard to the latter, while we believe recent trends in exchange rates are responsible for the growing interest by exporters in markets other than the U.S., the greater attention being paid to other potential customers is being justified in political terms.

7. It is important to recognize that at this juncture the political dimensions of the whaling and shipping disputes take on greater importance than the economic aspects. Icelanders have reacted strongly not because of fear of loss of revenues or jobs but rather because they perceive the U.S. to be interfering in Iceland's internal affairs and ignoring Iceland's legitimate interests. This offends their strong sense of nationalism. Iceland, which only became independent in 1944 and only has a population of about a quarter of a million people, is very sensitive about such interference. Moreover, because the U.S. has no economic interest at stake in the whaling dispute, unlike the military cargo dispute, USG behavior in this matter was all-the-more incomprehensible and outrageous in the view of the Icelandic public.

8. What must be done? In order to present the U.S. case in both private discussions and to the media, we need a statement of some kind making clear that the USG, 1) will not certify Iceland for its whaling activities as now agreed upon by the two countries, 2) that from a bilateral standpoint this issue is currently over, 3) that the USG is not intervening in any way to prevent a Japanese purchase of whale meat from Iceland, and 4) that the "impreciseness" of the IWC resolution will be addressed within a multilateral framework and that the U.S. looks forward to working together with Iceland within the IWC to make certain that further misunderstandings of this kind are avoided. With regard to the latter point, we would encourage Dr. Calio to continue to nurture the very useful personal relationship that now exists between himself and Halldor Asgrimsson. We believe the relationship is on a footing of mutual respect and we intend to urge the Fisheries Minister in the same direction. The Calio/Asgrimsson telephone conversation of August 13 is right on the mark.³ It also occurs

³ No record of this conversation has been found.

to us that a great deal could be gained by Dr. Calio visiting Iceland, if only for 24 hours, sometime in the not too distant future. The image of the Fisheries Minister scurrying to Washington in order to continue fishing in Icelandic waters played badly with Icelanders and a visit by Dr. Calio to Iceland could do much to reinforce the importance we attach to Iceland. A visit billed as one IWC Commissioner visiting another could also help put discussion of whaling back into a multilateral framework. It won't take long to ascertain if this idea is worth pursuing.

9. Finally, our future actions will be much more important than whatever we say. The first test will be Japanese purchase of whale meat. If they refuse to buy from the Icelanders because the USG did not give them the assurances they want, we will be hard pressed to convince the Icelanders the USG did not intervene (even if this is actually the case). We need to explain our position in a clear way. Next, we need to avoid a replay of the whaling dispute next year—definition and clarification will help. Finally, we need to convey the view that we are moving as quickly and forcefully as possible to achieve a durable resolution to the military cargo issue. We recognize that these are tall orders. However, whaling and Rainbow⁴ have already caused considerable damage to the U.S. position in Iceland; we must avoid further damage and attempt repairs before public emotion leaves no room for our Icelandic political allies to maneuver.

Ruwe

⁴ See footnote 2, above.

325. Telegram From the Department of State to the Embassy in the Soviet Union¹

Washington, August 28, 1986, 2248Z

272314. Subject: Discussions on Soviet Whaling.

1. After consulting with NOAA Administrator Dr. Anthony Calio concerning Soviet Embassy query on how the certification of the U.S.S.R. under the Pelly and Packwood-Magnuson amendments could be removed,² on August 26 we told Soviet Fisheries Attache Chursin that we can de-certify the Soviets if they will withdraw their objection to the International Whaling Commission (IWC) moratorium on commercial whaling and end whaling now before the next whaling season (1987/88). We agreed with Commerce that if the Soviets find this unacceptable, the certification could also be removed if the Soviets withdraw the objection to the moratorium now to take effect after the 1987/88 season and whale for one more year (similar to US-Japan agreement). If the Soviets take any action, it is likely to be unilateral to avoid the perception that they are acting under duress from the U.S.

Whitehead

¹ Source: Department of State, Central Foreign Policy File, D860658-0487. Confidential. Drafted and approved by Kendrew and cleared in EUR/SOV. Sent for information to Tokyo. Sent to Seoul, Reykjavik, and Oslo.

² No Soviet query on certification has been found. In an August 18 memorandum to Smith, Kendrew reported on August 13 consultations with Calio. (Department of State, Arctic, Antarctic, and Whaling, 1975-1987, Lot 92D228, IWC-U.S.S.R. 1987-87)

326. Telegram From the Embassy in Iceland to the Departments of State and Commerce¹

Reykjavik, March 10, 1987, 1536Z

517. Subject: NOAA Administrator's Visit to Iceland.

1. (Confidential—Entire text)

2. Summary: Dr. Anthony Calio, NOAA Administrator, made an official visit to Iceland March 4–6 at the invitation of Iceland's Fisheries Minister Halldor Asgrimsson. Dr. Calio was accompanied by Assistant Director for Fisheries William Evans and NOAA General Counsel Daniel McGovern. Discussions centered around a US-proposed resolution concerning scientific permits to be introduced at the June meeting of the IWC.² Dr. Calio explained that, in his view, the ambiguity of the compromise on scientific whaling agreed to last year at Malmo was at the source of friction between the two countries and that the U.S. proposal was a way to address that problem.³ It was also aimed at establishing a link between scientific whaling and a comprehensive assessment which was to be gotten under way by 1990. Dr. Calio thought both sides could work together to get movement on a comprehensive assessment. The Icelandic side expressed their deep frustration at the workings of the IWC, an organization they thought unable to come to a consensus on such matters. But more importantly, the GOI was concerned about the appropriateness of submitting their scientific whaling program to a vote in the IWC. Much of the IWC membership operated from political motives, they thought, and thus the GOI was reluctant to submit their program to it for a vote. Throughout the visit, the Icelandic side expressed their belief that, in fact, the U.S. proposal was aimed at stopping Iceland from carrying out scientific whaling. While the results of the visit could be viewed as inconclusive, there is reason to believe that Dr. Calio's delegation made progress in impressing upon Icelandic officials the need to go forward with the U.S. Resolution concerning scientific permits and that each in his own way was working toward the goal of getting agreement in the IWC on the start of a comprehensive assessment. Both sides agreed to stay in close touch as U.S. consultations with other IWC-member countries progressed.

¹ Source: Department of State, Dumping; Arctic; Whaling; Antarctic; Scientific Research, 1976–1987, Lot 94D419, Whaling: Iceland July 1987. Confidential; Immediate.

² In telegram 72204 to multiple diplomatic posts, March 12, the Department transmitted the text of the U.S. proposal. (Department of State, Central Foreign Policy File, D870190–0536)

³ In telegram 4210 from Copenhagen, June 13, the Embassy transmitted a report on the 38th meeting of the IWC in Malmo that included an extended discussion on scientific whaling. (Department of State, Central Foreign Policy File, D860459–0341)

There was also agreement to coordinate efforts to prevent the Sea Shepherd Organization from attending the next meeting of the IWC.⁴ Dr. Calio and his colleagues stressed the need to accomplish this without unduly embarrassing the Chairman of the IWC. End summary.

3. Dr. Anthony Calio, NOAA Administrator, accompanied by Assistant Director for Fisheries William Evans and NOAA General Counsel Daniel McGovern, completed 3-day official visit to Iceland March 4–6 and returned to Washington on Saturday, March 7. Visitors, accompanied by Ambassador and Economic Officer James Ledesma, were taken to Thingvellir afternoon of March 4 where they were met by Fisheries Minister and Acting Prime Minister Halldor Asgrimsson and given a tour of the area. At Dr. Calio's request, next day began with a trip to Hvalfjordur (Whale Bay) where group toured Hvalur Whaling Company properties. Owner of Hvalur HF, Kristjan Loftsson, accompanied group on tour. Group then returned to Reykjavik where afternoon meeting had been set up, at suggestion of Foreign Ministry, with Foreign Minister Matthias Mathiesen. Meeting, which lasted about ten minutes, took place at Althing. Mathiesen underscored the importance of maintaining good relations with the U.S. and asked that everything be done to accomplish this. In a gesture toward Ambassador, Foreign Minister pointed to other recent obstacles having been surmounted commenting that amicable relations must be preserved. He looked to Ambassador to contribute again toward this end. Dr. Calio in turn responded that it was also his wish to maintain good relations. While Iceland and the U.S. did not see eye-to-eye on whaling matters, he thought some way must be found to resolve differences. McGovern stated that a positive element was that both sides involved in whaling matters now knew each other well and this would reduce any chance of misunderstanding.

4. Rest of afternoon taken up with meeting devoted, for the most part, to whaling issues including a detailed briefing on Iceland's research program. On Icelandic side, meeting attended by Fisheries Minister, Secretary General of Fisheries Ministry Arni Kolbeinnsson, Kjartan Juliusson, Whale Division Director at Ministry, Jakob Jakobs-son, Director of Marine Research Institute, Johann Sigurjonsson, a Marine Biologist at the Institute, and Gudmundur Eiriksson, Foreign Ministry Legal Adviser accompanied by an assistant. Throughout almost entire visit Eiriksson and his assistant were sole representatives from Foreign Ministry.

⁴ The Sea Shepherd Conservation Society is an American environmental group that uses direct action to stop whalers.

5. Meeting began with Johann Sigurjonsson describing various elements of Iceland's research program including efforts to obtain age and reproduction data (has greater availability of food resulted in speeding up of fin whale growth rate and therefore sexual maturity?), energetics, food and food-web (what is the relationship between Capelin and Humpback whale stocks?), June/July 1986 minke whale aerial survey (consultations with European and American scientists on interpretation of data not yet complete), and killer whale movement and population studies (what is their role in the ecosystem? Photo ID of over 120 completed so far).

6. With regard to Icelandic efforts to get North Atlantic sighting survey under way this year, Sigurjonsson and Jakobsson explained that progress had been made in obtaining resources (8 vessels and 4 aircraft) from Norway, Faroes, Denmark and the Nordic Council. Given the area to cover stretching from Norway to southern tip of Greenland, Iceland also sought participation of U.S., UK and Spanish scientists. Area to be surveyed could then possibly be extended to seas off the coasts of those countries. Management workshops had already taken place and two more were scheduled for late March. Planning sessions were organized for April/May with start of survey to take place in June. Throughout briefing, Icelandic side repeated that 1987 North Atlantic survey was intended as a major contribution to IWC comprehensive assessment. Indeed, the major thrust of their argument was that rhetoric surrounding discussion of the issue in the IWC was intended, in their view, as a delaying tactic and that their actions proved that a comprehensive assessment could be completed by 1990. In response, Dr. Calio expressed some surprise that he had not known extent of planning for this survey, to which Halldor Asgrimsson replied that developments had come slowly. Dr. Calio said he would look into possibility of encouraging participation by U.S. scientists including possible material resources. He agreed that international cooperation was essential to a comprehensive assessment.

7. Fisheries Minister then intervened to say with regard to U.S. proposed resolution concerning scientific permits, that question of utilization of whale meat had not been addressed. American interpretation of "primarily for local consumption" contained in June 1986 resolution on special permits had been difficult to accept, he said, especially given small Icelandic population.⁵ Nevertheless, this was history and he did not wish to return to the question again. Dr. Calio commented that it was his purpose to get a better understanding of how other IWC-member countries saw the US-proposed resolution on scientific permits

⁵ See Document 322.

and, on this score, it was essential that the USG get Iceland's views early on. After consultations with the Minister last August, the U.S. had concluded that it was best not to return to the resolution agreed to in Malmo given its ambiguity. Thus, his purpose in coming to Iceland was to search for a resolution of differences and not to impose the will of the U.S. on Iceland. He sought to avoid volatility and an escalation of animosity, Dr. Calio said. At this point the U.S. side distributed two scientific papers ("The Role of Special Scientific Permits in Meeting the Research Objectives of the Comprehensive Assessment of Whale Stocks" by Howard Brabham, and "Problems in the Reanalysis of Past Data for the Comprehensive Assessment of Whale Stocks" by Douglas Chapman)⁶ which were intended to help establish a link between research and the comprehensive assessment. Dr. Calio also stressed that even the suggestion of a comprehensive assessment had been resisted by American environmentalist groups as little as twelve months ago, but that they had now come around to accepting such an exercise. He felt this was significant progress. His hope was that the IWC could adopt the four criteria contained in the U.S. resolution on scientific permits and thus have a way of judging whether the granting of special permits contributed to the comprehensive assessment. It was not the intent of the USG to push the IWC in any direction, Dr. Calio said. The problem, he stated, was that the IWC was "walking away" from difficult decisions and would not take a position. It was his objective to come up with a way for the U.S. to abide by its laws while obviating the need for unilateral imposition of sanctions.

8. Asgrimsson responded to Dr. Calio's remarks with a declaration that a comprehensive assessment was also important to Iceland, but that it was also important to let scientists decide for themselves how best to get results and not subject their proposals to a vote. It was essential that Iceland be allowed to carry out research as it saw fit. The Minister said he had no faith in the judgment of the IWC's Scientific Subcommittee and that members were too susceptible to political pressures. In short, he was concerned about what would come out of the Scientific Subcommittee and was not willing to be bound by its views. Further, the view of the full committee inevitably contained three or four opinions anyway. While scientific merit was not something one could vote on, he said, it was another thing to seek the views of others. In response to Dr. Calio's comments that his purpose was to get movement toward a comprehensive assessment by focussing attention on criteria and that it was possible to set limits and still respect a divergence of views, Asgrimsson asked why the U.S. could not simply

⁶ Neither found.

go forward with a comprehensive assessment based on Iceland's research so far. He did not understand what danger to stocks there could be by virtue of scientific whaling. Catches were not excessive, he said. Dr. Calio in turn responded that if moratorium on commercial whaling was ever to be lifted, members would need to have the results of a comprehensive assessment and that currently there was no criteria in place. The result of inaction in the IWC would be that the organization would drift for perhaps another five years. If this were to happen, he could foresee a repetition of the US/Iceland bilateral confrontation in 1987, and each year after that.

9. McGovern intervened at this point saying that in fact much of the opposition to a comprehensive assessment was based on the fear of some that it would produce wrong answers, that is, results which could justify lifting the ban on commercial whaling. The USG, however, had succeeded in convincing opponents that the only way to apply discipline to scientific programs was to move forward on a comprehensive assessment and agree on criteria by which scientific proposals could be tested. The objective, he said, was to bring skeptics to the conclusion that the purpose of the IWC was to manage stocks, not simply to preserve them. McGovern repeated Dr. Calio's earlier statement that at this point a repetition of last year's bilateral confrontation was inevitable and therefore both sides must manage the problem. The error last year, he thought, was in trying to get at scientific legitimacy by focussing on consumption and use. Therefore, this year the U.S. was aiming at getting agreement on scientific criteria. The way to decide whether a scientific program undercut an internationally agreed upon conservation regime was for the IWC to say so. McGovern concluded his remarks by saying that in his view the ambiguity of the resolution on special permits agreed to in Malmo had allowed varying interpretations and that this had led to feelings of bad faith. Therefore, the ambiguity needed to be cleared up.

10. The remainder of March 5 afternoon meeting was devoted to a brief discussion of four criteria contained in U.S. proposal. On this score, Fisheries Minister thought Iceland's scientific program could probably stand up under all four. What concerned him, he stated, was the notion of voting, devising procedures and getting the IWC to come to grips with issues. In response to expressions of frustration by Icelandic side at apparent inability of IWC Scientific Subcommittee to come to a consensus, Evans agreed that at present it was in effect a debating society, but that if confronted with the need to make a decision, it could be sufficiently disciplined to produce one. Fisheries Minister then stated that if the U.S. sought solutions, his suggestion would be to change American law. "You can't save the world," he commented. Dr. Calio responded that if the USG attempted to change the law, the result was likely to be a much stiffer one.

11. Next day began with Evans, McGovern and EconOff traveling with Arni Kolbeinsson and MFA Representative to Westman Islands to observe fishing operations. Dr. Calio was unable to take part in this part of visit. With the agreement of both sides, the afternoon was spent meeting again to resume discussion of whaling matters. Evans began with a brief description of scientific papers distributed the day before emphasizing that Iceland was the first country to see them, that intent was to discuss them fully at June 1–13 Scientific Subcommittee meeting, and that they were intended to tighten theories and provoke action, not rhetoric. Johann Sigurjonsson's reactions were almost uniformly negative saying that they were general and without detail and that in his view result would be discussion of comprehensive assessment in terms of paper work with no action. Dr. Calio responded that papers were intended to stimulate thinking and did not necessarily reflect the views of the USG. He agreed that we needed to get started toward agreement on launching of comprehensive assessment by 1990 but did not understand how the GOI intended to get there.

12. Halldor Asgrimsson commented that in his view the question was, does the U.S. proposal promote the carrying out of a comprehensive assessment. He could conclude, he thought, that in fact its intent was to stop scientific whaling. It was essential that the first step be to address the question of how to accomplish a world-wide comprehensive assessment, like the one Iceland had already begun. Following that, the IWC could take up criteria on special permits. Dr. Calio responded that it was not his intent to propose criteria for special permits, but merely to get at the question of whether scientific whaling contributed toward a comprehensive assessment. Thus it was essential that the IWC focus on the definition of a comprehensive assessment. McGovern asked whether the price for Icelandic support of the U.S. resolution on scientific permits was a call for action on a comprehensive assessment and that in turn the price for support of a comprehensive assessment was IWC review of special permits to assure no abuse. Gudmundur Eiriksson responded that in fact the price for Iceland supporting the U.S. proposal was giving up its right to conduct scientific whaling. McGovern in turn thought that the issue arousing most interest this year was special permits. This being the case, the U.S. objective was to channel that enthusiasm toward the goal of accomplishing a comprehensive assessment.

13. Discussion then turned to questions of tactics and how each, in his own way, was contributing toward acceptance of the need for the startup of a comprehensive assessment. In response to Asgrimsson's comment that the U.S. wanted Iceland to stop scientific whaling, Dr. Calio said this was not necessarily the case and that in fact continuation of scientific whaling was building pressure for acceptance of a compre-

hensive assessment. It occurred to him, however, that the June meeting of the IWC might be too early to get acceptance of the U.S. resolution and that it might be wiser to aim for completion of deliberations in the IWC by early 1988. These were questions he would be taking up soon during consultations with other IWC members including Nordic Group and Europeans. Asgrimsson then said that it was clear that GOI could not support U.S. resolution but that both sides must continue discussing matters and keep up pressure for a comprehensive assessment. Picking up on earlier comments, his view was that Iceland's scientific program was helping to bring this about. Dr. Calio agreed but said this was a sensitive matter which needed to be handled discreetly. It was essential to stay in close communication, Asgrimsson said. Discussion concluded with Fisheries Minister's offer to assist Dr. Calio in arranging meetings with Nordics, if need be. Dr. Calio thought it important to keep in mind that movement in the IWC toward a comprehensive assessment could result in consensus that work on the survey would not involve the taking of whales. In this event, it would be important to come up with wording to the effect that IWC members continued to enjoy the sovereign right to determine their own actions. McGovern commented that US/Icelandic cooperation in this year's North Atlantic Survey could also contribute toward getting agreement for a comprehensive assessment.

14. March 6 meeting then concluded with a brief discussion of Iceland's plans to prevent the Sea Shepherd Organization from attending the next IWC meeting as an observer. The USG was aware of Iceland's interest in denying Sea Shepherd an opportunity to be present as a non-governmental organization, McGovern said, and the U.S. was prepared to offer its support if it could be accomplished without undue embarrassment to the Chairman of the IWC. Further, it was important to deny Sea Shepherd the publicity that it sought. Therefore, U.S. suggested early consultations with the Chair and other IWC members. Icelandic side said they had written to a number of delegations in order to seek their views. Although the GOI's current thinking was to bring the matter up at the first IWC meeting, the U.S. suggested approach and concerns would be taken into account. Iceland's aim was also to deny Paul Watson any opportunity for publicity.

15. In order to prevent the possibility of any misunderstanding, both sides agreed that it would be useful to meet again for an hour prior to Dr. Calio's departure for Washington. Therefore, on March 7 Dr. Calio, McGovern, Evans, Ambassador and EconOff met at Keflavik Airport with Gudmundur Eiriksson, Arni Kolbeinsson and Kjartan Juliusson. Eiriksson, who appeared to have a mandate to speak for the GOI, stated that as a result of discussion over the last two days it was the impression of the Icelandic participants that the U.S. side had put

into abeyance the U.S. 4-point resolution on scientific permits and that it would go forward with efforts to bring about agreement on a comprehensive assessment. This in fact would satisfy the GOI, Eiriksson said, since it was the opinion of his colleagues that the U.S. should "relax" and that the compromise agreed to in August 1986 was sufficient to prevent further friction until at least 1990. In short, the U.S. proposed resolution was unnecessary, Eiriksson thought. Dr. Calio stated that the need for this last meeting was to clarify what appeared to be the GOI's incorrect understanding of the U.S. course of action with regard to putting forward the 4-point resolution in upcoming consultations and at Bournemouth. He explained that he had put the resolution on the table and that it contained criteria which would establish a link between special permits and a comprehensive assessment. He reiterated comments the day before to the effect that he did not think it possible to get the IWC to focus on a comprehensive assessment until the issue of special permits had been resolved. At the same time, he agreed that Iceland's activities also stimulated movement toward a comprehensive assessment. He thought it a mistake, therefore, to conclude that the U.S. had agreed to shelve its proposal. In fact this option had been rejected some while back and he had no choice but to push forward with the proposal. The conversation then turned to Eiriksson's concern about the intent of the U.S. resolution. Was it not, in fact, aimed at Iceland, he asked. The imminent departure of Dr. Calio's flight prevented any further discussion.

16. Prior to Dr. Calio's arrival at the airport and the March 7 last minute meeting, he attended a briefing by IDF personnel on U.S. NATO Base Operations. Finally, we provide below text of Ministry of Fisheries March 7 press release, text of which had been agreed upon by both sides the day before.

Qte

Dr. Anthony J. Calio, Under Secretary of Commerce for Oceans and Atmosphere, concluded on March 6 an official visit to Iceland, the purpose of which was to gather information on marine research and fisheries management as carried out by the Government of Iceland. He was here at the invitation of Minister of Fisheries Halldor Asgrims-son. Dr. Calio was accompanied by Assistant Administrator of the National Oceanic and Atmospheric Administration for Fisheries William Evans and General Counsel Daniel McGovern.

During their stay in Iceland NOAA officials exchanged information with scientists from the Marine Research Institute as well as experts from the Ministry of Fisheries relative to Iceland's recent experience in Fisheries Management and Stock Assessment. Consultations included a visit to the Westman Islands where they observed, among other things, the processing of capelin roe for export. NOAA officials were

also interested in estimates of cod production in 1987. The shrimp fishery and future prospects for clam production in Iceland.

Given the central role that NOAA plays in carrying out the Magnuson Fishery Conservation and Management Act of 1976, legislation requiring the U.S. Government to prevent overfishing and conserve resources, the delegation sought to profit by Iceland's experience in fisheries management. Officials also discussed ways in which the United States and Iceland can promote and increase their cooperation in the field of fisheries and fisheries research.

Both sides also consulted on whaling matters as they pertain to their mutual membership in the International Whaling Commission. They discussed the possibility of increased cooperation in comprehensively assessing whale stocks, including those of special interest to Iceland.

End qte

17. This message was prepared after Dr. Calio's departure for Washington.

Ruwe

327. Memorandum From the Under Secretary of the National Oceanic and Atmospheric Administration, Department of Commerce (Calio) to the Assistant Administrator for Fisheries, Department of Commerce (Evans)¹

Washington, undated

SUBJECT

Withdrawal of Soviet Objection to IWC Moratorium on Whaling—Information Memorandum

On April 21 and April 24, 1987, a delegation consisting of Wolfe, Snead, Blondin and Evans met with Dr. V. Zilanov, Head of the Department for Foreign Relations, Ministry of Fisheries of the USSR. Several times during our meetings, I stated that discussions of allocations for

¹ Source: Department of State, Arctic, Antarctic, and Whaling, 1975–1987, Lot 92D228, IWC—U.S.S.R. 1987–87. Drafted by Evans on May 13. No classification marking. In the upper right-hand margin Kendrew wrote: "I have a copy. This is for Ed's info from Evans. Claudia."

direct take in the U.S. exclusive economic zone were not possible until the USSR removed its objection to the IWC moratorium on commercial whaling. Zilanov's response was that the USSR did not have a problem since they ceased all commercial whaling in 1987. They did not find it necessary to remove the objection. This gesture would be purely academic since they were no longer whaling. During the latter part of the April 24th meeting, both Ed Wolfe and I told Zilanov that his answers on the whaling issue were not satisfactory. Further discussion on renewal of the present governing international fishery agreement (GIFA), a reverse GIFA or any other type of bilateral agreement would not be productive. Dr. Zilanov presented copies of two articles which stated the Soviet point of view (see attached).² His final statement during the remainder of the formal meetings was that these articles stated the Soviet view clearly. Ed Wolfe and I said thank you and indicated there was little more to discuss if this was the Soviet final position.

On April 25, at the airport just prior to our departure, Dr. Zilanov asked to talk with me in private. He stated the following:

- The Soviet decision to cease all whaling except aboriginal was made at the "highest level," above the Minister of Fisheries. Participation in the IWC was a sensitive issue.
- Many senior scientists with the Academy are opposed to commercial whaling. This is especially true within the Commission on the Protection of Nature, currently chaired by Professor Alexey Yablokov.
- The USSR was supportive of all aspect of the moratorium, but their lawyers have convinced them it is illegal, since it was not a recommendation based on advice of the Scientific Committee. This makes it impossible for them to withdraw their objection formally.
- He requested that we write a letter to Commissioner Nikonorov asking for more detail on the Soviet cessation of whaling. This would allow them to provide a response which might make it possible for us to remove our certification.
- He stated that we may also wish to enclose a copy of the U.S. resolution, with explanation under the same cover.

At the end of the conversation he informed me that Commissioner Nikonorov was being assigned as a deputy to Professor Alexey Yablokov. It was unlikely that he would remain the USSR Commissioner to the IWC beyond 1987.

Although Ed Wolfe was not present during the private conversation with Dr. Zilanov, he has relayed some of the Soviet response to Bob Eisenbud. Bob called and expressed some concerns about any exchange of letters with the Soviets. He did not elaborate but did state a desire to discuss the implications of such a change with both you

² Not attached.

and me. As was mentioned in the meeting on Dall's porpoise in your office May 11, Dan McGovern has also talked with Bob Eisenbud.

As per our discussion, I will draft a letter to Dr. Zilanov transmitting a copy of your Resolutions on Scientific Whaling Permits.³ I will also ask for some clarification on USSR cessation of whaling, since the attached articles do not give specifics. I will also thank him for his hospitality.

³ Not found.

328. Letter From Secretary of State Shultz to Icelandic Foreign Affairs Minister Mathiesen¹

Washington, May 21, 1987

Dear Mr. Minister:

Thank you for your letter of May 11 concerning the United States proposed resolution for scientific research to be presented at the annual meeting of the International Whaling Commission (IWC), June 22–26, 1987 in Bournemouth, U.K.²

I welcome the sentiments expressed in your letter about the mutual respect and good will that have long characterized our relations. Iceland is a close friend and longstanding ally, whose views and cooperation we value. It is on the basis of our strong bilateral relationship that we try to find mutually acceptable solutions to the inevitable differences of opinion that can arise—even between close friends. It is this spirit of friendship and understanding that I hope can guide both of our efforts to find a solution to the scientific whaling issue.

¹ Source: Department of State, Central Foreign Policy File, P870092–0419. Limited Official Use. Drafted by Cooper and Perlow on May 20; cleared by Whitlock, Kendrew, Wolfe, Krosby, Colson, Verville, and McGovern; and approved by Thomas, Smith, and Sofaer.

² Mathiesen wrote: "It is very disappointing, therefore, that your government has chosen to pursue an aggressive policy against a legitimate and well founded Icelandic research programme which includes the taking of whales for scientific purposes. This reflects a disregard for the will and well-being of the Icelandic people, and for the sovereign rights of the Republic of Iceland. I regret to have to stress that the policy of your government on this matter does not serve our bilateral relationship and impedes our cooperation in multilateral affairs." (Department of State, Central Foreign Policy File, P870092–0422)

Because we so highly value our friendship with Iceland, we have made exceptional efforts to consult fully and frequently with your government on this difficult issue. These consultations began last year when the two IWC Commissioners, Under Secretary Calio and Minister Asgrimsson, met in Washington to discuss the problems created by the resolution on scientific whaling adopted by the IWC last year.³ In March Dr. Calio spent several days in Reykjavik briefing Minister Asgrimsson on our draft resolution.⁴ It should be noted that Dr. Calio has not been able to afford the time to visit any other country for the sole purpose of consulting on the proposed resolution.

I regret that you interpret our efforts to establish within the IWC an objective evaluation and review system for scientific whaling as "an aggressive policy against a legitimate and well founded Icelandic research program," or that you believe it "reflects a disregard for the will and well being of the Icelandic people." Our proposed resolution is intended to reduce the possibility of abuses under the present scientific whaling system. It is not directed at the program of any nation. We do not contemplate or intend that our resolution, or any action by the IWC, would rule out the taking of whales for recognized scientific research purposes. The United States is not insensitive to Iceland's legitimate research interests. For instance, when Dr. Calio was in Reykjavik he offered to provide substantial support—up to eight scientists and research vessels—for Iceland's whale-sighting survey, which constitutes one part of your country's scientific research program.

It is in our common interest to work together in the IWC to address the matter of scientific whaling in a cooperative spirit. At this stage, we believe we cannot withdraw the proposed resolution as you suggest. However, we are prepared to engage in meaningful and constructive dialogue with Iceland, prior to and during the meeting, to develop mutually agreeable changes to the resolution, which we would support. Thus, I urge you to provide us with your specific comments on the proposed resolution at the earliest possible time.⁵ I will ensure that your views are given fullest consideration.

I look forward to receiving your suggestions for revisions or other steps that can be taken to assure Iceland's support for our draft resolu-

³ See Document 322.

⁴ See Document 326.

⁵ In telegram 1200 from Reykjavik, June 5, the Embassy transmitted Mathiesen's response which stated: "Most importantly, your government should recognize the view of my government that the friendly relations between our countries would be damaged by certification of Iceland by the United States Secretary of Commerce, pursuant to the 'Pelly' or 'Packwood' amendments, and that the consequences of such damage could be far-reaching, indeed." (Department of State, Central Foreign Policy File, D870439-0884)

tion. As ever, I welcome the chance to see you again at the June NATO Ministerial meeting in Reykjavik.

Sincerely yours,

George P. Shultz

329. Telegram From Secretary of State Shultz's Delegation to the Department of State¹

Manila, June 14, 1987, 1659Z

10062. Subj: Memorandum of Conversation: Secretary's June 12 Meeting With Iceland's Foreign Minister.

1. Confidential—Entire text.

2. The following is approved text of memorandum of conversation of Secretary's meeting with Foreign Minister Mathiesen.

3. Summary: Secretary Shultz held a bilateral discussion on the margins of the NATO Ministerial meeting with Icelandic Foreign Minister Matthias Mathiesen and Fisheries Minister Halldor Asgrimsson. As expected, the talks centered almost exclusively on scientific whaling and the upcoming International Whaling Commission (IWC) meeting at Bournemouth, U.K. The Secretary began the conversation by noting that the USG would not be able to meet Iceland's request for a bilateral agreement prior to the IWC meeting guaranteeing that we would not certify Iceland under the Pelly or Packwood Amendments.² The Secretary stressed our strong desire to see Iceland introduce its draft resolution on scientific whaling or formally table amendments to ours at Bournemouth. Surprisingly, the Icelanders did not press the Secretary on this issue, but rather sought assurances that if they did so, their points would be taken seriously. The Secretary responded that Dr. Calio, the Head of the U.S. IWC Delegation, is prepared to continue discussions with Iceland. He added that we expect to continue discussions both during and after the Bournemouth meeting and that no

¹ Source: Department of State, Dumping; Arctic; Whaling; Antarctic; Scientific Research, 1976–1987, Lot 94D419, Whaling; Iceland July 1987. Confidential; Immediate. Sent Immediate for information to the Secretary of Defense, the Secretary of the Navy, Tokyo, Oslo, the White House, and the Department of Commerce. Shultz was in Manila to meet with President Corazon Aquino. The NATO meeting was held in Reykjavik, June 11–12.

² See footnote 5, Document 328.

decisions would be taken on certification without full bilateral consultations. No matter what final outcome emerges from the meeting.³

There was a brief discussion of Iceland's desire to have increased flights between Reykjavik and Orlando. The Secretary replied that we would have to look at the request and get back to the GOI. End summary.

4. On June 12, Secretary Shultz met with Icelandic Foreign Minister Matthias Mathiesen and Fisheries Minister Halldor Asgrimsson on the margins of the Reykjavik NATO Ministerial meeting. Also participating for Iceland were: Hannes Hafstein, Permanent Under Secretary of the Ministry of Foreign Affairs; Helgi Agustsson, Deputy Permanent Under Secretary, Ministry of Foreign Affairs; and Arni Kolbeinsson, Secretary General, Ministry of Fisheries. Accompanying the Secretary were: Assistant Secretary of State for European and Canadian Affairs Rozanne L. Ridgway; Assistant Secretary of State for Public Affairs Designate Charles Redman; Ambassador Ruwe, Iceland; Howard Perlow, EUR/NE Notetaker.

5. The Secretary began the meeting by thanking the Icelanders for the exceptional job they accomplished as hosts to the Reagan-Gorbachev meeting last October.⁴ He added that the current NATO Ministerial was an equally outstanding example of Icelandic hospitality, hard work and efficiency. The Secretary added that when the history of this period is written, the name of Reykjavik will be closely identified with important steps forward in arms control.

6. Mathiesen began the substantive discussion by referring to the Secretary's letter⁵ which he had received the previous evening and asking if the Secretary would care to provide additional comment. In response, the Secretary reiterated the points made in the letter—we strongly urge that Iceland go to the IWC meeting prepared to table its draft resolution on whaling or formally introduce amendments to the USG draft resolution. This will be the only means by which a full debate on the issues can be held. When the results are in, we can take stock and decide if any further discussions or steps are warranted. He added that he recognized the Icelandic desire for a bilateral agreement prior to the commissioners meeting, but we must be careful not to

³ An unknown hand drew an asterisk to the right of this sentence.

⁴ Documentation on the Reagan-Gorbachev meeting at Reykjavik is scheduled for publication in *Foreign Relations*, 1981–1988, vol. V, Soviet Union, March 1985–October 1986.

⁵ In telegram 178511 to Beijing, June 15, the Department transmitted the text of a version of the letter, but the text was garbled. (Department of State, Central Foreign Policy File, D870470–0249)

preempt the IWC meeting. Such an agreement could cause serious problems for the Secretary of Commerce with Congress.⁶

7. Assistant Secretary Ridgway seconded the statement made by the Secretary and added that it was important for us that both sides of the issue be presented at Bournemouth. Only by presenting its case can Iceland hope to have a final outcome that meets its needs. In reply, Fisheries Minister Asgrimsson agreed that Iceland would also prefer to work within existing international bodies such as the IWC to resolve differences. However, Iceland believes that the U.S. draft resolution will be passed to the IWC no matter what Iceland does or does not do since our influence is so strong. Before engaging in an effort to win approval for its draft resolution or proposing amendments to ours, the GOI would like to be assured that its proposals will be taken seriously by the U.S. If Iceland is going to compromise a principle that it holds strongly, i.e., the right of IWC states to issue special permits for scientific whaling without involvement of the Commission, as provided for under Article 8 of the IWC convention, then it would like to be assured that the final result will be acceptable.⁷ Asgrimsson repeated the well-established GOI position that the U.S. draft resolution would give the Commission a responsibility not justified under the convention. Such a step would lead to “politicization” of scientific research and be dangerous for the IWC’s future.

8. The Secretary responded that he is not familiar with the working of the IWC, but he assumed that like most similar international organizations, members spanned the spectrum from the serious and well-informed to fanatics. Nevertheless, it is useful and essential to work through the process. He would be surprised if the IWC could agree to a final product that all members would like. Iceland should help shape a resolution that it can live with—it will be better in the long run for the IWC as well as bilateral relations. The U.S. will continue to work with the GOI both during and after the Bournemouth meeting on this issue.

9. Agrimsson explained that Iceland, like the U.S. was not happy with the resolution on scientific whaling that passed last year.⁸ However, the GOI had agreed to it, on the understanding that the issue was resolved at least through 1990 (i.e., the end of the moratorium on commercial whaling). He expressed doubt that the IWC could pass a resolution this year that would be any improvement over the 1986

⁶ An unknown hand drew two question marks to the right of this sentence.

⁷ An unknown hand bracketed this sentence and drew an asterisk to the right of it.

⁸ See Document 322.

resolution.⁹ Iceland would prefer to live with last year's decision and allow more time to see how effective it is.¹⁰

10. Mathiesen voiced his hope that the U.S. will not again raise the question of certification and trade sanctions, as happened during last year's bilateral confrontation over scientific whaling. The Secretary assured Mathiesen that before any decision was taken on certification, we would consult fully with the GOI. Mathiesen expressed his thanks for the Secretary's efforts on this matter and his hope that all will turn out well.

11. Just prior to the conclusion of the meeting, Mathiesen stated that he had been asked to raise the question of additional flights to Orlando, Florida, for Icelandair. The route has been very successful and Icelandair would like to move from three flights per week to five. The Secretary noted that he had worked a number of civil aviation issues with the GOI during the past few years and he was certain that we would be able to work together well on this one also.

Shultz

⁹ See footnote 3, Document 326.

¹⁰ An unknown hand drew an asterisk to the right of this sentence.

330. Memorandum From Robert Dean of the National Security Council Staff to the President's Assistant for National Security Affairs (Carlucci)¹

Washington, July 1, 1987

SUBJECT

Whale of a Problem

Summary

A recent resolution by the International Whaling Commission (IWC) bans any killing of whales by Iceland. Lawyers at the Department of Commerce assert that if Iceland does not adhere to the resolution, the Secretary of Commerce is required under the Pelly Amendment to “certify” Iceland in contravention of the IWC resolution. Indeed, some at Commerce believe that the Secretary is already obligated to certify Iceland because of whaling practices.

Given the importance of trade (mostly fish) with the US, even certification represents, in the Icelandic view, a highly threatening measure and could harm our security interests there. We recommend you discuss the issue with Secretary Baldrige and emphasize the importance of finding acceptable alternatives to certification (talking points are attached).²

We have a host of security concerns with the Icelanders, not the least of which is our desire to install two new radar sites, develop an alternative airfield to Keflavik, and to keep our F-15's and AWACs on site. Mac Baldrige would prefer that this issue not be vetted through the interagency process.³ However, he has promised to consult with NSC, DOD, and State before certifying Iceland as not adhering to the IWC. We have, nevertheless, initiated an interagency review and State will be submitting an interagency cleared options paper to the NSC

¹ Source: Reagan Library, Cobb, Tyrus: Files, Whaling (Folder 1). Confidential. Drafted by Pugliaresi and concurred by Sommer and Rostow. Sent for action. In the upper right-hand margin, Carlucci wrote: “SecState has committed to consult w/Iceland before USG takes action/ ie certifies.”

² Attached but not printed.

³ In an undated draft memorandum to Shultz, Baldrige wrote: “Arguably I should have already certified Iceland for diminishing the effectiveness of the IWC. On June 26, the IWC recommended that Iceland suspend its research whaling until the uncertainties identified by the IWC’s Scientific Committee have been resolved to the satisfaction of the Committee.” (Reagan Library, Cobb Files, Whaling (Folder 1))

no later than July 8.⁴ We have asked that the paper address the degree of statutory discretion available to the Secretary of Commerce; that is whether the Secretary must certify Iceland given the facts of this case.

Background

The IWC was formed in 1937 to monitor rapidly dwindling whale stocks. Over the years the IWC has become a force for preserving whale stocks and includes contracting parties from both whaling and non-whaling countries. In 1982, the IWC passed a resolution placing a moratorium on all commercial whaling, but it reserved the right of nations to engage in scientific whaling. In response to this moratorium the Icelanders reduced their whale kill from roughly 400/yr to 120/yr.

Although whaling is not important to the Icelandic economy, the GOI insists that the current take of 120 whales is essential to make a determination on the implications for Iceland's fishing industry, far and away the most important sector in their economy. "Scientific whaling," if it meets IWC criteria, is permitted under the convention. The Icelanders argue, with some merit, that whales compete for the same feedstock as the commercial fishstocks. They do not wish to stop their whaling program until the research indicates their fishstock population will not be harmed.

The Icelanders take Fin and Sei whales, neither of which are on the endangered or threatened list. The recent IWC meetings determined that the Icelandic scientific whaling program no longer met the appropriate criteria for acceptable whaling. Should the Icelanders continue to kill whales (under their scientific program), the Secretary of Commerce is required to certify them in contravention of the IWC, a legal requirement under U.S. law. Once certification occurs, the President must decide whether to impose trade sanctions. We would recommend against putting the President in a position of deciding between whales and our security interests in Iceland.

