

WITHDRAWAL SHEET (PRESIDENTIAL LIBRARIES)

FORM OF DOCUMENT	CORRESPONDENTS OR TITLE	DATE	RESTRICTION
#2 memo	Rostow to President, 6:00 p.m. <i>(Sanit 1994)</i> S 1 p [Sanitized NLJ 86-144]	3/18/68	A
#2a cable	New Delhi 242 S 2 p [Duplicate of #136a, NSF, CF, Vietnam, "[3/19/70 Memo to the President, "Decision to Halt the Bombing" with copies of documents, 1967-68] <i>Dup. #1a NSF, CF, India "Exchanges of Bowles" Box 134 Sanitized 2-22-94 NLJ 93-244</i> SAME SANITIZATION 1-14-05 NLJ 04-94	3/18/68	A
#3a ltr	Dean to President C 1 p <i>open 7-14-94 NLJ 93-291</i> [Duplicate of #187a, NSF, CF, UK, Vol. 13]	3/18/68	A
#3b ltr	Brown to President C 1 p <i>(Exempted 1993) open 4/96</i> [Duplicate of #187b, NSF, CF, UK, Vol. 13]	[3/68]	A
#5 memo	Rostow to President, 5:00 p.m. S 1 p <i>open 7/10/96</i>	3/18/68	A
#5a rpt	"DOD-Additional Financing" S 1 p <i>open 8-14-97 NLJ 96-256</i>	3/16/68	A
#6l memo	Rostow to President, 1:25 p.m. S 2 p <i>open 9-18-97 NLJ 96-255</i>	3/18/68	A
#6m memo	Rostow to President, 1:20 p.m. S 1 p <i>open 9-18-97 NLJ 96-255</i>	3/18/68	A
#6n cable	Saigon 22386 S 10 p <i>open 5-21-97 NLJ 96-254</i>	3/18/68	A
#9 cable	Rostow to President (CAP 80692) <i>open 8-8-94 NLJ 94-19</i> C 1 p <i>[dup. of #10a, NSF, CF, Chile, Vol 4]</i>	3/17/68	A
#10 cable	Rostow to President (CAP 80693) <i>open 9-18-97 NLJ 96-255</i> TS 1 p	3/17/68	A
#13 cable	Rostow to President (CAP 80681) <i>open 9-18-97 NLJ 96-255</i> TS 1 p	3/16/68	A
FILE LOCATION			

NSF, Memos to the President, Walt Rostow, Volume 67, March 14-18, 1968 Box 31

RESTRICTION CODES

- (A) Closed by Executive Order 12356 governing access to national security information.
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FORM OF DOCUMENT	CORRESPONDENTS OR TITLE	DATE	RESTRICTION
#14 cable	Rostow to President (CAP 80679) TS 1 p dup. of #23 open 4/96	3/16/68	A
#17 cable <i>more info released 2-25-01 hrs 02:15:7</i>	Rostow to President (CAP 80673) sanitized 11-10-99 NLS 96-225 S 2 p (Dup. of #1610, NSF, AF, nato messages, vol 2 - sanit 1993)	3/16/68	A
#18 cable	Rostow to President (CAP 80674) dup C 1 p open 7/10/96	3/16/68	A
#22 memo	Rostow to President C 2 p open 7/10/96	3/16/68	A
#23 memo	Duplicate of #14		
#25a memo	Helms to President sanitized 7-16-99 NLS 96-221 C 1 p open 11/01 - NLS 007-044-1-3 (dup. #2a, NSF, Subject file, "Radio Free Europe")	3/15/68	A
#25b memo	Intelligence Memorandum open 4-5-94 NLS 93-383 C 2 p (dup #26, Asabme)	undated	A
#27 memo	Rostow to President, 7:30 p.m. open 9-18-97 NLS 96-255 C 1 p	3/15/68	A
#27a memo	Zwick to President, re: Tunisia open 7-18-97 NLS 96-255 C 1 p	3/7/68	A
#27b memo	Gaud and Freeman to President, re: Tunisia C 1 p open 7-28-97 NLS 96-272	3/1/68	A
#27c memo	Gaud and Freeman to President, re: Tunisia C 1 p "	9/18/67	A
#27d memo	Gaud and Freeman to President, re: Tunisia C 1 p "	3/2/67	A
#27e memo	Gaud and Freeman to President, re: Tunisia C 5 p "	12/23/67	A
#28 memo	Rostow to Secretary of State open 9-18-97 NLS 96-255 S 1 p	3/15/68	A

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FORM OF DOCUMENT	CORRESPONDENTS OR TITLE	DATE	RESTRICTION
#31 memo	Rostow to President, 3:25 p.m. <i>duplicate of 31+ in File of Rostow</i> TS — 1 p <i>OPEN 8/1/96 Box 1, Meetings ... JAN.-APRIL 68</i> <i>NLS 96-208 documents 34-34a</i>	3/15/68	A
#31a memo	Clifford to President TS — 1 p <i>open 4/96</i>	undated	A
#31b rpt	"Tab A: Proposed Deployments..." TS — 1 p <i>open 4/96</i>	undated	A
#31c rpt	"Tab B: 15 March..." TS — 1 p <i>open 4/96</i>	3/15/68	A
#31d rpt	"Tab C: Follow-On Reserve Call" TS — 1 p <i>open 4/96</i>	undated	A
#33 memo	Rostow to President, 1:15 p.m. S — 3 p <i>open 9-18-97 NLS 96-255</i>	3/15/68	A
#33a cable	Saigon 8707 S — 7 p <i>open 5-21-97 NLS 96-254</i>	3/15/68	A
#34a ltr	Pearson to President <i>open 12-23-09</i> PCI — 1 p	3/12/68	A
#42 memo	Rostow to President, 7:55 p.m. S — 1 p <i>open 9-18-97 NLS 96-255</i>	3/14/68	A
#42a memo	Rusk to President, re: Pueblo <i>open 5-21-97 NLS 96-254</i> S — 4 p	3/14/68	A
#42b cable	Deptel to Seoul (Draft) <i>open 5-21-97 NLS 96-254</i> S — 5 p	3/14/68	A
#44 memo	Rostow to President, 7:00 p.m. <i>open 9-18-97 NLS 96-255</i> S — 1 p	3/14/68	A
#45 memo	Rostow to President, 6:10 p.m. <i>open 11-8-99 NLS 96-182</i> C — 1 p	3/14/68	A
#45a memo	Keeney to Rostow, 1:30 p.m. <i>open 11-8-99 NLS 96-182</i> C — 1 p	3/14/68	A
FILE LOCATION			

NSF, Memos to the President, Walt Rostow, Volume 67, March 14-18, 1968 Box 31

RESTRICTION CODES

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WITHDRAWAL SHEET (PRESIDENTIAL LIBRARIES)

FORM OF DOCUMENT	CORRESPONDENTS OR TITLE	DATE	RESTRICTION
#50 memo	Rostow to President, 2:50 p.m. TS 1 p <i>open 7-14-94 NLJ 93-291</i> [Duplicate of #188, NSF, CF, UK, Vol. 13]	3/14/68	A
#50a cable	PM Wilson to President <i>open 12-23-09</i> TS 1 p (Sanit 1995) [Duplicate of #188a, NSF, CF, UK, Vol. 13] <i>(Dup of #42p, SHOSC, UK, Box 56)</i>	3/14/68	A
#51 memo	Rostow to President, 1:00 p.m. C 1 p <i>open 11/17/97 NLJ 96-259</i> [Duplicate of #160, NSF, CF, Vietnam, "[3/19/70 Memo to the President, "Decision to Halt the Bombing" with copies of documents, 1967-68; Sanitized NLJ 86-147]	3/14/68	A
#51a cable	Intelligence Cable <i>sanitized 7-16-99 NLJ 96-261</i> C 1 p [Duplicate of #160a, NSF, CF, Vietnam, "[3/19/70 Memo to the President, "Decision to Halt the Bombing" with copies of documents, 1967-68; Sanitized NLJ 86-148]	3/14/68	A
#53a memo	Dobrynin and Harriman <i>open 5-21-97 NLJ 96-254</i> S 6 p [Duplicate of #101a, NSF, CF, Vietnam, "[3/19/70 Memo to the President, "Decision to Halt the Bombing" with copies of documents, 1967-68; Exempt NLJ 86-150]	3/10/68	A

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1

INFORMATION

Monday, March 18, 1968
6:05 p.m.