Next Steps

There are some steps we can take to keep this issue from getting out of control. Clearly, part of the concern with the Icelanders is the issue of sovereignty. The Icelanders see the U.S. as threatening them on an issue which they believe is none of our business. If they continue whaling, Mac Baldrige believes he has no choice but to certify Iceland. We do not agree. We believe the Secretary of Commerce has discretion

⁴ No interagency paper was drafted. A summary of conclusions from a July 7 meeting between Carlucci and Baldrige describes a compromise where: "Consultations will be initiated with the Icelanders, telling them that the Secretary of Commerce is by law considering certification, but that we are willing to work with them to attempt to find solutions within the IWC which would avoid certification." (Ibid.)

both from a policy and legal perspective. For example, we could open consultations with the Icelanders to examine proposals for augmenting their scientific program in a manner that would be acceptable to the IWC (i.e., they could continue taking whales but under a more rigorous scientific protocol). With our help, the IWC might approve a new scientific program and we would avoid certification.⁵ Other alternatives also exist. There is precedent for not certifying Iceland. The Supreme Court recently upheld a decision by the Secretary of Commerce not to certify Japan for violating the IWC. Commerce, however, argues that Iceland's violations are so egregious as to require certification.

The attached talking points inform the Secretary of Commerce that we have genuine security concerns and wish to avoid prejudice to them if at all possible. Regarding the interagency process, you inform the Secretary that we will ensure that his views will be included in any options paper forwarded to the NSC. However, it's important that Mac understand that once he certifies the Icelandic program in contravention of the IWC, he may escalate the problem with Iceland to the point where our options are limited and our security concerns harmed.

Peter Sommer and Nick Rostow concur.

RECOMMENDATION

That you discuss this issue with the Secretary of Commerce and use the attached talking points at Tab I.⁶

⁵ An unknown hand underlined the previous two sentences and wrote in the left-hand margin: "Work with Iceland—Support them to an IWC approval."

⁶ There is no indication of approval or disapproval of the recommendation.

331. Letter From Secretary of Defense Weinberger to Secretary of Commerce Baldrige¹

Washington, undated

Dear Mac:

(C) I am writing to express my strong interest in the imminent negotiations with the Government of Iceland on the issue of scientific whaling, and my concern that a rigid US position could undermine important security arrangements.

(S) As you know, the US base at Keflavik, Iceland, is of vital importance to US and NATO security. Its geographical location makes Keflavik the linchpin of our efforts to defend our North Atlantic sea lines of communication between North America and Europe, as well as an invaluable forward position for the defense of the US. Without unhampered ability to operate US air and naval forces from Keflavik, we would be very hard-pressed to reinforce Western Europe in crisis or war, and to defend the US from Soviet nuclear ballistic missile submarines in the Atlantic Ocean. Even in peacetime, Keflavik is an unrivalled location for daily surveillance and monitoring of Soviet air and naval activity in the Atlantic. It would be extremely difficult to conduct these operations from any other possible location.

(C) At present we are able to use this facility on favorable terms and without paying any base rent. Our cooperation with the last Icelandic Government was among the very best we have had, and great progress was made to modernize and improve our defense posture at Keflavik. Under normal circumstances, the new Icelandic government would be likely to continue along the same lines.

(C) I am concerned now, however, that our position in Keflavik, our freedom of operations there, and perhaps even our presence itself, may be jeopardized if we pursue inflexible positions with Iceland on scientific whaling. While clearly we want Iceland to bring its program into conformity with International Whaling Commission (IWC) regulations, I hope that we can be flexible in the ways that we pursue this goal, and give the Icelanders the opportunity to work with us rather than present them with ultimata that may force them to choose between sacrificing their national dignity or being certified under the Pelley Amendment. Based upon the history of the very difficult US-Icelandic Rainbow shipping controversy between 1984 and 1987,² I would expect the Icelanders to harden rather than sacrifice their national dignity, at

¹ Source: Reagan Library, NR002 Natural Resources Classified, (504883-510000). Secret. Copies were sent to Shultz and Carlucci.

² See footnote 2, Document 324.

considerable expense to friendly bilateral relations now and in the future.

(S) At risk is the US base at Keflavik, as that is the only lever that Iceland can use to apply pressure upon the US. The result could be serious damage to US defense, and the loss of a most important Ally, without achieving our objectives with regard to whaling.

(C) DoD has previously expressed its concern about this situation to the Departments of Commerce and State, and to the NSC. I would be glad to discuss it with you at your convenience.³

Sincerely,

Cap

³ In an August 7 reply to Weinberger, Acting Secretary of Commerce Brown wrote: "The Secretary [Baldrige] took a firm position, not because of any failure to appreciate the strategic importance of Iceland, but because U.S. law and Administration policy required it." (Department of State, Dumping; Arctic; Whaling; Antarctic; Scientific Research, 1976–1987, Lot 94D419, Whaling Iceland—Aug–Sept '87)

332. Action Memorandum From the Assistant Secretary of State for European and Canadian Affairs (Ridgway), the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs (Negroponte), and the Legal Adviser of the Department of State (Sofaer) to Secretary of State Shultz¹

Washington, July 13, 1987

SUBJECT

Iceland and Scientific Whaling: US Position for Bilateral Talks

ISSUE FOR DECISION:

Whether to sign the attached letter to Secretary Baldrige suggesting changes in the Commerce Department's position for bilateral talks with

¹ Source: Department of State, Central Foreign Policy File, P870119–1500. Limited Official Use. Drafted by Perlow on July 9; cleared by Cooper, Flournoy, Colson, Verville, Johnson, Kendrew, Krosby, and Maher; and approved by Wilkinson and Wolfe. A stamped notation on the memorandum indicates Shultz saw it. A typed notation at the top of the page reads "NOTE: Original letter given to EUR: BHartley for delivery. csolomon 7/14/87."

Iceland on scientific whaling and possible certification under the Pelly and/or Packwood Amendments.

ESSENTIAL FACTORS:

On July 9 we sent you a memo (Tab B) requesting that you call Secretary Baldrige to remind him of your involvement in this issue and your commitment to then Foreign Minister Mathiesen for full consultations before any decision was reached on certification.² The memo was returned with a notation asking that a letter to Secretary Baldrige be prepared making the same points.

Frank Carlucci spoke with Secretary Baldrige last week reminding him of the likelihood of significant consequences for our bilateral relations and the strategically important base at Keflavik were we unable to resolve in an appropriate manner our differences with Iceland over scientific whaling.³ Carlucci got Baldrige to agree that no precipitous steps would be taken on certification.

In Iceland's view this dispute is also a question of national sovereignty. No Icelandic government, especially one that has just taken office, can be seen allowing itself to be "dictated to" by the IWC or the USG. Acceptance of an IWC recommendation on scientific whaling would mean acquiescing in an action the GOI deems illegal under the IWC Convention.

Fisheries issues in Iceland are considered a question of national security. In previous bilateral disputes, Icelandic governments have not hesitated to use the presence of the base and US forces at Keflavik as leverage. The GOI fully understands that the base is crucial to NATO's sea lines of communication, our ability to reinforce Europe and ASW efforts.

After the July 9 memo was drafted, we notified the GOI of our desire to hold discussions in the very near future.⁴ The talks will focus on the recent IWC evaluation that Iceland's scientific research program does not meet existing IWC criteria and should be suspended until uncertainties identified by the IWC Scientific Committee are resolved. Also to be discussed is a possible decision by Secretary Baldrige to certify Iceland under the Pelly and/or Packwood Amendments.

As an alternative to certification, Commerce has suggested a brief package of points for discussion with Iceland that would, inter alia, allow Iceland to continue scientific whaling, albeit at a reduced level

² Attached but not printed.

³ See footnote 4, Document 330.

⁴ Telegram 213814 to Reykjavik, July 11. (Department of State, Central Foreign Policy File, D870547-0541)

for the remainder of the 1987 season.⁵ The US will require that Iceland resubmit a revised scientific research program in 1988 to the IWC for consideration if it wishes to continue research whaling and agree to abide by the IWC recommendation.

Although we support the thrust of Commerce's position, the terms of discussion need to be modified if we are to have a realistic chance of resolving this matter and diminishing the likelihood of a bilateral crisis. Secretary Baldrige takes the position that unless Iceland agrees quickly to this offer, as presented, certification will follow immediately after the talks conclude. We find this totally unacceptable. If the US enters bilateral talks with that position, these talks can not reasonably be construed as the "meaningful consultations" you promised to then Foreign Minister Mathiesen.⁶

Three points need to be conveyed to Secretary Baldrige:

—The negotiations must be undertaken in good faith. There may be other ways to accomplish our goal of seeing that the effectiveness of the IWC or its conservation program is not reduced.

—The US should be prepared to participate in scientific consultations with Iceland on how its program can be redesigned to meet IWC criteria in an appropriate manner.

—No decision should be made on certification until after bilateral discussions have taken place and there is a chance to assess the situation.

The Japanese and other governments will see an accommodation with Iceland as a precedent and are likely to seek equivalent agreements, therefore, discussions with Iceland must be viewed in this context.

Recommendation:

That you sign the letter to Secretary Baldrige at Tab A.

⁵ See footnote 4, above.

⁶ See Document 328.

Tab A**Letter From Secretary of State Shultz to Secretary of Commerce Baldrige⁷**

Washington, July 14, 1987

Dear Mac:

As you are aware, plans are underway for discussions in the very near future between the United States and Iceland on the decisions taken by the International Whaling Commission (IWC) at its recently concluded annual meeting in Bournemouth. For Iceland the most important result was an IWC assessment that its scientific research program did not meet existing IWC criteria. A recommendation by the Commission urged that Iceland halt its scientific whaling until uncertainties identified by the IWC Scientific Committee are resolved.

Based on the IWC decisions and Iceland's continued research whaling there is, I understand, strong sentiment among some environmental organizations for you to certify Iceland under the Pelly and/or Packwood Amendments. Clearly, that is one way of bringing pressure on Iceland to cease scientific whaling until its program accords with IWC criteria. A certification of Iceland may not be the best way to ensure the effectiveness of the IWC and its conservation program.

I think our agreement to offer discussions to Iceland before you make a decision on certification is sound. It is consistent with past US practice as well as the commitments I made to the Icelandic Foreign Minister. We want to continue working with NOAA to assure that these discussions are meaningful and result in progress towards our goal of assuring that research whaling is scientifically valid and not used as a cover for commercial activity.

On behalf of the Department of Commerce, NOAA outlined for us steps that could be proposed to Iceland to bring it into compliance with IWC recommendations. In essence, they are that Iceland agree to limit its scientific whaling to no more than 80 whales this year and agree to be bound by IWC recommendations on scientific whaling starting in 1988. This would be in the best interests of the IWC conservation program. Commerce would also maintain its present position that Japan not be certified if it purchases no more than 49% of whale meat and by-products taken by Iceland under these special permits.

I think that this package forms an adequate basis to begin consultations. However, I am concerned about two aspects of the terms of

⁷ Confidential.

reference for these talks. The first is the view that Iceland must accept the Commerce proposal as presented below or certification will immediately result. There may be other, equally valid ways to achieve the same ends. It is important that we listen to Iceland's position and be prepared to consider alternatives that are consistent with our objectives of seeing that the effectiveness of the IWC and its conservation program are not reduced.

The second area I find troubling is the lack of discussions on Iceland's scientific research program. In my May 22 [21] letter to Foreign Minister Mathiesen, sent with USDOC clearance, I stated that our draft resolution (since adopted by the IWC) was not intended to prohibit scientific whaling but rather to prevent possible abuses and to assure that it was conducted only for valid scientific reasons.⁸ I would like to see us take steps to help Iceland's program meet those goals.

In the past, NOAA was reluctant to provide a scientific assessment to Iceland on a bilateral basis, arguing that this task should properly be done by the IWC Scientific Committee. At this year's meeting the Scientific Committee reviewed the results of Iceland's first year of scientific whaling and found the program flawed—a conclusion we helped shape and continue to share. Now that the IWC has spoken, I would think that NOAA's inhibition about scientific discussions with Iceland could be reconsidered.

I think that it would be in our interest to work with Iceland to assure that its scientific research program meets IWC standards. A quality program would contribute to the comprehensive assessment and help support our own conservation goals. Furthermore, US advice in designing a research program that could win IWC approval is a strong incentive for Iceland to remain in the organization. Iceland's withdrawal from the IWC, a real possibility in the wake of the recent Bournemouth decisions or a US decision to certify, surely would not serve our conservation objectives.

Finally, there is the question of dealing with the outcome of the discussions. I think it is essential that we have a chance to assess the results and take stock. Also, a new government has just taken office in Iceland and will need a reasonable amount of time to decide its policy and consult Parliament. I know you are aware of the important issues at stake and the need to proceed cautiously.

Although the dates of the discussions have not yet been set, we expect them to take place perhaps as early as this week or shortly thereafter. For this reason, I look forward to receiving your views at your earliest convenience.

Sincerely yours,

George P. Shultz⁹

⁸ See Document 328.

⁹ Shultz signed "George" above his typed signature.

333. Memorandum for the File¹

Washington, July 31, 1987

SUBJECT

U.S. and Iceland Meetings, July 21 and 22, 1987

On July 21 and 22 discussions were held in Washington, D.C., between the United States (USG) and Iceland (GOI) concerning GOI's program of whale research and the possibility of USG certification of GOI under the Pelly Amendment. The head of the USG delegation was Anthony J. Calio, Under Secretary of Commerce for Oceans and Atmosphere. Halldor Asgrimsson, Minister of Fisheries, headed the GOI delegation. Other participants in the discussions are named in document A attached hereto.²

The main body of the delegations met in the morning of July 21 and in the morning and afternoon of July 22. A meeting addressing scientific aspects of GOI's whale research program was held in the afternoon of July 21.

MORNING MEETING, JULY 21, 1987

Halldor Asgrimsson opened the discussions by noting that there is a new government recently elected in Iceland. One of the purposes of the discussions is to ascertain the USG position regarding certification in order to present that position to the new government. Before GOI can commit to any position concerning the taking of whales in a research program, there must be support from all parties in the newly elected parliament. Because of this, Asgrimsson stated that it would be necessary to meet further with USG after presenting the results of these meetings to the new government. He declared that the pause in the taking of whales would continue until all discussions had been completed.

Asgrimsson then offered a brief background of GOI's whaling research program. He described GOI's decision to intensify its whaling research program since IWC's moratorium on commercial whaling. Presently, eight ships involved in whale research are deployed from Norway to Greenland, and almost all of GOI's whale scientists are involved in this research. In light of this intensified research effort,

¹ Source: Department of State, Dumping; Arctic; Whaling; Antarctic; Scientific Research, 1976-1987, Lot 94D419, Whaling Iceland Aug-Sept '87. Drafted by Martin of the Office of the General Counsel, NOAA. No classification marking.

² Not attached.

GOI was very unhappy with the IWC resolution against its research program.

Anthony Calio responded in his opening remarks that he understood GOI's need to report back to the new government before any definitive decisions are made and that he agreed to continue the meetings at a future date. Calio expressed the desire that at the end of these meetings both sides should be clear on where they stood and what should be done in the interim.

Calio acknowledged GOI's pause in taking of whales and indicated that as long as the pause was in effect and that discussions between the two countries continued, DOC would not certify GOI. But Calio stated that if GOI decided not to abide by the IWC resolution against Iceland's research program by taking additional whales, then Secretary Baldrige would have no alternative under U.S. law other than certification. If GOI abides by the IWC resolution and takes no additional whales, then certification can be avoided.

Calio explained that an important reason for USG's resolution concerning scientific criteria at the IWC meeting was to avoid the need to make an independent judgment regarding the compliance of scientific whaling programs of other countries to the IWC conservation program. He stressed USG policy that it is not necessary to kill whales for research.

GOI stated that the overall philosophy of its research program was to determine the ecosystem impact of whales in Icelandic waters. Asgrimsson specifically said that whaling is not the important factor; rather, the effect of whales on the ecosystem is the primary concern of the research. In this regard, he stated that whales are eating 4% of the food in Icelandic waters, and this is a significant factor to a country so dependent on the ocean.

GOI then explained why it did not abide by the IWC resolution stressing that it was vague as to scientific criteria it should follow and that it was only a majority expression of scientists who have differing views. GOI desires to avoid the taking of whales where possible.

USG responded that the IWC resolution taken in context of the whole record was sufficiently clear in setting forth criteria GOI should be following. USG stated that it has no desire to discuss the scientific aspects of the resolution except within IWC guidelines. USG made clear its position that it will not intervene on behalf of GOI to the IWC to justify the taking of whales in the future.

Both sides agreed that it would be useful to clarify the scientific differences between the two countries concerning the taking of whales under the resolution. It was agreed that delegates representing scientific interests would meet in the afternoon to discuss the meaning of compre-

hensive assessment, the objectives of GOI's research, the need to use lethal research techniques, experiment designs, sampling plans, and adverse effects of research on whale populations.

A discussion followed concerning the difference in philosophical approaches of the two countries in undertaking research on whales. GOI emphasized its multi-species, ecosystem approach. USG expressed its understanding of this approach and sympathy to it, but stressed that DOC's decision about certification is guided in large measure by findings of the IWC Scientific Committee.

GOI attempted to convince USG that in a certification decision, USG should make an independent decision concerning violation of the IWC and not be bound by the resolution. USG answered that it was not bound by the decision but it nevertheless deferred to it until GOI can resolve discrepancies between its behavior and the requirements of the resolution.

GOI shifted discussion to the certification process and its implications. GOI expressed confusion concerning DOC's role in certifying and the President's role in imposing sanctions. USG explained DOC's certification decision is totally separate from the President's decision to impose sanctions. Examples of certifications involving other countries such as Japan, Korea, Norway and the USSR were cited.³ USG emphasized that certification under the Pelly Amendment does not automatically result in any direct economic sanctions but can result in indirect economic effects if for example Iceland sold whale meat to Japan. In that case Japan could be certified and economic sanctions imposed on Japan.

GOI was interested in whether DOC would recommend sanctions in conjunction with a certification. USG assured GOI that recommendations are not a part of the certification process, but DOC is free to recommend or not recommend sanctions or do nothing at all. Calio at this point stated that NOAA would probably recommend no sanctions against GOI if it is certified.

Despite USG's explanations of the certification process and its consequences, GOI still harbored some confusion and it was decided that USG would prepare a brief written discussion of the U.S. law and practice concerning certification and sanctions under the Pelly Amendment.

MORNING MEETING, JULY 22, 1987

USG led off the discussions with a response to GOI's inquiries about the certification process. Copies of a brief description of the Pelly

³ See Document 312 and footnote 4, Document 323.

Amendment certification process and the President's role in sanctioning were distributed. (See document B attached).⁴ Calio reviewed the document and asked for questions. GOI desired clarification about the use of the terms "some or all" in the first and last bullets of page 2 because the wording seemed to indicate that the President's only options were between prohibiting *some* or *all* fish products. GOI was assured that the President had discretion not to impose any prohibitions and that "some or all" should be replaced by "any."

GOI also asked about the use of the term "unlimited discretion" in the second bullet on page 2 since the President may be constrained by factors such as GATT. USG responded that the President can only exercise discretion within legal limits and that this was implied. It was suggested that "unlimited" should be replaced by "wide" to avoid any unreasonable interpretation.

After further discussion concerning the process, GOI delegates indicated their understanding of the certification/sanction process.

GOI inquired about the reasons the President offers to Congress in not imposing sanctions. USG explained that the President will not say sanctions should not be imposed because DOC recommended it but rather will give substantive reasons.

Dean Swanson, Office of International Affairs, NMFS, was called on to review the history of Pelly Amendment certifications of other countries. An affidavit and addendum thereto (see document C attached) was distributed which summarized this history.⁵ Swanson briefly reviewed the contents of the affidavit and addendum.

After this review, GOI asked whether a certification of Iceland would be the first one based on a violation of a resolution as opposed to the Convention or Schedule. USG expressed its belief that it would be the first time, noting, however, that certification had been considered in the late 1970's in relation to repeated IWC resolutions urging member countries not to import whale meat from non-members. In that instance, the problem was resolved without resort to certification. USG emphasized that a certification based on the violation of a resolution is in keeping with Pelly Amendment language which refers to diminishing the effectiveness of a conservation "program." USG's interpretation of the term "program" is that it includes all elements of IWC actions and is not confined to the Convention or the Schedule. When asked if there are any affirmative statements to this effect in legal documents, USG offered to research the matter and pass on its conclusions.

⁴ Not attached.

⁵ Not attached.

To further clarify the certification/sanction process, USG distributed copies of letters from DOC to the President relating to the certification of Norway and a copy of the President's statement to Congress concerning his decision not to impose sanctions. (See attached document D).⁶ GOI wanted to know if the President's decision not to sanction Norway was based on Norway's decision to abide by the IWC, and if the President's decisions not to sanction in other cases were likewise based on the certified countries promise to cease their objectionable activities. USG responded that it believed this has always been the case although the President is not required by law to base a no sanction decision on the certified country's remedial actions. USG stated that a primary purpose of the Pelly Amendment is to influence certified countries to cease their objectionable activities by promising not to impose sanctions.

GOI then asked that if a certified country did not cease objectionable activities could the President still decide not to impose sanctions. USG responded that hypothetically this is possible, but it would be presumptuous to speak for the President.

The so called "box score" of past Pelly and Packwood Amendment certifications and their results was distributed and briefly discussed. (See attached document E).⁷ GOI was concerned with why the USSR had not been sanctioned under a Pelly Amendment certification.⁸ Although no USG delegate could recall precise reasons, it was speculated that no sanctions were imposed because the USSR's fish allocation had been reduced under the Packwood Amendment. USG explained about the continuing nature of a certification and the formal requirement of decertification.

After a break, the delegates reconvened and the first topic introduced by USG was a report from the preceding afternoon's scientific meeting. William Evans, Assistant Administrator of Fisheries, NOAA, briefly reviewed major points of the meeting emphasizing Calio's charge to explore GOI's justification of lethal techniques and the differences in philosophical approaches between the two country's scientific programs regarding whales. Evans then called on Michael Tillman, Office of Protected Resources, NOAA, to summarize in more detail the results of the meeting. Tillman characterized the meeting as involving broad discussions that were very useful. He stressed that both sides explored philosophical differences in scientific research on whales. U.S. law allows the killing of whales for purposes of scientific research, but

⁶ Not attached. For text of Reagan's statement, see *Public Papers: Reagan*, 1986, Book II, p. 105.

⁷ Not attached.

⁸ See Document 312.

only after setting forth a carefully prepared rationale that considers population size and trends, sample size, and impact on the population. This approach is then carried over in implementing U.S. policies and objectives at HWB. Tillman stated that one of the biggest problems with GOI's scientific approach is its failure to offer an adequate rationale for its proposed killings. According to Tillman, USG scientists are satisfied that non-lethal techniques could be substituted for lethal techniques. USG recognizes that non-lethal techniques may be more time consuming and costly, but such an approach is preferable to GOI's approach and more in keeping with IWC requirements.

Tillman also recognized an understanding from the meeting that GOI was combining lethal and non-lethal techniques in order to precipitate the collection of data so as to meet the IWC 1990 date for "undertaking" a comprehensive assessment of whale populations.⁹ Tillman explained that USG does not interpret use of the term "undertake" to mean that the comprehensive assessment is to be completed by 1990, as does GOI. It is USG's interpretation that "undertake" means that the comprehensive assessment must be initiated in 1990.

Tillman summarized USG whale research program as one that focuses on questions in which there is a national interest. He stated that USG and GOI explored possible joint research interests. Tillman concluded his remarks by saying that no major conclusions were reached in the meeting and that further talks may prove useful.

Evans capsulized the meeting by stating that GOI's research program must justify the sample numbers being taken and put forth a scientifically acceptable assessment of the population being affected.

GOI agreed that the scientific meeting was useful. GOI then referenced a 1985 press release concerning GOI's research program as setting forth GOI's rationale for its philosophical approach to research. (Copies of the press release and another similar document are attached as F and G).¹⁰ The essence of the press release and GOI's explanation of it is that GOI is under a tighter timeframe than USG in collecting data for the 1990 comprehensive assessment and that this timeframe does not allow use of non-lethal techniques in all instances because such techniques are too costly and time consuming.

USG stated that its approach to whale research is conditioned by the requirements and limitations of the Marine Mammal Protection Act (MMPA) which requires permits for any taking of whales including

⁹ In telegram 72204 to multiple diplomatic posts, March 12, the Department described the Icelandic proposal. (Department of State, Central Foreign Policy File, D870190-0536)

¹⁰ Neither attached.

harassment. If the use of non-lethal techniques is more time consuming and costly but will yield the same results as lethal techniques, then, according to USG philosophy, the non-lethal techniques must generally be developed and used.

USG emphasized its interpretation of the 1990 date for the comprehensive assessment as only the beginning of what is necessarily a long process due to the need to analyze environmental changes and their biological effects on whales.

GOI reiterated its justification for a combined use of non-lethal and lethal techniques based on its intensified attempt to collect as much data as possible before 1990. The statement was made that this approach does not diminish the effectiveness of the IWC but does the opposite because GOI is interested in finding out as much as possible about whales.

GOI's scientist, Johann Sigurjonsson, participated in this portion of the discussions and gave his assessment of the scientific meeting of the previous day. He expressed that his understanding of the USG position regarding justified killing of whales was that there must be an adequate understanding of the state of the stock, the whale must not be endangered, only the minimum possible take will occur, and non-lethal means must be used as much as possible. Sigurjonsson said that GOI had clearly shown that these prerequisites had been met in GOI's research proposals. He stated that lethal takes are necessary in an ecosystem approach and that for some scientific inquiries there is no non-lethal technique available.

USG stated that it is not opposed to the ecosystem approach and in fact has adopted such an approach for its National Marine Fisheries Service. However, other constraints of the IWC and Marine Mammal Protections Act do not permit the type of lethal takings GOI is pursuing.

GOI suggested that the meeting break and reconvene in the afternoon to summarize the discussions and make plans for future discussions. USG agreed and expressed the desire to jointly draft a brief, general press release in the afternoon meeting.¹¹ GOI at first balked at this idea but then consented to it. Before the meeting adjourned, a copy of the President's statement to Congress concerning the certification of USSR and the imposition of sanctions was distributed. (See attached document H).¹²

¹¹ In telegram 227373 to Reykjavik, July 24, the Department transmitted the text of the press release. (Department of State, Central Foreign Policy File, D870587-0060)

¹² Not attached. For text of Reagan's statement see *Public Papers: Reagan*, 1985, Book I, pp. 704-705.

AFTERNOON MEETING, JULY 22, 1987 (FINAL SESSION)

Calio initiated this session of the meetings by stating that USG had tried to answer the preceding day's questions concerning the certification process. He stated that he felt both sides had reached an understanding about their different backgrounds and approaches concerning whale research. Calio expressed his understanding that GOI must now go back to Iceland to present the results of these meetings, and that he assumed GOI will meet again with USG to discuss GOI's intentions for the rest of the year and in the future regarding the IWC recommendations. Calio stated that as long as future discussions are planned and GOI does not take any more whales, then DOC can probably hold its position not to certify for one month to 5 weeks.

Asgrimsson committed to continue the pause in whaling until consultations are over. He stated that the delegation will return to Iceland to present the results of the meetings. He expressed GOI's desire to have good relations with USG, but he said that GOI also wants to have the freedom to conduct research as it sees fit in its own waters. This freedom to conduct research, according to Asgrimsson, is the most important aspect of GOI's concerns because Iceland is living off its waters. Therefore, the necessary decisions will be difficult.

Calio echoed GOI's desire to continue good relations with each other and committed the USG not to do anything precipitous to affect this relationship. But USG will eventually have to do something by law if it has to in reaction to GOI's whale research.

At this time, selected members of the two delegations met to draft a press release which is attached hereto as document I.¹³

After the press release was approved by both delegations, Calio stated that he looked forward to reconvening the discussions and USG would be prepared to go to Iceland for them, if necessary.

Asgrimsson said the next meetings would be arranged through the two embassies.

The meeting was then adjourned.

SCIENTIFIC MEETING, JULY 21, 1987

Present:

From USG: William Evans, Michael Tillman, Claudia Kendrew (DOS), Howard Perlow (DOS), Gene Martin (GCF)

From GOI: Arni Kolbeinsson, Johann Sigurjonsson, Kjartan Juliusson, Hordur Bjarnason

¹³ Not attached. See footnote 11, above.

William Evans opened the discussion with a background of the USG philosophical approach to whale research. He discussed the requirements of the MMPA and how this act determines the conditions under which permits for the taking of whales are issued. Evans stressed the need under U.S. law to have an adequate assessment of a stock before any takings are allowed. He referenced the Marine Mammal Commission report concerning GOI's research proposal and the report's conclusion that GOI had not adequately assessed the stocks from which it was proposing to take whales.

Evans recognized the need to study the ecosystem effect of whales and to some degree USG is sympathetic to this approach. However, he pointed out that the USG is proscribed legally by the MMPA from utilizing lethal techniques in many research applications.

In response to GOI's question about the motivation of the MMPA, Evans stated that the Act was not just an environmental statement but it represented a valid scientific shift to the need to carefully assess the impact of research and interaction with marine mammals.

GOI put forth some of its justifications for the lethal taking of whales. GOI recognized that the MMPA has resulted in the development of non-lethal techniques for the study of whales. But, according to GOI, killing of some whales is necessary for certain scientific inquiries and GOI is not bound by a law such as the MMPA. Nevertheless, GOI is sensitive to the effects of killing on stock size because Iceland is so dependent on the ocean.

GOI stated that it has good knowledge of minke and fin whale stocks but not sei whales. When asked about the status of these stocks, GOI estimated that there are 7000 fin whales, and 15,000 minke whales. The fin whale estimate is based on a Catch per Unit of effort study in 1970.

USG responded to these data by stating that these estimates have not been generally accepted by the IWC Scientific Committee. USG also expressed concern with the sample size by pointing out that if sample size is too small then all of the taking is unnecessary because it will not yield statistically valid results.

USG emphasized that the IWC Scientific Committee found that there was inadequate rationale for the sample size proposed. GOI explained that the rationale was justified so that it could monitor catch per unit of effort, age, sex and maturity, and annual variations, among other things. USG commented that much of this research could be done through non-lethal methods and suggested alternative approaches.

USG then inquired about Asgrimsson's statement in the morning meeting that GOI research philosophy is to determine the role of whales in the ecosystem. GOI responded that this is a dual purpose with other

research objectives that had been mentioned. USG pointed out that the ecosystem research does not parallel the research needs of the IWC's comprehensive assessment.

A discussion followed concerning the fact that the USG is not opposed to killing of whales per se for scientific purposes but in order to justify the killing there must be an adequate rationale. Japan's research proposal at the last IWC meeting was cited as an example where the Scientific Committee did not object per se to the proposed killing of 825 whales but rather objected to the sampling design.¹⁴ Japan was able to provide a good rationale for its proposed killings.

GOI argued that it was necessary to conduct some killing to study hormone levels, energy systems, tissues for electrophoretic analysis, pregnancy rates and weights of whales. GOI recognized the usefulness of non-lethal techniques, but felt that their use was often too time-consuming and expensive.

USG responded that even if lethal techniques can be justified, there is still a need for adequate stock assessment. USG reiterated the fact that GOI's research program needs to be examined in light of IWC criteria which focuses on the comprehensive assessment of all whale stocks.

GOI expressed its view that the practicality of a non-lethal approach only has too often been left out of discussions concerning research. GOI's approach is based on its interpretation of the 1990 date to "undertake" the comprehensive assessment of whales. The combination of lethal and non-lethal techniques will most likely ensure that important data are collected before 1990.

USG responded that it interprets the 1990 date to mean that the comprehensive assessment is only to be initiated by that date and the time limits GOI places on its research are not shared by USG. GOI clarified its interpretation of the date to mean that all data shall have been contributed by 1990 in order that the IWC can assess the status of whale stocks to determine whether any modifications of the moratorium are appropriate.

GOI shifted the discussion by inquiring whether the USG has an overall plan with regards to its whale research program. USG responded with a brief discussion of some of the ongoing research at this time and by emphasizing that the USG approach focuses on whales

¹⁴ In telegram 204498 to multiple diplomatic posts, July 2, the Department provided a summary of the June 1987 IWC meeting and reported that new estimates for whale populations had been calculated and that Japanese and Korean scientific proposals had been rejected. (Department of State, Central Foreign Policy File, D870523–0696)

in which there is a national interest. Much of the research concerns the assessment of whale populations in and around USG waters.

GOI asked if USG could share its research plan with GOI. USG stated that there is not a single plan, but it could provide GOI with the annual report on marine mammals that is submitted to Congress. USG also estimated that NMFS is spending around 2½ million dollars on whale research.

A discussion followed concerning the possibility of USG assisting GOI with the synoptic survey of whales in the North Atlantic. USG expressed little interest in contributing to a survey off the U.S. Coast because previous U.S. research had shown that whales were in Canadian waters during the period of the synoptic survey.

In the concluding moments of the discussion, USG emphasized that it is not opposed to lethal techniques per se but before such techniques are used certain criteria must be met including the collection of adequate data concerning the affected stocks, knowledge of the impact of the lethal takings on the stocks, and an acceptable statistical and biological rationale for the number of proposed lethal takings.

GOI reiterated its position that it has met all of these criteria and that the lethal takings will not harm the existing stock of whales. GOI wants quicker answers because of the 1990 date and it wants answers that can only be obtained through lethal techniques.

Both sides agreed that they had discussed the important differences between the philosophies of research of the two countries and that they understood better each other's positions.

**334. Memorandum From the Executive Secretary of the
Department of State (Levitsky) to the President's Assistant
for National Security Affairs (Carlucci)¹**

Washington, August 28, 1987

SUBJECT

Iceland and Scientific Whaling: USG Policy Options

Attached is a paper prepared in response to an August 21 request by the NSC staff for a paper on the scientific whaling dispute between

¹ Source: Reagan Library, Cobb Files, Whaling (Folder 2). Confidential.

the US and Iceland, including a discussion of the conservation and national security implications of the dispute and two US policy options.²

Following receipt of the NSC staff request, the Government of Iceland (GOI) tabled its position concerning what it is prepared to do to modify its scientific whaling program. The proposal, according to our understanding, represents the most that Iceland is prepared to commit itself to at this time.

The attached paper was provided to the Department of Commerce and Defense for coordination. Rather than provide comments for this paper, Commerce will either prepare a separate paper or present its points orally at the September 1 meeting.³ The views of the Department of Defense have been included.

It is our understanding that the Department of Commerce favors option A, which is to maintain the position conveyed to Iceland at the July 21–22 talks—certification of Iceland under the Pelly Amendment if Iceland takes any further whales before its program is revised and submitted to the IWC. The Departments of State and Defense favor option B, which calls for agreement that Iceland's decision provides sufficient progress towards IWC criteria and US conservation objectives to make certification unnecessary and not in the best interests of the USG. Option B keeps open the possibility of further movement by Iceland on this issue.

The issue is hereby presented for consideration at the September 1 meeting to be chaired by Robert Dean of the NSC staff.

Melvyn Levitsky⁴

² An August 21 memorandum from Green to Levitsky, Matz, and Reinhard requesting this study is in the Department of State, Dumping; Arctic; Whaling; Antarctic; Scientific Research, 1976–1987, Lot 94D419, Whaling: Iceland Aug–Sept '87.

³ A list of participants for this meeting is in the Reagan Library, Cobb, Tyrus: Files, Whaling (Folder 2).

⁴ An unknown hand signed for Levitsky above his typed signature.

Attachment

Paper Prepared in the Department of State⁵

Washington, undated

*Iceland and Scientific Whaling:
Options for Responding to the GOI Proposal*

ISSUE FOR DECISION:

What is the appropriate US response to the Government of Iceland's proposed measures to bring its scientific whaling program into conformity with IWC criteria and US conservation goals.

ESSENTIAL FACTORS

A detailed review of the development of the scientific whaling controversy was provided in a Levitsky-Carlucci memo, dated August 20 (Tab A).⁶ The following brief summary of the most recent events is provided for background information.

Current Status:

At its 1987 annual meeting, the International Whaling Commission (IWC) adopted a US-proposed resolution for new, more stringent, criteria and review procedures relating to the issuance of special permits for scientific whaling.⁷ Pursuant to this resolution, three resolutions were adopted recommending that Iceland, South Korea, and Japan not issue (or in Iceland's case, revoke) scientific whaling permits until uncertainties identified by the IWC Scientific Committee are resolved.

The resolutions were strenuously opposed by the three countries concerned, with support from Norway and the USSR. Iceland held that our resolution gave the IWC powers not justified under the IWC Convention and thus was illegal.

Despite the IWC recommendation in June that such activity stop, Iceland continued to take fin whales under its 1987 scientific whaling program. In the view of the Secretary of Commerce, Iceland's continued taking of whales was certifiable under the Pelly Amendment.

⁵ Confidential.

⁶ Not attached. An August 20 memorandum from Levitsky to Carlucci reviewing this controversy is in the Reagan Library, Cobb, Tyrus: Files, Whaling (Folder 2).

⁷ See footnote 14, Document 333.

Iceland's Actions in Response to US Demarches

In response to a US suggestion that it cease taking whales while bilateral talks were held, Iceland agreed to do so, but halted only after taking all 80 fin whales called for in its 1987 program. Discussions were held in Washington on July 21–22.⁸ Commerce informed the GOI delegation that Iceland's continued taking of whales, despite the IWC recommendation, had established a basis for certification under the Pelly Amendment. However, the Secretary of Commerce agreed not to certify for the time being so long as Iceland did not take additional whales, redesigned its research program and submitted it to the IWC for approval in 1988.⁹ An interim understanding was reached. Iceland agreed to maintain its pause in the taking of whales while discussions continued between our two governments and to reply after consultations in Reykjavik.

On August 27 we received a formal response to the July talks (Tab B)¹⁰ containing measures the GOI is prepared to take to bring its program into closer conformity with the criteria outlined at the July discussions. The steps are: 1) reduce the 1987 take of 40 sei whales to 20 (i.e. this would bring the overall level from 120 to 100); 2) redesign its entire research program with the aim that the number of whales taken be kept to the minimum (it is our understanding from Ambassador Ingvarsson that this is intended to signal further reductions in 1988—an interpretation also conveyed to Ambassador Ruwe by Foreign Minister Hermannsson); 3) continue its cooperation with the IWC and to take account of scientific views expressed there; and 4) consult with us on the implementation of this offer and on its scientific program as a whole. Due to the imminent arrival of the sei whales at Iceland's whaling grounds, the GOI feels it must begin whaling operations without delay.

OPTIONS:

A. Inform the GOI that its proposal does not meet IWC criteria or US conservation objectives. *If Iceland takes any additional whales prior to resubmitting its program to the IWC and receiving its recommendation, the Secretary of Commerce intends to certify.*

B. Agree that although the GOI proposal is disappointing, it does represent sufficient progress towards IWC and US conservation objectives to provide a basis for a decision not to certify this year.

⁸ See Document 333.

⁹ See footnote 4, Document 332.

¹⁰ Not attached. An August 27 letter from Hermannsson to Shultz is in the Reagan Library, Cobb, Tyrus: Files, Whaling (Folder 2).

When informing the GOI of our decision not to certify at this time, we would note that our decision is intended to offer Iceland additional time to bring its program into closer conformity with IWC criteria in 1988, including a further reduction in the overall number of whales taken, and we interpret this as a commitment to these ends.

IMPACT OF CERTIFICATION

International Conservation Implications

The most effective means of gaining whale conservation goals is through voluntary compliance by the government(s) involved. The threat of certification under the Pelly Amendment has thus far been the primary means by which we influenced Iceland on the scientific whaling issue. It is our view that the Icelandic response, while disappointing, moves in the right direction and contains sufficient substance to allow us to pursue our conservation objectives through means other than certification.

Iceland has repeated on several occasions that certification will result in its withdrawal from the IWC, possibly along with several other states. Thus one result of certification could be to reduce the influence of the US, and other states, on Iceland's international whaling policy decisions. Such a development could not be viewed as strengthening the IWC's conservation regime.

Certification will result in a serious bilateral confrontation and put us in an adversarial position vis-a-vis Iceland. Under these circumstances, the US ability to influence GOI whaling policy would be drastically reduced or ended. The reduction or end of US leverage in Reykjavik will lessen our ability to meet our conservation objectives.

As long as certification is kept as a threat, Iceland may be more inclined to meet US and IWC concerns over its program. Other than the loss of its whale meat sales to Japan, and damage to its international reputation, certification by itself would create no real economic imposition on Iceland. (Since Iceland does not fish in the US EEZ, certification and loss of fishing allocations under the Packwood Amendment is not relevant.) Once certified, and absent any real intention to impose economic sanctions, the Icelanders may have little or no reason to cooperate bilaterally or in the IWC.

Political and Security Considerations

Certification, while the Independence Party (IP) leads the government coalition, will play into the hands of Iceland's leftist parties. The conservative IP has been the most consistent and outspoken advocate of close cooperation with the US, often in the face of strong criticism. Certification can be expected to undermine the IP's electoral strength and reduce its willingness to defend our interests.

In an unexpected development, the IWC decision and subsequent discussions with the US produced a reasoned public debate in Iceland over the merits of continued research whaling given the threat it poses to Iceland's relations with the US and international reputation. Certification will kill this promising debate and the discussion would then be held in nationalistic terms, with Icelanders supporting the view that they can not allow the US or IWC to "push them around."

Certification will inevitably result in Iceland attempting to use the presence of the Icelandic Defense Force (IDF) at Keflavik as a bargaining tool, as it has done in the past under similar circumstances. Initially, the GOI is not likely to take drastic steps, such as closing the base or asking for specific missions to be ended. However, there are alternatives that could dramatically reduce the operational effectiveness of the IDF and eventually threaten the status of the base. These include:

- 1) Permitting dock handlers to boycott US goods, thereby forcing an airlift of all required materiel and supplies to Keflavik.
- 2) Placing restrictions on the flight operations, perhaps under the guise of noise or safety regulations.
- 3) Terminating or slowing down all or part of the billion dollar IDF upgrade program, which includes the construction of hardened aircraft shelters and two new northern-looking radar sites.
- 4) Asking that the number of IDF personnel be reduced below the level where it would be possible to carry out assigned functions.
- 5) Requesting review of the 1951 Defense Agreement, possibly to add periodic renegotiation of base rights or rental payments, neither of which have ever been required.¹¹

In 1976 DOD prepared a contingency paper on the likely consequences and costs for the US resulting from the loss of one or more of the missions carried out at Keflavik, as well as a total base closure.¹² In 1976, the one-time cost of providing similar capabilities based elsewhere was estimated at \$500 million plus a 33% increase in the annual operating costs for some missions. Even then there would be a significant reduction in the effectiveness of some of the missions due to the need to operate over greater distances. These cost estimates have not been updated since they were originally made. However, it is safe to assume that inflation and today's far higher prices to replace existing facilities would multiply the 1976 figure several times.

Steps to Mitigate the Results of a Certification Decision

Efforts to mitigate the results of a decision to certify fall into three categories. The first are steps that could be taken regarding whaling

¹¹ The United States and Iceland concluded a Mutual Defense agreement in 1951, which allowed for continued U.S. use of the Keflavik airport.

¹² Not found.

policy and conservation. Since we do not know what the GOI whaling policy would become after certification, it is difficult to concisely list possible steps we could take. However, the US would continue to discuss scientific whaling with Iceland as well as the implications of certification.

The second category are steps to mitigate reductions in the military effectiveness of the IDF or a change in the status of the base. In the 1976 paper referred to above, there is a lengthy analysis of what actions (based on 1976 requirements) DOD could take to replace the functions carried out at Keflavik. Although there are technically feasible alternatives listed for each mission, some relocation options might not be politically possible today and others would be prohibitively expensive, especially in a period of reduced budgets.

Finally, in the area of foreign policy and bilateral relations, a decision by the President not to impose sanctions under the Pelly Amendment would avoid worsening the situation. We have been unable to identify any other reasonable measures (such as in trade relations or NATO affairs) that could be offered to the Icelanders to mitigate certification.

AGENCY POSITIONS: STATE

The Department of State supports Option B which is best calculated to provide progress toward an improved whale conservation regime. We are opposed to Option A and see it as likely to produce results counterproductive to our whaling policy objectives and national security interests.

We recognize the primary role of the Secretary of Commerce on this issue and the important whaling policy questions at stake. We also believe that the potential negative impact on bilateral relations and national security are significant and must be considered within the context of a decision to certify.

This dispute has now reached a juncture where it is clear that Iceland is putting forward its final position in this year's round of whaling policy negotiations. We believe it is incumbent upon the USG to assess an appropriate course of action vis-a-vis Iceland that takes into account not only whaling concerns, but also foreign policy and our security interests in Iceland.

In considering our response to the Icelandic proposal, an important consideration is whether the Secretary of Commerce can use means other than certification to accomplish US conservation objectives. We believe he can and that a decision not to certify is justified under the present circumstances.

While recognizing the statutory responsibility of the Secretary of Commerce under the Pelly Amendment, we operate from the premise

that the Secretary of Commerce, as affirmed by the Supreme Court decision in the Japan Whaling Association case, has discretion in making a decision whether or not to certify that a nation is diminishing the effectiveness of the IWC's conservation program.¹³ The Secretary of Commerce is not bound to certify any and all departures from the recommendations of the IWC Scientific Committee with respect to scientific whaling, but can and should consider certification on a case-by-case basis, in light of all relevant factors, with a view to what enhances/diminishes the effectiveness of the IWC. While we recognize the risk of litigation and arguable distinctions between this and the Japan case, we believe that a decision not to certify can be justified legally.

We share the US goal of promoting the effective conservation of whales and have contributed significantly to the Department of Commerce's efforts in this regard. We recognize that the GOI proposal does not conform to the optimal objectives of the USG and the IWC. However it does represent progress toward the IWC conservation regime on which we can expect to build further: it reduces the number of whales taken this year, opens the way for further reductions next year, keeps Iceland in the IWC and retains US influence. There is no evidence that certification would produce equal results—and there are strong indications to the contrary.

We do not consider certification to be the the most effective way of furthering US whaling policy nor to bring Iceland into closer conformity with the IWC conservation regime. It will reduce, or end, our influence on Iceland's whaling decisions.

While it is impossible to predict how Iceland would respond to certification, we strongly believe that it will be seen as an insult to national pride and a potential threat to its largest money earner—fisheries exports—resulting from the possibility (no matter how remote) of sanctions being applied under Pelly. Certification will touch off a downward spiral in our bilateral and security relationship that will be difficult to arrest once begun.

We believe that the GOI proposal represents the most constructive position we are likely to receive from Iceland and it should be accepted. It is our understanding that it was agreed only with great difficulty by the three-party government coalition and, should we press now for additional concessions, new formulations could be worse from our perspective.

We would make clear in that we do not endorse Iceland's decision and that we intend to continue to press for more flexibility; Iceland

¹³ See footnote 5, Document 317.

indicated in its response that it is prepared to continue discussions. Additional GOI concessions are far more likely if the GOI can portray them as voluntary, rather than having them seen as a result of US "coercion." As an example, non-certification would leave open the possibility of further cooperative non-lethal research that could reduce Iceland's rationale for conducting scientific whaling. Iceland has stated several times its willingness to use non-lethal methods to accomplish its research aims.

Should the US certify Iceland, Japan would almost certainly cease its purchases of whale meat taken under the special permits in order to avoid being certified. Iceland would view the Japanese decision as a result of US coercion and interference in the trade relations between two of America's allies. Although not a major factor in Iceland's exports, the added loss of a trading partner would further strain our relations with Reykjavik.

The crucial base at Keflavik remains Iceland's most important "card" in any dispute with the US, and it is one that the GOI has not hesitated to use in the past. In recent years security cooperation with Iceland has improved markedly in a broad range of areas, despite problems that occur in relations between close friends and allies. However, Iceland defines this issue as touching on its national sovereignty and of fundamental importance to its special relationship with the US. Should the US certify, there will be an immediate public reaction against the US and our military presence. The reduction or loss of one or more of the missions currently carried out at Keflavik would have an immediate and highly negative effect on our national security and closure of the base could be devastating. If our 35 year old security relationship is seriously damaged by this issue, the political will and consensus necessary in Iceland to maintain our presence might prove impossible to reconstruct.

Outside of security and bilateral areas, there are other steps the GOI could take that will work against our interests. If certified, the GOI could initiate steps to withdraw from the IWC, effective in 1988. Iceland, and other whaling nations, have raised the possibility of founding a new international organization to regulate whaling. It is not clear whether this is a serious threat at this time.

Acceptance of the GOI proposal can be presented to Congress and conservation groups as providing more progress towards the IWC conservation regime than would have been possible through certification. We will be able to cite that fewer whales will be taken this year, and there is a good (but informally conveyed) likelihood that Iceland's program will be further reduced in future years. Iceland will remain in the IWC and continue to take account of the scientific views expressed there, all of which will strengthen the IWC's conservation regime.

AGENCY POSITIONS: DEFENSE

The US base at Keflavik, Iceland is of vital importance to US and NATO security. Its location makes it the linchpin of US efforts to defend North Atlantic sea lines of communication between North America and Europe, as well as an invaluable forward position for the defense of the US. Without unhampered ability to operate US air and naval forces from Keflavik, we would be very hard pressed to reinforce Western Europe in crisis or war, and to defend the US from Soviet nuclear missile attack submarines in the Atlantic Ocean. Even in peacetime, Keflavik is an unrivalled location for daily surveillance of Soviet air and naval activity in the Atlantic. It would be extremely difficult to conduct these operations from any other location. At present, we use Keflavik on favorable terms and without paying base rent. Icelandic cooperation has permitted great progress on modernization and improvement of the US defense posture there.

DOD is concerned that the US position in Keflavik, our freedom of operations there, and perhaps even our presence itself, may be jeopardized by the expected Icelandic reaction to a certification decision. The history of the very difficult US-Icelandic “Rainbow” shipping controversy between 1984 and 1987¹⁴ leads us to expect that if certified, Iceland will harden its position rather than sacrifice its national dignity, at considerable expense to friendly bilateral relations. At risk is the US base at Keflavik, as that would be the only lever that Iceland could use to apply pressure upon the US. The result would be serious damage to US defense, and the loss of an important ally.

¹⁴ See footnote 2, Document 324.

335. Letter From Icelandic Prime Minister Pálsson to President Reagan¹

Reykjavik, September 2, 1987

Dear Mr. President:

Friendly relations between our countries have long contributed to our shared interests in economic growth and international security. The commitment of our nations to the sovereign equality and political independence of states, and to the principles of freedom and democracy, have formed the foundation of this relationship. Quite correctly, in the development and implementation of diverse domestic and international policies, each government has been mindful of legitimate concerns of the other. A profound sense of mutual confidence, without which neither government could entrust important economic and security interests to the other, has thus been preserved and deepened.

It is, therefore, a matter of the utmost concern that certain officials of your government intend to take action which would undermine² this close relationship between our nations. That action is "certification" of Iceland under United States law for continuing a program of scientific research which necessarily involves the taking of whales.

My government regards its research program as a legitimate exercise of sovereign rights reserved to Iceland in the International Convention for the Regulation of Whaling, and as a positive contribution to the objectives of the International Whaling Commission ("IWC"). My government also believes that its whale research program is essential to understanding the marine environment upon which the people of Iceland are compelled to rely for their survival as a society and a State, on an island remote from world centers of population and commerce.³

My government has undertaken intensive consultations with yours, in order to continue the Icelandic research program in a manner that would be sensitive to your public opinion and your policies, while ensuring that legitimate and indispensable scientific objectives would be achieved. Based on those consultations and on a thorough review of our program, my government has decided upon a substantial reduction of the taking of whales this year, and upon a review of the program

¹ Source: Department of State, Dumping; Arctic; Whaling; Antarctic; Scientific Research, 1976-1987, Lot 94D419, Whaling: Iceland July 87. No classification marking.

² An unknown hand underlined the phrase "which would undermine" and drew a box around the word "would."

³ An unknown hand highlighted this paragraph.

in future years with the aim of keeping the take of whales to the minimum necessary for achieving scientific objectives.⁴

My government has, further, decided to continue cooperation with other nations through the IWC, despite dissatisfaction in Iceland with the recent activities and method of work of that organization. This position has been adopted in reliance on the expectation that recommendations of the IWC at its last annual meeting⁵ would not provide the occasion for measures of coercion against Iceland.⁶

In view of my government's extraordinary effort at accommodation with the United States on whaling for scientific purposes, and in light of Iceland's earlier acceptance of the IWC moratorium on commercial whaling, it would be impossible for the people and Government of Iceland to understand or accept certification by the United States that Iceland is diminishing the effectiveness of the IWC.⁷ Rather certification would disregard the sovereign equality and political independence of Iceland, and be an unwarranted threat to the economic security of this nation. Most certainly, Icelanders could not reconcile action by the United States against their country with the good and friendly relations that have been growing between our two nations for decades and were highlighted by your visit to Iceland last October.

Mr. President, in the spirit of friendship my government has extended itself to the utmost in seeking to resolve this issue. I hope that you will ensure that the response of your government is in that same spirit. I thank you for your personal attention to this vitally important matter.

Sincerely yours,

Dorsteinn Pálsson

⁴ An unknown hand highlighted the phrase "my government has decided upon a substantial reduction of the taking of whales this year, and upon a review of the program in future years with the aim of keeping the take of whales to the minimum necessary for achieving scientific objectives."

⁵ See footnote 14, Document 333.

⁶ An unknown hand highlighted this paragraph.

⁷ An unknown hand underlined the phrase "it would be impossible for the people and Government of Iceland to understand or accept certification by the United States that Iceland is diminishing the effectiveness of the IWC."

336. Intelligence Memorandum Prepared in the Central Intelligence Agency¹

Washington, September 3, 1987

Iceland-US Whaling Dispute:
"Will Iceland Play the NATO Card?"

SUMMARY

Iceland's determination to continue whaling may yet lead to a confrontation with the United States, but we believe a slight shift in Reykjavik's position on "scientific whaling" over the past year gives Iceland an opening to meet US concerns without appearing to give in to US pressure. Iceland's traditional commitment to whaling has been challenged domestically by criticism from scientists, members of parliament, and newspaper editors across the political spectrum. Reykjavik is now moving away from treating scientific whaling as a cover for continuing business as usual to focusing on the truly scientific aspects of the program—giving the government leeway to win support for its scientific program from the International Whaling Commission and thereby avert a showdown with the United States without losing face. Reykjavik's only other option for heading off possible US sanctions is to "play the Keflavik card"—imposing further restrictions on the US-manned NATO base or demanding economic benefits from the US for its use. We believe Iceland is unlikely to follow this course because a US ban on imports of Icelandic fish would hurt the economy severely, and Reykjavik is probably unsure that action against the base would forestall such sanctions. [*portion marking not declassified*]

The Icelandic Position

Icelandic support for whaling is deep. Although it does not make up a large part of the Icelandic economy (less than 0.5 percent of GNP), whaling is a traditional occupation in a country where tradition and culture are jealously guarded. Moreover, as a small fishing nation, Iceland is very sensitive to perceived threats to its sovereignty over territorial waters. Possible US sanctions aimed at forcing a change in

¹Source: Central Intelligence Agency, Office of Support Services (DI), Job 90T00114R: Intelligence Publications Files (1986–1987), Box 4, Folder 366: Iceland-U.S. Whaling Dispute: "Will Iceland Play the NATO card?" Confidential; Noform. [*text not declassified*] This memorandum was prepared by [*name not declassified*], Office of European Analysis. Questions and comments may be directed to [*name not declassified*], Deputy Chief, West European Division, [*text not declassified*].

Icelandic whaling practices are seen as such a threat. [*portion marking not declassified*]

Reykjavik originally viewed the International Whaling Commission's (IWC) comprehensive assessment of whale stocks as an exercise that would define acceptable limits for future commercial whaling, rather than presage its abolition. Icelanders saw the IWC's authorization of scientific whaling as an opportunity to gather information for the future management of whale stocks, while Iceland continued to reap economic benefits from the hunt. It was in this context that the Icelandic parliament voted in 1983 to support IWC limits on whaling. [*portion marking not declassified*]

Since Iceland's scientific whaling began last summer, however, Icelandic attitudes toward whaling have shifted slightly. Scientists, members of parliament, and newspaper editors across the political spectrum have questioned the wisdom of continued whaling. Public discussion over the year has been much less defensive and emotional, and accusations of US "interference" in domestic affairs much less frequent. These changes in the tone of the debate over whaling may be due in part to frequent consultations between the US and Iceland, as well as to efforts by both sides to avoid public comments that could spark Icelandic resentment of the US. The sabotage of whaling facilities by radical environmentalists and the impounding of whale meat by West German authorities in Hamburg may also have contributed to the evolving change in attitude. Although such actions drew public condemnation, they made clear to Icelanders that whaling is an emotional issue for opponents as well as proponents. Moreover, expressions of environmental concern dramatically demonstrated that opposition to commercial whaling is not something arbitrarily created by the US government, but a view shared by private citizens of many countries. [*portion marking not declassified*]

Reykjavik's position on the question of scientific whaling also appears to have moved slightly since last year; the government is putting greater emphasis on the quality and necessity of its scientific program, rather than simply continuing "business as usual" in whaling behind a facade of science. Iceland's recent arguments in defense of the scientific whaling program highlight three important points. First, Reykjavik claims that the program is scientifically sound and that it generates needed information on whales and their environment. Second, the government points out that Iceland's only whaling company, Hvalur H/F, does not earn a profit on its whaling operations. Third, officials declare willingness to cease killing whales, if the scientific program for studying whale stocks and migratory habits could be conducted effectively by other means. [*portion marking not declassified*]

This change in Iceland's position on the specific issue of scientific whaling is due to several factors. International and domestic charges

that scientific whaling is a transparent “cover” for commercial whaling wounded Icelandic pride. The shift in emphasis to the truly scientific aspects of the program probably also reflects a decision by Reykjavik to back down somewhat in order to avoid a major confrontation with the United States—which would expose Iceland to the prospect of certification and sanctions under the Pelly Amendment.² We believe this new focus on scientific goals would allow Iceland to meet US concerns—by bringing its whaling program into line with IWC specifications—yet claim victory for “winning” US support for a sound scientific whaling program, rather than admit to bowing to US and environmentalist pressure. [*portion marking not declassified*]

Reykjavik's Options for “Playing the NATO Card”

Iceland has only one significant point of potential leverage on the US to block efforts to restrict whaling: the US-manned NATO base at Keflavik. If the US certifies Iceland under the Pelly Amendment—even if sanctions are not implemented—Reykjavik is likely to weigh possible actions against the base that would put pressure on the US. If Iceland decided to take action, it would probably move through a series of steps in an incremental escalation designed to force US concessions. In order of likely implementation, Iceland could:

- Impose even greater administrative restrictions on the activities of the base and its personnel—including limits on air operations.
- Charge rent or demand other economic benefits.
- Request that the US withdraw some personnel, or even the entire base. [*portion marking not declassified*]

We believe it is unlikely, however, that Iceland will eventually resort to any of these measures. Although Foreign Minister Hermannsson indicated to US officials in early August that Iceland would pursue a tough line by resuming whaling and “reevaluating the entire bilateral relationship” if Washington certified Iceland under the Pelly Amendment, his comments to the press the next day were much less combative. Moreover, the US Ambassador reports that, based on a conversation with Hermannsson in late August, Iceland will probably reduce by one half its take of sei whales for 1987 and agree to further revisions in its scientific whaling program for 1988. Lastly, as noted

² The Pelly Amendment requires that the Secretary of Commerce inform the President if any nation is undertaking actions which diminish the effectiveness of an international fisheries agreement. Violation of IWC rules for scientific whaling would be grounds for such certification. Once a country has been certified, the President is authorized to impose sanctions on its fish exports to the US. The President must also report to Congress on the action taken, at which point Congress could decide to legislate its own sanctions if it wanted stronger measures than those taken by the President. [Footnote is in the original.]

above, Iceland's position on whaling has changed slightly over the last year, creating maneuvering room for Iceland to meet US concerns on scientific whaling without losing face. *[portion marking not declassified]*

Reykjavik is surely considering that the costs of a US ban on Icelandic fish exports would be enormous—Iceland could immediately lose up to 10 percent of GNP. Even sanctions imposed for a short period of time would cause significant disruption in the Icelandic economy. Iceland probably believes the United States is willing to certify and impose sanctions if no concessions are made, and Reykjavik will be reluctant to trigger US punitive measures. Iceland would be quick to exploit any signs of differences between Washington agencies, of course, in order to push a tougher line on whaling. *[portion marking not declassified]*

In our view, there are two circumstance that could persuade Iceland to retaliate against the Keflavik base:

—If the Icelandic public were angered by perceived US interventionism.

—If Reykjavik became convinced that actions against the base would prevent the United States from taking punitive measure. *[portion marking not declassified]*

At present, however, the public seems as concerned with environmentalist charges that “science” is being used deceitfully to justify hunting whales as it is with the prospect of US sanctions. Icelandic officials, moreover, appear unsure that action on Iceland's part would result in US concessions. If the dispute continued to the point of US certification of Iceland under the Pelly Amendment, Iceland might threaten retaliation against the base, but only if it believed this would raise the issue to a political level where it may launch a final “appeal” for a concession. *[portion marking not declassified]*

Appendix: Echoes of the Cod Wars?

The current dispute over whaling is superficially reminiscent of the famous “Cod Wars” of past years. The Cod Wars were disputes in 1958, 1972, and 1975 between Iceland and the UK over the extent of Iceland's exclusive fishing zone. These disputes led to exchanges of fire and ramming incidents between Icelandic gunboats and UK frigates. In an effort to obtain US pressure on London, Iceland threatened to expel the US base at Keflavik and withdraw from NATO. In 1975 Reykjavik broke diplomatic relations before London finally recognized Iceland's unilateral claim to a 200-mile fishing limit. *[portion marking not declassified]*

There is little in common, however, between the current whaling dispute and the UK-Icelandic Cod Wars. In the Cod Wars, Reykjavik acted to protect vital economic interests; in the whaling issue, it is

Iceland's actions that expose it to the loss of important economic interests through US sanctions. Whereas Iceland took unilateral action in the Cod Wars, action in the whaling case was initiated by IWC efforts—with Icelandic support—to regulate whaling. In the Cod Wars, Iceland was acting out of an environmentally based concern to preserve fish stocks. In the scientific whaling dispute, Iceland's current position is opposed by environmentalists who believe that fewer or no whales need be killed to conduct necessary research. *[portion marking not declassified]*

The main similarity, however, may be the most dangerous. As they did in the Cod Wars, Icelanders may grow to see themselves as defending their national sovereignty against a hostile Great Power. This view cemented the Icelandic position in the Cod Wars, and—if public outrage grew—could also do so in the scientific whaling dispute. *[portion marking not declassified]*

337. Minutes of a Policy Review Group Meeting¹

Washington, September 4, 1987

Iceland Certification

PARTICIPANTS

STATE:

Edward Derwinski
John Negroponte
Abe Sofaer

DOD:

John Maresca

JUSTICE:

Arnold Burns
Ralph Ludwizeski

COMMERCE:

Bruce Smart
Daniel McGovern

WH:

Colin Powell
A.B. Culvahouse

¹ Source: Reagan Library, Cobb, Tyrus: Files, Whaling (Folder 2). Confidential. Prepared by Scharfen. On the front page, Scharfen wrote, "FYI from Jock Sharfen."

NSC:

Paul Stevens

Ty Cobb

Jim Kelly

Jock Scharfen

Powell: There are two issues before us. One, whether or not to certify Iceland and the degree of discretion the Secretary of Commerce has in making this decision. And, two, the foreign and national security implications that flow from this decision.

Smart: The Pelly Amendment requires the Secretary of Commerce to inform the President of any action by a foreign government that runs against any international conservation agreement or its intentions. It is a two-step process. First, we must tell the President what happened and then, second, the President decides what to do regarding sanctions. Iceland's scientific whaling program was rejected by the IWC and they have not given the IWC a proposed alternate program. Commerce did not certify Iceland when it took its first 80 whales but we advised them at that time that we would certify if they started their second phase of whaling. Furthermore, our counsel tells us that under the Pelly Amendment we are legally obligated to certify them.

Burns: There is a long history behind this issue. In the Japanese Whaling Association case environmentalist groups challenged Secretary Mac Baldrige seeking to enjoin him to certify Japan for whaling practices which were in contravention to the IWC's scheme. Baldrige said that the Secretary of Commerce had discretion under the Pelly Amendment whether to certify Japan or not. He exercised this discretion and concluded that the Executive Agreement reached between the United States and Japan whereby the Japanese agreed to end all commercial whaling by 1988 justified not certifying Japan in this instance. The District and Appellate Court ruled that the Secretary of Commerce did not have discretion under the Pelly Amendment not to certify. The United States Supreme Court, after reviewing the fuzzy legislative history of the Amendment, concluded that the Secretary of Commerce did indeed have discretion under the Pelly Amendment.² On this point, the Department of Justice has an easy call: under the rule of law the Secretary of Commerce has discretion. It is just as clear, however, that it would be an abuse of discretion by the Secretary of Commerce not to certify on the record before him in this case. Secretary Baldrige could have certified Iceland a year ago, but did not. For over a year the United States has acted reasonably and patiently in dealing with Iceland. In conclusion, it is the Department of Justice's view that

² See footnote 5, Document 317.

were the Secretary not to certify the United States would lose its case in court.

Our congressional relations would be damaged if we do not certify. Representative Packwood and others would go “beserk” if the Administration does not certify in this situation. Remember, it is a two-step process. The first step being certification and the second step being sanctions. At the sanction’s stage the President can consider the national security concerns. Japan, however, will not import the whale meat if Iceland is certified.

The Attorney General was told this morning that it is the Department’s view that certification will be required under the Pelly Amendment if Iceland takes another whale and that we could not defend in court the failure to certify. The Attorney General said that it might be prudent to have the President or Vice President call the Prime Minister of Iceland and say that every play has an end and we are pulling the curtain down on this play.

Sofaer: Everything that Defense says in this discussion is irrelevant. (Laughter) What Defense says is only relevant as to our national security interest. It is not relevant to the legal debate.

Furthermore, we at State do not contend that we have the right to tell the Secretary of Commerce not to certify or how and whether to exercise the discretion given to him under a statute. The Department can advise Commerce regarding the procedures involved.

I will address Arnie’s (Burns) second conclusion concerning the Secretary of Commerce’s discretion. It does not follow automatically that a given event requires certification. Rather, the decision to certify should be reached through a *reasoned* process.

The point is, the Secretary of Commerce has discretion. The statute says that he is to *investigate* the events. I do not have the benefit of knowing all the facts in the investigation, but I do know the record of the last six months and it’s *very* impressive to me. It should be addressed in writing by the Department of Commerce indicating why it requires certification under the Amendment. Review of the Record indicates (1) they’ve reduced their overall take of whales by half—from 200 to 100, (2) Iceland is prepared to redesign their entire research program to keep it at a minimum. Now, this doesn’t satisfy me or Arnie (Burns) because it falls short of the Japan case where they had agreed to take no more whales by fixed date. But they have said concretely that they’d move in the right direction. (3) They have indicated their intention to remain in the IWC. This is meaningful. The meaning we have given to scientific whaling is a very tough one. The IWC initiative clearly is helping conservation and we are moving forward, therefore, with our conservation goals. It is in our best interest to keep Iceland engaged in the IWC. Now, I am not arguing what they have done is satisfactory

for the long term, but it is satisfactory enough for State to want in written form from Commerce the reason why it is so bad that they have to certify. We need more debate regarding the scope of discretion.

Burns: The mark of a great lawyer is the ability to give that type of presentation on a case without any merit whatsoever. (Laughter)

Stevens: That will be in the record.

Burns: It should be.

There is discretion under the law and the Secretary of Commerce has exercised this discretion with great patience and has decided in exercising this discretion that certification is necessary.

The IWC has been a paradigm of international cooperation. It is not the most important international body, but because of its work there are only three countries left in the world that can be considered whaling nations: Korea, Japan, and Iceland.

Because of the Pelly and Packwood Amendments we are the policemen of this organization and it would be bad to be a paper tiger. Iceland has been told we would certify.

There can be no certification only if there are no more whales taken.

Smart: Secretary Baldrige went on record that there would be no certification only if no more than 80 whales were taken.³ Since we went on record we cannot back off now.

Furthermore, the IWC has stated that the Iceland scientific program is not acceptable. It is for the IWC to pass on this, not the U.S.

Sofaer: A document can be made between Iceland and the U.S. that would be acceptable.

We have the highest regard for Commerce. But by pushing a very strong resolution in the IWC it put us in a box where we cannot exercise our discretion under U.S. law.⁴ I cannot understand why a reasonable exercise of discretion cannot take another form. We simply want a weekend to work this out with Commerce, letting the chips fall where they may.

McGovern: A point must be made: the IWC resolution was cleared by the State Department and the State Department had three members on the Committee.

Sofaer: State's recommended changes to the resolution were to reserve U.S. discretion. I know, I put them in.

McGovern: The change was "if the IWC did not recommend a change in a country's scientific whaling" then they could continue

³ See footnote 4, Document 330.

⁴ See footnote 2, Document 333.

whaling. That is, silence from the IWC was consent. The reason for this was that the IWC would not step up to the issue. Secretary Baldridge wanted to step up to the issue.

Negroponste: There are equally valid ways to meet IWC conservation goals. We said this early on to preserve flexibility. Iceland has moved their position significantly. Quantitatively it is true that they have not moved as far as we want. Qualitatively it seems that they have come far psychologically from their earlier position of questioning the legitimacy of the IWC.

The question is whether it is adequate movement to justify non-certification. When measured against certification and the inevitable sharp reaction Iceland will take as a result of such certification, then it is clearly good movement. Certification would harm the IWC's prospects and progress in conservation.

McGovern: John (Negroponste) faithfully tells adequately what Shultz to Baldridge letter⁵ states but not what the July 16 letter from Baldridge states regarding what he told Mr. Carlucci.⁶ (McGovern quotes word-for-word a passage from the July 16 letter regarding the obligation to immediately certify under the Pelly Amendment.)

Burns: There is ample legislative history indicating that Congress intended the Secretary would have no discretion. The legislative solution to the Secretary not certifying would be to pass a law which states the Secretary has no discretion. That would be a disaster.

Sofaer: Discretion should be exercised with all the available facts.

Smart: But Baldridge drew his line clearly.

Sofaer: If I were on the Appellate Court and told that even though you had received new letters that you could not exercise discretion, I would reverse you on the grounds that you had abused your discretion because discretion must be exercised on the whole contemporaneous record.

Powell: Commerce is saying, however, that they are exercising discretion on the new evidence.

I feel compelled to ask an infantry, 2½ mile per hour question: Why is Iceland doing this to us?

Sofaer: Why not.

Powell: Rainbow all over again.⁷

Negroponste: They have made efforts to come to our position. I leave it to others to pass judgment as to the adequacy of this movement.

⁵ See Document 332.

⁶ Not found, but see footnote 4, Document 332.

⁷ See footnote 2, Document 324.

Powell: One to four Secretaries of Commerce have exercised discretion and have concluded they were compelled to certify. State has said they would not tell the Secretary of Commerce how to exercise this discretion, and the President's lawyer agrees.

Culvahouse: I agree.

Powell: So whatever new State paper can be made, Commerce's discretion will still be followed.

Sofaer: Give us a few days so that we can work to bring Iceland closer to Commerce's position.

Smart: We want them to follow the IWC. We do not set out what the IWC position should be. The organization sets this out. Iceland does not follow it and we are required under the law to report and say if their acts diminish the program.

Sofaer: No. If it diminishes the conservation purpose.

Derwinski: We have informal assurance that no whale would be taken until next Friday.⁸ This gives us more time to follow legal options.

Maresca: We'd be shooting ourselves in the foot if we certify. [*less than 1 line not declassified*] Even certification without sanctions can result in [*less than 1 line not declassified*] acts hurting our bases.

All agree there is discretion. There are two areas of interest: (1) lessen the number of whales taken and (2) preserve our bases. To certify would undermine both; (1) Iceland would withdraw from the IWC thus harming our conservation goals, and (2), past experience shows that our bases are a pressure point that they are willing to manipulate.

I yield to others regarding the details of the negotiations. But if there is discretion we should look to our *objectives*. Further negotiations may, perhaps, be the thing to do for both our conservation and national security interest.

Smart: It's a matter of stating a fact.

Burns: It's just one bite of the apple. Historically, there have been five certifications, none of which have had sanctions because in each instance the country has fallen in line. National security interest gets consideration at the sanctions' level.

Maresca: Iceland is a small country and this is one of the few issues in which they can exercise clout [*1 line not declassified*].

McGovern: Commerce has never said it won't discuss things with Iceland as long as they don't take another whale. Last week's response from Iceland was their bottom line because of their domestic politics.⁹

⁸ September 11.

⁹ Reference is to Prime Minister Pálsson's September 2 letter; see Document 335.

Sofaer: That was *last week's* bottom line. It may be we could devise a better long range plan.

Smart: We'll negotiate. We never said we wouldn't.

Negroponte: The bottom line is certification and numbers are the key in the future.

Smart: Clearly the right direction is to take less whales. But there have been no numbers.

Sofaer: That is as of now.

Cobb: Iceland would say as of a few year's ago they were a major whaling nation. It made up $\frac{1}{2}$ of one percent of their GNP. Now, they are down to 80 whales and maybe 100. They would say, just don't rub our faces in the mud.

Smart: Let's assume we certify then go to the next question on how to make it as painless as possible.

Powell: That's right. Japan will then not import their whale meat.

Smart: Japan wants to preserve their fishing rights under the Packwood Amendment under which they'd lose half their fish if they took Iceland's whales.

Powell: Commerce's view will be the same as it is now if another whale is taken.

Smart: Yes, but we'd consider all facts.

Sofaer: We appreciate that.

Negroponte: If Iceland makes a commitment regarding future numbers . . .

Powell: What John (Negroponte) is saying is what actions can Iceland take to put more money in the discretion account.

Smart: The issue is whether something downgrades the IWC program, then we must say this.

McGovern: The IWC position is clear. There could be no whaling until Iceland submits a new scientific program to the IWC that cures the defects of their old program.

Arnold Burns and Ralph Ludwizeski leave the meeting at this point.

Maresca: No, I think it's looking, for example, for a further declaration by Iceland that would give the Secretary more discretion.

Smart: The real issue is if we do certify *then* what steps can we take to diminish the fallout.

Powell: That's the way it looks, unfortunately.

Sofaer: *But*. It is the *process* we should look at. It looks as if they are moving in good faith and we should wait until this process is completed. It is possible that *good* new data can become available that would impart discretion to the Secretary. So, you do not say no

certification but rather you leave the process open thus leaving open your court case in turn.

I'll stop now and you can return to your *disaster*.

Powell: Yes. Our whale is shot. We have a court case. What next?

Derwinski: We've been rational, if legalistic. [*1½ lines not declassified*]

Powell: What will Iceland do?

Derwinski: I believe that's set out in the paper.¹⁰ Their dock workers will slow down our goods and they will restrict our flight operations. It will begin this way.

Smart: Have they done this in the past?

Sofaer: I remind you these are our friends.

Derwinski: The base is their only weapon. They will use it and it doesn't matter what the issue is. [*less than 1 line not declassified*]

Smart: What have we done in the past?

Powell: Suffered. Then yielded.

Smart: How do we yield?

Maresca: Certification alone would be enough to anger them. Perhaps an apology.

Powell: What if there is a suit?

McGovern: Green Peace will sue. Their lawyers called us.

Cobb: So what? We're better off if the court orders us to do this.

Sofaer: We have done this in the past. It simply places our backs against a wall and then we get more information, negotiate and do whatever the court tells us to do.

McGovern: But we are talking about certifying here, we will not be sued.

Derwinski: We'd get a better reaction from Iceland if we get sued in court. Then we go to Iceland and tell them we've been the good guys.

Maresca: Why not follow up the letter with a last minute delegation and talks with Iceland? We might get concessions and a declaration. But even without this, we could say at least we are engaged in a process and are negotiating which we do not want to jeopardize.

Smart: But I don't think certification impacts sovereignty. Only sanctions impact sovereignty.

Sofaer: I disagree. Packwood has great extraterritorial impact.

Smart: You're right on Packwood.

Sofaer: It's incredible.

¹⁰ See the attachment to Document 334.

Negroponte: We can't go to Iceland with just the one-more-whale warning again.

Derwinski: Just *suspend* certification while the negotiation process proceeds.

Smart: But it's the Secretary of Commerce's discretion and NOAA (National Oceanic and Atmospheric Administration) must be the ones to negotiate.

Powell: The Prime Minister's letter needs an answer. I suggest we answer the letter at the NSC with the help of State, Defense, Commerce, and Justice. It should set out (1) the situation, (2) Commerce's view and (3) Secretary of Commerce's legal authority.

Then, it might be useful for Commerce to negotiate with Iceland and get the type of information Abe (Sofaer) is describing. And if we cannot get this type of information then tell the Icelanders why we must certify.

The President might reveal in his letter his disinclination toward sanctions just to put a little sugar on the pill.

Smart: We don't object to talking further.

Derwinski: The meeting should be held somewhere else than Iceland. During Rainbow we met in London to get away from their reporters. In the past they have indicated a willingness to meet in Boston, New York or Montreal.

Powell: There are two possible bets. The first bet is to change the Secretary of Commerce's mind. I wouldn't put my money on that. The second bet is to explain to Iceland that certification is unavoidable, but we don't want to do this.

We need to decide who will attend the meeting and where it will be held.

Sofaer: The Salem Museum of Whaling. It might be good to put our activity in perspective.

Negroponte: Tony Calio and the Fishing Minister of Iceland.¹¹

Cobb: We want to avoid that. One's most closely associated with the position the Icelanders object to.

Sofaer: I suggest Ed (Derwinski) et al go and consult and come back in two hours or so.

Cobb: Is the presidential delegation to be included in the President's reply to the Prime Minister?

Powell: Yes. State can write the letter. Then tell the Ambassador so he can call this in.

¹¹ Halldor Asgrimsson.

Smart: I cannot go with Verity in the hospital and Calio might not be able to go.

Powell: You work out these issues.

Derwinski: Commerce can contact John (Negroponte).

Powell: Ty (Cobb) has the conn. I am sorry to do this to everyone over the Labor Day weekend.

Negroponte: Our goal is to gain more explicitly what they intend to do in future years.

338. Telegram From the Department of State to the Embassy in Iceland¹

Washington, September 6, 1987, 2156Z

279248. Subject: President Reagan's Reply to Prime Minister.

1. (C) Starting at para two below is the text of President Reagan's reply to Prime Minister Palsson's September 2 letter on scientific whaling. You should provide this text to the Prime Minister at the earliest possible time. A copy of the letter will be given to Ambassador Ingvarsson by A/S Negroponte today, September 6.

2. (U) Begin text:

Dear Mr. Prime Minister:

I wish to thank you for your thoughtful and important letter of September 2.² The longstanding special relationship between Iceland and the United States is of great personal importance to me and I regret that it has been troubled by the scientific whaling dispute. During my visit to Reykjavik in October of 1986, I was impressed by the warmth and strength of Iceland's ties to the United States.³

I agree that we must preserve and strengthen this relationship while at the same time remaining mindful of the legitimate concerns of each government. Clearly, we have a difference of views with respect

¹ Source: Department of State, Central Foreign Policy File, D870732–0680. Confidential; Niact Immediate. Drafted by Perlow; cleared by Wilkinson, Negroponte, Smith, Mueller, Lellenberg, Golson, and Flournoy; and approved by Wilkinson. Sent Immediate for information to the Department of Commerce. Sent for information to the Department of Defense and the White House.

² See Document 335.

³ Reagan was in Iceland for a summit meeting with Gorbachev. Documentation is in *Foreign Relations*, 1981–1988, vol. V, Soviet Union, March 1985–October 1986.

to Iceland's taking of a number of whales. I firmly believe these differences can and should be resolved in the spirit of friendship and cooperation that has been the basis of US-Iceland relations for many decades. I am heartened by the amount of progress that has been made thus far by working together to resolve these differences. I also want you to know that I appreciate the importance and the difficulties involved in Iceland's decision to modify voluntarily its scientific program and continue its cooperation with the International Whaling Commission. I hope that you can appreciate the efforts that the Secretary of Commerce has made thus far in deferring certification under the Pelly Amendment since the IWC annual meeting.

I recognize and appreciate the progress which Iceland has already made. Your government's most recent proposal⁴ contained a number of constructive elements, and I directed the Attorney General to review the legal obligations of the Secretary of Commerce in this matter. The Attorney General concludes that the Secretary of Commerce, in the present circumstances, is under a direct legal obligation to certify Iceland if additional whales are taken during this season.

This is a matter of considerable and immediate concern to me because, as I understand it, Iceland intends to resume its scientific whaling program on September 10. In view of the great importance both our governments attach to this issue, and the potential implications of the situation, I believe it is incumbent upon us to be sure that we have exhausted every opportunity to reach a mutually satisfactory resolution of this matter.

With that goal in mind, I would suggest that further consultations be held between our governments at the earliest possible time. It is crucial that we explore every possible means of resolving this matter before any action is taken which might make a mutually satisfactory solution impossible to achieve. I look forward to your earliest response to my proposal for further constructive talks, and I personally urge you to maintain the pause in your scientific research whaling program in the interim.

Sincerely, Ronald Reagan

Armacost

⁴ See Document 335.

339. Telegram From the Department of State to the Embassy in Iceland¹

Washington, September 12, 1987, 0802Z

285028. Subject: US-Iceland Discussions on Scientific Whaling; Ottawa, September 9. Ref: A) Tosec 140298 (Notal),² B) State 279248 (Notal).³

1. Confidential entire text.

2. Following the receipt of a second letter to President Reagan from Prime Minister Pálsson on scientific whaling (Sept 6),⁴ discussions were agreed for Ottawa on September 9. Ottawa was selected as the site due to the travel there of Foreign Minister Hermannsson on other business.