Profile

Mr. President:

Herewith the Economist
defines our problem coolly and
with sympathy.

W. W. Rostow

March 16, 1968 issue
"The Ones Who've Had Enough"

WWRostow:rlh

1a

Election '68



The Ones Who've Had Enough

General Giap has won half a battle, but he may have won the war. His demonstration of the communists' strength in Vietnam has shaken the Americans and it has brought Senator Robert Kennedy to the brink of challenging President Johnson. Senator Kennedy's calculation on Wednesday night was quite patent. If 42 per cent of the voters in the Democratic primary in New Hampshire think Senator McCarthy is right about Vietnam, it is clear that many Americans have become very tired of this war. This is Giap's doing. Two months ago in New Hampshire Senator McCarthy seemed unlikely to get more than 10 per cent or 15 per cent of the Democratic vote.

The attack General Giap launched on January 30th has failed to make a permanent lodgment in any of South Vietnam's towns. He has not yet attempted an assault on Khe Sanh or on any other position that the Americans hold in strength. But since January 30th General Giap has trebled the weekly roll of American casualties, and he has trebled Senator McCarthy's vote. He has shown Senator Kennedy his chance. The last few weeks have struck at the heart of the matter: at the Americans' willingness to go on paying this sort of price without a visible assurance that it will buy them victory in the reasonably near future. Senator McCarthy's 42 per cent is the vote of decent and troubled people for whom Vietnam seems a far-away country on the margin of America's national interest: a country that is just not worth it.

It is conceivable that Tuesday's vote exaggerates the extent of the swing against the war. Some of that 42 per cent may have been Democrats who dislike President Johnson as a man more than they dislike the Vietnam war. Others may have been Republicans and independents jumping into the Democratic primary for the pleasure of putting a boot into Mr Johnson. Those are straws for Mr Johnson to cling to. But it is more likely that the New Hampshire vote shows what the last six weeks have done to the self-confidence of people all over the United States. In that case there are only two things that can restore their confidence in Mr Johnson's conduct of the war. One is for General Giap to risk a direct test of arms against a large American force, at Khe Sanh or elsewhere, and get beaten. The other is for the Americans and their allies to use some of the troops they have got clustered in and around the towns to reassert their control over some of the rural areas they have lost since January 30th.

If the Americans can bring either of these things off they

may find that public opinion at home will recover its confidence after all: the New Hampshire primary may go down in the record books as the wince before the gritting of the teeth. But if either of these things is to happen it will have to happen soon, and it will have to be done with the forces that General Westmoreland has available to him now. The large reserves that General Westmoreland would like Mr Johnson to call up are unlikely to make much difference in Vietnam before the year's end. That will be too late for Mr Johnson. He may not get nominated by his party in August, and if he is nominated he will very likely not get elected in November, unless he can even the score with Giap this spring and summer. The New Hampshire voters have set the stopwatch: they have told him how long he has got.

If the Americans in Vietnam cannot recover some of the ground lost since January, and do it soon, the presidential election will burst wide open. The anti-war vote collected by Senator McCarthy has now brought Senator Kennedy to his moment of truth. It may be that, when he looks at it coldly, Senator Kennedy will draw back from a challenge to Mr Johnson that could destroy both men and put the Democrats out of power for half a generation. But Senator Kennedy, for all his qualities, is not his brother. His ambition and intellectual calculation may outrun his judgment. He will find it hard, having now gone back on his previous support for Mr Johnson, to slide back into being a non-candidate again. It is not impossible that by the autumn the world may again be watching a Kennedy fighting a Nixon for the presidency. And this in turn will have its effect on Mr Nixon's position. The swing against the war increases the chance that Governor Rockefeller will try to snatch the Republican nomination away from him even at this late stage. To prevent this happening, Mr Nixon will presumably feel obliged to modify his previous support for the war.