3. The US delegation was headed by IWC Commissioner Calio, with participation from the Departments of Commerce, State and Justice. On the Icelandic side the talks were conducted by the GOI Ambassador to the US and Canada, Ingvi Ingvarsson; other GOI representation was from the Foreign and Fisheries Ministries. Foreign Minister Hermannsson was present at the site but did not directly participate.

4. The talks began on Wednesday⁵ morning and were concluded the same day. The two sides agreed to present to their respective governments a three part understanding which was to be put into a written document (ad ref text of the understanding follows at para [9] below). Ambassador Ingvarsson agreed to present this understanding to the Foreign Ministry for consideration at the GOI Cabinet's regular Thursday morning meeting on September 10. On a personal basis, he opined that the understanding could prove acceptable.

6. [5.] Both sides agreed that the text should not be made public nor should the press be informed of the contents of the Ottawa talks at this time. Dr. Calio noted that the agreement was also ad ref for the US and would need to be approved by the Acting Secretary of Commerce and senior officials at Justice and State. In the meantime, he

¹ Source: Department of State, Central Foreign Policy File, D870751–0945. Confidential; Immediate. Drafted by Perlow; cleared in OES/O, EUR/NE, L/OES, S/S, and NOAA; and approved by Wilkinson. Sent Immediate for information to the White House. Sent for information to the Department of Commerce, the Secretary of Defense, Tokyo, the Department of Justice, and USCINCLANT Norfolk.

² In telegram 279237 (Tosec 140298) to Reykjavik, September 6, the Department directed the Embassy to pursue further discussions with Iceland regarding whaling. (Department of State, Central Foreign Policy File, D870732–0530)

³ See Document 338.

⁴ Not found.

⁵ September 9.

urged that Iceland continue its pause in the taking of whales. Dr. Calio reiterated that the position of the Secretary of Commerce had not changed—Iceland's taking of whales after the IWC recommendation not to do so had created a basis for certification. Should Iceland take any further whales prior to agreeing to bring its research program into line with the IWC resolution on scientific whaling, the Acting Secretary intended to certify.

7. [6.] Dr. Calio made clear that this ad referendum understanding was beyond the limit of his negotiating mandate. Iceland must agree in unambiguous and public terms to abide by the IWC's scientific advice. Also, should the U.S. and Iceland fail in their efforts to reform the Scientific Committee's process for the review of research permits, Iceland must still abide by the views of that committee. Dr. Calio stated that he was prepared to begin efforts to reform the committee on an expedited basis and was prepared to contact key commissioners immediately after the ad ref understanding was confirmed by both sides. He added that there was no reason other than cost why the reform process could not be considered at an inter-sessional meeting in order to try to have the 1988 review of special permits by the Scientific Committee conducted under revised procedures. He indicated that he would consult with the IWC Chairman when appropriate.

8. [7.] Ingvarsson stated that he believed this proposed understanding provided a good basis for settling the issue and he thought his government would be able to respond quickly. Should there be a need for further discussion of the proposed text, he expected it could be carried out in Washington through the Embassy.

9. [8.] Begin text of ad ref agreement:

1) For 1988 and thereafter, the Government of Iceland would submit its research program for review by the IWC Scientific Committee and would carry out the recommendations of that committee.

2) The United States would not certify the Government of Iceland for the 80 fin whales and the 20 sei whales taken in 1987.

3) The United States will work with Iceland and other IWC Commissioners to review and make recommendations regarding the structure of the IWC Scientific Committee process for the review of research permits, so as to build confidence in that process.

End text.

Shultz

340. Telegram From the Department of State to the Embassy in Japan¹

Washington, October 18, 1987, 1646Z

324859. Subject: Japanese Revised Research Whaling Proposal.

1. USG and GOJ officials met in Washington October 13–15, 1987, to discuss the Japanese Scientific Whale Research Program. The revised proposal involves the taking of 300 minke whales (original proposal called for taking 825 minke and 50 sperm whales). The proposal is now called a “feasibility study . . . for preliminary research” to highlight a new sampling method which takes into account comments by the Scientific Committee. It deletes the most controversial portion of the original proposal which was to determine age-specific mortality. However, the GOJ plans to provide a simulation study of this matter and analysis for Scientific Committee review in 1988.

The two sides agreed on an informal report of the meeting for internal use conveyed in para 2 below. The text of a very informal translation of press guidance used by GOJ officials in a press conference for Japanese press only held September 16 at five p.m. is in para 3. New Japanese IWC Commissioner Shima will travel to London next week to meet with IWC Scientific Committee Chairman Dr. Kirkwood and IWC Secretary Dr. Gambell to discuss the Scientific Committee of the Japanese revised proposal.² Following these consultations, GOJ will decide on how to proceed and will advise USG of decision.

2. Begin text. Representatives of the Government of Japan and of the United States Government met in Washington October 13–15, 1987, to discuss the Japanese Scientific Whale Research Program. The Japanese delegation was led by Goroku Satake, Director General of the Japanese Fisheries Agency; the U.S. Delegation was led by J. Curtis Mack, II, Acting Under Secretary of Commerce, NOAA.

Japan recognizes that the United States considers that whaling policy should not be treated as a bilateral issue and further considers that the International Whaling Commission (IWC) is the appropriate multilateral forum for discussion of the merits of the research programs involving the taking of whales submitted by Japan and other nations. The United States reiterated that the Secretary of Commerce would have no discretion but to impose sanctions on Japan under the Pack-

¹ Source: Department of State, Central Foreign Policy File, D870856–0289. Limited Official Use; Immediate. Sent for information to Oslo, Moscow, Reykjavik, London, and Seoul. Drafted by Kendrew; cleared in EAP/J and NOAA/NMFS; and approved by Arnaudo.

² Not further identified.

wood Amendment if the Secretary were to determine that the Japanese Research Program diminished the effectiveness of the International Convention for the Regulation of Whaling.

Japan announced that, in response to the recommendation made by the IWC at its 39th annual meeting,³ Japan had developed a new preliminary research program to address the problems raised at the last IWC Scientific Committee meeting on Japan's original research proposal. Japan expressed its intention to immediately submit its new research proposal to the members of the IWC Scientific Committee for review by correspondence.

Japanese scientists briefed Dr. William Evans, Assistant Administrator of the National Marine Fisheries Service (NMFS), and Dr. Michael Tillman, Senior NMFS Scientist and Former Chairman of the IWC Scientific Committee. Based on that briefing, the United States reached the preliminary conclusion that Japan's proposal is a serious proposal, developed in good faith and aimed at achieving scientific purposes. The United States reserved its final position until the proposal has been thoroughly reviewed by its scientific advisors and other IWC Scientific Committee members.

The United States stated that it would support the efforts of Japan to seek an expeditious review by the IWC Scientific Committee of Japan's new research proposal. Japan stated that it is making a good-faith effort to follow the procedures of the IWC, and expressed its hope that the United States would therefore take no adverse action against Japan under the Packwood or Pelly Amendments. The United States pointed out that if Japan begins research involving the taking of whales pursuant to the new research proposal, a question facing the Secretary of Commerce in applying the Packwood Amendment will be whether the IWC Scientific Committee has been satisfied that the new proposal cures "the serious uncertainties identified in its discussion as to the capability of the research methods (originally) proposed to contribute sufficiently reliable results needed for the comprehensive assessment or for other critically important research needs." Therefore, the United States continued, it will be crucial to the United States that the IWC Scientific Committee issue its report on Japan's new research proposal before Japan begins research pursuant to that proposal.

The United States commended Japan for seeking to be responsive to the recommendation made by the IWC to Japan. The United States emphasized that the position the United States eventually takes on Japan's new research proposal will be based on careful review by its own scientific advisors and consideration of the views expressed by

³ See footnote 14, Document 333.

other members of the IWC Scientific Committee. The United States noted that it would be helpful if the IWC Scientific Committee were to hold an intersessional meeting to discuss the merits of Japan's new proposal. The United States assured Japan that the United States' review of Japan's new proposal would be fair and impartial.

While recognizing that the Secretary of Commerce must honor his responsibilities under U.S. law, particularly the Packwood and Pelly Amendments, both the United States and Japan expressed the hope that their important and mutually beneficial fishery relations would not be disrupted. The meetings were conducted in a cordial atmosphere, and both sides considered them to have been productive. End text.

3. Begin text of press guidance.

—From October 13–16 we had consultations with the USG on the possibility of implementation of the Japanese research program involving whales.

—During consultations the Japan side presented a new approach based upon the past consultations and sought the sound appreciation of that approach by U.S. side.

—After the consultations we don't feel we had a negative response from the U.S. side.

—I will go back to Japan and report the result of this consultation to Minister Kato after that we will consider the next step.

—In case asked what kind of steps you are taking if necessary we will immediately initiate procedure internationally needed toward realization of new idea.

—In case asked what the needed procedures are that is to let IWC Scientific Committee review the Japan program and to seek its understanding to obtain [missing text?].

—In case asked if it means you can gain support of implementation of research from the U.S., the U.S. has not changed its position that this issue should not be dealt with bilaterally. I hope you make your own judgment on the question you just asked in light/consideration of what I have explained so far but at least I feel we gained the U.S. understanding of our intent to initiate the internationally necessary procedures towards realization of our idea. End text of press guidance.

Armancost

341. Memorandum From the President's Deputy Assistant for National Security Affairs (Powell) to Secretary of State Shultz and Secretary of Commerce Verity¹

Washington, November 18, 1987

SUBJECT

U.S. Certification of the Soviet Union for Commercial Whaling (S)

The Department of Commerce is requested to call in the Soviet Ambassador in order to explore the possibility that the Soviets remove their objection to the IWC moratorium on commercial whaling. Such willingness on the part of the Soviets could lead to their decertification and open the way for the Department of State to conclude the bilateral agreement on fisheries. (S)

The Secretary is instructed to report the results of his discussion with the Soviet Ambassador to the Secretary of State as soon as possible.² (S)

FOR THE PRESIDENT:

Colin L. Powell

¹ Source: Department of State, Arctic, Antarctic, and Whaling, 1975–1987, Lot 92D228, IWC—U.S.S.R. 1986–87. Secret.

² Not found.

342. Telegram From the Embassy in Japan to the Departments of State and Commerce¹

Tokyo, December 22, 1987, 0942Z

22597. Subject: Japan's Research Whaling Fleet to Sail December 23. Ref: Tokyo 22512.²

1. Summary. GOJ, after considering results of International Whaling Commission Scientific Committee meeting that ended December 17,³ decided December 22 to implement its revised "research whaling" plan. Mothership will sail December 23; three vessel fleet will be on station in Antarctic waters by mid-January. End summary.

2. Economic Counselor was called to Fisheries Agency late on December 22 to receive "advance, official notification" that GOJ has decided to implement its revised research whaling scheme under Article 8 of the International Whaling Convention. Far Seas Fisheries Division Director Tokio Ono told him that after review of the results of the IWC Scientific Committee's intersessional meeting in Cambridge, UK, December 15–17, the GOJ had concluded that "no substantial objection to the Japanese research plan" had been posed in the Committee's report.

3. Ono said that the Japanese fleet will consist of one mothership and two catcherboats. The mothership will leave Yokohama on the morning of December 23; the two catcherboats will sail from Shimono-seki on Christmas morning. The fleet is expected to begin taking a total catch of 300 minke wiales in Antarctic waters (105–115 degrees east longitude, and south of 55 degrees south latitude) in mid-January and to complete operations in mid-March.

4. Ono said that Fisheries Agency Director-General Satake would informally brief the Japanese press the same evening on the GOJ decision. Advance notice was provided to the USG in view of the close consultations with US that had taken place in recent months.

5. MOFA Fisheries Division Director Nogami phoned Economic Counselor subsequent to meeting with Ono to convey substantially

¹ Source: Department of State, Central Foreign Policy File, D871044–0553. Unclassified; Immediate. Sent for information to London and Reykjavik.

² In telegram 22512 from Tokyo, December 21, the Embassy reported that the Japanese would soon decide whether or not to pursue scientific whaling. (Department of State, Central Foreign Policy File, D871041–0832)

³ In telegram 25273 to Tokyo, January 27, 1988, the Department reported: "In December 1987, the IWC Scientific Committee held a special meeting to review a revised research program submitted by Japan. The report of the Scientific Committee reveals that Japan did not succeed in satisfying the Committee that the defects in its program have been cured." (Department of State, Central Foreign Policy File, D880072–0550)

same information. Nogami said that GOJ's careful study of the Committee Report revealed "no important scientific views having a vital effect on the appropriateness of the Japanese research whaling plan."

6. In response to both, Economic Counselor noted that the USG would receive our delegation's report of the Scientific Committee meeting in the near future and that obviously it would merit careful study.

7. We understand that Greenpeace called a press conference here the afternoon of December 22, apparently to denounce a Japanese decision that the environmental activist group considered a foregone conclusion.

Mansfield

343. Telegram From the Department of State to the Embassy in Japan¹

Washington, February 11, 1988, 0535Z

42363. Subject: Secretary of Commerce Certifies Japan on Whaling.

1. On the evening of February 9, the Secretary of Commerce William Verity signed a letter to the President indicating that by that letter he was certifying Japan under the Pelly and the Packwood-Magnuson Amendments because nationals of Japan are conducting whaling operations that diminish the effectiveness of the International Whaling Commission's (IWC) conservation program (text of letter in para 3 below). We understand that Secretary Verity also sent a letter to Secretary Shultz informing him that he had made such a certification to the President and further recommending that the Department of State promptly notify the GOJ of the certification (text in para 4 below). Apparently the Japanese Embassy in Washington learned of the certification the evening of February 9 through a newspaper correspondent who alleged that he had been informed by a Commerce official.

2. In order to respond to Japanese Embassy request for both confirmation on the press reports and any further information concerning certification, OES DAS Edward Wolfe met with Japanese Fisheries

¹ Source: Department of State, Central Foreign Policy File, D880118-0785. Limited Official Use; Immediate. Drafted by Kendrew; cleared in EAP/J, EUR/SOV, and NOAA; and approved by Scully. Sent Priority for information to Reykjavik, Oslo, London, Moscow, Canberra, Wellington, and Seoul.

Attache Endo on the afternoon of February 10.² Ambassador Wolfe provided Endo with draft copies of Secretary Verity's letters to the President and to Secretary Shultz.

3. Commerce officials subsequently released a press statement mid-day February 10 which contains an erroneous statement in the lead sentence which incorrectly states that Secretary Verity has recommended sanctions against Japan rather than that he had certified Japan (provided in para 5 below). Commerce Acting Under Secretary Curtis Mack called in GOJ Embassy officials the afternoon of the 10 to inform him of this erroneous press guidance. Mack indicated to the Embassy officials that he was attempting to have it withdrawn and to issue a correction. We understand that a corrected version will be provided to the Japanese Embassy and to the Dept. We will provide these to Embassy Tokyo as soon as available.

3 [4.] Begin text of letter to the President: The President, The White House, Washington, D.C. 20500

Dear Mr. President: Under the Packwood-Magnuson Amendment to the Magnuson Fishery Conservation and Management Act and the Pelly Amendment to the Fishermen's Protective Act, when I determine that nationals of a foreign country are conducting fishing operations which diminish the effectiveness of an International Fishery Conservation Program, I am required to certify that fact to you. By this letter, I am certifying that nationals of Japan are conducting whaling operations that diminish the effectiveness of the International Whaling Commission's (IWC's) Conservation Program.

My decision is based on the following considerations: Nationals of Japan are killing southern hemisphere minke whales under a special permit issued by the Government of Japan for scientific research. The killing of whales pursuant to special permits issued for scientific research programs was the subject of several resolutions adopted by the IWC at its annual meeting in June 1987.³ In a General Resolution (IWC/39/24), the IWC requested its Scientific Committee to review all such programs and to report whether the programs satisfy certain scientific criteria. In that resolution, the IWC also recommended that member governments not issue permits for programs that, in the view of the IWC, do not satisfy the criteria "and therefore are not consistent with the Commission's conservation policy."

In a resolution concerning Japan's proposed research program (IWC/39/45), the IWC (1) adopted the view that Japan's program does not satisfy the applicable criteria; and (2) recommended that Japan not

² No record of a meeting has been found.

³ See footnote 14, Document 333.

issue the special permit for the program until the serious uncertainties in the program identified by the IWC Scientific Committee have been resolved to the satisfaction of that Committee. In December 1987, the IWC Scientific Committee held a special meeting to review a revised research program submitted by Japan in the interim. The report of the Scientific Committee reveals that Japan did not succeed in satisfying the Committee that the defects in its program had been cured. On December 22, 1987, the IWC circulated a resolution for a postal vote due February 14, 1988, recommending that Japan not take whales under its revised scientific research program. Nevertheless, the Government of Japan proceeded to issue the permit and, pursuant to that permit, nationals of Japan have begun killing southern hemisphere minke whales. Under these circumstances, I have determined, and hereby certify, that nationals of Japan are conducting whaling operations that diminish the effectiveness of the IWC conservation program.

The Pelly Amendment provides that upon receipt of this certification, you may direct the Secretary of the Treasury to prohibit the importation of some or all fish products from the country involved into the United States. The Pelly Amendment also provides that within 60 days following the receipt of this certification, you must notify the Congress of any action you take regarding the certification, and you must inform the Congress of the reasons for any such action that falls short of prohibiting the importation of all fish products of the certified country.

Upon certification under the Packwood-Magnuson Amendment, the Secretary of State, in consultation with the Secretary of Commerce, must reduce present fish allocations within the U.S. exclusive economic zone as well as any that may be granted in the succeeding year by not less than 50 percent. If remedial action is not taken within one year, further fish allocations may not be granted. Japan is not currently receiving any allocations.

I have notified the Secretaries of State and the Treasury and the Chairmen of the Council on Environmental Quality and the Marine Mammal Commission of this certification. The Department of Commerce is developing trade recommendations on fish import prohibitions and will make recommendations to you about further actions within the 60-day period for reporting to the Congress. I have recommended to the Secretary of State that the Government of Japan be advised of this certification. Respectively, Secretary of Commerce.

4. [5.] Begin text of letter to Secretary Shultz: Honorable George P. Shultz, Secretary of State, Washington, D.C. 20520, Dear Mr. Secretary: Under the Packwood-Magnuson Amendment to the Magnuson Fishery Conservation and Management Act and the Pelly Amendment to the Fishermen's Protective Act of 1967, I have certified to the President

that nationals of Japan are conducting whaling operations that diminish the effectiveness of the International Whaling Commission Conservation Program.

Upon certification under the Packwood-Magnuson Amendment, the Secretary of State must, in consultation with the Secretary of Commerce reduce allocations to the certified country by not less than 50 percent. This reduction applies to any unharvested allocations and to all allocations to be made within 365 days from the date of certification. Although Japan does not currently receive allocations, this certification has ramifications for possible allocations that may be considered later this year.

The Pelly Amendment provides that upon receipt of such certification, the President may direct the Secretary of the Treasury to prohibit the importation into the United States of some or all fish products from this country. The Department of Commerce is developing trade recommendations on fish import prohibitions to be forwarded to the President. The Pelly Amendment also provides that, within 60 days following the receipt of such certification, the President must notify the Congress of any action he takes pursuant to the certification, and must inform the Congress of his reasons if he does not prohibit the importation of all fish products from the country certified.

I recommend that the Department of State promptly notify the Government of Japan of the certification⁴ and that officials of our two Departments remain in close consultation as sanction recommendations are developed. Sincerely, Secretary of Commerce. End text of letter.

5. [6.] Commerce Press Statement dated February 10: Commerce Secretary C. William Verity has recommended sanctions against Japan saying that its killing of whales diminished the effectiveness of the International Whaling Commission's (IWC's) Conservation Program.

Under the Packwood-Magnuson Amendment to a federal fishing law, Verity is required to notify the President—in a process called “certification”—when fishing by nationals of a foreign country in U.S. waters diminishes the effectiveness of an International Fishery Conservation Program.

As a result of Verity's finding, Japan's future fish allocations in U.S. waters will be reduced by at least half. In addition, President Reagan could under the Pelly Amendment to the Fishermen's Protective Act of 1987 embargo Japanese fish products. Japan does not have any U.S. fish allocations at present.

⁴ Not found.

Last June, the IWC Scientific Committee questioned the benefit of a Japanese research program that allowed the killing of whales by Japanese fishermen for scientific purposes. As a result, the full IWC asked Japan not to permit whaling by its nationals until those questions were resolved. Despite the fact that the questions have not yet been resolved, Japan issued a permit allowing whaling for scientific purposes, and Japanese fishermen have begun killing southern hemisphere minke whales. End press statement. Secretary of Commerce C. William Verity in response to Japan's killing of whales under a contested research permit, today informed the President that he has "certified" that Japan's whaling diminished the effectiveness of the International Whaling Commission's (IWC) Conservation Program.

Under U.S. law, the Secretary is responsible for notifying the President when nationals of a foreign country conduct fishing operations that diminish the effectiveness of an International Fishery Conservation Program. As a result of today's certification, Japan's present and future fish allocations in U.S. waters are reduced by at least half and the President has discretion to apply an embargo on fish products imported from Japan. Japan does not presently have any U.S. fish allocations.

In June 1987, the IWC Scientific Committee found serious scientific uncertainties in a Japanese research whaling program. The full IWC requested that Japan not permit the whaling until the uncertainties had been resolved. In December 1987, the IWC Scientific Committee held a special meeting to review a modified Japanese research program. The report of that meeting indicated that, although the modified program was given serious consideration, uncertainties in the program had not been resolved. Nevertheless, Japan issued a scientific whaling permit and nationals of that country have begun taking southern hemisphere minke whales.

Moscow minimize considered.

Shultz

344. Letter From Secretary of Commerce Verity to President Reagan¹

Washington, March 31, 1988

Dear Mr. President:

On February 9, 1988, I certified to you, under the Pelly Amendment to the Fishermen's Protective Act and the Packwood-Magnuson Amendment to the Magnuson Fishery Conservation and Management Act, that Japanese nationals were conducting whaling operations that diminished the effectiveness of the International Whaling Commission (IWC) Conservation program.²

The Packwood-Magnuson Amendment requires the Secretary of State to withhold from a certified country at least 50 percent of the fishing privileges that would otherwise be available to that country. The Pelly Amendment additionally authorizes the President to restrict any or all imports of fisheries products of the certified country. The Pelly Amendment also provides that within 60 days following the certification (i.e. April 9), you must notify the Congress of any action regarding the certification, and you must inform the Congress of the reasons for any such action that falls short of prohibiting the importation of all fish products of the certified country.

Since my certification of Japan, I have reviewed the options available to you and consulted with the agencies of the Trade Policy Review Group (TPRG) as well as the Council on Environmental Quality and the Marine Mammal Commission.

Because Japan has not yet indicated any intent to undertake remedial or mitigative actions, I recommend that the strongest possible sanctions available under the Packwood-Magnuson Amendment be imposed. This will entail denial of Japan's request for the opportunity to fish for 3,000 metric tons of sea snails and 5,000 metric tons of Pacific whiting. It also entails denial of any future allocations so long as the reasons that gave rise to the certification still prevail. I recommend the maximum level of sanctions under the Packwood-Magnuson Amendment to send a message to Japan that the United States will use leverage to uphold conservation programs established by international agreements.

In view of my recommendation of full sanctions under the Packwood-Magnuson Amendment, I believe it would not be appropriate

¹ Source: Reagan Library, Cobb, Tyrus: Files, Whaling [1988] (Folder 8). No classification marking.

² See Document 343.

to impose additional sanctions under the Pelly Amendment at this time. I do recommend that you reserve that option depending upon further monitoring of the situation. The immediate and prospective effects of a 100 percent reduction of fishing allocations, coupled with Presidential review in the near future, is the most effective means of encouraging Japan to embrace the IWC conservation program.

These recommendations have the unanimous concurrence of the TPRG and the other agencies consulted. If you agree, I suggest that you sign the enclosed letters reporting to Congress as required by the Pelly Amendment.³

Sincerely,

C. William Verity

³ The enclosures are attached but not printed. For text of the letters sent to Wright and Bush, see *Public Papers: Reagan*, 1988, Book I, pp. 424–425.

345. Telegram From the Department of State to the Embassy in the Soviet Union¹

Washington, April 9, 1988, 0058Z

111960. Subject: Commerce Decision to Decertify Soviet Union.

1. On April 8 Commerce Secretary William Verity and Soviet Ambassador Yuriy V. Dubinin exchanged letters (text in para 4 below) which are the basis of the decision by the Secretary of Commerce to withdraw the certification of the U.S.S.R. At the request of the Soviets these letters will not be made public. The decision by the Secretary of Commerce to terminate the certification [of] the Soviet Union will not be made public until after Verity announces this decision in a press statement concerning fisheries and whales (para 2 below) at the JCC meetings in Moscow. We expect him to make his announcement in a press briefing scheduled for April 14.² A *Federal Register* notice required

¹ Source: Department of State, Central Foreign Policy File, D880303–0252. Confidential; Immediate. Drafted by Kendrew; cleared by Connuck and Rootes; and approved by Scully.

² See *The Toledo Blade*, "Soviet Whaling," April 15, 1988, p. 2

by law which explains the reasons for his decision will be sent for publication on April 14 (provided in para 4 below). Neither Verity's statement or the *Federal Register* notice make reference to the exchange of letters. The Secretary of Commerce has withdrawn the certification because the reasons for the April, 1985 certification no longer prevail. The Soviet Union has confirmed that it has ceased commercial whaling and intends to work through the IWC for whale research and conservation.

2. (C) Classified until after delivered. Begin text of Verity statement on whaling and fisheries matters to be made during JCC meetings in Moscow. In concluding my remarks, I want to announce that I have received assurances from the Soviet Ambassador to the United States confirming that the Soviet Union has ceased commercial whaling and intends to work through the International Whaling Commission (the "IWC") for whale research and conservation. The cessation of commercial whaling by whaling nations has been a major objective of global environmental groups and the IWC, supported by the United States.

I welcome the Soviet decision and hope that it sets a pattern for similar decisions on the part of other whaling nations to work within the IWC for the purposes of research and conservation. We look forward to cooperating more closely with our Soviet colleagues in the IWC, our fisheries relations, and our broader bilateral agenda. End text of Verity statement for Moscow JCC Meeting.

3. (C) Classified until released after Verity announcement in Moscow. Begin text of *Federal Register* notice:

Action: Notice of information.

Summary: Notice is published that the Secretary of Commerce finds the reasons for the certification of the Soviet Union, under the Pelly and Packwood-Magnuson Amendments for activities that diminish the effectiveness of an International Fishery Conservation Program, no longer prevail and that the certification has been terminated.

Supplementary Information: Under the Pelly Amendment to the Fishermen's Protective Act and the Packwood-Magnuson Amendment to the Magnuson Fishery Conservation and Management Act, the Secretary of Commerce is responsible for determining if nationals of a foreign country, directly or indirectly, are conducting fishing operations in a manner or under circumstances which diminish the effectiveness of an International Fishery Conservation Program. If the Secretary of Commerce so determines, such certification is reported to the President. On April 1, 1985, Secretary Malcolm Baldrige certified to President Reagan that the Soviet take of southern hemisphere minke whales had diminished the effectiveness of the International Whaling Commission

(IWC) Conservation Program.³ The Secretary based his determination on: (1) The Soviet harvest of southern hemisphere minke whales was greater than the level the United States considered the U.S.S.R.'s traditional share; (2) the 1984–85 IWC quota for southern hemisphere minke whales was exceeded due to Soviet harvest; and (3) there had been no indication that the Soviets intended to comply with IWC standards.

The Soviet Union has ended its commercial harvest for southern hemisphere minke whales and has indicated its intention to cooperate in the conservation of whales within the framework of the IWC. Given that the reasons for the certification of the Soviet Union no longer prevail, the Secretary of Commerce has terminated the certification under both the Pelly and Packwood-Magnuson Amendments.

End text of *Federal Register* notice.

4. (C) Begin text of Dubinin letter to Verity: The Honorable, William Verity, Secretary of Commerce, Washington, D.C. 20230. Dear Mr. Secretary, I was pleased by our recent discussions concerning the so-called whaling problem which has for a long time prevented the development of our cooperation in fisheries.

It is an evidence of increasing mutual understanding between our countries.

Let me once again reaffirm, that the USSR ceased commercial whaling in the spring of 1987 and at present is not planning to resume it.

Regarding the issue of sea mammals the Soviet Union is a principled supporter of international cooperation in research, conservation and rational use of these resources in strict accordance with norms of international law, proceeding from reliable scientific data, based on expert assessments of scientists from different countries. The Soviet Union also comes out for active cooperation at appropriate international organizations.

As a participant of the International Conference of 1946 on Whaling the USSR has been cooperating within the framework of IWC for 40 years.

In connection with the recent changes the Soviet Union put forward at the 37th Session of IWC a proposal on improving the activities of the Commission on a number of issues in order to give IWC conservation and research functions.

It confirms once again our readiness to cooperate in future with other countries concerned for the research and conservation of whaling resources. Sincerely, Yuri V. Dubinin. End of Dubinin letter to Verity.

³ See Document 312.

(C) Begin text of Verity letter to Dubinin: His Excellency Yuriy V. Dubinin, Ambassador of the Union of Soviet Socialist Republics, Washington, D.C. 20036. Dear Mr. Ambassador: I was pleased by our recent discussions concerning the Soviet Union's policy regarding commercial whaling.

As a result of further consultations between our representatives, I understand it to be Soviet policy that the Soviet Union will not resume commercial whaling until the world's scientists agree that such whaling can be conducted without jeopardizing the well-being of whale populations. I also understand that the Soviet Union will continue to work through the International Whaling Commission for Research and Whale Conservation.

I trust that this understanding is correct and, based upon it, I will proceed to terminate the certification of the Soviet Union. I look forward to continued cooperation and discussion on the matters before us. Sincerely, Secretary of Commerce William Verity. End of Verity letter to Dubinin.

Moscow minimize considered.

Shultz

346. Telegram From the Department of State to the Embassy in Iceland¹

Washington, May 24, 1988, 1821Z

166476. Subject: US Approach on Iceland Whaling Issues.

1. C—Entire text.

2. Begin summary. Ambassador Robert Dean chaired an inter-agency meeting on whaling issues on May 20. Representatives from the NSC, State, NOAA, Defense, CEQ, and Interior participated. They reviewed preliminary reports of the meeting of the IWC Scientific

¹ Source: Department of State, Dumping; Arctic; Whaling; Antarctic; Scientific Research, 1976–1987, Lot 94D419, Whales: Other Norway, Iceland, USSR, etc. Confidential; Priority. Drafted by Johnson; cleared by Cooper, Evans, Smith, Longmyer, and Flournoy; and approved by Wilkinson. Sent Priority for information to Reykjavik, Oslo, and Tokyo. Sent for information to Copenhagen.

Committee in San Diego² and the actions which the U.S. should take prior to the IWC meeting in Aukland and at the meeting itself. They agreed that the Government of Iceland should be made aware of U.S. concerns about the failure of Iceland to take remedial steps to improve its scientific whaling program and the possibility that the USG would be forced to take actions to fulfill the requirements of its own laws if Iceland proceeded to take whales under its present program. For action requested see paragraph 11. End summary.

3. US IWC Commissioner-Designate William Evans briefed the group on the background of the Icelandic whaling issue and the five-year scientific whaling program which Iceland had submitted at the outset of the moratorium on commercial whaling.³ He went over the three points of the Ottawa agreement⁴ and the subsequent meetings which Secretary Verity and he had had with Icelanders on these subjects. Evans said that the U.S. had not received a revision of the Icelandic program nor had any substantial revisions been tabled at the meeting of the Scientific Committee in San Diego. Iceland had, Evans said, produced 17 reports on its whaling research at the meeting in San Diego which varied widely in their content and scientific value. Of the 17 only three studies used research data which required taking whales.⁵ The U.S. delegation at the Scientific Committee meeting had avoided public criticism of the Icelandic program at San Diego and had not taken a leading position in discussions on the program. According to the latest information he had, Evans said that he understood the report of the Scientific Committee on the Icelandic program would be stronger this year than last and that those supporting individual positions would be identified. He said he also expected a fairly clear statement that Iceland had not addressed previous criticisms of its program by the Scientific Committee.

4. Evans said that he believed that even without the direct involvement of the U.S. delegation at the IWC meeting in New Zealand, the IWC would ask Iceland not to issue permits for scientific whaling this year. He noted that the UK had a new Environmental Minister⁶ who strongly opposed whaling and who would control the UK IWC Commissioner. If the UK did not offer a resolution against the Icelandic program, then the New Zealanders or the Australians would. If Iceland

² A May 11 report entitled "Mike Tilman's Second Report from the Scientific Committee" is in the Department of State, Dumping; Arctic; Whaling; Antarctic; Scientific Research, 1976-1987, Lot 94D419, Iceland Law Suit—Document Production.

³ See footnote 2, Document 313.

⁴ See Document 339.

⁵ Not found.

⁶ Nicholas Ridley.

were to take whales under these circumstances, it would have broken its commitments under the Ottawa Agreement as well as gone against an IWC resolution on the Icelandic program. Evans said that when the Icelandic whaling program would begin would depend on the Gulf Stream and when it brought the fish on which the whales feed into the waters around Iceland. Other things being equal, he expected Iceland to be able to begin taking fin whales in mid-June and sei whales in September. Given this timetable, Evans said there would probably be about one week between the end of the IWC meeting in New Zealand and the beginning of the Icelandic whaling season.

5. Evans added that because of the silence of the U.S. delegation on Icelandic issues at San Diego, the Ottawa Agreement, and an awareness by the other scientists of the importance the U.S. attached to the base at Keflavik, the U.S. delegation had lost some of its scientific credibility. In order to counter this, Dr. Evans stated how important it was to have Dr. Robert Brownell, Department of Interior and Current Vice Chairman of the IWC's Scientific Committee, as a member of the U.S. delegation. Mr. Twist of the Marine Mammals Commission supported Evans's recommendation. The support of Interior was also requested.

6. Evans noted that Icelandic Fisheries Minister Asgrimsson had discussed the ecosystem approach when he saw Secretary Verity in February, and had been encouraged to work with the U.S. on this idea since it had some positive aspects which the U.S. could support.⁷ At the invitation of NOAA Asgrimsson had subsequently addressed a U.S. symposium on this topic, but subsequently the Icelanders had taken no further action. Evans said that even getting Asgrimsson's talk on the agenda and into the record of the IWC would have been a positive step.

7. Ford Cooper, representing EUR at the meeting, expressed the appreciation of all members to the group for the cooperative role which Dr. Evans was playing on whaling issues. He said that we were not where we had hoped to be at this stage of the game. We had hoped that the Icelanders would have put forward something different for the Scientific Committee and at least made a gesture toward satisfying the criticisms of the program. They have apparently done nothing and have given no evidence that they wish to avoid a confrontation over whaling this year or to help get us both off the hook. In these circumstances, Cooper said he did not know how we could advise the U.S.

⁷ In telegram 47286 to Reykjavik, February 17, the Department transmitted a summary of the February 8–9 meetings. (Department of State, Central Foreign Policy File, D880133–0420)

delegation to vote against an IWC resolution which criticized the Icelandic program.

8. Cooper recommended that the U.S. should be candid with the Icelanders about our concerns and the likely consequences of their failure to revise their program. In the meantime, however, the U.S. should keep its options open with Iceland. He said he hoped Evans would convey to the Icelandic delegation at the IWC meeting the following points:⁸

—The positions taken by the Icelandic delegation at San Diego did nothing to resolve the problems in the Icelandic program which the Scientific Committee had previously identified.

—We are bound by the provisions of the Ottawa Agreement.

—We now see the situation moving toward certification unless corrective steps can be taken.

—We continue to stand ready to work with Iceland on developing and improving its research program in an effort to find a solution.

Cooper said he believed that at the IWC meeting the U.S. delegation should vote on the basis of the facts. If a resolution critical of the Icelandic program were to be introduced, he asked that the U.S. delegation not lead the charge. We should leave open the option of a solution if the Icelanders have the will to reach a compromise, he said.

9. It was decided that Dr. Evans would inform the Icelanders at the IWC Meeting in New Zealand of U.S. concerns and willingness to cooperate with Iceland in resolving the issues raised by the Scientific Committee along the lines described in paragraph 8 above and that Ambassador Ruwe would be instructed to make a similar demarche. It was also agreed that the U.S. delegation at the IWC meeting would remain in close touch with Washington and keep the interagency group apprised of developments there.

10. On the question of the proposed Norwegian scientific whaling program, Evans said that the proposal had been criticized at the meeting of the Scientific Committee in San Diego. He did not, however, expect that a resolution against it would be offered in New Zealand due to internal political maneuvers within the IWC which involved Norway supporting Sweden for the presidency of the IWC.

Cooper pointed out that approval of—or lack of a critical resolution on—the Norwegian program might have a salutary effect on the Icelanders while disapproval could lead them to conclude that no program, however well constructed, could receive IWC approval. Cooper

⁸ In telegram 179916 to Bern, June 4, the Department summarized the negotiations between the U.S. and Icelandic delegations at the IWC. (Department of State, Central Foreign Policy File, D880477-0936)

suggested that if an anti-Norway resolution were proposed, the U.S. should abstain. Evans took the point.

11. For Reykjavik: Charge should convey the points contained in paragraph 8 to appropriate senior levels of the Icelandic Government.⁹ He should stress the goodwill of the U.S. in seeking a resolution of the problem as demonstrated by the attitude of the U.S. delegation at San Diego. He should stress, however, that unless the report of the Scientific Committee is markedly more positive than has so far been reported by members of the U.S. delegation or Iceland acts to resolve the problems identified by the Committee, we see serious problems ahead. Having struck a bargain at Ottawa last year to avoid certification, we will be bound to uphold that agreement this year.

Shultz

⁹ Telegram 1159 from Reykjavik, May 24 reported on the discussions. (Department of State, Central Foreign Policy File, D880807–0341)

347. Memorandum From Robert Dean of the National Security Council Staff to the President's Assistant for National Security Affairs (Powell)¹

Washington, June 7, 1988

SUBJECT

Recent International Whaling Commission (IWC) Meeting and Its Implications for Iceland

The 1988 meeting of the IWC was held May 30–June 3. Jerry Leach represented the NSC. Unlike last year,² the meeting was non-confrontational. The U.S. delegation did not lead the charge against the Icelanders. The Icelanders reciprocated with a low-keyed approach.

¹ Source: Reagan Library, Cobb, Tyrus: Files, Whales—Iceland (2). Confidential. Drafted by Leach and concurred in by Cobb; Powell initialed the document. Sent for information.

² Regarding the June 1987 meeting, see footnote 14, Document 333.

The meeting produced a consensus resolution which recognized progress on Iceland's part but nevertheless indicated that it had not gone far enough in adhering to the IWC guidelines. By implication, it called on Iceland (again) to refrain from killing whales in 1988. That Iceland accepted this is an indication of how much they wanted to avoid a collision at the meeting. (But we are not sure that this means the GOI will reduce or eliminate their whaling program.)

Iceland is now looking to us on the certification question. They let us know very strongly that they do not want to be certified. Certification alone, of course, has no practical effect as Icelanders do not fish within the U.S. Exclusive Economic Zone. However, the follow-up sanctions—import restrictions against Icelandic fish products—bite hard as fish are their primary exports and the U.S. is their primary market. Unlike last year, the Icelanders made no threats of retaliation at this meeting against U.S. interests in Iceland, especially Keflavik. Nevertheless, those threats are still waiting in the wings if the situation turns sour again.

The IWC resolution and the equivocal nature of this year's scientific committee report on the Icelandic whaling program give us some flexibility on the certification question. We could choose not to certify because the Icelanders have been responsive to the IWC and is making improvements in its program. For example, they are currently killing 100 whales per year now as opposed to 500 in 1982 and 350 in 1985. However, the compromise was predicated on an understanding that the GOI would submit a scientifically sound whaling program to the IWC this year. If we do not certify, a lawsuit from the environmental community is a certainty. This fact worries NOAA a great deal because they have had one near miss before, a case like this on Japan which they lost in the lower courts before the judgment was overturned in the Supreme Court.³ One outcome of a lost suit could be a court-directed certification, though this itself would almost certainly be appealed by Justice.

The interagency group handling the issue is now considering the idea of asking the Icelanders to further diminish their take and possibly make some changes in their scientific research program in return for non-certification. The interagency group will be seeking to come up with a firm proposal by the end of the week.⁴

As soon as the U.S. Commissioner, Bill Evans, returns to Washington next week, I will be chairing a senior-level meeting on how we

³ See footnote 5, Document 317.

⁴ In telegram 194706 to Reykjavik, June 16, the Department transmitted key issues identified by the interagency group. (Department of State, Pacific Fishery Issues, Lot 94D542, Whales: Other Norway, Iceland, USSR, etc)

handle the question.⁵ The Icelanders hope to meet with us sometime later in the week.

⁵ No record of this meeting has been found.

348. Telegram From the Embassy in Iceland to the Departments of State and Commerce¹

Reykjavik, June 20, 1988, 1630Z

1331. Subject: Outcome of Weekend Talks on Icelandic Whaling. Ref: State 194706.²

1. (U) Following two days of lively but friendly discussions the US and Icelandic sides produced the document in para two. Signed copies will be exchanged on Wednesday morning June 22.³

2. (C) Letter to H.E. Mr. Steingrimur Hermannsson Minister for Foreign Affairs Reykjavik.

Begin text:

Dear Mr. Minister,

I have the honor to refer to discussions held in Reykjavik on June 18 and 19, 1988 between representatives of the Governments of Iceland and the United States to discuss the Icelandic Program for Whale Research in the context of the recent meetings of the International Whaling Commission (IWC) and its Scientific Committee, the bilateral discussions held in Ottawa on September 9, 1987,⁴ and discussions held in Washington on February 8 and 9, 1988.⁵

¹ Source: Department of State Dumping; Arctic; Whaling; Antarctic; Scientific Research, 1976–1987, Lot 94D419, Whales: Other Norway, Iceland, USSR, etc. Confidential; Priority.

² See footnote 4, Document 347.

³ In telegram 1355 from Reykjavik, June 22, the Embassy reported that the letters had been exchanged and transmitted the text of Hermannsson's letter. (Department of State, Central Foreign Policy File, D880843–0664)

⁴ See Document 339.

⁵ See footnote 7, Document 346.

My government understands that the results of those discussions are as follows:

The representatives of Iceland made the following statements about Iceland's research program for 1988:

1. Up to 68 fin whales will be taken in 1988. This reduced number results from the fact that the research program will begin at a later date in 1988 than in previous years.

2. Up to 10 sei whales will be taken in 1988. The reduced take of sei whales will be for the purpose of research on cytogenetics, as recommended by the Scientific Committee, and to continue energetics research.

3. Iceland will increase its krill sampling and will optimize the timing and methodology of the sampling in order to allow more effective correlation of information on food and energetics of whales with information on the biology of euphasiids on the whaling grounds.

4. Iceland will carry out the five specific scientific recommendations concerning the Icelandic research program adopted by the scientific committee at its San Diego meeting in May 1988.

The representatives of Iceland also stated that Iceland would address the following matters in its report to the IWC in 1989, pursuant to IWC/40/32.

1. The reasons why research on the ecological role of whales constitutes a reasonable and necessary contribution to the comprehensive assessment or a critical research need in its own right.

2. Contributions that the data gathered in 1986 and 1987 have made to estimating the ages of recruitment, the ages at sexual maturity, the pregnancy rates or other population parameters of fin and sei whales. Analysis of trends that have been revealed by comparison of these recent results with earlier data from commercial catches.

3. The inferences that can be drawn regarding the stock identities of fin and sei whales in the North Atlantic from the electrophoretic and biochemical analyses undertaken by Icelandic scientists.

Based on the foregoing understanding of the Icelandic research program for 1988, and the fact that Iceland would address the matters enumerated above, the United States agreed that the Icelandic program would not diminish the effectiveness of the International Convention for the Regulation of Whaling or its conservation program.

I should be grateful if you would confirm that this is also the understanding of the Government of Iceland.

Sincerely,

L. Nicholas Ruwe

American Ambassador

End text.

Ruwe

Protection of the Ozone Layer

349. Editorial Note

During the Reagan administration's first term, policymakers were ambivalent about negotiating an international agreement to ban chlorofluorocarbons (CFCs). While the linkage between CFCs and ozone depletion was theorized as early as 1974, and the United States banned certain CFCs in 1978, many Reagan officials were skeptical of the environmental cost. On March 31, 1981, Danny Boggs, Office of Policy Development, Executive Office of the President, wrote to Director of the Office of Policy Development Edwin Gray about a draft Environmental Protection Agency (EPA) report regarding CFCs and the ozone layer that was to be included in a larger Organization for Economic Cooperation and Development document, stating "the science in the draft report is questionable at best." (Reagan Library, Boggs, Danny: Files, Environment—CFCs (Chlorofluorocarbons)) The report was eventually included with several revisions. (Telegram 327406 to Paris, December 10, Department of State, Central Foreign Policy File, D810588-0751)

From 1982 to 1985, Reagan officials gradually moved toward pursuing an international agreement regarding the use of CFCs. On January 18, 1982, Under Secretary of State for International Security Affairs James Buckley approved a request from Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs James Malone to begin exploratory discussions with other governments concerning a convention on protection of the ozone layer. (Department of State, Central Foreign Policy File, P820177-0186) Under Secretary of State for Security Assistance, Science and Technology William Schneider approved further negotiations on November 23, 1982. (Department of State, Central Foreign Policy File, P820177-0181) In a December 7, 1984, memorandum to Schneider, Malone stated that, from November 1982 to September 1983, the U.S. Government "did not think that the state of scientific knowledge on the ozone layer warranted at that time a protocol that would require international controls." Malone added that an EPA position paper from September 1983 "generally supported the idea proposed by the Nordic countries that would put into effect a world-wide ban on nonessential aerosol uses of CFCs." Malone wrote that the EPA's position was accepted by Department of State officials in an October 7 meeting. (Department of State, Chronological Files, 1984-1985, Lot 86D362, December 1984 #1 Completed Items)

In a January 31 memorandum to Deputy Assistant Secretary of State for International Economic and Social Affairs Richard Kauzlarich, Michael Paulson of the Office of Technical Specialized Service, Bureau

of International Organization Affairs, summarized a January 31 meeting, chaired by Deputy Assistant Secretary of State for Environment, Health, and Natural Resources Richard Benedick, in which the attendees discussed the U.S. position for the upcoming Vienna Convention for the Protection of the Ozone Layer, favoring a "protocol to control the production and/or use of chlorofluorocarbons." (Department of State, Chemicals, Hazardous Waste, Ozone, 1981–1990, Lot 92D207, SENV—Ozone—Diplomatic Conference 1985)

350. Action Memorandum From the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs (Malone) to Secretary of State Shultz¹

Washington, March 15, 1985

SUBJECT

Circular 175: Request for Authority to Sign the Convention for the Protection of the Ozone Layer

ISSUE FOR DECISION

Whether to authorize signature by the United States of the Convention for the Protection of the Ozone Layer ("Convention"), which would provide for research, monitoring, and information exchange in connection with protection of the ozone layer. A Conference of Plenipotentiaries is scheduled for March 18–22 in Vienna, convened under the auspices of the United Nations Environment Program ("UNEP"), where it is planned that negotiations will be concluded and the draft Convention adopted and opened for signature.

ESSENTIAL FACTORS

There is general scientific agreement that human activities are substantially altering the chemistry of the atmosphere in ways which

¹ Source: Reagan Library, Papers of George P. Shultz, Environment—Ozone Layer. Unclassified. Drafted by Wilson, Coe, and Hajost on February 27; cleared in IO, IO/T/SCT, EPA/OIA, NASA, NOAA, FAA, L/OES, L/T, OES, OES/E, E, OMB, EB/OIA, M/COMP, and L. Sent through Schneider. In the upper right-hand margin, McKinley wrote "Not acted upon pending further consultations with Mr. Wallis," with the date "20 Mar." Below that McKinley wrote: "21 Mar Mr. Wallis has withdrawn his objection to the recommendation. BMCK." And below that he wrote "21 Mar Full power signed." In the upper left-hand margin, a typed notation reads: "Original picked up by OES—Helen Brown on 3/21 at 7:35 p.m./JABentel." A signed copy of the Full Power was attached at Tab A.

threaten both the quantity and the vertical distribution of the ozone layer, with potentially harmful impacts on health, climate, and plant and oceanic food cycles. There are admitted gaps in the knowledge, and there is agreement that research needs to be continued. Thus, US industry, non-governmental organizations, and congressional staff, who have been briefed recently² and throughout the negotiations, all support the draft Convention as an important contribution to global environmental protection. It is expected that the Convention will improve international understanding of the ozone problem and would provide the additional research and information needed in deciding whether and what specific regulatory measures may be required in the future.

Circular 175 authority to negotiate an ozone layer protection convention and supporting technical and substantive annexes/protocols was granted on November 29, 1982 (Tab D).³ The diplomatic conference will conclude almost three years of UNEP-sponsored negotiations. During this time the U.S. has negotiated the Convention in good faith, and the major U.S. agencies involved (particularly State, EPA, and NASA) have consistently supported the idea of a framework Convention.

Negotiation of the Convention (Tab B)⁴ is essentially complete and the text is unbracketed, but two issues are expected to be considered in Vienna. These are provisions relating to the participation of regional economic integration organizations ("REIOs") (as to which the European Community ("EC") has expressed dissatisfaction with the existing text) and to the settlement of disputes (as to which the U.S. and others have stated an intention to reopen the negotiations). These issues are described in more detail in the attached legal memorandum (Tab C).⁵

The REIO issue centers on the question whether adherence by an REIO, such as the EC, which cannot presently implement the Convention without some reliance on retained member state competence, should be conditioned on requirement for adherence by at least one member state. The EC has opposed this requirement, which has been supported by the U.S. and others.

² Not further identified.

³ Not attached. At Tab D is Circular 175 of November 23, 1982, authorizing negotiation of the Convention. See Document 349.

⁴ At Tab C is a memorandum of law dated January 28; attached but not printed, is a "Draft Convention for the Protection of the Ozone Layer."

⁵ Drafted on March 15, attached but not printed.

With respect to the settlement of disputes provision, the convention does not raise the same kinds of issues as the Nicaragua case.⁶ On the other hand, given the general character of many of the provisions, we want to consider carefully whether we want to be bound by compulsory settlement, whether by the International Court of Justice ("ICJ") or by arbitration. The text presently provides for both unless a party "opts-out" of the provision at the time of ratification. The sentiment of several countries, including the U.S., is that the text is not clearly drafted and requires more work. After careful review of the Convention and its negotiating history, the U.S. position is that the final text of the Convention must not provide for compulsory third party dispute settlement, including reference to the ICJ as well as to binding arbitration. With respect to any reference to the ICJ, it is desirable that a party not be required to act affirmatively to remove itself from the ICJ's compulsory jurisdiction, although if such an "opt out" provision (properly drafted) is the only outstanding issue in an otherwise satisfactory treaty, we would propose to proceed with signature.

It is expected that these issues will be resolved in Vienna and that the Convention will be adopted and opened for signature at the conclusion of the conference. Assuming those issues are resolved to the Department's satisfaction and no other unforeseen obstacles arise, the U.S. negotiator will sign the Convention at that time. To be in the position to do so, the Delegation will provide to the Department, particularly L, daily telegraphic or telephonic reports relating to the dispute settlement and REIO texts.⁷ In any event, as a consequence of its participation in the diplomatic conference, the U.S. delegation may sign the "final act" of the conference, certifying that the text reported by the conference accurately represents the text adopted by the Conference.

The Convention will serve as a framework agreement for possible further measures included in future protocols. A first supporting control protocol to the Convention, which would provide for reductions in emissions of chlorofluorocarbons ("CFCs"), has been under negotiation in accordance with the Circular 175 authorization of November 29, 1982. However, the text of that protocol is not yet satisfactory, and it is not believed that any protocol will be adopted at the Vienna

⁶ Possible reference to Nicaragua's 1982 complaint to the UN Security Council against the United States regarding American intervention in Central America. Tab G, not attached, is telegram 48993 to multiple recipients, February 16, in which the Department transmitted proposed language regarding the settlement of disputes and asked Embassies to ask their host governments for input. (Department of State, Central Foreign Policy File, D850110-0780)

⁷ Not further identified. At Tab F is a paper entitled "REIO Adherence," which was not found.

conference. Separate authority would be requested to sign any finalized protocol. (Under Secretary Wallis has questioned with Under Secretary Schneider the wisdom of proceeding with the protocol, in view of recent scientific evidence. EPA, however, considers the development of this protocol as an important part of its overall program for protecting the ozone layer, for which it has responsibility under the Clean Air Act.)

There are two supplementary annexes to the Convention describing a variety of research and monitoring actions, as well as cooperation in information exchange and technical assistance.⁸ These annexes further define the research to be conducted, the chemical substances of concern, and the types of information to be collected and exchanged.

The Convention is consistent with U.S. legislation, it is expected that as implementation of the Convention evolves, further domestic actions in such areas as information collection may be required. Any domestic regulatory action required to implement the Convention would be subject to the provisions of Executive Order 12498, the Regulatory Planning Process; Executive Order 12291, Federal Regulation; and the Paperwork Reduction Act.⁹

The Convention would establish a Secretariat and a Conference of the Parties. Secretariat services would be provided within an existing international body (initially UNEP, and later, possibly the World Meteorological Organization—WMO) rather than through creation of a new international organization. The Convention itself contains no mandatory financial obligations (financial rules and financial provisions governing the Secretariat are to be adopted by the Conference of the Contracting Parties by consensus), but the functions of the Convention will need to be financially supported by those states that become party to it. In signing the Convention, the U.S. would be making a commitment in principle to pay its fair share of the future expenses of a small Secretariat and meetings of the Contracting Parties. The Convention calls for UNEP to provide secretariat services, absorbed in its own budget, through the first meeting of the parties (in approximately two years). The Contracting Parties will then designate a permanent Secretariat.

OMB agrees to the Circular 175 memo with the understanding that any costs associated with the Convention would be provided within existing budgetary resources.

IO raises the objection that the Administration is seeking to resist joining additional international organizations. Taking on additional

⁸ A proposed annex on arbitral procedures at Tab H was not found.

⁹ References are to E.O. 12498 issued January 4, 1985; E.O. 12291 issued February 17, 1981; and P.L. 96-511, respectively.

obligations has long-term implications. OMB is particularly concerned that assessed contributions are effectively uncontrollable. IO notes that the United States already participates in organizations such as UNEP and WMO, which IO believes have the competence to carry out the mandate of the Convention within their current and proposed budgets. In addition to the assessed contributions to support the Secretariat, becoming party to the Convention will also entail hidden costs for the travel of U.S. delegates to meetings.

However, the U.S. departments and agencies that have been substantially involved in the Convention negotiations believe that the Convention is a desirable international environmental agreement to protect the ozone layer, not only as a mechanism to exchange information and research, but also as a framework agreement for possible future protocols. Therefore, the Department would plan, providing you approve the recommendation below, to ask OMB and the Congress (assuming the Convention enters into force and the U.S. became a party after advice and consent to ratification by the Senate) to approve funding at an appropriate level beginning in the FY 1988 budget for appropriate secretariat and other expenses in support of the Convention.

Assuming WMO is selected as the permanent secretariat, funding would be included in the Department's regular assessment to WMO. U.S. costs are tentatively estimated at approximately \$60,000 annually during the first two years of operation of the Convention. (By way of comparison, the total WMO budget in FY 1985 amounts to \$18.75 million, of which the assessed contribution of the U.S. is \$4.6 million.)

In sum, we anticipate that no new organization will be created to serve as secretariat to the Convention. In the course of the negotiations there has been support for use of the WMO as the Secretariat, and it is likely that WMO will become the permanent secretariat to the Convention beginning in 1987 or 1988 (assuming that the Convention has entered into force). It is expected that the additional costs for the WMO budget will be about \$250,000 annually. The U.S. will work to have these costs absorbed by reduction in other program costs. However, it is possible that the U.S. assessment to WMO for these additional costs of servicing the Convention will be up to \$60,000 annually beginning in FY 1988. A more detailed discussion of the financial implications of the Convention is attached (Tab E).¹⁰ (As discussed in the next paragraph, the first alternative in paragraph one of the memorandum attached at Tab E is no longer being considered.)

¹⁰ Not found.

As the memorandum of law (Tab C) indicates, the Convention would be concluded as a treaty pursuant to Article II Section 2 of the Constitution and would require Senate advice and consent to ratification. We have determined that signature of the Convention would not have significant environmental impacts inside or outside the United States requiring further consideration under the National Environmental Policy Act of 1969 (“NEPA”), 42 U.S.C. 4321–4370, or Executive Order 12114 of January 4, 1979. Environmental review requirements associated with future protocols for the Convention shall be examined in consideration of those protocols.

RECOMMENDATIONS

That you (1) authorize signature by the United States of the Convention for the Protection of the Ozone Layer, subject to Department concurrence in the final REIO adherence and dispute settlement texts; and (2) sign the full power at Tab A. (Opposed by IO)¹¹

¹¹ Shultz checked the approve option on March 21.

351. Memorandum From the Under Secretary of State for Economic Affairs (Wallis) to Secretary of State Shultz¹

Washington, March 19, 1985

SUBJECT

Request for Circular 175 Authority to Sign the Convention for the Protection of the Ozone Layer

As the memo from Malone on this subject points out, I oppose the draft protocol on reductions of emissions of CFC's.² I am also opposed to the basic Convention. Although it might seem to provide only for

¹ Source: Department of State, Chronological Files, 1984–1985, Lot 86D362, March #2 [2] 1985 Completed Items. No classification marking. In a March 20 memorandum to Schneider, Marshall forwarded Wallis' memorandum and stated: “We had thought the matter had been cleared with Under Secretary Wallis' office. Apart from what we believe to be clear errors on the merits, there is also the downside of being isolated in not signing this Convention at this time and, of course, the personal embarrassment of leaving Jim high and dry in Vienna.” (Ibid.)

² Document 350.

research, and thus be harmless, even in research it would do more harm than good. It also is expressly intended to provide an umbrella for international regulation, such as that in the draft protocol.

In the past our research on environmental matters has been conducted in parallel in different countries, without vesting it in an international organization. Experience shows that it is wise to do things that way. In the particular case of CFC's, European scientists and environmental authorities have shown a healthy skepticism toward U.S. activism, and have correctly pointed out the major gaps in existing knowledge. The proposed Convention would set up an international scientific "authority" that would tend to override and suppress the healthy cross-checking by scientists in different countries. Furthermore, officials in our regulatory agencies have seen international regulation as a way to circumvent and override U.S. policy, which aims toward deregulation in many areas. These tendencies should be curbed, not encouraged.

Therefore I think that it was a mistake to authorize the negotiations toward this Convention in the first place. Although things are now at an advanced stage, we have already shown our willingness to pull back (as in the "Law of the Sea" case, among others) when a closer look shows that an international treaty or other policy is fundamentally flawed.³

Recommendation:

That you disapprove the proposed authority to sign the Convention for the Protection of the Ozone Layer.

Allen Wallis⁴

³ After this sentence, an unknown hand drew an asterisk that corresponds to a handwritten notation at the bottom of the memorandum, which reads: "What is proposed here is, or may appear to be, inconsistent with our stance with Canada or acid rain."

⁴ Wallis signed a "W" above his typed signature.

352. Telegram From the Department of State to Multiple Diplomatic Posts¹

Washington, March 30, 1985, 0546Z

96727. Subject: Conference of Plenipotentiaries for Protection of the Ozone Layer: Report of the U.S. Delegation.

1. Summary: The Conference of Plenipotentiaries on the Protection of the Ozone Layer (18–22 March 1985) was successfully concluded, with the quote Vienna Convention for the Protection of the Ozone Layer unquote being opened for signature. Forty-one (41) countries participated (see para 21) and twenty (20) countries and the EEC signed the convention (see para 22). OES Assistant Secretary James Malone signed convention for US. The two major issues remaining at the beginning of the conference, settlement of disputes and the adherence by regional economic integration organizations (REIO's), were resolved after intensive negotiations along the lines of the U.S. proposals. As neither Toronto Group (Australia, Canada, Finland, Norway, Sweden, Switzerland, U.S.) nor EC had changed their respective positions on control measures for chlorofluorocarbons (CFC's) since the January meeting of the ad hoc working group, there were no further negotiations in Vienna on a CFC protocol. U.S. continued to resist EC proposals involving production capacity cap on CFC's. Instead, we proposed a resolution which, after hard negotiations, was passed by the conference. The resolution: (a) called for continued negotiations based on updated scientific and economic research, (b) proposed a workshop on economic implications of various ways to protect the ozone layer, (c) authorized the Executive Director of UNEP to convene a diplomatic conference, if possible in 1987, to adopt a protocol and, (d) urged states to control their emissions of CFC's pending entry into force of a protocol. With release of NASA/WMO-sponsored international scientific assessment not expected until later this year, most delegations and UNEP agreed that further negotiations on a protocol would probably not take place before spring 1986.

2. UNEP Executive Director Tolba's keynote speech warned of potential dangers to future generations from ozone depletion and noted that this convention marked the first global anticipatory approach to

¹ Source: Department of State, Environmental Issues, 1979–1993, Lot 93D395, Ozone. Limited Official Use. Drafted by Hajost, Losey, and Weil; cleared by Benedick and Mansfield; and approved by Malone. Sent to Abu Dhabi, Algiers, Athens, Bangkok, Bern, Bogota, Bonn, Brasilia, Brussels, Buenos Aires, Cairo, Canberra, Caracas, Copenhagen, Geneva, Helsinki, Jakarta, Kuwait City, Lima, London, Manila, Mexico City, Moscow, Nairobi, New Delhi, Oslo, Ottawa, Paris, Rabat, Rome, Santiago, Stockholm, The Hague, USUN New York, and Vienna.

an environmental issue. Despite sometimes hard negotiations between U.S.-led Toronto group and EC, atmosphere was friendly and cooperative. Austrian Chairman (Lang, MFA) proved effective mediator at critical moments. Several LDC's, notably Argentina, Brazil, and Egypt, played active and generally constructive roles. Soviets stuck to the substance and also signed the convention. Japan did not sign. Meeting was free from irrelevant political controversy. End summary.

3. General Business. The meeting was opened by Tolba, and a welcoming address by Kurt Steyrer, Austrian Minister for Health and Environmental Protection. Winifred Lang (Austria) was elected President. Vice Presidents included Nascimento E Silva (Brazil), Mohammed El-Taher Shash (Egypt), Rune Loenugren (Sweden), and Yuri Sedunov (USSR). Willem Kakabeeke (Netherlands), who served as rapporteur, and Alberto Daverede (Argentina), who served as Chairman of the Drafting Committee, completed the Bureau. A quick U.S. intervention to expand the Bureau ensured the Toronto Group's representation via Sweden.

4. Settlement of Disputes. Consideration of Article 11 on settlement of disputes was taken up by an informal working group chaired by the rapporteur. The group agreed to focus discussion on the U.S. draft,² which provided for quote opting in unquote to third party dispute settlement, and a Swedish paper, based on the U.S.' text, which provided for quote opting out unquote. After an unexpectedly short discussion (and without real resistance from Sweden), the working group, subject to USSR reservation on compulsory conciliation, agreed to use U.S. text and opting in approach as basis for further work. In face of strong arguments by U.S. and others that U.S. text presented a balanced package compromise, Soviets acquiesced in compulsory conciliation. While noting appreciation to U.S. for its efforts in producing an annex on arbitration, conference decided that there was insufficient time to complete a text. Instead, a provision was inserted in the U.S. draft calling upon the conference of the parties to adopt arbitral procedures at its first meeting. (Sweden offered to assist the U.S., if so requested, in presenting a text at that meeting.)

Australia proposed that the Conference of the Parties also be charged with preparing more detailed conciliation procedures. While many in the group, including the U.S., noted the merits of the proposal, Australia withdrew it when it appeared that the extra element might cause an unravelling of the compromise. The U.S. text, as modified, was subsequently adopted by consensus by the plenary, with a few minor drafting changes.

² Not further identified.

5. At the conclusion of the conference, Australia, Austria, Belgium, Canada, Chile, Denmark, Finland, France, the FRG, Italy, Netherlands, New Zealand, Norway, Sweden, Switzerland, and the U.K. joined in a declaration, appended to the final act,³ expressing their regret that a system of compulsory third party dispute settlement (as opposed to opting in,) was not provided for in the convention and appealed to states to so opt in as provided for in Article 11 of the convention. (Comment: It is interesting that, with such an apparent array of support for compulsory dispute settlement, the opting in approach was adopted so easily and quickly. Some of the countries named above had never publicly spoken in support of compulsory dispute settlement at any time during the more than three years of negotiations. It might be that, once it was finally agreed that there would be an opting in procedure, it was not all that difficult to take a strong stand on compulsory dispute settlement via a resolution. End comment.)

6. Participation by Regional Economic Integration Organizations (REIO's). Resolution of this issue proved, as expected, to be the toughest issue of the conference. As U.S. was advised in advance, the EC came to the meeting with position taken in Council to oppose any kind of member state qualification to EC adherence (FYI: U.K. (protect) informed U.S. delegation that U.K., Denmark, and Netherlands (which later reversed its stand) had opposed EC position, initially proposed as a matter of principle by France, which had not expected support for its proposal. End FYI.)

7. Consideration of this issue was almost entirely handled through informal meetings, including meetings with the conference president. Representatives from various regional groupings, including USSR and Canada, were involved. The view generally expressed was that the convention could not discriminate in favor of the EC as opposed to other regional organizations. (In this regard, Egypt raised some potentially troublesome questions as to whether organizations eligible to participate in convention had to be quote economically integrated unquote and noted the Arab League as an example.) There was general agreement that for regional organizations to adhere to the convention, they had to have competence over matters governed by the convention and the legal capacity to enter into international agreements covered by those matters. Egypt made a formal declaration, the gist of which was that subject to their having such competence, the Arab League and the OAU were not ruled out.

³ See UN Environment Programme, "Vienna Convention for the Protection of the Ozone Layer." (accessed online)

8. The EC initially took an unyielding position on any requirement for member state adherence in addition to the commission itself, asserting that the U.S.-proposed language quote subordinated unquote the EC and challenged its very existence. EC Legal Director-General Ellerman arrived from Brussels March 19 and, in meeting he requested with U.S. representatives Malone and Benedick, insisted that, if the U.S. did not change its position, EC and member states would not sign the convention. U.S. reps resisted EC interpretation of quote subordination unquote noting that our primary concern was that parties to a convention be able to fulfill all of its obligations and responsibilities and that, if an REIO did not have exclusive competence in the subject matter, this lacuna needed to be filled by one or more member states. U.S. also noted that this view was shared by a number of other delegations, including Canada, Australia, and some Latin countries, in addition to the USSR. EC attempt to portray issue as EC–U.S. confrontation was thus frustrated, and both Tolba and the Austrian Chairman put heavy pressure on EC to negotiate.

9. Later on March 19, the U.S. informally circulated the REIO text attached to its position paper⁴ to other delegations and to EC, as a possible basis for compromise. Not only EC (which had been provided text along similar lines last January) but also EC member states indicated that they had never seen text. In any event, such disavowal may have provided useful face-saving mechanism for EC which, after communication with Brussels, indicated its general acceptance of U.S. draft with minor changes—much to the relief of rest of conference.

10. EC did not want to have a blunt statement, as contained in the U.S. draft, providing for an REIO to have one vote if none of its member states were party to the convention or relevant protocols. Some complex drafting managed to produce the same effect, but in a less direct way. After a detailed explanation of draft to USSR, production by EC of a short paper as to its legal competence to become party to the convention, and EC–USSR bilateral discussions, USSR indicated its acceptance of U.S. draft as modified. The final voting text states the principle that each party has one vote, but that REIO's could exercise a number of votes equal to the number of their members who are party to the relevant instrument, and that neither REIO's nor member states can exercise their right to vote if the other does.

11. U.S. made declaration at conclusion of conference (appended to Final Act) that it understands new article on voting to provide that when an REIO is a party to the convention or relevant protocol, without any of its member states being party, it gets one vote only; further,

⁴ Not found.

that there could be not double voting by any REIO and its member states. This declaration was shown in advance to EC delegation, who understood it and made no objection.

12. (Comment: EC expressed appreciation informally to U.S. for our efforts in seeking a compromise on this issue. Not unexpectedly, FRG delegation informally mentioned to U.S. delegation that text should be seen only in context of this convention and should not be necessarily regarded as a precedent. End comment.)

13. Definition of Adverse Effects. Pursuant to a New Zealand suggestion, the conference agreed to add quote effects on materials useful to mankind unquote to the definition of adverse effects consistent with one reference thereto in Article 3 on research and monitoring and in Annex 1 on research and monitoring.

14. CFC Resolution. After intensive negotiations, the conference adopted a resolution on chlorofluorocarbons. The text is close to the draft text developed by the Toronto Group (TG). Work on the resolution took up virtually the entire informal working group meeting (March 14–15), and negotiations between the TG and the EC continued during the conference itself. At the beginning of the informal working group meeting, TG members expressed their preference for the protocol developed by the ad hoc working group in January with the multi-option alternative for the control article. Noting that this would be unlikely, however, U.S. indicated it could accept a resolution aimed at continuation of negotiations. This was accepted as reasonable by all parties, and the chairman convened a small drafting group with representatives of TG, EC, LDC's, Soviets, and Japan.

15. The main purpose of this resolution was to demonstrate that, after two years of negotiations on a protocol to regulate CFC emissions, the International Community wished to continue this work, based on updated scientific and economic research. While the EC had taken certain measures, primarily a production capacity cap, and the U.S., Canada, and others had banned nonessential CFC use in aerosols, other major producers, notably USSR and Japan had done virtually nothing, and the question of potential future CFC production by LDC's was unresolved. Thus, due to the global nature of the problem of ozone depletion, some global harmonization of regulatory policies appears necessary.

16. The text of the resolution, appended, represents a true compromise, after days of intensive negotiation and informal meetings. The TG originally wanted a statement of intent by producer countries to reduce CFC's in aerosols by at least 50 percent from peak year production during the interim period while a protocol was developed, but the EC, although currently at 38 percent, resisted any fixed number. The EC also wanted explicit recognition of the production capacity

cap in this paragraph as equivalent in effect to the aerosol reduction, but this was resisted by U.S. and TG. The resulting compromise paragraph 6 urges states quote to control their emissions of CFC's, inter alia in aerosols, by any means at their disposal, including controls on production or use, to the maximum extent practicable unquote. (FYI: during negotiations on this para, several TG countries—Canada, Sweden, Finland, Australia—expressed the view that, if it was impossible to get a figure of at least 50 percent, they preferred strong, nonquantitative language. End FYI)

17. Another contentious issue was whether there should be a fixed deadline for completion of work on a protocol, to encourage serious discussions. This was resolved by a U.S.-proposed compromise calling on the UNEP Executive Director to convene a new diplomatic conference quote if possible in 1987 unquote. All parties agreed on the necessity of basing any protocol on sound scientific research, and all endorsed convening a workshop to examine economic implications of alternative strategies for protecting the ozone layer

18. By Thursday⁵ noon, agreement was reached with the EC on all issues. In the afternoon the chairman presented it to the full meeting and was of considerable assistance in resisting attempts by Spain, Egypt, and Japan to tamper with this text. The full text of the resolution is in para. 24.

19. The only other resolution of significance noted the willingness of UNEP to contribute to the costs of the interim secretariat and noted with appreciation the willingness of both UNEP and WMO to be the permanent secretariat. The EEC noted that it would contribute to the permanent secretariat.

20. Conclusion, the U.S. had a significant impact on the outcome of the negotiations, mainly in corridors, informal meetings, and in the drafting committee. The U.S. was instrumental not only in achieving compromise on the settlement of disputes and REIO issues, but also on a resolution which, while continuing international negotiations on a protocol, did not prejudice any results and stressed the importance of sound scientific research and economic analysis.

21. Participating Countries. Countries participating in the conference included Algeria, Argentina, Australia, Austria, Belgium, Brazil, Bulgaria (observer), Byelorussian SSR, Canada, Chile, China (observer), Denmark, Ecuador, Egypt, Finland, France, the FRG, Greece, Indonesia (observer), Ireland, Italy, Japan, Luxembourg, Mexico, Morocco, Netherlands, New Zealand, Nigeria, Norway, Peru, Philippines, Senegal,

⁵ March 21.

Spain, Sweden, Switzerland, Tunisia (observer), Ukrainian SSR, USSR, U.K., U.S., Uruguay (observer), Venezuela, and Yugoslavia. Intergovernmental organizations represented by observers included WMO, UNIDO, EEC, OECD, CEFIC, and the ICC.

22. Countries signing the convention included Argentina, Belgium, Byelorussian SSR, Canada, Chile, Denmark, Egypt, Finland, France, the FRG, Greece, Italy, Netherlands, Norway, Peru, Sweden, Switzerland, Ukrainian SSR, USSR, and the U.S. The EEC also signed the convention. Several other countries, including Australia, and U.K., indicated their intention to sign in the near future

23. Future Work. Note to EPA: Rapid action is needed in the U.S. to begin organizing the economic workshop (see para 24 (2) below). While the workshop would probably be held in Europe to attract the maximum number of European participants, the U.S. should take the lead in determining the host government and in planning the workshop. The EPA also needs to determine if it wishes to co-sponsor such a workshop

24. Text of quote Resolution on a Protocol Concerning Chlorofluorocarbons unquote.

The Conference

Noting with appreciation that the Convention for the Protection of the Ozone Layer was opened for signature in Vienna on 22 March 1985,

Bearing in mind decision 8/78 adopted on 29 April 1980 by the Governing Council of the United Nations Environment Programme (UNEP),

Considering that the convention is an important step to protect the ozone layer from modifications due to human activities,

Noting that Article 2 of the Convention establishes an obligation to take appropriate measures to protect human health and the environment against adverse effects resulting or likely to result from human activities which modify or are likely to modify the ozone layer,

Recognizing the possibility that world-wide emissions and use of fully halogenated chlorofluorocarbons (CFC's) and other chlorine-containing substances can significantly deplete and otherwise modify the ozone layer, leading to potentially adverse effects on human health, crops, marine life, materials and climate, and recognizing at the same time the need to further assess possible modifications and their potentially adverse effects,

Mindful of the precautionary measures for controlling emissions and use of CFC's that have already been taken at national and regional levels, but recognizing that such measures might not be sufficient for protecting the ozone layer,

Determined therefore to continue negotiations on the development of a protocol to control equitably global production, emissions and use of CFC's,

Mindful that special consideration should be given to the particular situation of developing countries,

Mindful also of the relationship between the level of industrialization of a state and its responsibilities for the protection of the ozone layer,

Noting the considerable progress made by the ad hoc working group of legal and technical experts for the elaboration of a global framework convention for the protection of the ozone layer to develop a protocol concerning CFC's, but further noting that the working group was not in a position to complete its work on the protocol,

(1.) Pending the entry into force of the convention, requests the Executive Director of UNEP, on the basis of the work of the ad hoc working group, to convene a working group to continue work on a protocol that addresses both short and long term strategies to control equitably global production, emissions and use of CFC's, taking into account the particular situation of developing countries as well as updated scientific and economic research;

(2.) Urges all interested parties, in order to facilitate work on a protocol, to co-operate in studies leading to a more common understanding of possible scenarios for global production, emissions and use of CFC's and other substances affecting the ozone layer and the costs and effects of various control measures and, to this end, requests such parties to sponsor, under the patronage of UNEP, a workshop on this subject;

(3.) Requests the working group, in further developing a protocol, to take into account, inter alia, the report of the Co-ordinating Committee on the Ozone Layer on its eighth session as well as the 1985 World Meteorological Organization assessment of the current understanding of the physical and chemical processes which control atmospheric ozone;

(4.) Authorizes the Executive Director, in consultation with the signatories and pending the entry into force of the convention, to convene a diplomatic conference, if possible in 1987, for the purpose of adopting such a protocol;

(5.) Appeals to signatories to the Convention and to other interested parties participating in the preparation of a protocol to make available financial means to support activities envisaged under the above paragraphs;

(6.) Urges all states and regional economic integration organizations, pending entry into force of a protocol, to control their emissions

of CFC's, inter alia in aerosols, by any means at their disposal, including controls on production or use, to the maximum extent practicable.⁶

Shultz

⁶ On September 4, 1985, the President transmitted the Vienna Convention to the Senate for ratification. See *Public Papers: Reagan*, 1985, Book II, pp. 1038–1039.

**353. Memorandum From the Executive Secretary of the
Department of State (Platt) to the President's Assistant for
National Security Affairs (Poindexter)¹**

Washington, August 6, 1986

SUBJECT

Ratification of the Vienna Convention for the Protection of the Ozone Layer

Attached for signature by the President is the instrument of ratification, in duplicate, of the Vienna Convention for the Protection of the Ozone Layer, done at Vienna on March 22, 1985.²

The Senate gave its advice and consent to ratification on July 24, 1986.

The Convention, which was negotiated and adopted under the auspices of the United Nations Environment Program (UNEP), provides a foundation for global multilateral undertakings to protect the environment and public health from the potential adverse effects of depletion of stratospheric ozone. The Convention addresses this important environmental issue primarily by providing for international cooperation in research and exchange of information. It could also serve as a framework for the negotiation of possible protocols containing

¹ Source: Department of State, Central Foreign Policy File, P860110–1619. No classification marking. Drafted by Brandt on July 31; cleared in L/T, L, and L/OES.

² Attached but not printed. In an undated memorandum, Butcher reported Reagan had signed the instrument of ratification on August 14. (Department of State, Chemicals, Hazardous Waste, and Ozone, 1982–1989, Lot 92D227, SENV—Ozone Convention Ratification)

harmonized regulatory measures that might in the future be considered necessary to protect this critical global resource.

Nicholas Platt³

³ Richard Mueller signed for Platt above his typed signature.

**354. Paper Prepared in the Office of Environment and Health,
Bureau of Oceans and International Environmental and
Scientific Affairs, Department of State¹**

Washington, November 3, 1986

**PRINCIPLES FOR AN INTERNATIONAL PROTOCOL ON
STRATOSPHERIC OZONE PROTECTION**

Based on current scientific understanding, considerable risks may exist to human health and the environment from continued or expanded global emissions of fully halogenated alkanes. Considerable evidence exists, both in theory and from models, linking these chemicals to depletion of ozone. However, remaining scientific uncertainties prevent any conclusive statement concerning safe levels of emissions. As a result, we believe that these chemicals should be considered suspect, and, given the substantial human health and environmental risks, we believe that a prudent protocol should provide for the following:

I. As a first step, a near-term freeze on the emissions of all fully halogenated alkanes (i.e., CFC 11, 12, 113, and Halon 1211 and 1301) at or near current levels;

¹ Source: Department of State, Chemicals, Hazardous Waste, and Ozone, 1982–1989, Lot 92D227, Ms. Butcher. No classification marking. Drafted on November 3. An unsigned November 5 covering memorandum reads: “The attached paper outlines principles for an international protocol for the protection of the stratospheric ozone layer, which the United States Government proposes to put forward for discussion in international negotiations scheduled to take place December 1–5, 1986. The principles are being presented to governments in advance of the negotiations for their consideration and comment.”

II. A long-term scheduled phaseout of emissions of these chemicals; this phaseout would be implemented, subject to any modification resulting from periodic review as defined in III;

III. A periodic review of the protocol provisions based upon a regular assessment of scientific understanding of changes to the ozone layer and its effects on health and the environment. The review could remove or add chemicals from the phaseout, change the schedule, or set an emission reduction target short of phaseout.

A protocol based on the above elements should have the following characteristics:

(a) provide a simple approach to facilitate agreement on an acceptable protocol within the current UNEP timetable;²

(b) be capable of gaining general acceptance among the major producer nations who are now and will remain the primary source of emissions of these chemicals;

(c) provide certainty for industrial planning in order to minimize the costs of reducing reliance on these chemicals;

(d) provide adequate time for shifting away from ozone-depleting chemicals to avoid social and economic disruption, while at the same time give a strong incentive for the rapid development and employment of emission controls, recycling, and benign substitute chemicals (i.e., a technology-forcing approach);

(e) take into full consideration scientific uncertainties and promote future improvements in understanding by instituting a requirement for reassessing the goal and timing of emission limits if changes in science suggest such action is warranted;

(f) address all fully halogenated alkanes so that the principal anthropogenic sources of atmospheric chlorine and bromine are included;

(g) allow flexibility for industrial planning by allowing trade-offs among these chemicals based on their relative ozone-depleting effects;

(h) allow flexibility for limited continued use of those chemicals which are of highest social value and for which no substitutes presently exist; and

(i) create incentives to participate in the protocol by regulating relevant trade between parties and non-parties.

² In telegram 278413 to Brussels, September 11, 1985, the Department discussed the schedule of future ozone negotiations, including the UN Environment Programme timetable. (Department of State, Central Foreign Policy File, D850643–0135)

355. Action Memorandum From the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs (Negroponte) to the Under Secretary of State for Economic Affairs (Wallis)¹

Washington, November 28, 1986

SUBJECT

Circular 175: Request for Authority to Negotiate a Protocol to the Convention for the Protection of the Ozone Layer

ISSUE FOR DECISION:

Whether to authorize negotiation of a protocol to the Vienna Convention for the Protection of the Ozone Layer which would control emissions of ozone-depleting substances.

ESSENTIAL FACTORS:

The Problem

There is general scientific agreement that human activities are substantially altering the chemistry of the atmosphere in ways which threaten both the quantity and the vertical distribution of ozone. Certain chlorine and bromine substances, when emitted into the atmosphere, act as catalysts in a series of chemical reactions resulting in a depletion of ozone. Ozone depletion, by permitting greater quantities of harmful ultra-violet radiation to reach the earth's surface, will pose significant, even if currently difficult to quantify, risks for health and ecosystems. Given the complex chemistry and dynamics of the atmosphere, scientific uncertainties currently prevent a conclusive determination of safe levels of emissions. Because of the long atmospheric lifetime of these molecules, emissions affect the ozone layer for decades. The nature of the ozone layer requires international action if protective measures are to be effective.