This is what could happen in the United States. What will have happened in Vietnam, if the Americans cannot reassert themselves, is that they will find that General Giap has painted them into a corner. They will have been forced, by his superior generalship, into the "enclave strategy" that some armchair strategists last year were telling them to adopt of their own free will. Now that they are stuck in their enclaves the disadvantages of this strategy are painfully obvious. It leaves the communists free to strike wherever they want. It puts them within rocket range of many American airfields and supply dumps. It lets them press

new recruits into service from the parts of the countryside the allies have abandoned. This is not a strategy that anyone in his right mind would choose. It is a defending general's nightmare. If the defenders cannot fight their way out of their enclaves by the summer they will either have to do it with a bigger army next year—but will the United States still have a President who is ready to go on fighting next year?—or negotiate from inside the noose. Mr Johnson might try to negotiate on those terms himself. But it is pretty clear what sort of settlement that would produce. If negotiations take place as things stand now, with Giap's men sitting around the towns, it is hard to see how the communists can be prevented from taking a position in the postwar structure of South Vietnam that will give them command of the country within five years.

It is up to the Americans. *The Economist* does not wish to join those who are telling the Americans that they have been following the wrong policy in Vietnam for the past decade. It may be that the policy involves a price they no longer choose to pay; it has certainly run into great difficulties. But the reasons why the policy was adopted by President Eisenhower and continued by his successors have not vanished. Let it be said again. There can be no compromise solution in South Vietnam. The country will be run after the war either under a communist system or under a non-communist one. If the communists succeed in imposing their system, having beaten an American army by the technique of guerrilla war, it is folly to suppose that this will be an event without consequences. Once General Giap's men have got things fixed in Vietnam they can knock off the non-communist government in Laos with a flick of their little finger. It will be curious if they do not help Cambodia's communists to do the same in that country too: look at what Prince Sihanouk has been saying lately about the rebellion in his western provinces. And there are communist insurrections in Thailand, Malaysia and Burma, all in some degree under the control of North Vietnam or China.

The calculations of the men who are running these rebellions—and of the men who are opposing them—will inevitably

be affected by what happens in Vietnam. And so will the calculations of other men far away from south-east Asia. Mr Brezhnev and Mr Kosygin have taken some risks to stand up against the Chinese argument that guerrilla wars can beat "the imperialists" anywhere. They have plenty of opponents, in Russia and in the communist movement abroad, who will be happy to claim that if the guerrilla technique works in Asia it can work in Africa and Latin America too. The Soviet Union's leaders will almost certainly slide into a more adventurous foreign policy after an American defeat in Vietnam. They can doubtless see the dangers. But the pressure will be on them, from any part of the world where there is a communist party with a claim on their allegiance and a would-be Giap who thinks he can pull off another "war of national liberation."

These are the dangers in an American defeat. It would have been the same if the Americans had ducked the issue in Vietnam in 1961 or 1965. The same people would have drawn the same conclusions. The challenges would have kept on coming up. The Americans might have found a better place to face them; but it would have been a long way farther down the road. It is now up to them. They know that, unless General Westmoreland can restore the balance in the next few months, they will be back to where they were in 1966: the only difference will be that the war is bigger and beastlier. They know what the cost would then be of putting things right: in the casualty lists, in money, and in the agony of watching it happen on television. But on the other side is the danger of a major erosion in the position of the only non-communist superpower: an erosion that would coincide (see page 85) with an erosion of the international monetary balance that has kept capitalism flourishing since 1945. These are great issues. No outsider can ask more than that, having examined what it would mean to accept defeat and what it would mean to carry on, the Americans should make their decision plain this summer and autumn. That is what a democracy is about. If the Americans emerge from Vietnam with nothing else, they can at least say they took their decision the democratic way.

SECRET

Monday, March 18, 1968
6:00 p. m.

SANITIZED

2

~~SECRET~~

Bowles
Burke

Mr. President:

Herewith Bowles on peace
proposals. (Heart of proposal
marked in red below.)