The chemicals at issue for this protocol—chlorofluorocarbons ("CFCs") and some bromine compounds—have substantial economic and social value, being widely used in refrigeration, foam-blowing, fire-extinguishers, as solvents, and in most countries as aerosols. (Their use in non-essential aerosols was banned in the United States in 1978.)

¹ Source: Reagan Library, Bledsoe, Ralph: Files, 330—Stratospheric Ozone (1985 to June 1987) [1]. No classification marking. Drafted by Butcher on November 16 and revised on November 26; cleared in OES, OES/ENH, L, L/OES, L/T, L/EBC, E, EB, IO, M/MO, M/COMP, EPA, NASA, NOAA, Commerce, USTR, DPC, CEQ, DOE, and OMB. A stamped notation on the memorandum indicates that Wallis saw it.

The U.S., Japan and EC countries currently account for about 90% of world production and consumption.

The International Process

The Vienna Convention for the Protection of the Ozone Layer, adopted under auspices of the U.N. Environment Program (UNEP) on March 22, 1985² and ratified by the United States on August 14, 1986,³ provides for cooperation in research, monitoring and information exchange. The Convention obliges the Parties to cooperate in taking measures to protect human health and the environment against adverse effects resulting or likely to result from human activities which modify or are likely to modify the ozone layer. The Diplomatic Conference which adopted the Convention did not reach agreement, however, on a protocol to control emissions of ozone-depleting substances. The final act of the Diplomatic Conference called for a series of scientific and economic workshops on the atmospheric science, effects of ozone depletion, and alternative control measures, followed by resumption of negotiations, looking toward adoption of a control protocol in 1987 if possible. Negotiations are to resume December 1, 1986, with a diplomatic conference to conclude the protocol tentatively scheduled for April 1987.

The Domestic Setting

The Environmental Protection Agency, under terms of a court order approving a settlement reached in a lawsuit against the EPA Administrator by the Natural Resources Defense Council,⁴ must publish in the *Federal Register* by May 1, 1987 a proposed decision on the need for further domestic regulation of CFCs under Sec. 157 of the Clean Air Act. Compared to other environmental laws, the Act sets a low threshold for required action by EPA: "the Administrator shall propose regulations for the control of any substance, practice, process, or activity . . . which in his judgment may reasonably be anticipated to affect the stratosphere, especially ozone in the stratosphere, if such effect in the stratosphere may reasonably be anticipated to endanger public health or welfare." In this connection, EPA is going through an extensive risk assessment process.⁵ A final EPA decision is required by the court order by November 1, 1987.

² See Document 352.

³ See footnote 2, Document 353.

⁴ See Morganstern, *Economic Analyses at EPA: Assessing Regulatory Impact*, p. 139.

⁵ In January 1986, the EPA published a Stratospheric Ozone Protection Plan. The adoption of the Montreal Protocol superseded the need for future regulations.

An important goal in seeking an early and effective international agreement (in addition to the goal of more effectively protecting the ozone layer) is to avoid disadvantage to U.S. industry as a result of unilateral U.S. regulatory action required by the Clean Air Act. Unilateral U.S. action in advance of international agreement could undercut the global control effort.

The principal producer- and user-industry group, the "Alliance for Responsible CFC Policy," has reversed its previous total opposition to controls, issuing a statement September 16, 1986 that "responsible policy dictates, given the scientific uncertainties, that the U.S. government work in cooperation with the world community . . . to consider establishing a reasonable global limit on the future rate of growth of fully halogenated CFC production capacity."

Proposed Position

Our approach in the international negotiations is intended to influence those negotiations to achieve the most effective international agreement possible. It does not prejudice the EPA Administrator's decision on domestic regulation.

Although considerable evidence exists linking certain chlorine and bromine substances to depletion of ozone, remaining scientific uncertainties prevent any conclusive statement concerning safe levels of emissions. As a result, the Administrator of EPA recommends an international risk management strategy which would give a strong incentive for rapid development and employment of emission controls, recycling practices and safer substitute chemicals. We should therefore seek a protocol that explicitly or in effect provides for:

I. A near-term freeze on the combined emissions of the most ozone-depleting substances;

II. A long-term scheduled reduction of emissions of these chemicals down to the point of eliminating emissions from all but limited uses for which no substitutes are commercially available (such reduction could be as much as 95%), subject to III; and

III. Periodic review of the protocol provisions based upon regular assessment of the science. The review could remove or add chemicals, or change the schedule or the emission reduction target.

These elements would provide a desirable margin of safety against harm to the ozone layer while scientific research continues. At the same time, this approach would provide as much certainty as possible for industrial planning in order to minimize the costs of reducing reliance on these chemicals, while allowing adequate time for adjustment.

The timing, stringency and scope of the phased reductions will have to be negotiated. We would promote a scheme which allows

flexibility for each nation to determine how it will implement domestically its international obligation. In response to UNEP's invitation, we have prepared for discussion purposes the attached draft text for the operative paragraphs of a protocol.

We would favor setting national limits at or near current levels, in order to avoid increases in emissions from any Party. Elimination of most emissions would obviate the difficult question of equity—the view that developing countries have a right to a fair share of world markets if a global limit on emissions is set: developing countries will have less reason to seek to expand use of products which will be obsolete in the foreseeable future and they will benefit from the development of substitutes and of recycling and containment techniques.

We will seek to include in the protocol measures to regulate relevant trade between parties and non-parties in order to create incentives for nations to adhere to the protocol's emissions limits. These measures will have an ancillary effect of protecting U.S. industry from unfair competition. We will assure that any trade provisions included in the protocol are consistent with the General Agreement on Tariffs and Trade (GATT) and other aspects of U.S. trade policy.

We have undertaken extensive consultations with industry and environmental groups and will continue to do so as the negotiations progress.

Legal Authority and Funding

We expect that no additional legislation will be required to implement the provisions of a protocol specifying the regulation of ozone-depleting substances. As discussed in the attached legal memorandum,⁶ EPA has authority under the Clean Air Act to regulate ozone-depleting substances which may reasonably be expected to endanger public health or welfare and is currently conducting the risk assessment required to determine the need for additional regulation.

It has not yet been determined whether this protocol—would be concluded as an executive agreement or as a treaty subject to the advice and consent of the Senate. This will depend, in part, on the content of the protocol and nature of the undertakings therein. The requirements of the National Environmental Policy Act (NEPA) and E.O. 12114 on Environmental Effects Abroad of Major Federal Actions are currently being considered.

Costs related to implementation of a protocol will depend on the requirements of the protocol. As a party to the Vienna Convention for the Protection of the Ozone Layer, we are already committed to the

⁶ Undated, attached but not printed.

establishment of a Secretariat (in an existing international organization such as UNEP or WMO) and Conference of the Parties when that agreement enters into force. Any additional costs to administer the protocol will be incremental. We will seek to minimize the services required of the Secretariat and any requirement for funding to support such services, and we will make every effort to ensure that necessary support staff are provided within existing levels. EPA will be responsible for reports to the Secretariat, participation in technical reviews, and other commitments of a technical nature assumed under the protocol.

Financial support for a cooperative science program to form the basis for periodic review of the protocol provisions will need to be considered. EPA, NASA, NOAA and other technical agencies would participate in any cooperative science program resulting from the protocol with their own funds. The U.S. already has a dynamic and extensive program on both the atmospheric science and effects science, and as such is already by far the largest contributor to international scientific cooperation in these areas. The protocol may be a means to draw additional commitments from other nations to contribute to scientific efforts. It will be possible to assess the need for any additional U.S. support in this area only as the negotiations progress. We will consult with and obtain the approval of OMB regarding any commitment that could not be satisfied out of currently appropriated funds.

RECOMMENDATION:

That you authorize negotiation of a protocol to the Vienna Convention for the Protection of the Ozone Layer which would control emissions of those substances which are the most significant contributors to ozone depletion in accordance with the principles outlined above. Subsequent authority will be sought to conclude any international agreement resulting from these negotiations.⁷

⁷ Wallis initialed the approve option on November 28.

356. Telegram From the Embassy in France to Multiple Recipients¹

Paris, December 9, 1986, 1653Z

56660. Subject: UNEP Negotiations on Protocol to Protect Ozone Layer, Geneva, December 1–5, 1986 (Delegation Report). Ref: A) State 364665, B) State 349396, C) State 255252 (Notal).²

1. Summary: First round of resumed negotiations by quote ad hoc group of government-designated legal and technical experts for preparation of a protocol on chlorofluorocarbons to the Vicuna Convention for the Protection of the Ozone Layer unquote concluded early Friday afternoon (December 5). Representatives from all regional blocs agreed that new measures must be taken in near-term to control emissions of ozone depleting chemicals. However, while differences over the scope, stringency and time-phasing of control measures were narrowed, they were not resolved. Discussions helped clarify specifics and rationale of various proposals; delineated issues related to control strategies, trade aspects, and developing country participation that require further analysis by the U.S. and others; established that European Communities (EC), Japan and USSR are prepared to move beyond previously-held positions (although how far is yet to be determined); and revealed unexpectedly strong developing country support for a protocol and U.S. positions in general (albeit from a sparse LDC turnout). Prospects for next session heavily dependent upon European Communities' willingness to consider control measures over long term, and UNEP's ability to prepare adequate basis for discussions, including attracting participation by more governments. Overall, USDel believes importance of this initial round of negotiations captured very well in *Washington Post* editorial over weekend which observed that quote all the movement is in the right direction unquote.³ End summary.

2. Participation: Week-long negotiating session attracted some 120 participants from 25 governments and the Commission for the Euro-

¹ Source: Reagan Library, Robert Johnson Files, Stratospheric Ozone—#4. Unclassified. Sent Priority to the Department of State. Sent to the White House, the OECD collective, Beijing, Brasilia, Brussels, Buenos Aires, Cairo, Dakar, Kuwait City, Lagos, Manila, Mexico City, Montevideo, Moscow, Nairobi, New Delhi, USUN Geneva, Commerce, Energy, and NASA.

² In telegram 364665 to multiple recipients, November 22, the Department transmitted alternative texts of operative protocol articles for the December 1–5 sessions. (Department of State, Environmental Issues, 1979–1993, Lot 93D395, Ozone) In telegram 349396 to multiple recipients, November 7, the Department requested that Embassies discuss the upcoming meeting with their host governments. (Department of State, Central Foreign Policy File, D860851–0115) Telegram 255252 was not found.

³ See "Hooked on Chlorofluorocarbons," *Washington Post*, December 4, 1986, p. A22.

pean Communities, 5 other intergovernmental organizations (UNEP, OECD, WHO, ECF, and Council of Europe), and nine nongovernmental international bodies, including International Chamber of Commerce, European Chemical Industry and Aerosol Associations, Environmental Defense Fund, World Resources Institute and Natural Resources Defense Council. Government participation was only one-half of UNEP's earlier estimate (of 55): (Argentina, Australia, Austria, Belgium, Brazil, Canada, Denmark, Egypt, Finland, France, FRG, Hungary, Italy, Japan, Mexico, Netherlands, Norway, Philippines, Portugal, Sweden, Switzerland, USSR, USA, UK, and Uruguay). Following were notable absences: China, India, Kenya, Nigeria, and EC members Ireland, Spain, and Greece. Belgium, new chair of Council of European Communities beginning on 1 January, was represented (on limited basis only) by Geneva Mission Officer, as was Mexico. Large American contingent present. In addition to official delegation (headed by State Department Deputy Assistant Secretary Richard Benedick), session attracted six congressional staffers, five industry representatives and four private environmental organizations.

3. Atmospherics: Meeting ably run by elected bureau: Winfred Lang (Austria) Chairman; Vladimir Zacharov (USSR) and Ahmed Ibrahim (Egypt) Vice-Chairman; Geraldo Nascimento-Silva (Brazil), Rapporteur. UNEP Deputy Executive Director William Mansfield set good tone in opening statement which emphasized accumulating scientific evidence of threat to global ecosystem, and the solid groundwork and momentum which the past two years of international scientific meetings and consultations had [illegible]. Mansfield's quote rising tide in the affairs of men unquote was somewhat stemmed, however, by UNEP's failure to have key draft protocol texts (by U.S. and Canada) available for distribution until second day, and subsequent inability to produce translations of meeting room papers quickly in all languages. (USSR reserved on final report in absence of Russian version.)

4. Meeting was very useful in defining a common understanding of key concerns and options on which an effective second session depends. Several delegates expressed strong support for U.S. trade article. EC proposal called for study only. Informal discussions revealed broad interest in including trade provision in protocol to provide necessary teeth and safeguards, and also in examining the feasibility of having it include products which contain or are made with controlled chemicals.

5. Developing Country Treatment—Nordic and USSR proposals both exempted LDCs from contract provisions, Soviets providing complete exemption while Nordics applying provisions only to parties with per capita use above 8.2 kg. Canada indicated support for exemption of any country with per capita use below world average (0.16 kg.).

Argentina argued strongly for a quote polluter pays approach unquote, without elaborating. (Argentine Representative very helpful and supportive of U.S. positions throughout, as was Egyptian delegate.)

6. Next Working Group Meeting: UNEP Secretariat announced that next meeting has been scheduled for February 23–27, 1987.⁴ However, EC (with Japanese support) asked for postponement until April, since EC Council will not meet until March 20. USSR further complicated situation by saying that no further session should be held until UNEP's Governing Council (which convenes in mid-June) can clarify working group's mandate regarding scope of chemicals to be considered. U.S., Nordics, Canada and Argentina strongly argued that February date (known to all parties for over a year) should be maintained. Result was that working group referred the issue to UNEP Executive Director Tolba for resolution.

Streator

⁴ See Document 358.

357. Memorandum From Paul Gigot, White House Fellow, to the Chief of Staff to the President's Assistant for Domestic Policy (Hines)¹

Washington, February 20, 1987

Patricia,

As short as I can make it, here's where I see the ozone issue.

- Administration policy has been led by EPA and State, and I have serious doubts that what they're leading us to is either good politics or good policy.
- By asking for a 95% phase-down in CFCs at the Vienna talks, the U.S. is going far beyond what most other countries want. Both the EEC and Japan will have to be arm-twisted just to get them to accept a freeze.

¹ Source: Reagan Library, Robert Johnson Files, Stratospheric Ozone #2. No classification marking.

- Let's assume we get only a freeze at Vienna or at one of the future negotiating sessions. Then we are still under a court order to write *domestic* regulations.²

- At that stage, we're in trouble. If EPA doesn't write stiff enough domestic regulations, then both the Democrats in Congress and the environmentalists will bang us over the head, citing *our own request for a phase-down* in Vienna as evidence that tough regulations mandating a phase-down are necessary.

- On the other hand, if we mandate a phase-down ourselves, then we penalize our own industry and raise pressure to ban the import of products containing CFCs.

- The economic impact would be tremendous, since CFCs are ubiquitous. And, at least so far, no one in the Administration has done a study of just how much any kind of regulation would cost either CFC consumers or producers.

- A key issue, it seems to me, is whether the Administration has ever decided that the science linking CFCs with ozone depletion justifies a phase-down. The scientists themselves say they can't tell how much "insurance"—that is, CFC regulation—is required. They say that's a policy judgment, yet so far that policy judgment is being made without any assessment of its costs.

- At this late stage, it may be impossible to change the Administration's negotiating position at the international talks. But one thing the DPC might be able to do is to tell our negotiating team to *accept a freeze*. Right now, Benedick and the negotiating team won't do that, so they're trying to raise the domestic political pressure in Europe and Japan so the governments will support a phase-down. In other words, the Reagan Administration finds itself in the unusual position of being allied with Germany's Green Party!

- In any case, this issue of freeze v. phase-down is important, and may require DPC attention. Today's Working Group meeting was at least a start at trying to get some more sober voices—Justice and Interior, in particular—into the policy process.

Hope this helps.

Paul Gigot

² See Document 355.

358. Telegram From the United States USUN Environmental Mission to the Department of State¹

Vienna, February 26, 1987, 1932Z

2901. Subject: Ozone Layer Protocol Negotiations, Vienna February 23–27 (Report #2—Status).

1. Summary—Second round of negotiations proceeding in workmanlike fashion and, in US Del's view, focusing on proper range of issues. In contrast to first meeting in Geneva last December, UNEP working group seems to accept as given need for longer term strategy for control of CFC's and other chemicals, and there is increased movement by key parties, including EC, to accept some form of scheduled reduction beyond first step freeze on production (or adjusted production).

2. Session got off to good start Monday morning with strong statement by UNEP Deputy Executive Director Mansfield stressing: urgency of concluding protocol; UNEP's disappointment with slow pace to date; the need for a broad scope agreement to control chlorine (and bromine) emissions, not just certain chemicals; and imperative of avoiding quote weak and ineffective protocol unquote which would be to quote neglect our mandate unquote. These themes echoed by subsequent speakers, including Chairman Lang (Austria) and U.S. Representative Benedick in U.S. plenary statement (septel).

3. Discussions moved quickly toward concentration on key issues posed by Chairman as eight questions subsuming scope of chemical coverage, how to expand list at later date, calculation of emissions, base figure for initiating limitations/reductions, special situation of developing countries, trade among parties, and between parties and non-parties, long term strategies, and financial/administrative aspects. Following several rounds of discussions (Monday p.m. and Tuesday a.m.),² plenary adjourned in favor of four specialized working groups established by Chairman after consultation with selected delegation heads, including U.S. working groups, each scheduled for two sessions Tuesday and Wednesday, examining science issues (e.g., periodic assessment mechanism); control strategy; developing country treatment; and trade. (Note: US Del believes U.S. efforts prior to session with UNEP organizers to ensure such a sharp focus, including use of working groups, proved very influential.)

¹ Source: Reagan Library, Bledsoe, Ralph: Files, 330—Stratospheric Ozone (1985 to June 1987) [6]. Limited Official Use; Immediate. Sent Immediate for information to Nairobi, USUN Geneva, and USUN New York.

² February 23 and February 24, respectively.

4. Attendance appears somewhat larger than Geneva session, with Kenya, Nigeria, Thailand and Philippines joining list of Geneva attendees (albeit essentially silent). Notable absences including China, India, Spain, Greece, Portugal (and Australia). Japan represented (only) by Geneva-based Representative and industry representative from Tokyo (who has participated to only very limited extent).

5. On positive side, most delegations seem to accept need for broad scope protocol that will at least designate certain chemicals (e.g. halons) for study even if controlled chemicals are fewer in number. US Del believes, however, that it will be possible to get agreement to go beyond control (freeze) of only CFC's 11 and 12. Particularly encouraging is Soviet willingness to discuss quote other chemicals which need to be dealt with over longer term unquote, given rigid posture in Geneva in opposition to discussing anything beyond 11 and 12.

6. In addition, there is movement toward U.S. control scenario based on scheduled reduction. While EC continues to be major stumbling block (and appears particularly dug in against both U.S. preference for quote adjusted production unquote formula and including halons in a protocol), the EC submitted a discussion paper with new last paragraph publicly acknowledging for the first time that quote some reduction (in CFC's) could be a desirable precautionary measure unquote.³ Private discussions also indicate split in EC ranks with momentum toward agreeing with U.S. to begin down the reduction path (but not to accept phase out goal) with some form of scheduled first step reduction in production. At same time EC beginning to probe to see how far U.S. prepared to go to compromise. US Del will be in better position to gauge progress and outlook after Wednesday p.m.⁴ plenary when working group reports will be discussed.

7. Regarding current status of two major working groups, Group on Control Measures made very little progress in addressing the issues with which it was charged. The majority of its time was spent in discussing production vs. adjusted production (production minus exports to parties plus imports minus amount destroyed). Canada and the Nordic countries (as expected) joined the U.S. in supporting the adjusted production formula while the USSR, Australia, New Zealand and Denmark also indicated support. However, the EC held firm to the view that controlling production (or production and imports, as separate quantities), was simpler to implement and therefore more effective. Numerous delegations pointed out that the adjusted produc-

³ Not further identified.

⁴ February 25. In telegram 60881 to multiple recipients, March 3, the Department provided a summary of the meeting that emphasized the final days. (Reagan Library, Bledsoe, Ralph: Files 330—Stratospheric Ozone (1985 to June 1987) [6])

tion was: (A) virtually as simple to implement; (B) exactly equivalent environmentally; (C) and much more equitable than using production (which would result in conferring monopoly rights to current producers). By contrast, the sub-group on trade issues made considerable progress. The group agreed to focus primarily on the question of trade between parties and non-parties. It discussed and concluded that any restrictions on imports from non-parties would likely not be inconsistent with the GATT and other international treaties. The U.S. then introduced its revised trade article which, after some initial questions, was accepted with few modifications as the product of the sub-group.

Chapman

359. Memorandum From the Deputy Assistant Secretary of State for Environment, Health, and Natural Resources (Benedick) to the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs (Negroponte)¹

Washington, March 25, 1987

SUBJECT

Additional Background for Meetings with Lee Thomas and Bruce Smart²

At the CEEM Conference today, I had the chance to speak informally with numerous American industrialists. While virtually all of them support additional controls on CFC's and the concept of international (as opposed to unilateral) U.S. action, their mood is one of serious distress and concern over the U.S. position *and* the process.

I was told that Lee Thomas, in his keynote address yesterday, stressed that EPA would be guided by the international negotiating result. There were, therefore, questions why the "State Department" was pushing for a binding international treaty before the domestic agency was in a position to justify regulations at home.

¹ Source: Department of State, Chemicals, Hazardous Waste, Ozone, 1981–1990, Lot 92D207, Interagency Process. No classification marking.

² In a March 25 memorandum to Negroponte, Butcher submitted talking points for Negroponte's March 26 meeting with Thomas. (*Ibid.*)

The attached letter to Secretary Shultz also reflects industry's current mood.³

Some other points:

—Industry is strongly dissatisfied with the nature and extent of consultation with EPA. Their contacts are essentially limited to one individual (Hoffman), and they have been rebuffed by EPA in their proposal for fuller participation in the analytical and rulemaking process (apparently in contrast to the case with other environmental regulations). Dick Barnett (President of the CFC Alliance) says he has been unable to get an appointment with Lee Thomas and is ready to see him at home on a Sunday.

—The Department of Commerce has the same complaint; in contrast with the process preceding the aerosol ban in 1978, they have the feeling this is a closed game, with EPA (i.e., Hoffman) not open to full collaboration.

—There is great concern over the lack of analysis of costs and consequences of CFC reduction, and the feeling that the figures may be in process of being "cooked" by EPA without adequate industry participation in the analytical process.

—They are particularly worried about the U.S. sticking to the "95% phaseout" in our international position, for which there is neither full scientific nor economic justification. We offered "up to 95%" as "illustrative" in December and February.⁴ At the April negotiation, I believe it essential that we now show flexibility for a lower figure (EC has proposed 20% in 6 years). If not, we risk totally losing industry support.

—In sum, much of industry seems to feel that low-level EPA staff, in consort with NGO's and some Congressional circles, are manufacturing an atmosphere for an unreasonable and precipitate U.S. action.

³ Dated March 23, attached but not printed.

⁴ See Documents 356 and 358.

360. Action Memorandum From the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs (Negroponte) to the Under Secretary of State for Economic Affairs (Wallis)¹

Washington, April 20, 1987

SUBJECT

Negotiations to Control Ozone-Depleting Chemicals

As we discussed,² we need your help to obtain agreement on a tenable negotiating position in the April 27–30 round on ozone-depleting chemicals. I recommend you call Miller at OMB, Baldrige at Commerce, Hodel at Interior, and Gary Bauer, Assistant to the President for Policy Development, to urge their agencies to support having our delegation continue to play a strong role with a flexible position. Lower level officials of those agencies are advocating acceptance of the EC position calling for only a 20% reduction in use of chlorofluorocarbons (CFCs), abandoning our advocacy (supported by Canada, the Nordics, Australia and others) of deeper cuts over a longer time period as outlined in the Circular 175 you approved last November (Tab C).³

It would be most helpful if you can reach Miller, Baldrige, Hodel and Bauer before the interagency meeting Tuesday, April 21 at 4:30,⁴ where we should approve the position paper attached at Tab B (note especially options at IV B).⁵

Talking Points are at Tab A.

Recommendation:

That you telephone Miller (OMB), Baldrige (Commerce), Hodel (Interior) and Bauer (OPD).⁶

¹ Source: Department of State, Central Foreign Policy File, P870076–0719. Limited Official Use. A stamped notation on the memorandum indicates Wallis saw it. Drafted by Butcher and cleared in OES/E and OES/ENH. Copies were sent to Bailey, Johnson, and Long.

² Not further identified.

³ Attached, but not printed. See Document 355.

⁴ No record of this meeting has been found.

⁵ Undated, attached but not printed.

⁶ Wallis initialed the approve option. Marshall wrote the name “Wright” above the name “Miller,” “Smart” above “Baldrige,” “Pearlman” above “Hodel,” circled the name “Bauer,” and drew an arrow pointing to the recommendation and wrote “done 4/21/87 g” beside the arrow.

Tab A**Talking Points Prepared in the Department of State⁷**

Washington, undated

Talking Points

—I understand that several agencies have questioned the previously approved U.S. position in the negotiations to control chemicals which deplete stratospheric ozone.

—George Shultz, John Whitehead and I support the position outlined in the Circular 175.

—State shares the view that the basic elements of a refined position should be reviewed by the DPC before the USG signs on.

—Since the DPC review will not take place until after next week's round of negotiations, however, it is essential that the delegation be allowed sufficient flexibility, within the scope of the Circular 175, to maintain the momentum in the negotiations.

—The U.S. has played a leading role in these negotiations, deflecting proposals which would have seriously disadvantaged the U.S.

—It is unacceptable for us to switch to a passive mode at this round and to refuse to address the central issue of the negotiation: stringency and timing of CFC reductions.

—If we are perceived as obstructing the international agreement, it would lead to court and legislative action for unilateral U.S. controls which would both disadvantage U.S. industry and not adequately protect the ozone layer. (EPA is under court order to propose a decision on domestic regulations under the Clean Air Act. Chafee and Baucus bills calling for extreme cuts are on hold as long as international negotiations are making progress.)⁸

—The U.S. delegation leaves this weekend. An interagency meeting Tuesday afternoon is to approve the position paper.

—I hope we can count on your agency's agreement to a position which will enable the delegation to continue to work toward a reason-

⁷ Limited Official Use.

⁸ S. 571 and S. 570, respectively.

able agreement which will be a credit to the Administration, protecting the environment while protecting U.S. industry and consumers.⁹

⁹ In the bottom margin, Wallis wrote “chlorofluorocarbons bromine compounds.”

361. Paper Prepared in the National Security Council¹

Washington, undated

U.S. Negotiating Strategy for UNEP Ozone Protocol Negotiations
Third Session: April 27–30, Geneva

I. Controls

A. First Step

1. Freeze “emissions” at 1986 levels.
 - include all CFCs and Halons
 - automatic 0–2 years after entry into force
2. 20% Reduction
 - include CFC 11, 12, 113
 - automatic 2–4 years after entry into force

B. Second Step

- “up to” 50% reduction, subject to science²
- include CFC 11, 12, 113
- within 8–10 years after entry into force

C. Third Step

- “up to” 95% reduction, subject to science
- include CFC 11, 12, 113
- within 14–16 years after entry into force

¹ Source: Reagan Library, Bledsoe, Ralph: Files, 330—Stratospheric Ozone (1985 to June 1987) [7]. No classification marking. In the top margin, an unknown hand wrote: “Wed 2:00 5806 Climate Friday 1:00 p.m. Thursday 3:30 pm. JR Spradley’s proposal.”

² An unknown hand highlighted this phrase and wrote: “and other tech & compliance info? (i.e. substit’s & LDC’s).”

II. General Provisions

- *Emissions.* Define “emissions” as weighted “adjusted production” (P+I–E–D) (but consider other alternatives)
- *Country Coverage.* All major producing/using countries must sign; encourage potential major producers/users (e.g., China, India) to sign; allow (?) LDC’s to join (but not if they get an emissions allowance)
- *Scientific Assessment.* Next major review 4–6 years after entry into force, then every 6 years thereafter; minor reviews every 2 years (also include technical and economic assessments)
- *Trade Aspects.* Support provisions to encourage compliance with controls.

362. Telegram From the Department of State to Multiple Diplomatic Posts¹

Washington, May 8, 1987, 2316Z

140948. Subject: U.S. Delegation Report: Third Session of UNEP Negotiations on Ozone Layer Protocol (April 27–30, Geneva). Ref: (A) Geneva 4835, (B) Geneva 4744, (C) Geneva 4742.²

1. Summary: Difficult but productive protocol negotiating session ended with participating nations in reach of final agreement by September diplomatic conference in Montreal. Ad Hoc “Chairman’s Group”, aided by hard-driving and effective leadership of UNEP Executive Director Tolba, made considerable progress in narrowing differences on control stringency and timing. Based on his discussions with smaller sub-group of this group, Tolba developed a compromise control article text with stringency and timing levels between that of initial (Dec.

¹ Source: Reagan Library, Bledsoe, Ralph: Files, 330—Stratospheric Ozone (1985 to June 1987) [2]. Limited Official Use; Priority. Drafted by Losey; cleared in EPA/OIA, EPA/OAR, NOAA, Interior, Energy, USTR, L/OES, Commerce, and NASA. Sent priority to all OECD capitals, Algiers, Bangkok, Bogota, Brasilia, Bucharest, Budapest, Buenos Aires, Cairo, Caracas, Dakar, USUN Geneva, Hong Kong, Jakarta, Kuala Lumpur, Kuwait City, Lagos, Lilongwe, Lima, Manila, Mexico City, Montevideo, Moscow, Nairobi, New Delhi, Ouagadougou, Rabat, Santiago, Seoul, Singapore, Sofia, Tel Aviv, Tunis, and USUN Vienna.

² In telegram 4835 from Geneva, April 30, USUN provided a summary of the second day of ozone protocol negotiations. (Ibid.) In telegram 4744 from Geneva, April 28, USUN provided a summary of the first day of ozone protocol negotiations. (Ibid.) In telegram 4742 from Geneva, April 28, USUN transmitted Benedict’s plenary statement given on April 27. (Department of State, Central Foreign Policy File, D870327–0544)

1986) EC³ and U.S. negotiating positions, which he intends to use as negotiating text for subsequent meeting of sub-group (see para. 11).

—Productive discussions within trade group resulted in proposal for compromise production/consumption “formula” for defining what is to be controlled. However, group was unable to resolve substantive differences on control of trade between parties and non-parties. Similarly, no agreement emerged on treatment of developing countries.

—Scientific group, drawing on results of recent UNEP-sponsored meeting of scientists to compare ozone-depletion under alternative control strategies, gave strong support for the need for broad chemical coverage. The group also confirmed that a freeze would not prevent long-term depletion, strengthening the view that further reductions were necessary to adequately protect the ozone layer.

—Session concluded with plans for further informal meetings in June and July, a formal working group session September 8–11 and diplomatic conference in Montreal September 14–16. End Summary.

2. Participating Countries: Argentina, Australia, Austria, Canada, Colombia, Belgium, Denmark, Egypt, Finland, France, FRG, Ghana, Hungary, Italy, Japan, Kenya, Luxembourg, Malaysia, Mexico, Netherlands, New Zealand, Nigeria, Norway, Poland, Qatar, Sweden, Switzerland, USSR, UK, US, Venezuela.

3. Stringency and Timing: Chairman Lang’s (Austria) group, which initially consisted of all heads of delegations with advisors, was supplanted by a smaller ad hoc group consisting only of heads of delegation for the U.S., EC (UK, Denmark, Belgium, and the Commission), Canada, Norway, USSR, and Japan. Tolba took over chairmanship of this group on Wednesday, after Lang was unexpectedly called back to Vienna. With the assistance of the smaller group, Tolba produced a compromise text for use in subsequent negotiations. Text calls for:

—(A) A freeze at 1986 levels within two years of protocol’s entry into force (EIF) (Tolba strongly urged that protocol be ratified by 1988, so that the freeze would take effect by 1990);

—(B) A 20 percent reduction within four years of EIF;

—(C) A further reduction of 30 percent, following a periodic scientific/technical/economic review, for which two options were provided: (1) within six years after entry into force if a majority of the parties so decide; (2) within eight years after entry into force unless two-thirds of the parties otherwise decide;

—(D) A future decision (based on scientific/technical/economic assessment) regarding further actions, which could be put into effect

³ See Document 356.

by either a majority or two-thirds vote of the parties (both alternatives still in brackets).

—None of the delegations represented at Geneva gave formal assent to this control package, with some (Canada, Nordics, Switzerland, New Zealand) indicating that it might be “too weak”, and others (EC, USSR, Japan) that it might be “too strong”. U.S. stated that we would carefully study the details, noting, *inter alia*, that text may need further refinement to ensure proper synchronization between scientific assessment and control decisions. Nevertheless, there was general agreement among delegations that the text represents the closest to a consensus yet attained on the contentious issue of control stringency and timing.

4. Scope of Chemical Coverage: The chair’s group moved closer to consensus on which chemicals to include for control. U.S., Canada, and Nordics pushed for inclusion on CFC 11, 12, 113, 114, 115, and halons 1211 and 1301 for at least the freeze, perhaps with only 11, 12, and 113 included for subsequent reduction phases. The EC’s opening position was to include only 11 and 12, but they subsequently added 113 and—while not consenting—agreed to consider inclusion of others. By contrast, at the outset of discussions, Japan actively opposed inclusion of 113. By end of week, however, GOJ Delegation had agreed to take question back to Tokyo for reconsideration in light of “broad consensus” at the meeting (important element for Japan was agreement by other delegations to aggregated emissions, with each chemical weighted by its ozone depletion potential). USSR still opposed including halons, due to legal questions of whether inclusion is allowed by working group’s formal mandate. However, Soviets appeared more sympathetic to the scientific rationale for including halons, and Tolba agreed to seek enlargement of the mandate at the UNEP Governing Council in June. Overall, movement toward U.S. position on the issue was facilitated by conclusions of scientific group emphasizing need for broad chemical coverage (see para. 9).

5. Further, it was agreed that the chemicals would be grouped together and weighted according to their ozone-depletion potential (see para. 9). This would enable individual countries to “trade off” freeze or reductions among individual chemicals within the basket, so long as the weighted total for the entire basket met the protocol freeze/reduction target. This flexibility was critical in moving Japan to at least consider inclusion of CFC 113.

6. Control Formula: The question of the control “formula” (i.e., whether to freeze and reduce national production, adjusted production, or some hybrid formulation) was taken up by the trade sub-group. U.S., Canada, Nordics, and New Zealand supported adjusted production (AP) formula (production imports—exports to parties—amount

destroyed). With main opposition to it coming from the EC. EC's stated reasons for opposing AP formula were: (A) It would be difficult to implement and enforce; (B) adequate data to calculate base year level might not be available for many countries (they proposed using 1990 for base year); (C) subtracting only exports to parties might put the EC at a disadvantage, since they could not ensure that their existing export market would become parties; (D) subtracting exports might create an incentive for some parties to maintain or increase production. Based on a Swedish proposal to combine both approaches, Trade Group developed an ad referendum draft text, which calls for initially freezing production and imports separately, and then reducing both production and consumption in parallel (with the latter defined as adjusted production but with all exports subtracted). Parties would subsequently assess treatment of the export term (e.g., whether it would apply for exports to parties only). Text remains bracketed, however, because Nordics, New Zealand, and some LDCs insisted on a provision to allow non-producing countries to produce up to their allocated level of imports, providing that imports are reduced by an equal amount. Japan proposed a second alternative allowing for inter-party transfer of production capacity, providing that total global production does not increase. EC opposed both proposals. Beyond these substantive differences, full consensus on this compromise formulation was not reached, because many delegations expressed need to assess implications of compromise formula in more detail.

—In addition, the trade group agreed that the protocol should provide credit to a party for the amount of the controlled substances destroyed, provided that destruction is by techniques approved by the parties. This preserved U.S. interest in creating an incentive for the development of CFC destruction technologies, while allaying prior USSR concern that the amounts reported for some countries might not be reliable until the technologies are known and widely accepted.

7. Trade between parties and non-parties: EC insistence that GATT representative be present before Trade Group could take up discussions of trade article prevented Trade Group from devoting adequate time for discussion of trade article. However, this tactic backfired somewhat when GATT legal advisor appeared and (contrary to expectations of UK and EC Reps) stated that in his opinion non-party import restrictions would be supportable under Article 20 of the GATT⁴ (although final determination would be by GATT members). When Trade Group

⁴ Article 20 of the GATT provides exceptions to the restriction of trade in order to protect a variety of causes, including environmental ones.

took up consideration of substantive elements of trade article, it became clear that the EC Commission (at least at the staff level) and the UK are opposed to any restrictions (export or import) except for bulk chemicals. Their ostensive reasons were: (A) increased possibility of being challenged within the GATT, and (B) possible conflict with bilateral trade agreements. Other than Canada, which supported U.S. out of principle, other participants were non-committal on trade issue. Other than agreement to remove exemption for non-party compliance (which was replaced with a more restrictive provision for developing countries) result was little movement since last meeting, a heavily bracketed text, with substantial differences in positions of U.S. and EC, and positions of other key players as yet unarticulated.

8. Developing Countries: Very little time was spent on the LDC issue, despite somewhat greater number of LDC representatives present and more vocal participation. Only substantive proposal, by Canada (and amended by others), would exempt parties with per capita consumption less than 0.1–0.2 kg/yr from the controls for the first 5–10 years of the protocol, after which they be subject to the controls in a manner “parallel” to other parties. Although there appeared to be sentiment for Canadian approach of only allowing LDCs to be exempted for a period of years (rather than indefinitely), group concluded that Canadian proposal, as well as proposals from previous sessions, be assessed further prior to next negotiating session. Lack of data on current levels of developing country consumption continues to hamper resolution of this issue.

9. Scientific Group: Scientific group issued very strong report which supported USG positions on: (A) the need for broad chemical coverage of all fully-halogenated compounds, and (B) the need for reduction steps beyond a freeze. Latter point was buttressed by the group’s highlighting the importance of potential changes in the vertical distribution of ozone and latitudinal gradients in estimates of total column ozone depletion. Group also agreed on ozone depletion potential values for all of the chemicals under discussion, which were recommended for use in the protocol for calculating weighted emissions. In addition, scientific group reaffirmed need for major scientific assessment every four years, and the need to develop an improved ground-based stratospheric monitoring system.

10. Future Work: Canada confirmed that the diplomatic conference will be held in Montreal September 14–16, to be preceeded by a fourth working group session September 8–11. Prior to that, two informal meetings have been scheduled. The Chair’s Group will meet June 29–30 in Brussels and a legal drafting group will meet July 6–8 in The

Hague.⁵ Tolba requested that delegations submit to him, by June 19, comments on the control article text.

11. Next steps: The U.S. Delegation recommends that:

—(A) Low-key and carefully planned bilateral contacts with the other countries in the Chair's Group begin as soon as possible, in order to maximize the likelihood of an outcome favorable to USG objectives (specific guidance will follow for relevant posts);

—(B) Timing of control article steps should be reviewed to ensure that they are properly synchronized with the periodic scientific assessments;

—(C) The relevant USG agencies assess the compromise control "formula" developed by the trade group, to see whether it protects U.S. interests, whether it is feasible from a domestic regulatory standpoint (including the question of data availability), and whether there are any simpler alternatives which accomplish the same thing;

—(D) Consideration be given to how the remaining substantive areas for which consensus has not been reached (e.g., non-party trade, LDCs) might be moved toward resolution prior to the September working group session; in particular, whether it would be useful to gauge the interest of other countries in: (1) an additional informal meeting to discuss trade issues, and (2) informal discussions of the LDC issue during the UNEP Governing Council (latter was already discussed with Peter Usher, UNEP Secretariat).

Whitehead

⁵ In telegram 9255 from Brussels, July 1, the Embassy provided a summary of the June 29–30 Chairman's Group meeting. (Reagan Library, Risque Files, Stratospheric Ozone [7]) In telegram 217952 to multiple recipients, July 16, the Department provided a summary of the Legal Drafting Group meeting. (Reagan Library, Bledsoe, Ralph: Files, 330—Stratospheric Ozone [1985 to June 1987] [1])

363. Minutes of a Domestic Policy Council Meeting¹

Washington, May 20, 1987, 2 p.m.

PARTICIPANTS

Messrs. Meese, Hodel, Herrington, Thomas, Taft, Newman, Wright, Woods, Cribb, Bauer, Ms. King, Messrs. Brashear, Harlow, Sprinkel, Graham, Green, Gray, Sweet, Ms. Schafer, Messrs. Fletcher, Wallis, Dorsey, Habicht, Calio, Benedick, Watson, Galebach

Stratospheric Ozone

The Attorney General opened the meeting by introducing Mr. Benedick who gave an overview of the events leading to the current round of international negotiations² to cut back on the production of compounds that appear to reduce the stratospheric ozone layer. Mr. Benedick pointed out that the negotiations on stratospheric ozone began in 1982 under the Vienna Convention,³ and that procedures were established to develop a protocol for a worldwide reduction of chlorofluorocarbons (CFCs) and other compounds that deplete the ozone layer. That protocol should be presented to the Senate for ratification sometime during the Fall of 1987. He also mentioned the hole in the ozone layer over Antarctica discovered by the British in 1985 as giving impetus to the negotiations, and said the Environmental Protection Agency is required under court order to determine ways in which the domestic production of CFC's can be regulated. During the Spring of 1987, the U.S. negotiating team has met several times with representatives of member countries and are now ready to complete the draft protocol in preparation for a meeting in September 1987 when participating countries would sign it.

Mr. Meese asked Mr. Watson to outline scientific knowledge about the ozone depletion problem. Mr. Watson described the problem, including the weaknesses and disagreements in the current scientific models being used. Messrs. Graham, Fletcher, Thomas, and Secretary Hodel discussed the nature of the science on ozone depletion and whether it was caused by a natural phenomena or man made chemicals. No conclusions were reached. Mr. Benedick discussed the areas in which Council guidance was being sought to develop a U.S. position on the protocol. They included chemical coverage, stringency and timing, a control formula and trade provisions, and participation. Mr. Benedick

¹ Source: Reagan Library, Risque Files, Ozone Layer Protection [1]. No classification marking. The meeting took place in the Roosevelt Room at the White House.

² See Document 362.

³ See Document 349.

said that the delegation is attempting to reach the broadest possible involvement of as many nations as possible, pointing out that the European Communities, Japan and Russia, have resisted controls but are now coming closer to the U.S. position.

Mr. Hodel said that there may be other ways to control CFC's and suggested that the Germans be asked to ban aerosol products as the U.S. has done. He also suggested that we look closely at how countries vote on sanctions if other nations do not comply with the protocol agreement. Mr. Thomas stated that the issue of weighted voting is still to be negotiated. Mr. Hodel stated that compliance with the protocol should be monitored and not left to an "honor system." Mr. Graham stated that the science was very uncertain, and that the effect of ultraviolet light on humans is controllable. He said that scientists should continue to measure the true depletion of ozone before agreeing to a required reduction of ozone depleting chemicals.

Mr. Hodel stated that if the objective of an international agreement is to reduce ozone, there are several ways to reach that objective. He suggested that we seek the broadest possible participation, including the U.S./E.C./Japan/USSR and other CFC producing nations. Others could cut back aerosols as we have done, then follow with a freeze if necessary. If our objective is to protect the health of the people, then the Working Group should look at ways to protect public health rather than controlling ozone depleting chemicals. Mr. Wallis stated that when science and technology conflicts with politics, we have problems. He agreed we are facing pressure from lobby groups and from Congress to control the chemicals that deplete the ozone layer, and said we should end up with the position being taken by the negotiating team. He felt we should support weighted voting based on CFC production. Mr. Thomas explained that the EPA is mandated by the Clean Air Act to issue domestic regulations to control ozone depleting chemicals, thus we may be forced to take unilateral action if we do not get participation in an international protocol. Mr. Sprinkel said the costs and benefits of a protocol should be investigated. Mr. Taft expressed concern about the inclusion of halons in the protocol because of extensive Defense Department use. Mr. Meese summarized the issues that should be addressed by the Working Group and brought to the Council at another meeting, including the science of ozone depletion, a cost/benefit analysis, how halons should be treated, and what court and legislative actions are pending.

364. Action Memorandum From the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs (Negroponte) to Secretary of State Shultz¹

Washington, May 29, 1987

SUBJECT

Ozone Negotiations: Letter to Attorney General Meese

ISSUE FOR DECISION

Whether to write to Attorney General Meese, in his capacity as Chairman of the Domestic Policy Council (DPC), expressing your strong support for the current U.S. position in the international negotiations on protection of the ozone layer, and to propose making a decision from the President, if necessary, in order to avoid further delay caused by opposition from certain DPC agencies.

BACKGROUND

After several months of negotiation under auspices of the United Nations Environment Programme, an international accord on protection of the stratospheric ozone layer is within reach, largely on U.S. terms.² Many regard this issue as the most important priority on the global environmental agenda. Due mainly to efforts by the Department, USIA, and Lee Thomas, many nations have changed their positions and followed the U.S. lead in considering a freeze in production of chlorofluorocarbons (CFCs), followed by significant reductions. A Conference of Plenipotentiaries is scheduled for mid-September in Montreal to complete the negotiation and sign the protocol.

The U.S. position in this negotiation was developed through intensive interagency deliberations (which included the Justice Department) leading up to, and following, the approval by Allen Wallis of a Circular 175 authority last November.³ Recently, however, some agencies in the DPC—primarily Interior and OSTP—have raised questions both about the underlying science and about the effects of CFC reductions on US industry.⁴ Interior argues that since European Community (EC) countries and Japan did not follow the US near-total ban of CFCs as

¹ Source: Reagan Library, Papers of George P. Shultz, Environment—CFC's. Confidential. Drafted by Butcher and Benedick and cleared in D, E, L, EB, EPA, and NSC. Smith signed for Negroponte. A typed notation under the dateline reads: "(Copy of Original Signed Letter Given to Scott Thayer, 6/1/87, 10:30 a.m.—BKK.)"

² See Document 362.

³ See Document 355.

⁴ See Document 363.

aerosol propellants in 1978, they should be required to do so before further reductions are scheduled. The US in fact proposed this four years ago,⁵ and it was rejected on the grounds that, even with the aerosol ban, US per capita use of CFCs exceeds the EC, and that most of the long-lived CFCs which will continue for decades to damage the ozone layer originated from US production.

Positions proposed by Interior and OSTP would undo the progress achieved to date and make the Administration appear less serious about protecting the ozone layer than the EC and many other countries (see articles at Tab B from the *Washington Post* and *Wall Street Journal*).⁶ Such a U.S. policy reversal would damage our international credibility, unleash major domestic criticism, and probably result in unilateral U.S. control actions.

Lee Thomas and I believe that the U.S. position is responsible and pragmatic, prudently addressing the environmental risks while providing a market stimulus and a reasonable time-frame for industry to develop alternative products. We believe that the DPC process is not functioning well, and could cause needless embarrassment to the Administration on an issue which is attracting growing attention from Congress and public interest groups. We therefore propose that you write directly to Meese in an effort to re-establish a credible U.S. negotiating position. The National Security Council staff concurs in this judgment.

Under Secretary Wallis approved this letter before he left today. I would be pleased to discuss further details if you wish.

Recommendation:

That you sign the letter to Mr. Meese at Tab A.

⁵ See Document 349.

⁶ See Cass Peterson, "Administration Ozone Policy May Favor Sunglasses, Hats," *Washington Post*, May 29, 1987, and Robert E. Taylor, "Advice on Ozone May Be: 'Wear Hats And Stand in Shade,'" *Wall Street Journal*, May 29, 1987. Attached but not printed.

Tab A

Letter From Secretary of State Shultz to Attorney General Meese⁷

Washington, June 1, 1987

Dear Ed:

I wanted you to know of my strong personal interest in the early and successful completion of an effective international treaty to protect the stratospheric ozone layer through reducing use of certain chloro-fluorocarbons (CFCs) and halons. This is a subject which has attracted intense Congressional and media interest, and which many regard as the highest priority environmental issue on the global agenda.

International agreement is now within reach, largely on U.S. terms. The U.S. position was developed through intensive interagency deliberations leading up to, and following, the authority to negotiate (Circular 175) which was approved on my behalf by Under Secretary Allen Wallis last November. Implementing that authority, the U.S. delegation has succeeded through three difficult negotiating rounds in turning aside control proposals which would have been disadvantageous to the United States, and in gaining wide acceptance of the U.S. position.

I am now concerned, however, that within the Domestic Policy Council process, a few agencies are advocating positions which would, in effect, reopen the entire international negotiation, which is scheduled for completion in September at a Conference of Plenipotentiaries in Montreal.

I understand, and sympathize with, concerns over both scientific uncertainties and the possible economic impact of controls. However, Lee Thomas, who is charged with environmental protection by the President as well as by legislative mandate, has concluded, after over two years of analysis, that the U.S. position is a prudent approach to risk management. I agree with him. Although scientific certitude is probably unattainable, I am impressed by the growing international consensus on the threat to the ozone layer, largely due to research by our own NASA and NOAA. This consensus is manifest in the changed positions of both U.S. industry, which now officially advocates at least a global freeze on production of CFCs, and the European Community, which has proposed a freeze followed by a 20 percent automatic reduc-

⁷ Confidential. Drafted by Butcher and Benedick on May 29 and cleared in D, E, L, EB, EPA, and NSC. A typed notation in the upper left-hand margin reads: "COPY GIVEN TO SCOTT THAYER, 6/1, 10:30 a.m. by S/S."

tion, and which last month agreed to consider a further 30 percent reduction.⁸

Based on contacts with industry, it appears that the 20 percent reduction (which would not come into effect until 1992–94) could be absorbed by U.S. industry utilizing existing alternative products and processes. While the additional 30 percent cut would require substitute products, the additional time frame for such reduction (8 to 12 years from now) would be within the “comfort zone” for the market system to provide incentives for the needed R & D.

I believe it would be inadvisable for us to delay the negotiations, or to appear now less concerned over protecting the ozone layer than the European Community and others who have followed our leadership. John Whitehead, Lee Thomas and I, American Ambassadors abroad, and senior officials on my staff, have all advocated the U.S. position in contacts with senior foreign officials. This has contributed to the evolution of policy in many countries. A perceived reversal by the U.S. risks an embarrassing loss of international credibility, as well as domestic political backlash. Moreover, it would risk the worst possible outcome from the standpoint of U.S. industry and consumers: namely, unilateral U.S. controls (added to our 1978 ban on CFCs for aerosol use) forced by the Clean Air Act, by court order, or by new legislation. There are already growing rumors in Congress and among public interest groups that the Administration is “backsliding” from its previously much-praised commitment to protect the ozone layer.

In order not to jeopardize the progress we have made in this major international negotiation, and following consultation with Lee Thomas, I propose to instruct the U.S. Representative to continue to negotiate in conformance with the existing Circular 175 authority. The objective is a strong and effective international agreement by September, containing provisions as summarized in the enclosure, which is consistent with the interagency position developed prior to the most recent negotiating round, in April.⁹

I hope you will agree that this is a reasonable position. Only a protocol which provides for significant reductions in CFC’s can prudently address the environmental risks, avert needless criticism of the Administration and probable unilateral domestic controls, and provide the needed stimulus for industrial research into alternative products over a reasonable time period. The Administration will have the opportunity to review the negotiated protocol text before signature by our Government. If you have any questions concerning these provisions,

⁸ See Document 362.

⁹ Undated, attached but not printed is a summary of the protocol.

I would be pleased to ask Assistant Secretary Negroponte to provide further details.

I propose to proceed on this basis unless you feel that this course of action is not feasible because of compelling objections from some members of the Domestic Policy Council. In that case, I propose that we, together with Lee Thomas, take this matter to the President without further delay.

Sincerely yours,

George P. Shultz¹⁰

¹⁰ Shultz signed "George" above his typed name.

365. Letter From Attorney General Meese to Secretary of State Shultz¹

Washington, June 2, 1987

Dear George:

Thank you for your letter of 1 June 1987² concerning the international negotiations to protect the stratospheric ozone layer, currently under consideration within the Domestic Policy Council. I appreciate the progress that has been made by State Department and the Environmental Protection Agency in addressing this issue and negotiating toward an international agreement, and I understand your concerns about delay in the negotiations or dramatic change in the United States' negotiating position.

I believe we can accommodate necessary progress in the negotiations and also pursue on an accelerated basis the process now underway within the Domestic Policy Council, which will present this issue to the President in an expeditious and fair manner. As a result of the first Domestic Policy Council meeting on this topic on 15 May,³ several Council members inquired about the scientific facts and theories con-

¹ Source: Reagan Library, Sweet Files, Ozone Negotiations/Questions. No classification marking.

² See Tab A, Document 364.

³ The reference is in error. The Domestic Policy Council first discussed stratospheric ozone on May 20. See Document 363.

cerning ozone depletion, the anticipated effects on health and the environment, and a study of predicted costs and benefits. A series of working group meetings have been addressing these questions,⁴ in preparation for a meeting of the Domestic Policy Council on 11 June, and presentation to the President immediately thereafter.

The process now in place will allow the President to make the necessary decisions in a timely manner to guide our negotiators in the development of the strongest possible protocol, with thorough airing of views from all interested officers in the President's Cabinet. Lee Thomas is now a member of the Domestic Policy Council, and his views will continue to be fully considered, as of course will those of the Department of State.

I believe this approach will accommodate the needs of our negotiators as well as the President and the Cabinet.

Sincerely yours,

Edwin Meese III⁵

⁴ In a May 29 memorandum to Risque, Sweet provided brief summaries of meetings regarding stratospheric ozone, including the working group meetings. (Reagan Library, Sweet Files, Ozone Negotiations/Questions)

⁵ Meese signed "Ed" above his typed signature.

366. Evening Reading for President Reagan¹

Washington, undated

This is to alert you that the Domestic Policy Council (DPC) meets next week to consider U.S. policy in ongoing international negotiations on protection of the stratospheric ozone layer. John Whitehead will represent me. Until now the U.S. has played a strong and widely acclaimed leadership role in these talks. I have written Ed Meese² of my strong belief that a weakening of the U.S. negotiating position, as

¹ Source: Department of State, Environmental Issues, 1979–1993, Lot 93D395, Ozone. Drafted by Benedick on June 5 and cleared by Negroponte and Smith. There is no indication Reagan saw this document.

² See Tab A, Document 364.

advocated by some agencies, would generate adverse political reactions at home and abroad. Strong feelings in Congress³ could lead to stringent unilateral U.S. regulations, which would be far less desirable for U.S. industry and consumers than a global accord. A retreat could also undermine our credibility in the area of international environmental protection when in fact this negotiation presents an excellent opportunity for the Administration to score a significant success in this field.

³ See "Briefing: Hodel Catching the Heat; Tug of War on the Presidential Debates; Crusade on Capital Gains," *New York Times*, June 4, 1987, p. B8.

367. Briefing Memorandum From the Acting Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs (Benedick) to the Deputy Secretary of State (Whitehead)¹

Washington, June 9, 1987

SUBJECT

Domestic Policy Council Meeting on Protocol to Control Ozone-Depleting Chemicals—11:00 a.m., Thursday, June 11

I. YOUR OBJECTIVE

The first DPC Meeting on this subject (May 20—Allen Wallis attending)² failed to resolve deep agency divisions over the U.S. negotiating position. Following this, the Secretary wrote Ed Meese, outlining his concern and concisely summarizing the Department's position and rationale (see Tab B).³ Your objective is to obtain DPC agreement that we continue to negotiate for a strong international accord to control ozone-depleting chemicals or, failing agreement, to put the matter to the President without further delay. The talking points emphasize the risks of loss of international credibility, domestic political backlash, and undesirable unilateral regulation if we fail to continue the heretofore successful U.S. leadership role in these negotiations. I am scheduled

¹ Source: Department of State, Environmental Issues, 1979–1993, Lot 93D395, Ozone. Confidential. Drafted by Butcher and Benedick.

² See Document 363.

³ Attached and printed as Tab A to Document 364.

to brief you at 9:30 a.m. on June 11⁴ and, as the head U.S. negotiator, I have been asked orally to frame the negotiating issues for the Council.

II. BACKGROUND

The Issue

Through three tough, and well-publicized, negotiating rounds under United Nations Environment Programme (UNEP) auspices since last December, participating countries have moved toward consensus on a schedule for reducing emissions of ozone-depleting chemicals. The issues are complex and interrelated (see May 18 DPC Memorandum at Tab E),⁵ but the central point of division is the extent of reductions which the U.S. should support, and whether the reductions should be scheduled as “semi-automatic” (i.e., reversible by vote of parties) or only implemented upon a future reaffirmation by parties—in both cases preceded by a scientific, economic, and technological assessment.

The debate centers on whether the U.S. should support the “Chairman’s draft” protocol text, which was developed at the April international negotiation,⁶ and which provides for:

- a freeze on production/consumption of the chemicals within two years after entry into force (EIF);
- a 20% reduction four years after EIF; and
- a further 30% reduction six years after EIF, subject to reaffirmation; or eight years after EIF, “semi-automatic.”

The UNEP Executive Director has asked for government comments on this draft by June 19. Informal but crucial negotiations in the “Chairman’s Group” of selected delegation heads (I will represent the U.S.) will occur June 28–30 in Brussels. A Conference of Plenipotentiaries to approve the protocol is formally scheduled for September 14–16 in Montreal, following a full negotiating round September 8–11.

Other relevant factors include:

- a Senate resolution on ozone protection passed last Friday by 80-2, calling for the U.S. to negotiate “a prompt automatic reduction of not less than 50% . . . and the virtual elimination of such chemicals” (see Tab C);⁷
- pending legislation in both Senate and House call for unilateral U.S. reductions of up to 95 percent;⁸

⁴ No record of this meeting has been found.

⁵ Attached but not printed.

⁶ See Document 362.

⁷ Dated June 5, attached but not printed.

⁸ Probable reference to H.R. 2036, introduced on April 9.

- a pending court case could force EPA to regulate unilaterally if the international negotiations fail to come up with a strong protocol;⁹
- several countries have recently expressed concern over whether the U.S. is changing its strong position, including the FRG and Japan, who noted that previous high-level U.S. representations have influenced them to rethink their own positions.

Agency Views

Lee Thomas (EPA) will open the DPC meeting by presenting information requested on May 20 on health and climatic effects of ozone depletion and on the legal/legislative situation; Beryl Sprinkel will follow with a cost-benefit analysis.

Thomas strongly believes the international agreement should include substantial, firmly scheduled reductions, subject to reversal only following new information, in order to provide a powerful market incentive for development of safer substitutes.

Most agencies (and most nations participating in the negotiations) agree on a freeze and a "semi-automatic" 20% reduction (all protocol provisions are subject to change by 2/3 vote). OSTP and Interior want the 20% reduction to depend on a majority positive vote of parties following a scheduled 1990 scientific assessment; they strongly oppose any further cuts.

While several agencies at staff level have questioned scheduling a "semi-automatic" 30% cut (OMB, Commerce, Energy and possibly the Council of Economic Advisors) the intensity of their feeling is uncertain. USTR, NSC, the Vice-President's Office, Justice and possibly Defense appear leaning toward the State-EPA original negotiating position.

As part of their effort to prevent agreement on this treaty, some agencies (Interior, OSTP) have raised other issues, such as mandatory requirements for "verification" of compliance, weighted voting, and adherence by most or all potential CFC producers (i.e., developing countries). While these are all desirable (and part of our negotiating position), the overall benefits of an international accord are sufficiently significant that we should not make these points absolute conditions for U.S. adherence.

State Position

State should firmly support the text which has emerged from the negotiations (freeze + 20% + 30%) and EPA's position favoring "semi-automatic" reductions. Ideal and flexible guidance to the U.S. negotiators would be the points in the enclosure to the Secretary's June 1 letter

⁹ At Tab D is an excerpt from Circular 175. See Document 355.

to Ed Meese (Tab A),¹⁰ which is fully consistent with the original Circular 175 negotiating authority (Tab D).¹¹ If this cannot be agreed, State should insist that the issue go to the President in accord with the Secretary's letter.

III. TALKING POINTS

—International agreement is within reach, largely on U.S. terms.

—Lee Thomas is charged, by the President and by legislative mandate, with environmental protection. He has concluded that the existing U.S. position is a prudent approach to risk management in the face of current scientific knowledge.

—To modify our negotiating position now would pose substantial risks of:

- a loss of international credibility, in view of the leadership role we have played;
- domestic political backlash on an issue which has brought great credit to the Administration; and
- unilateral controls—the worst possible outcome for U.S. industry and consumers—forced by the Clean Air Act, court order or new legislation.

—In order not to further jeopardize the progress we have made in this major international negotiation, Secretary Shultz and I propose that we instruct the U.S. representative to continue to negotiate in conformance with the existing Circular 175.

—Our objective is to conclude a strong and effective agreement by September, containing provisions summarized as follows: (see next page, which is the enclosure to the Secretary's letter).

—If any agency has compelling objections to this, we should take the matter to the President without further delay.

¹⁰ At Tab A is the evening reading to the President printed in Document 366.

¹¹ See footnote 9, above.

368. Memorandum From the Energy, Natural Resources, and Environment Working Group to the Domestic Policy Council¹

Washington, June 10, 1987

SUBJECT

Stratospheric Ozone

On May 20, 1987, the Council met to discuss the international protocol negotiations currently underway to limit emissions of ozone depleting chemicals. Several questions were raised and the Working Group was asked to provide answers. The questions were:

- What are the legislative and legal impacts of an international ozone protocol?
- What are the most up-to-date scientific data on climatic and health effects of ozone depletion?
- What is the cost/benefit effect of an international protocol restricting ozone depleting chemicals?

The following has been summarized by the Working Group after discussion of detailed presentations by experts in each area.

Climatic and Atmospheric

- Since 1960 the natural variability of the total global column of ozone has been about 3%.
- Observations have shown (1) a decrease in ozone of about 7% during the last decade in the upper part of the stratosphere; and (2) a 40% decrease in total column ozone over Antarctica in the spring season since the mid-1970's. Whether the recent changes in column and upper stratospheric ozone are due to natural phenomena or in part to CFCs remains an open question.
- Continued growth of CFC and Halon emissions at 3% per year is predicted to yield a globally averaged ozone depletion of 6% by the year 2040, and more thereafter, which would be greater than natural variability. In contrast, a true global freeze on emissions of CFCs and Halons (i.e. full international participation, full chemical coverage, and full compliance) is predicted to yield a maximum global average column ozone depletion of less than 1%. Ozone depletions at high latitudes are predicted to be 2–3 times larger than the global average.

¹ Source: Reagan Library, Risque Files, Stratospheric Ozone (2). No classification marking. Benedick initialed for the Energy, Natural Resources, and Environment Working Group.

- A true global freeze would limit column ozone depletion to less than the natural variability. A protocol freeze would fall short of a true global freeze as it would have less than full compliance among developed countries and would most likely allow for limited growth in CFC usage in developing countries.

- Ozone depletion in the upper part of the stratosphere greater than 25% is predicted to occur even in the case of a true global freeze. This would lead to a local cooling greater than natural variability. The consequences of this cooling for the earth's climate cannot be predicted at this time.

- There is an uncertainty factor of two to three in the predictive abilities of the theoretical models used to simulate the present atmosphere.

- If there is environmental damage due to CFCs and Halons, their long atmospheric lifetimes would mean that recovery would take many decades even after complete cessation of emissions.

Health and Ecological Effects

- Projected ozone depletion will increase health effects of ultraviolet radiation (UVB)

- Without ozone depletion, projections show UVB is a serious problem, and will cause:

- 2,977,000 skin cancer deaths of Americans born before 2075,
- 165 million skin cancer cases,
- 426,516,000 cataracts.

- If the predicted 25% depletion of ozone in the upper stratosphere occurs by 2075, UVB related health effects would increase by:

- 2 million additional skin cancer deaths,
- 98 million additional skin cancer cases,
- 43 million additional cataracts.

- If upper stratospheric depletion of 7.7% occurs instead (as predicted to result from a protocol freeze with less than full compliance and limited emissions growth in developing countries),

- 1.6 million additional American deaths would be averted,
- 79 million additional skin cancer cases would be averted,
- 32 million additional cataracts would be averted.

- If upper stratospheric depletion of 6.1% occurs (as predicted to result from a 20% emissions reduction protocol with less than full compliance and limited emissions growth in developing countries) incrementally,

- 80,000 additional American deaths would be averted,
- 4 million additional skin cancer cases would be averted,

—2 million additional cataracts would be averted.

—If upper stratospheric depletion of 3.2% occurs (as predicted to result from a 50% emissions reduction protocol with less than full compliance and limited emissions growth in developing countries) incrementally,

—130 thousand additional American deaths would be averted,

—7 million additional skin cancer cases would be averted,

—7 million additional cataracts would be averted.

—Uncertainties include future ozone depletion, the action spectra and estimates of dose-response coefficients.

—The analysis assumes no behavioral changes.

—Considering quantifiable uncertainties, there is a 50% chance that the actual damages will be between 50% and 125% of the above estimates.

—There is a 90% chance that the actual damages will be between 20% and 260% of the above estimates.

—Laboratory studies link UVB with suppression of the immune system.

—Evidence suggests a relationship to infectious disease.

—A relationship has been demonstrated in herpes simplex and the tropical disease, leishmanias.

- Evidence supports the conclusion that ozone depletion would exacerbate existing environmental problems.

—Photochemical air pollution in places like Los Angeles would probably worsen.

—The lifetime of outdoor plastics and latex paints would be shortened.

- Evidence supports the conclusion that ozone depletion could seriously influence crops and aquatics.

—Knowledge is limited, but experimental data indicate crop production may be reduced and ecosystems disturbed.

—Field experiments have not been done, but laboratory data indicate aquatic organisms are sensitive to higher UVB, especially during critical breeding seasons.

- Higher emissions of CFCs and its indirect effects of vertical ozone re-distribution will raise global temperatures and change climate.

Cost/Benefit

- Cost/benefit analysis has been carried out for known health effects (skin cancer deaths, non-fatal skin cancers, cataracts) based on EPA's Risk Assessment.

- Potential effects of ozone depletion on plants, aquatic life, the human immune system, ground-level ozone concentrations, polymer degradation, and sea level rise were not quantified.

- A range of assumptions were used in the analysis to reflect economic uncertainties and lack of inter-agency consensus on the values of key parameters.

- The analysis is based on EPA models which attempt to project health impacts through year 2165 and assume no changes in technology, medicine or human behavior.

- Conclusions:

- The economic benefits from a protocol freeze (at 1986 levels with less than full international participation) of CFC emissions are substantially greater than the costs over all plausible assumptions and ranges of uncertainty.

- The economic benefits of a protocol freeze plus a 20% reduction in CFC emissions are also in almost all cases substantially in excess of the costs.

- The incremental benefits of the additional 20% reduction beyond the freeze are in most cases in excess of the incremental costs of the cut.

- The benefits of an additional 30% reduction (beyond the freeze plus 20% reduction) appear in some cases to be greater than the incremental costs, and in other cases to be less. Further scientific, technical, and economic review will be valuable in evaluating benefits and costs before implementing this step.²

ISSUES AND DISCUSSION

At the May 20 Council meeting, the status of the international ozone negotiations was provided. It included a review of the November 28, 1986 Circular 175, which was approved by Under Secretary of State Allen Wallis, and which authorized the U.S. delegation to negotiate a protocol. *The approval process for the Circular 175 has been criticized by some members of the Working Group, on the basis that numerous departments and agencies had not concurred on the Circular, or that concurrence was by individuals not at policy-making levels.* The Circular 175 authorized the U.S. delegation to negotiate a protocol providing for:

I. A near-term freeze on the combined emissions of the most ozone-depleting substances;

II. A long-term scheduled reduction of emissions of these chemicals down to the point of eliminating emissions from all but limited uses

² An unknown hand placed a checkmark in the left-hand margin next to this paragraph.

for which no substitutes are commercially available (such reduction could be as much as 95%), subject to III; and

III. Periodic review of the protocol provisions based upon regular assessment of the science. The review could remove or add chemicals, or change the schedule or the emission reduction target.

The international negotiations to date have resulted in a Chairman's Text, a proposed protocol to which negotiating countries have been asked to respond.³

The Working Group recommends that the Council support continuation of negotiations pursuant to the current Circular 175. The Working Group also recommends however, that additional guidance be given to the U.S. negotiators, based on reviews by a wider range of agencies such as those represented on the Council.

The following are issues for which the Working Group feels additional guidance to the negotiators may be appropriate.

A. PARTICIPATION AND TRADE PROVISIONS

There are many complex issues pertaining to fair trade provisions and participation of developing countries in the protocol.

1. *What should be the U.S. position regarding international participation in the protocol?*

The Working Group feels that the U.S. delegation should seek maximum international participation in the protocol. To many, participation is the key issue, because growth of emissions from non-participating countries would offset the emissions reductions of those who are parties to the protocol, thereby hindering overall attainment of protocol objectives.

Developing countries are an important part of the participation issue. While the 48 countries participating in the protocol negotiations account for over 90% of the current production, substantial growth of production and consumption is anticipated in developing countries. The U.S. and the United Nations Environment Program (UNEP) have expended considerable effort to encourage broad participation by developing countries. However, only relatively few have shown the interest or the expertise to participate. Parties to the protocol would not be able to prevent non-joining countries from producing CFCs for their internal market or from exporting to other non-parties, but, if the protocol provides for trade sanctions, parties could prevent non-parties from profiting through international trade with protocol parties.

A strong protocol, including the major producing and consuming countries, should lead to earlier development of substitute products,

³ See Document 362.

and might discourage non-joiners from investing heavily in CFC technology that would not generate trade with parties to the protocol. Further, some believe that the very existence of a protocol, as an expression of concern by the international community, increases the pressure on non-member countries to join; in essence, if they continue to produce CFCs, they are exposed as behaving irresponsibly on a matter of global import.

The following options are proposed for the Council's consideration:

- a. *Give the U.S. delegation discretion for seeking maximum participation.*
- b. *Develop criteria for acceptable levels of participation, e.g. minimum participation of countries producing a specified percentage of the total global CFC/Halon production; or a formula requiring minimum participation of countries accounting for a specified portion of the world population.*
- c. *Wait to reassess the U.S. position after we know the extent of participation by other countries.*

To encourage the participation of developing countries, some parties favor granting developing countries a limited grace period from compliance with protocol provisions. Such a grace period would be allowed in recognition of the importance of having global participation in the 21st century, and in recognition of the fact that developing countries have not received the benefits of CFC and Halon use. The length of the grace period and the levels of production/consumption that would be permitted are questions that would need to be resolved.

2. Voting among parties to the protocol.

Also at issue is the voting process for making future decisions under the protocol. This could include decisions on future reductions. *The Working Group recommends that the U.S. delegation negotiate for a system of voting which would give due weight to the major producing and consuming countries.*

3. The control formula and trade provisions.

The Working Group recommends that the Council direct the U.S. delegation to continue to seek to include in the protocol an effective formula to control emissions with accountability, the fewest possible restrictions on the flow of trade and capital among parties, the most favorable formula for U.S. industry, stimulation of substitutes and innovative emission controls, and with no greater restriction on trade involving the U.S. than will be adopted and enforced by other nations.

Trade: The U.S. has pushed for a strong protocol article on trade sanctions to be imposed on parties which have not signed the protocol. This would limit imports not only of the controlled chemicals but also of products containing these chemicals (e.g., air conditioners or foam insulation). The U.S. has pushed for a study of the feasibility of limiting imports of products manufactured using the controlled chemicals (e.g.,

electronic equipment). The intent of the trade article would be to provide a "stick" for encouraging others to join and to limit the impact on ozone depletion and the transfer of commercial benefits from parties to the protocol to countries which have not joined.

This would represent a major policy decision, as it could be an important precedent for using trade sanctions to enforce environmental regulations. Also to be decided is whether trade sanctions should be applicable to parties who materially violate their protocol obligations.

Control Formula: Since it is not possible to measure emissions directly, the negotiators have explored alternative formulas to control emissions which consider production, consumption, imports and destruction.

4. *Should the U.S. seek protocol provisions for reporting, monitoring, verification and enforcement provisions?*

There are many complex issues relating to enforcement of a protocol. Because of the enforcement roles of EPA and U.S. environmental groups, our compliance with the protocol is apt to be substantial. Most other nations do not have such enforcement mechanisms. No monitoring or verification system has been identified to date. A system of on-site inspections for the presence of new or expanded CFC-producing facilities would be expensive and probably ineffective because of the large land areas involved.

Some Working Group members believe the U.S. should insist upon strong monitoring and reporting provisions in a protocol. Some favor the U.S. negotiating for strong provisions, and exploring the feasibility and cost effectiveness of establishing ad hoc inspection teams to investigate any alleged violations of protocol requirements. Trade provisions could at least prevent entry of such production into international trade with parties to the protocol.

The following options are presented for the Council's consideration:

- a. *Give the U.S. delegation discretion for seeking such provisions.*
- b. *Insist that the protocol include such provisions.*

5. *Should the U.S. attempt to receive "credit" for its 1978 unilateral voluntary ban on CFC-producing non-essential aerosols?*

Some believe that in addition to a freeze, other nations should ban non-essential aerosols as the U.S. did in 1978. Otherwise, many nations might be able to meet their obligation to reduce CFC emissions through the simple expedient of banning such aerosols, while the U.S. is required to cut back on other products using CFCs. One form of recognition may be to require other countries to ban non-essential aerosols in addition to meeting other protocol requirements.

The U.S. attempted unsuccessfully to get such credit two years ago during the negotiation of the Vienna Convention on the ozone layer,⁴ and some believe that if the U.S. were to insist upon such credit as a condition of a protocol, the negotiations would come to a standstill as in 1985. Some argue that even with the aerosol ban, the U.S. remains responsible for most of the long-lived CFCs in the stratosphere, and the U.S. per capita CFC consumption is still the world's highest.

The Working Group recommends that the Council consider and provide guidance for the U.S. delegation as to whether or not we should attempt to gain credit for our previous actions.

B. AN EMISSIONS CONTROL PROTOCOL

The aforementioned Chairman's Text contains proposals related to (1) a freeze on emissions, and (2) emissions reductions beyond a freeze. The Working Group discussed these at length.

1. *A Freeze on Emissions.* The following are major questions:

a. *What chemicals should the freeze cover?*

The Chairman's Text provides for a freeze on emissions at 1986 levels which would cover CFCs 11, 12, 113, 114, and 115. Due to a technicality, Halons are not now included.⁵

The Working Group consensus is that the freeze should include all of these CFCs as well as Halons 1201 and 1311. The U.S. delegation will be seeking to expand the protocol to include the Halons.

From a purely scientific perspective all chemicals containing chlorine and bromine, weighted by the ozone depleting potential, should be considered for the protocol, both for the freeze and for potential future reductions. The Chairman's Text is somewhat less than a purely scientific perspective because only the fully halogenated chemicals (CFCs 11, 12, 113, 114 and 115, and Halons 1201 and 1311) are being considered for inclusion. Chemicals such as CFC 22 and methyl chloroform which are only partially halogenated are not being considered as they are believed to be part of the solution and have relatively low ozone depleting potential.

Concern has been raised with regards to reductions in Halons 1201 and 1311 and CFC 113 because of their strategic value to the U.S., and the apparent lack of suitable substitutes. This is a legitimate concern but one that can be handled if controls are on the sum of the ozone depleting potential of all chemicals, rather than on individual substances. This will allow each individual country the flexibility to live

⁴ See Document 352.

⁵ An unknown hand circled "113" and underlined the phrase "Halon are not now included."

within the internationally agreed protocol with the least interference on how a country wants to implement the protocol.

b. *When should a freeze on emissions occur?*

The Chairman's Text proposes that the freeze take effect within two years of entry into force. There is uncertainty as to when entry into force will occur, but the best estimate is that it will be in the 1988–90 time period. *The Working Group consensus is that a freeze on emissions should go into effect within one to two years after entry into force of the protocol.*

2. *Reductions Beyond a Freeze*

a. *What chemicals should the reductions cover?*

The Chairman's Text proposes that the additional reductions beyond a freeze include CFCs 11, 12, 113, 114 and 115. *The Working Group consensus is that any additional reductions should cover CFCs 11 and 12; however, there are questions about the coverage of CFCs 113, 114, 115, and Halons 1201 and 1311.* National security concerns argue against including the Halons in any reductions. There is also a national defense and security concern with including CFC 113 in any reductions beyond a freeze, especially given 113's importance for certain high-technology electrical applications. The questions regarding coverage of CFCs 114 and 115 concern their potential use as substitutes for controlled chemicals and their present low usage.

b. *How much and when?*

The Chairman's Text provides for a 20% reduction to take effect 4 years after entry into force (1992–94) and an additional 30% reduction to take effect either 6 years (1994–96) or 8 years (1996–98) after entry into force.

With respect to any future reductions, the Working Group recognizes the importance of the future assessments of science, technology, economics and environment.

The Working Group identified distinct issues surrounding each potential reduction. With respect to the 20% reduction, some favor it because it can be accomplished with existing industrial processes and because reductions beyond a freeze may be needed to counterbalance less than full participation in a freeze. Yet others note there are uncertainties as to the need for any additional reductions.

Regarding the additional 30% reduction, some favor its inclusion on the basis of judgments about the science and potential adverse health effects. Others emphasize, however, the uncertainties about the need to commit at this time to this additional measure. One or more scientific reviews would be available prior to this reduction going into effect.

The Working Group recommends that the Council discuss and provide guidance on whether the U.S. position is to support:

1. *A 20% reduction beyond a freeze.*

2. *An additional 30% reduction.*

3. *Additional reductions beyond 50%.*

- c. *Should the reductions be automatic (subject to reversal by a 2/3 vote) or contingent upon a positive vote of a majority of the parties?*

The Chairman's Text proposes an initial 20% reduction to take effect automatically (implicitly reversible by a 2/3 vote).

The Text provides two alternative implementing mechanisms for the next 30% reduction—6 years after entry into force if the majority of the parties so decide, or 8 years after entry into force unless reversed by a two-third majority of the parties.

There are strong views in the Working Group on the implementing mechanism for the additional 30% percent reduction. Many do not wish to commit to the reduction at this time unless it is contingent upon a positive vote of a majority of the parties. Others, however, believe the evidence warrants committing to this reduction at this time.

Most believe the future assessments of the science, technology, economics and environment are important to these reduction decisions. There are differing views, however, on how such future assessments ought to factor into reduction decisions. Some believe final reduction decisions ought to follow future assessments, whereas others believe reductions should be scheduled now with an opportunity for reversal based upon future assessments.

The Working Group recommends that the Council provide guidance on whether the U.S. should support automatic reductions of:

- a. *20% beyond the freeze.*

- b. *an additional 30%.*

C. ISSUES FOR LATER CONSIDERATION

The Working Group identified several related issues that will require further consideration. They include:

1. *The relationship between international protocol and domestic regulations.* Since the overall objective of the protocol is to avoid or reduce health and environmental risks, compliance with the international protocol will necessarily result in domestic regulation. There is legal precedent for such a linkage between international agreements and subsequent domestic regulations.

2. *Non-Regulatory Approaches.* There is no reason why the Nation's efforts to achieve the objectives sought in the protocol should be limited to a regulatory approach. The suggestion has been made that if the government imposes such regulatory burdens upon the people and the economy of the U.S., consideration should also be given to policies which may ease the regulatory burdens, including, but not limited to,

possibly rendering unnecessary imposition of regulations beyond those necessary to assure U.S. compliance with the international protocol.

Such a domestic, non-regulatory supplement to the international protocol might, for example, contain elements intended to eliminate government barriers to, or facilitate, the development of: substitutes for covered chemicals, technology to mitigate or eliminate the adverse effects of chemical emissions upon stratospheric ozone, or medical advancements in the understanding and treatment of the problems caused by ozone depletion.

[NOTE: This paper attempts to portray the general flavor of the Working Group discussions on this very complex issue. It was not possible to include all of the important comments contributed by representatives of the participating agencies.]⁶

⁶ Brackets in the original.

369. Minutes of a Domestic Policy Council Meeting¹

Washington, June 11, 1987, 11 a.m.

PARTICIPANTS

Messrs. Meese, Hodel, Lyng, Bowen, Herrington, Whitehead, Taft, Brown, Covitz, Wright, Cribb, Bauer, Ms. Risque, Messrs. Bledsoe, Thomas, Sprinkel, Dyer, Tuck, Brashear, Dean, Graham, Benedick, Hookano, Willkie, Ms. Schafer, Messrs. Galebach, Gray, Kuttner

Stratospheric Ozone

Attorney General Meese began the meeting by stating that guidance should be given to U.S. negotiators on the positions to be supported during the final stages of negotiation of an international protocol for protecting the stratospheric ozone layer. Mr. Thomas provided an overview of questions raised at the last Council meeting about environmental and health effects, legal and legislative issues, and cost-benefit data. He said that while there is not total agreement on the validity of the models being used, ozone depletion is occurring, and a freeze or

¹ Source: Reagan Library, Bledsoe, Ralph: Files, DPC Meeting Minutes—1987–1989 (2). Confidential. The meeting took place in the Roosevelt Room at the White House.

reductions of chemicals that seem to be causing the depletion would help prevent further ozone depletion. He described the amounts of depletion reduction projected by the models, including additional skin cancer deaths, more cataracts, and other effects whose magnitudes are uncertain. He described Section 157 of the Clean Air Act which requires him to take action if further ozone depletion may be reasonably anticipated, pointing out that the current international negotiations have caused Congress to ease their pressure for domestic regulations at this time. He said domestic action will be necessary at some later time, possibly near the end of the year. Mr. Thomas said he supports agreeing to a 50% reduction from 1986 levels of production of ozone-depleting chemicals, and that it is important to have an international agreement.

Mr. Sprinkel described a cost/benefit analysis done by a subgroup of the Energy, Natural Resources and Environment Working Group.² He said the costs are relatively straightforward, and that simply put, we can look at emissions reductions as an insurance policy with a specified rate of return. He said the bottom line, despite some uncertainty, is that a freeze will result in far greater benefits than costs; a further reduction of 20% will result in somewhat greater benefits than costs; and a 30% reduction beyond that could have marginal benefits over costs, but we need better data to substantiate this. He recommended increasing the budget for measuring other effects of ozone depletion.