W. W. Rostow

SECRET attachment



1.3(a)(5)

SANITIZED

E.O. 12356, Sec. 3.4

NIJ 93-243

By jd, NARA, Date 3-18-94

1968 MAR 18 17 59

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OO YEKADS
DE YEKADL 713 0781650
O 181645Z ZYH
FM NEW DELHI
TO WHITE HOUSE
ZEN

SECRET 181337Z

FM AMBASSADOR BOWLES NEW DELHI 242
TO THE WHITE HOUSE, FOR THE PRESIDENT
COPY TO SECRETARY RUSK (WHITE HOUSE)

AT THIS PARTICULARLY DECISIVE MOMENT, I AM SURE THAT YOU ARE NOT LACKING IN SUGGESTIONS REGARDING VIETNAM. MY ONLY VALID REASON FOR ADDING TO THIS FLOW IS THE FACT THAT THE PROPOSAL I HAVE IN MIND MAY ENABLE YOU TO APPROACH THE SITUATION FROM A SOMEWHAT DIFFERENT ANGLE.

BY WAY OF BACKGROUND I SHALL FIRST TOUCH BRIEFLY ON A DISCUSSION I HAD WITH PRESIDENT TITO IN NEW DELHI A FEW WEEKS AGO, MUCH OF WHICH DEALT WITH VIETNAM.

DURING THIS CONVERSATION I ASKED TITO WHETHER HE THOUGHT THE SOVIET UNION WAS GENUINELY INTERESTED IN PEACE IN VIETNAM OR WOULD PRIVATELY PREFER TO SEE THE FIGHTING CONTINUE. TITO EXPRESSED HIS CONFIDENCE THAT THE SOVIETS ARE ANXIOUS TO FIND A WAY TO A MUTUALLY ACCEPTABLE PEACE SETTLEMENT BUT ARE SOMEWHAT LIMITED IN THE ROLE THEY CAN PLAY.

HE THEN TURNED THE QUESTION AROUND AND SAID, "SOME PEOPLE WONDER IF THE UNITED STATES IS STILL INTERESTED IN PEACE."

IN REPLY, I SAID I WOULD ANSWER HIS QUESTION BY ASKING HIM TO CONSIDER THE MASSIVE STAKE WHICH THE AMERICAN PEOPLE AND GOVERNMENT HAVE IN AN ACCEPTABLE SETTLEMENT AT THE EARLIEST POSSIBLE DATE. PRESIDENT JOHNSON, I SAID, HAS THREE OVERRIDING PERSONAL OBJECTIVES:

- (1) TO ASSURE THE AMERICAN NEGRO THE BENEFITS OF FIRST-CLASS CITIZENSHIP.
- (2) TO REBUILD MATERIALLY AND SPIRITUALLY OUR TENSE, SLUM-RIDDEN AMERICAN CITIES SO THAT PEOPLE OF ALL RACES AND CREEDS CAN LIVE TOGETHER IN COOPERATION AND MUTUAL RESPECT, AND
- (3) TO ESTABLISH A PERSONAL RELATIONSHIP WITH THE SOVIET LEADERS WHICH WILL ENABLE THE TWO GREAT WORLD POWERS INCREASINGLY TO CO-OPERATE ECONOMICALLY AND POLITICALLY IN FURTHERING THE PEACE AND STABILITY OF THE WORLD.

AS LONG AS THE VIETNAM WAR CONTINUES, I EMPHASIZED, THESE THREE CRITICALLY IMPORTANT OBJECTIVES ARE BEYOND YOUR GRASP. HOWEVER, IF AN ACCEPTABLE SETTLEMENT IS IN SIGHT WELL BEFORE OUR NOVEMBER ELECTION, YOU COULD BE REELECTED BY A LANDSLIDE, CARRYING WITH YOU A LIBERAL MAJORITY IN CONGRESS.

ON THE OTHER HAND, I SAID, IF THERE IS NO REASONABLE HOPE FOR PEACE YOU MAY STILL WIN BUT ONLY AFTER A BITTER, DECISIVE STRUGGLE, WITH A NARROW MAJORITY AND A CONGRESS WHICH WOULD BE BOTH CONTENTIOUS AND CONSERVATIVE.

TITO SEEMED PERSUADED BY THESE COMMENTS, AND THE REST OF THE CONVERSATION WAS CONCERNED WITH WHAT KIND OF SETTLEMENT MIGHT BE POSSIBLE AND UNDER WHAT CIRCUMSTANCES.