Mr. Bauer felt the analyses are helpful, but questioned the numbers used to represent values of life. Mr. Graham said the models for projecting future effects extend up to 200 years, and do not assume likely changes in skin care protection and other areas. He felt we should not make a commitment to reductions until we have an unbiased scientific review. He also opposed instructing the U.S. delegation to commit to a voting scheme which may require actions not backed by science. Mr. Sprinkel suggested that if we wait too long, international and congressional actions will have passed us by. Mr. Whitehead said his impression was that the scientific community is concerned about depletion of the ozone layer and is supporting freeze and reduction actions. Mr. Graham said that we must accelerate development of knowledge about this situation. Mr. Brown agreed that we have some time before action must be taken, but he felt we must bring all countries along in a cooperative approach.

Mr. Meese said it is important how we handle the scientific aspects of this issue, but even more important how we handle the political situation. Mr. Thomas said we know enough from the science to negoti-

² Probable reference to Document 368.

ate a protocol, and that through our actions we have brought other countries to the negotiating table. He felt we should not wait, since we are close to reaching reasonable agreements. Secretary Hodel commented on how facts about stratospheric ozone are changed, citing as an example the National Institutes of Health statement that cataracts will not be increased.³ He felt we should present the President with the best options possible, so that the President can instruct the U.S. negotiators on what reductions to seek, what chemicals should be covered, what countries must join in, and other features of the protocol. Mr. Whitehead said that thus far the Administration can be proud of what we have done, and that we must continue to take action in concert with other countries. He said he would like pressure on the negotiators to get more countries involved in the process. He said the U.S. is being asked about its position on many of the features of the protocol.

Mr. Hodel said he would like the President to affirm that he wants an agreement, and one that will work. Mr. Hodel expressed fear that we may sign an agreement and other countries will not. Mr. Thomas agreed that the President should provide guidance. Mr. Wright said it is important to give the President the options now, so that negotiators will have guidance for the next rounds of negotiations. Mr. Taft did not want the negotiators to pin down agreements on Halons, or possibly CFC 113 chemicals yet. Mr. Thomas felt exclusions of 113s would be a problem at this late time. Ms. Schafer said that the principle we should follow is that any reductions beyond a freeze must be based on scientific, technological, economic, and environmental assessments. Mr. Brown briefly described the NOAA proposal for a reductions plan for inclusion in the protocol.⁴

Mr. Meese summarized the consensus of the Council that the U.S. negotiators should be given guidance from the President. He directed that a series of options for the President be developed by a small group of principals, and that they be routed for comment by other Council members. The options would be forwarded to the President and, if there are disagreements, a meeting would be scheduled. Options would address country participation, chemical coverage, voting, monitoring, and other issues regarding the protocol.

³ Not further identified.

⁴ Not found.

370. Minutes of a Domestic Policy Council Meeting¹

Washington, June 18, 1987, 2 p.m.

PARTICIPANTS

The President, The Vice President, Messrs. Hodel, J. Baker, Lyng, Bowen, Pierce, Herrington, H. Baker, Thomas, Whitehead, Taft, Burns, Wright, Woods, Bauer, Cribb, Ms. Risque, Messrs. Bledsoe, Donatelli, Fitzwater, Crippen, Sprinkel, Greene, Gray, Ms. Schafer, Messrs. Rona, Smart, Willkie, Ms. Dunlop, Messrs. Galebach, Kuttner, Ms. Faoro

Stratospheric Ozone

The President asked Secretary Hodel to review the stratospheric ozone issue. Secretary Hodel described negotiations underway for developing an international protocol to protect the stratospheric ozone layer. He said the purpose of the meeting is to permit the President to consider guidance he may wish to give the U.S. delegation. Mr. Thomas presented an overview of problems with depletion of the ozone layer, describing models that have been developed for projecting results of different courses of action. He discussed possible health effects such as increased numbers of skin cancer deaths and cataracts, and other effects on the ecology, agriculture production, and marine life. He outlined the legal and legislative issues involved, and briefly reviewed costs and benefits of various options.

Mr. Thomas described projections from EPA models of a freeze on further emissions of ozone-depleting chemicals by all or some number of countries. He also commented on possible impacts of a reduction of 20%, and an additional 30% reduction from 1986 production levels. Mr. Thomas said that the 1977 Clean Air Act requires him to take action if a reasonable likelihood of damage to the environment from stratospheric ozone depletion is present. He said that in 1978, the U.S. banned aerosols partly out of this concern. EPA is now under a consent decree pending the outcomes of the international negotiations, and Mr. Thomas said Congress and environmental groups will be watching to see if the accord reached is strong enough. He said that EPA supports planned reductions of 50% of 1986 levels over ten years.

Mr. Hodel recapped the ozone depletion problems as described by the various models. Mr. Whitehead said he felt the Council members have agreed on the end results being sought, but that a dispute exists over the means for getting there. He believed the outcome will be a major victory in reducing destruction of the ozone layer, and said the

¹ Source: Reagan Library, Risque Files, Ozone Layer Protection [2]. Confidential. The meeting took place in the Cabinet Room at the White House.

negotiators should be left free to get the best possible agreement. Mr. Wright said the President's instructions to the U.S. delegation should be confidential, and treated accordingly. Senator Baker agreed, pointing out that it is important that the President have the benefit of the Council's thinking, but that the discussion should be tightly held while the negotiations are in progress. Messrs. Hodel and Thomas agreed. Mr. Hodel expressed concerns about limited participation in the international negotiations thus far, and about the shortcomings in the models, which in some cases extend to the year 2165. He felt that as a result of these, we must reach agreement on how to address the overall problems. The President asked how convinced we are about the overall problem. Mr. Thomas described the scientific processes that led to our current understanding of potential effects of ozone depletion, including reference to the "hole" in the ozone layer over the Antarctic.

Mr. Hodel reviewed the negotiating issues and options developed by the Council. He recapped questions about participation and entry into force of a protocol, a grace period for lesser developed countries, a system of voting for decisions, and monitoring, reporting and enforcement of the protocol. Mr. Wright said we should avoid permitting lesser developed countries to use this issue against our industries. The President asked what products we would be eliminating. Mr. Thomas described the chemicals, including chlorofluorocarbons (CFCs), that are depleting the ozone layer, and said we would be seeking substitutes that perform the same functions but which do not cause ozone depletion. Mr. Hodel reviewed several issues pertaining to a freeze and future reductions in production of these chemicals. He also described the issue of whether the U.S. should receive credits for its previous actions, such as the banning of aerosols in 1978. Mr. Thomas said the U.S. position had been to seek credits, but because of the directions of world opinion, we have decided to focus on proposing reductions and not to debate who has caused the ozone layer depletion.

Another issue was whether there should be trade provisions in the protocol. Mr. Thomas said restrictions on imports are key to this issue. Mr. Woods felt we should decide trade restrictions on the merits of each case, rather than seek automatic restrictions. Mr. Smart agreed, pointing out that we should seek a flexible response. Discussion ensued about trade problems that might evolve, especially pertaining to development of substitutes. There was general agreement that we should ban imports from countries that do not sign the protocol. Secretary Baker said we must develop competitive substitutes so as to have leverage.

The President asked about producing ozone. Mr. Thomas said there is too much in the lower atmosphere and not enough in the stratosphere. Secretary Lyng said that since the science is not clear, agricultural

scientists think that a freezing of chemicals is okay, but that we should not go too far in agreeing to further reductions. Senator Baker said that while the science is in dispute, there is pressure in Congress for a strong protocol. Mr. Hodel said he hopes we instruct the U.S. delegates to get an agreement that looks good and will work. Mr. Bauer asked about industry reactions. Mr. Hodel said that an alliance of industrial organizations has supported a freeze, and some of the members have supported further reductions. Mr. Whitehead felt that the proposed ten-year reduction period is reasonable.

The President indicated that he would consider the comments of Council members and make his decisions at a later time.

NOTE: Following the meeting, the President communicated his guidance for the U.S. delegation in a classified memorandum to Council members.²

² See Document 372.

371. Memorandum From the Domestic Policy Council to President Reagan¹

Washington, June 18, 1987

SUBJECT

Stratospheric Ozone

ISSUE: What guidance should the U.S. delegation be given for the next stages of international negotiation of an agreement for regulation of chemicals believed capable of future depletion of stratospheric ozone?

BACKGROUND:

Beginning in the 1970's, concerns were expressed in some parts of the scientific community that continued growth in the use of certain

¹ Source: Reagan Library, Risque Files, Stratospheric Ozone (5). No classification marking. A stamped notation in the upper right-hand margin reads: "The President has seen" and an unknown hand wrote "6/24" on the line provided. In a June 18 memorandum to Howard Baker, Whitehead transmitted the Department of State's priorities on the action items listed in the memorandum. (Department of State, Environmental Issues, 1979–1993, Lot 93D395, Ozone)

chemicals would result in future depletion of stratospheric ozone. Scientists' models predict this could cause adverse health and environmental effects, including increased skin cancer deaths, cataracts, effects on the immune system, damage to crops and materials and impacts on aquatic life. Other scientists believe that some of these projections, which extend as far as the year 2165, do not accurately account for numerous scientific uncertainties and for future technological, scientific, medical and behavioral changes that may occur. The chemicals in question, chlorofluorocarbons (CFCs) and Halons, are used commercially in refrigerators, building and mobile air-conditioners, foam insulation and fire extinguishers, and by the electronics industry. Some of them have important national defense applications for which there are currently no substitutes.

Based on their models, most scientists now believe that significant ozone depletion is likely to occur by the year 2040 unless global action is taken to control the chemicals at issue, even though there are numerous medical and scientific uncertainties about the potential impacts of such depletion. Ideally, any freeze or reduction in CFCs should be based on reliable scientific evidence that use of CFCs will cause depletion of stratospheric ozone. While there are differing views within the Council on the reliability of the scientific evidence available at this time, the long life of CFC accumulations, and the consequent risk assessments associated with projected ozone depletion argue for strong action to secure an international agreement this year, with provision for future scientific assessment. Since U.S. participation in an international agreement will require domestic regulations, the Domestic Policy Council will address these and potential non-regulatory options as additional policy guidance is needed.

Congressional Interest. Concern over the predicted depletion of ozone led Congress to add an ozone protection section to the Clean Air Act in 1977 and led EPA to ban CFC aerosols in 1978. Some other countries subsequently implemented partial bans of CFC aerosol use. Currently, there is strong congressional pressure for additional action to protect the ozone layer. The Senate has passed a resolution² calling for a strong international agreement, and urging an automatic reduction in CFC production of fifty percent. If an effective international agreement is not reached, and we fail to secure firm and concrete commitments from other countries, Congress and the courts may require unilateral domestic reductions of the chemicals in question. Such U.S. action, alone, would not protect the ozone layer and would disadvantage American businesses in world markets.

² See footnote 8, Document 367.

International Negotiations. The U.S. is a party to the 1985 Vienna Convention for Protection of the Ozone Layer. (Note: Although the Convention is not in effect yet, we expect it will be ratified by a sufficient number of countries.) Your ratification message to the Senate³ stated that this Convention addresses stratospheric ozone depletion “primarily by providing for international cooperation in research and exchange of information . . . and could also serve as a framework for negotiation of regulatory measures that might in the future be considered necessary. . . .” The U.S. has received considerable credit by some in Congress for its leadership role in the three negotiating sessions held thus far to develop an international agreement on control of the chemicals in question. However, some are concerned that not all emerging industrialized nations have participated in the negotiations. The U.S. interagency delegation has been guided by a Circular 175 approved under the authority of the Secretary of State, following approval by some agencies at various staff levels. The next negotiating session is scheduled for June 29, 1987⁴ with a plenipotentiary conference scheduled in Montreal in September to sign the agreement.

Cost-Benefit. In a cost benefit analysis relying on EPA estimates of ozone depletion effects on cancer deaths through 2165, the potential benefits of taking some actions to protect the ozone layer were found to be substantially greater than the costs of controlling the relevant chemicals. Cost benefit analysis suggests that both a freeze and a further 20-percent reduction of the ozone-depleting chemicals are economically justified. Further reductions are also indicated in a majority of cases, depending on information that will be acquired prior to taking such steps.

DISCUSSION: The most recent international negotiations have produced a Chairman’s Text for an agreement based on the structure presented by the U.S.⁵ Each country has been asked to review this Text prior to the June 29 meetings. The Domestic Policy Council met on May 20 and June 11 to discuss the Chairman’s Text, as well as the overall negotiations.⁶ The Council agreed that we should continue with negotiations; however, your further guidance on the following issues and options is requested.

ISSUE 1—PARTICIPATION AND ENTRY INTO FORCE OF THE PROTOCOL

Ideally, all nations that produce or use ozone-depleting chemicals should participate in the protocol if it is to address globally the ozone

³ See footnote 6, Document 352.

⁴ See footnote 5, Document 362.

⁵ The Chairman’s Text, dated April 30, is attached but not printed.

⁶ See Documents 363 and 369.

depletion problem. Otherwise, production of CFCs by nonparticipants could eventually offset reductions by the participating countries. The Council believes we should seek maximum participation.

Which of the following positions should the U.S. delegation seek with regard to entry into force (EIF) and continuing effect of the protocol?⁷

——— *Option 1.* Entry into force of the protocol should occur only when a substantial proportion of producing/consuming countries *as determined by the U.S. delegation* have signed and ratified it.

This option is supported by State, EPA, DOD, DOE and HHS.

——— *Option 2.* Entry into force should occur only when a substantial proportion of producing countries, *as determined by an established formula*, have signed and ratified it.

This option is supported by Interior, Commerce, Justice, CEQ and OSTP.

ISSUE 2—GRACE PERIOD FOR LESSER DEVELOPED COUNTRIES

To encourage participation by all countries, should lesser developed nations be given a limited grace period up to the year 2000, to allow some increases in their domestic consumption? This has been the U.S. position and is unanimously supported by the Council.⁸

ISSUE 3—VOTING

Should the U.S. delegation seek to negotiate a system of voting for protocol decisions that gives due weight to the significant producing and consuming countries? This proposal has unanimous support of the Council.⁹

ISSUE 4—MONITORING AND ENFORCEMENT

Should the U.S. delegation seek strong provisions for monitoring, reporting, and enforcement to secure the best possible compliance with the protocol? This proposal has unanimous support of the Council.¹⁰

ISSUE 5—CREDITS FOR PREVIOUS ACTION

Should the delegation seek a system of credits for emissions reduction, resulting from the 1978 U.S. ban of non-essential aerosols? In

⁷ The President initialed Option 1.

⁸ The President initialed the approve option.

⁹ The President initialed the approve option.

¹⁰ The President initialed the approve option.

previous negotiations, other countries rejected this proposal, claiming that the U.S. is still the largest consumer of CFCs.¹¹

——— *Option 1.* Yes.

This would assure the consideration of previous actions taken to deal with ozone depletion and is supported by Interior, CEQ and OSTP.

——— *Option 2.* No.

State is convinced that seeking credits would stalemate the negotiations, and will stimulate unnecessary proposals from other parties. This option is supported by State, EPA, Justice, HHS, DOE and USTR.

ISSUE 6—FREEZE

Should the U.S. delegation seek a freeze at 1986 levels on production/consumption of all seriously ozone-depleting chemicals (CFCs 11, 12, 113, 114, 115; Halons 1201 and 1311), to take effect one or two years after the protocol entry into force? This proposal is consistent with the Chairman's Text and has unanimous support of the Council.¹²

A freeze will achieve a majority of the health and environmental benefits derived from retention of the ozone layer. Interior, Commerce, OSTP and CEQ feel that it will also spur industry to develop substitutes for ozone-depleting chemicals. Halons are not presently mentioned in the Chairman's Text, but it is intended that they will be included. The earliest expected entry into force (EIF) date is 1988.

ISSUE 7—SCHEDULED 20% REDUCTION

Should the U.S. delegation seek a 20% reduction from 1986 levels of CFCs 11, 12, 113, 114 and 115, four years after EIF, about 1992, following the 1990 international review of updated scientific evidence? The Council supports this action, but is divided over options for how the reductions should be implemented:¹³

——— *Option 1.* The 20% reduction should take place automatically, unless reversed by a 2/3 vote of the parties.

This is consistent with the Chairman's Text and the Circular 175. It is supported by EPA, State, Justice, CEQ, HHS, DOE and USTR. Commerce and DOD support this option for all chemicals *except* CFC 113; 113 has national defense applications for which there are currently no available substitutes.

¹¹ The President initialed Option 2.

¹² The President initialed the approve option.

¹³ The President initialed Option 1.

_____ *Option 2.* The 20% reduction should take place only if a majority of the parties vote in favor following the 1990 scientific review.

This option is supported by Interior.

_____ *Option 3.* Further reductions should not be scheduled at this time. We may later decide to seek these in light of future scientific evidence.

This option is supported by OSTP.

ISSUE 8—SECOND PHASE REDUCTION

Should the U.S. delegation seek a second-phase CFC reduction of an additional 30% from 1986 levels, consistent with the Chairman's Text? This would occur about 8 years after EIF (about 1996).¹⁴

_____ *Option 1.* Yes, and this should occur automatically, unless reversed by a 2/3 vote of parties, following scientific review. This is supported by EPA and State.

_____ *Option 2.* Yes, and this should occur only if a majority of the protocol parties vote in favor, following scientific reviews. HHS, Justice, DOE, DOD, CEQ and USTR support this.

_____ *Option 3.* Further reductions should not be scheduled at this time. We may later decide to seek these in light of scientific evidence not now available about the results of a freeze and any other reduction.

This would curtail future reductions, and require a new protocol. Commerce, Interior and OSTP support this.

ISSUE 9—LONG RANGE OBJECTIVE

Should the U.S. delegation support the ultimate objective of protecting the ozone layer by eventual elimination of realistic threats from man-made chemicals, and support actions determined to be necessary based on regularly scheduled scientific assessments. This proposal is consistent with the Chairman's Text and the U.S. delegation's previous position, and has unanimous support of the Council members.¹⁵

ISSUE 10—TRADE PROVISIONS

The international negotiations have focused on a trade provision 1) to insure that countries are not able to profit from not participating in the international agreement, and 2) to insure that U.S. industry is not disadvantaged in any way through participation.

¹⁴ The President initialed Option 1.

¹⁵ The President initialed the approve option.

What should be the nature of any trade article sought for the protocol by the U.S. delegation?¹⁶

——— *Option 1.* Seek a provision that will best protect U.S. industry in world markets, by authorizing trade restrictions against CFC-related imports from countries that do not join or comply with the protocol provisions.

This option is supported by Justice, Interior, OSTP, EPA, DOE, USTR, HHS and State. Note: Commerce is against the use of trade restrictions unless there is no other way to protect U.S. industry.

——— *Option 2.* Do not seek a trade article for the protocol.

Ralph C. Bledsoe
Executive Secretary
Domestic Policy Council

¹⁶ The President initialed Option 1.

372. Memorandum From President Reagan to Multiple Recipients¹

Washington, June 25, 1987

The negotiation of an international protocol for regulation of chemicals believed capable of future depletion of stratospheric ozone is of great importance in our efforts to adopt sound environmental policies. Pursuant to this, and after considering the extensive work and recommendations of the Domestic Policy Council over the past several months, the following will guide the U.S. delegation in its negotiating activities leading to an international protocol on protection of the ozone layer, which we hope to be able to conclude later this year.

It is important that all nations that produce or use ozone-depleting chemicals participate in efforts to address this problem. The U.S. delegation will attempt, therefore, to ensure that the protocol enters into

¹ Source: Department of State, Environmental Issues, 1979–1993, Lot 93D395, Ozone. Confidential. Sent to Bush, Shultz, J. Baker, Weinberger, Meese, Hodel, Lyng, Baldrige, Bowen, Pierce, Herrington, Bennett, Miller, Yeutter, and Thomas.

force only when a substantial proportion of the producing/consuming countries have signed and ratified it. I expect this to be well above a majority of the major producing/consuming countries.

In order to encourage participation by all countries, it is recognized that lesser developed nations should be given a limited grace period, up to the year 2000, to allow some increases in their domestic consumption. And, the U.S. delegation will seek to negotiate a system of voting for protocol decisions that gives due weight to the significant producing and consuming countries.

To achieve a majority of the health and environmental benefits derived from retention of the ozone layer, and to spur industry to develop substitutes for chemicals in question, the U.S. delegation will seek a freeze at 1986 levels on production/consumption of all seriously ozone-depleting chemicals, including chlorofluorocarbons (CFCs) 11, 12, 113, 114, 115; and Halons 1201 and 1311, to take effect one or two years after the protocol entry into force. The earliest expected date for entry into force is 1988.

The U.S. delegation will also seek strong provisions for monitoring, reporting, and enforcement to secure the best possible compliance with the protocol, but they need not seek a system of credits for emissions reduction resulting from the 1978 U.S. ban of non-essential aerosols.

In addition to a freeze, the U.S. delegation will seek a 20% reduction from 1986 levels of CFCs 11, 12, 113, 114 and 115 four years after entry into force of the protocol, and following a 1990 international review of updated scientific evidence. The 20% reduction should take place automatically, unless reversed by a 2/3 vote of parties. The U.S. delegation will seek a second-phase CFC reduction of an additional 30% from 1986 levels, which would occur about eight years after entry into force of the protocol, and following scientific review. This would occur automatically, unless reversed by a 2/3 vote of parties.

The U.S. delegation will seek a trade provision in the protocol that will best protect U.S. industry in world markets, by authorizing trade restrictions against CFC-related imports from countries that do not join or comply with the protocol provisions. It is our policy to insure that countries not be able to profit from not participating in the international agreement, and to insure that U.S. industry is not disadvantaged in any way through participation.

It is the U.S. position that the ultimate objective is protecting the ozone layer by eventual elimination of realistic threats from man-made chemicals, and that we support actions determined to be necessary based on regularly scheduled scientific assessments.

Ronald Reagan

373. Telegram From the Consulate in Canada to the Department of State¹

Montreal, September 11, 1987, 1252Z

2997. Subject: Ozone Protocol Negotiations (Montreal)—Status Report.

1. (C—Entire text).

2. Following provides status as of 5 p.m. Thursday² of fast-paced negotiations which have involved night sessions since Monday.³ While significant progress is being made, complex issues remain. Schedule calls for availability of complete text (with bracketed language) by Friday afternoon.⁴ However, this may not be achievable, and there are rumors now of weekend sessions. Because of unanticipated deadlocks Thursday, UNEP Executive Director Tolba cancelled trip to address wildlife conference in Colorado, which would have kept him away from conference Thursday night to Saturday night. USDel will cable full text immediately as it becomes available. Given trade-offs on linkages among various articles, it does not seem useful to send text piecemeal. Much of what follows represents tentative, informal views and decisions, since everyone is waiting to see how pieces (developed in numerous working groups) fit together, and what trade-offs can be made.

3. Atmospherics—Negotiations attended by 31 countries, plus European Community. In contrast to previous rounds, developing country participation is much more active and better coordinated through attendance of China, Peru, Indonesia, Kuwait, Yemen, Philippines and Tunisia in addition to Argentina, Brazil, Colombia, Egypt, Ghana, Kenya, Mexico, and Venezuela. Discussions characterized by determined optimism that effective protocol can and must be achieved by end of diplomatic conference next Wednesday.⁵ Individual EC member states much more open and engaged than in past when they deferred to Commission: and U.S.–EC relationship also closer and more cooperative. A major breakthrough is Japan, which is passively, if not openly, supporting nearly all U.S. positions, representing critical change in prior Japanese position on halons and 50 percent reduction. Japanese Reps are nearly certain that Japan will sign protocol next week, barring technical delay in final instruction from Tokyo.

¹ Source: Department of State, Environmental Issues, 1979–1993, Lot 93D395, Ozone. Confidential; Immediate.

² September 10.

³ September 7.

⁴ September 11.

⁵ September 16.

4. Status and Principal Issues (by article).

(A) Article 1 (Definitions and Scope)—Definitions being adjusted, in particular to find non-quantitative means of defining bulk substances (i.e., as a replacement for quote 20 percent by weight or volume unquote expression). No major problems, although U.K. has proposed definition of controlled substances that excludes CFC 502, which contains 50 percent of CFC 115. U.S. is opposing this proposal and has offered alternative definition.

(B) Article 2 Control Measures)—

(I) Base Year—Soviets arguing for 1990 base year because their 1986–1990 national plan calls for new CFC production capacity to meet internal consumption. U.S., EC, Nordics, Canada, New Zealand, objecting, while trying to explore options which might encourage accession by Soviets as well as other medium/low-consuming countries. Thursday a.m. Soviets insisted on leeway to reach 0.5 kg. per capita to establish their base for future reductions, which would imply addition to global production of approximately 70–80,000 kilotons above existing Soviet production. They argue that because of their low existing per capita consumption and low historic contribution to the ozone depletion problems, they should be given flexibility to increase domestic consumption before embarking on phase-down schedule. Soviets are adamant, but isolated. They also seem to be concerned about not signing protocol, and seem generally confused by the fast and complex pace of negotiations on the control article in Tolba's quote informal unquote working groups, which are held only in English.

(II) Regulatory Measures—Scenario of CFC freeze—20 percent reduction—additional 30 percent reduction appears to have been accepted by all. Issue remains over timing, with consensus building for 10-year period (rather than 8 years) with firm anchor date of January 1, 1999 for reaching second reduction step (i.e., 50 percent total reduction). EC (pressed by U.K. and France) suggests first cut of 20 percent to take effect January 1, 1994, rather than in 4 years after entry into force (EIF), as in previous texts. Freeze is now agreed at one year after EIF (see Article 15, below).

(III) Halons—After move by EC Commission, plus U.K. and France, to eliminate halons from protocol and cover them merely with conference resolution calling for quote future decision by parties unquote, EC now apparently willing to accept halons within protocol, with a freeze on consumption after three years of EIF, as in earlier text. This would be in exchange for agreement to stretch out 50 percent reduction from 8 to 10 years (see preceeding paragraph).

(IV) Decision-making—After initial U.S. effort to make decisions on possible reversal of controls and other adjustments to protocol (e.g., addition/subtraction of chemicals; further reduction steps) to require

quote two-thirds majority representing at least 90 percent of global consumption unquote was universally rejected, U.S. is currently pushing for 67 percent. Debate on this not sufficiently advanced to judge likely outcome, with many countries clearly favoring no weighting factor at all.

(V) Control quote Formula unquote—Formula for controlling production/consumption remains a central issue, although progress has been made in resolving split over adjusted production ($C = P + I - E$) as favored by U.S., Canada, New Zealand and Nordics and E.C. straight production approach. Bilaterals on Sunday⁶ and Tolba group discussions Monday made clear that the EC arrived just as committed to production controls as U.S., Canada and New Zealand were to consumption controls. Nordics and Japanese favored consumption controls, but made clear they were willing to accept the combined controls in the seventh revised draft text as a quote compromise unquote. USDel believes that proposal (described below) represents sound concept compatible with U.S. objectives and interests. Approach is to provide for gap between consumption and production targets for individual countries (at each stage of freeze/reduction scenario) which would allow the excess production capacity to meet the needs of developing countries and also provide for quote rationalization unquote of production among producing countries by enabling, e.g. U.S. to increase production to meet Canadian needs if latter closes plant which becomes inefficient after reduction controls take effect. Because production increases in some countries would be offset by decreases in other countries, the net effect on global consumption would be neutral (except for the additional consumption margin allowed to low-consuming developing countries (see Article 5 below).

(C) Article 3—Calculation of Control Levels—Only issue includes concern of several countries about accuracy of ozone depletion potentials and suggestion that they be dropped as a factor in calculating emissions. USDel believes this will be turned aside, as we and others have argued for the need to include depleting potential.

Article 4—(Control of Trade)—Issues seem well on way to resolution along lines of U.S. preference/guidance. However, fully-agreed text not possible at this time, due primarily to Brazilian attempts to exempt trade restrictions on LDC non-parties. With respect to paragraph 2,⁷ list of products containing controlled substances would be drawn up by parties at later time, with controls applying to non-

⁶ September 6.

⁷ Article 4, paragraph 2, of the Montreal Protocol discusses the banning of exported controlled substances from non-member countries.

parties, within 4 years of EIF. Agreement was reached on paragraph 7 exemption,⁸ with U.S. proposed language of quote compliance as determined by the parties unquote accepted.

(E) Article 5—(Low-Consuming Countries)—USDel managed to get title (and concept) amended to restrict this exemption/grace period to developing countries (i.e., which would eliminate USSR from possible qualification). Developing countries, led by Brazil, Argentina, Ghana, Venezuela and China are now pressing for CFC consumption level to be set at 0.3 kg/capita (rather than 0.1 or 0.2 as in previous text.) USDel insisting on lower number, but prepared to accept 0.3 figure in interest of attracting China and other LDCs. This is consistent with interagency discussions in Washington last week and U.S. industry views expressed privately during these negotiations. Consensus has been reached that grace period will extend for 10 years. During that time LDCs that reach agreed-upon consumption level as consumption grows would then be frozen at that level.

Developing countries would then follow the reduction schedule to 80 percent and then 50 percent, delayed by ten years from the years when other countries must comply. Developing countries now above the agreed level (0.2 or 0.3) would be required to reduce to that level but not to make further reductions during the initial 10 year grace period.

(F) Article 6—(Review and Assessment)—USDel introduced language to ensure that scientific/technical/economic review, and assessments by parties, are kept to main decision points of regulatory control schedule. We further proposed establishment of experts panel on technological/economic aspects in addition to previously agreed-upon scientific group.

(G) Articles 7–17, Data-Technical Assistance Meeting of Parties, etc. With exception of Article 15, below, no major issues remain. U.K. raised data confidentiality issue early in week but have not pressed any language changes: and Japan questioning financial mechanism.

(H) Article 15 (Entry Into Force)—As envisioned, this remains major stumbling block. UNEP Ex Dir Tolba characterized EIF this a.m. as quote the major problem, given trio of firmly held positions unquote. He described these as quote famous and well-known U.S. 90 percent production approach: which he observed had no support; (2) those countries which favor no weighting at all; and (3) his own compromise of 60 percent. (Actually, USSR supported 90 percent. EC and Japan appear to have no problem with 60 percent.) Problem of EIF requirement was exacerbated when EC Commission Representative Brinkhorst

⁸ Article 4, paragraph 7, of the Montreal Protocol discusses exemptions to the ban on exports of controlled substances.

admitted that EC assession would not carry with it the ability to bring in and commit all member nations. Rather, member states enjoy sovereignty of joining or not joining, so that each would probably join separately, adding their votes and individual consumption percentages serially. Thus, the impression of U.S. and all others up until now that when EC joins it would represent over 40 percent of global production was erroneous. At this point any support U.S. hoped to get for something close to 90 percent requirement evaporated. Brinkhorst stated that the 9 EC members in attendance will all sign and ratify. (Non-attendees are Ireland, Greece and Portugal.) He also proposed adding quote dates certain unquote to entry into force and the control schedule which would call for e.g., EIF to occur by January 1, 1989 with the freeze twelve months later and reduction steps as described above. (EIF would still be subject to number of ratification and percentage of global consumption required.) While largely symbolic, the EIF date would help the Commission and more progressive EC members to generate pressure on other EC members to ratify (according to Brinkhorst and Reps of FRG, Belgium and Denmark). Negotiations continuing on this issue, with U.S. holding firm to its 90 percent position. This will undoubtedly be one of several issues carried over into diplomatic conference. It is clear that most countries willing to accept 11 country ratifications, rather than 9, to bring protocol, into effect.

(I) REIO Issue: The EC remains insistent that the protocol include provisions which permit REIO-member states to fulfill their obligations under Article 2 (control measures) jointly. Their new proposal limits joint treatment only to member states of such organizations that are parties to the protocol and requires that such states' joint production/consumption not exceed levels set in Article 2. Significantly, the new proposal does not provide for group compliance for Article 4 (control of trade with non-parties). Protocol will most likely be quote mixed unquote agreement for the EC, that is, both the organization and member states will become parties. EC Commission Representatives have indicated that they expect all or virtually all EC-member states to join the protocol, and have stressed the strong enforcement role the Commission intends to play vis-a-vis its member states regarding implementation of the protocol. U.S. and other delegations are studying the new EC proposal in conjunction with other developments.

Stohr

374. Telegram From the Consulate in Canada to the Department of State¹

Montreal, September 14, 1987, 1723Z

3027. Subject: Ozone Protocol Negotiations (Montreal)—Status Report. Ref: Montreal 2997.²

Begin summary

1. Summary: Progress was made over weekend³ prior to diplomatic conference, particularly in trade and LDC areas. No major change on EIF, REIO and Soviet issues. Current status is as follows, keyed to draft Montreal Protocol faxed this a.m.⁴ [*End Summary*]

2. Control Article: Although 1986 base year is preferred option for nearly all participants, 1990 is still in brackets at request of Soviets. (Soviet problem remains as described reftel.) Article calls for freeze in 1989; 20 percent reduction by 1994; 50 percent reduction by 1999. Formula remains consumption-based with higher production levels allowed. Protocol covers CFCs 11, 12, 113, 114 and 115. Halons are in protocol, and frozen at 1986 levels 3 years after entry into force.

3. Entry into Force: Issue is still unresolved and percentage is bracketed as 0 percent, 60 percent, 90 percent. There is appreciation of U.S. view on percentage requirement, although strong opposition to 90 percent. Sentiment is building to base this on consumption (rather than production) to symbolize stake of consumer countries as well.

4. REIO: Informal discussions with the EC and, separately with some EC-member countries, reveal some predisposition to consider changes in language of EC's proposal on REIOs, but opposition to total deletion of provision due to their concern about restrictions on trade among member states that are party to the protocol.

5. Voting: Weighted voting (Article 2, paras. 4, 5, and 5 bis) still shown as quote two-thirds majority of parties representing (0 percent) (60 percent) (two-thirds) of the total calculated consumption level. Nordics are in lead in building pressures against any weighted voting requirement here. Article 2, para. 5 still provides for weighted voting (bracketed) on adjustments to reduction schedule and to calculated ozone depletion potentials, which would be binding on all parties para. 5(c) and 5(d). Article 2, para. 5 bis provides for weighted voting

¹ Source: Reagan Library, Bledsoe, Ralph: Files, 330—Stratospheric Ozone (September 1987) [4]. Unclassified; Immediate.

² Printed in Document 373.

³ September 12–13.

⁴ Not found.

(bracketed) on additions or removal of substances from controls. However, reference here to Article 9 of Convention means that individual parties would have to ratify decisions on new chemicals (i.e. it is not automatically binding on parties).

6. Compliance and Reporting: Article 7 bis provides that parties will at their first meeting consider and approve procedures and mechanisms for determining non-compliance. This protects concept that parties in non-compliance would be treated as non-party, as this would, in any event, need to be institutionalized at parties' first meeting whether or not it formally appears in Article 7 bis. General sentiment (Tolba and other delegations) is that attempt to insist on more explicit reference here would only trigger extensive and unproductive discussion. U.S. intends to make declaration emphasizing that treatment as non-parties is traditional practice according to Vienna Convention on treaties and that we consider it would also apply to this protocol; this declaration would become part of final act. Reporting of data now shown due quote nine months after the end of the year to which the data relate unquote.

7. Trade and LDCs: Following hard negotiations, significant progress was made. Provisional endorsement by U.S., EC, Japan and several LDC delegations was achieved on the following package:

- Reference to exports dropped in paragraph 1 of Article 4.
- New paragraph (1 bis) added to Article 4 banning bulk exports from any LDC party to any non-party beginning in 1993.
- Special LDC exemption (i.e. reference to Article 5) in paragraph 7 of Article 4 deleted.⁵
- Clause added to Article 3 (calculation of control levels) providing that, beginning January 1, 1993, only exports to parties can be subtracted from production in calculating consumption level.
- 0.3 kg. per capita accepted as low-consuming developing country ceiling in Article 5, with 10 years as length of grace period.
- Tunisian proposal in Article 5 for guaranteed production rights dropped.

Stohr

⁵ See footnote 8, Document 373.

375. Memorandum From the Cabinet Secretary (Risue) to President Reagan¹

Washington, September 16, 1987

SUBJECT

International Protocol on Chlorofluorocarbons

On behalf of the U.S., EPA Administrator Lee Thomas today signed an international protocol aimed at protecting the stratospheric ozone layer by limiting the future world-wide emissions of chlorofluorocarbons (CFCs) and halons.² Joining the United States in signing the protocol, among others, were members of the European Community, Japan and the Soviet Union—ensuring that the protocol will enter into force after next year.

The U.S. delegation in Montreal and an interagency team in Washington worked together to insure that your instructions were carried out.³ The protocol requires Senate ratification.

Outlined below are some of the major issues that arose during the negotiations of which you should be aware:

- *Entry Into Force.* The delegation was able to obtain in the protocol a provision that it shall enter into force on January 1, 1989, provided that it is ratified by least eleven parties representing two-thirds of 1986 estimated global consumption of the controlled substances. These parties would represent countries that now produce over 80% of the CFCs and halons.

- *Soviet Allowance.* Throughout the negotiations the Soviets wanted reductions based upon 1990 production levels, because of their current five year plan. The U.S. delegation and the other negotiating parties were unanimously opposed to changing the base year from 1986 levels. The Soviets were isolated but firm. A compromise was worked out that allows any party with production facilities under construction or planned for completion prior to the end of 1990 to increase their annual per capita consumption of CFCs and halons up to 0.5 kilograms. We agreed to this because now the Soviets have agreed (as did others) to report their production and consumption levels of CFCs and halons—something they had opposed earlier—and are committed to limit their

¹ Source: Reagan Library, Risue Files, Stratospheric Ozone (8). No classification marking.

² Under a September 21 covering memorandum to the Domestic Policy Council, Bledsoe forwarded a copy of the Montreal Protocol. (Reagan Library, Bledsoe, Ralph: Files, 330—Stratospheric Ozone. [September 1987] [6])

³ See Document 372.

CFC and halon production. Neither would have been achieved without the compromise.

- *European Community.* The European Community (EC) proposed that any *regional economic integration organization* should be allowed to jointly fulfill their obligations. This would, in effect, allow the EC an advantage in world trade markets, by permitting reductions by one member country to offset increases in production by another member country as long as the EC totals were reduced. The compromise was that the EC could jointly meet *consumption* reductions, but each country would be required to individually meet reduced *production* levels for CFCs and halons. It was also agreed that all the member countries must join in the protocol for this to be permitted.

- *Timing.* Some timing changes were also accepted to get more desirable features in the protocol. The freeze on halons will take effect at the end of three years, instead of the “one or two years” contained in your instructions. This was needed to get the EC to agree to include halons in the controlled substances listing. Also, a ten year period for the 50% reduction of CFCs was agreed to, instead of the “about eight years” contained in your instructions. The first phase of a 20% reduction of CFCs will occur during the fifth year after entry into force, instead of the “four years” contained in your instructions. The second phase, a further 30% CFC reduction, will occur five years after the first phase. This timing ensured that Japan would agree to the protocol.

All of the fundamental principles contained in your instructions—a weighted voting system, a grace period for lesser developed countries, strong enforcement provisions, periodic assessments of the control provisions, and equitable trade provisions—were incorporated into the protocol.

Overall, the United States was a leader in drafting an international protocol that will reach your ultimate objective of protecting the ozone layer through supporting actions determined to be necessary based on regularly scheduled scientific assessments. This is a significant Administration achievement on both the domestic and the world environmental front.⁴

⁴ President Reagan transmitted the Montreal Protocol for Senate ratification on December 21. See *Public Papers: Reagan, 1987*, Book II, p. 1538.

376. Memorandum From the Executive Secretary of the Department of State (Levitsky) to the President's Assistant for National Security Affairs (Powell)¹

Washington, March 21, 1988

SUBJECT

Ratification of the Montreal Protocol on Substances That Deplete the Ozone Layer

Attached for signature by the President is the instrument of ratification, in duplicate, of the Montreal Protocol on Substances That Deplete the Ozone Layer, done at Montreal on September 16, 1987.²

The Senate gave its advice and consent to ratification on March 14, 1988.

The Montreal Protocol, negotiated under the auspices of the United Nations Environment Program, is a supplemental agreement to the Vienna Convention for the Protection of the Ozone Layer, adopted in March 1985 and ratified by the United States in August 1986. The Protocol provides for internationally coordinated control of ozone-depleting substances in order to protect public health and the environment from potential adverse effects of depletion of stratospheric ozone. The Protocol establishes an obligation to limit consumption and production of ozone-depleting substances and restricts trade in controlled substances with States not party to the Protocol. United States ratification is necessary for entry into force and effective implementation of the Protocol.

Melvyn Levitsky

¹ Source: Department of State, Environmental Issues, 1979–1993, Lot 93D395, Ozone. No classification marking. Drafted by Brandt on March 17 and cleared in L/T, L, L/OES, OES/ENV, and EPA/OIA.

² Attached but not printed. President Reagan signed the instrument of ratification for the Montreal Protocol on April 5. See *Public Papers: Reagan*, 1988, Book I, pp. 420–421.