SINCE THEN THE TET-OFFENSIVE HAS CHANGED THE SITUATION IN MANY WAYS AND SIGNIFICANTLY INCREASED OUR DIFFICULTIES. HOWEVER, IN ONE SENSE, IT HAS HEAVILY UNDERSCORED THE LIMITS OF MILITARY ESCALATION WHICH TITO EMPHASIZED TO ME AND IN THIS SENSE HAS REDUCED OUR OPTIONS.

FOR INSTANCE, IF WE ATTEMPT TO BREAK THE PRESENT IMPASSE BY A MASSIVE INCREASE IN AMERICAN TROOP STRENGTH OR BY AN INVASION OF NORTH VIETNAM WE WILL BE FORCED TO TAKE ON THE FORMIDABLE RESERVE ELEMENTS OF THE NORTH VIETNAMESE ARMY, PROBABLY SUPPLEMENTED BY THE CHINESE.

SANITIZED

E.O. 13292, Sec. 3.5

NLJ 08-94

By ms, NARA, Date 1-14-05

IF WE BOMB SOVIET SHIPPING AT HAIPHONG OR CLOSE THE HARBOR WITH MINES WE WILL FORCE THE SOVIETS TO EXPAND THEIR SUPPLY LINES ACROSS CHINA, THEREBY FORCING THE SOVIETS AND CHINESE CLOSER TOGETHER. THE OBLITERATION OF HANOI BY OUR AIR FORCE WOULD BE PUT DOWN AS AN ACT OF PURE VENGEANCE.

IN THIS REGARD I MUST REPEAT MY DEEP CONVICTION IN REGARD TO CHINA, WHICH I HAVE MENTIONED IN EARLIER LETTERS AND CABLES AND WHICH WAS UNDERScoreD BY PRESIDENT TITO: ALTHOUGH SOME OF OUR "CHINA WATCHERS" INSIST THAT CHINA IS IMMOBILIZED BY ITS INNER CONFLICTS, I BELIEVE THIS IS A DANGEROUS ASSUMPTION ON WHICH TO BASE OUR POLICIES IN THIS NUCLEAR AGE. AS ONE WHO HAS KNOWN ASIA OVER A SPAN OF MANY YEARS, I DO NOT BELIEVE THAT CHINA, UNDER ANY FORESEEABLE CIRCUMSTANCES, WILL PERMIT A UNITED STATES "VICTORY" IN SOUTH VIETNAM. IF NECESSARY IT WILL INTERVENE TO PREVENT SUCH A VICTORY; IT MAY EVEN INTERVENE TO PREVENT A SETTLEMENT ACCEPTABLE TO US AND HANOI, UNLESS THAT SETTLEMENT IS FIRMLY BACKED BY THE USSR AND A LARGE FRACTION OF WORLD OPINION.

IF CHINA SHOULD BECOME INVOLVED AND THE WAR BEGINS TO SPREAD, THE SOVIET UNION WILL HAVE NO CHOICE BUT TO PUT ASIDE FOR THE TIME BEING ITS DIFFERENCES WITH PEKING AND ADD ITS OWN SUPPORT IN ONE WAY OR ANOTHER.

THE PRIMARY QUESTION IS HOW TO BREAK THE PRESENT IMPASSE IN A WAY THAT ENABLES YOU TO GO TO THE POLLS WITH A VIETNAM SETTLEMENT (OR REASONABLE PROSPECT OF SUCH A SETTLEMENT) WHICH CAN REASONABLY BE EXPECTED TO PROTECT THE RIGHTS OF THOSE PEOPLE WHO HAVE RELIED ON US.

IT SEEMS CLEAR, FOR THE PRESENT AT LEAST, THAT WE PROBABLY CANNOT NEGOTIATE IN A MEANINGFUL WAY DIRECTLY WITH THE HANOI GOVERNMENT; NOR IS THE SOUTH VIETNAMESE GOVERNMENT IN A POSITION TO NEGOTIATE DIRECTLY WITH THE NLF.

I SUGGEST THEREFORE THAT WE APPROACH THE PROBLEM FROM A TOTALLY DIFFERENT ANGLE. I HAVE IN MIND THE FOLLOWING STEPS:

A. THROUGH DIPLOMATIC CHANNELS YOU APPROACH THE SOVIET UNION, JAPAN, THE UNITED KINGDOM, INDIA, FRANCE, THE VATICAN, THE UN SECRETARIAT, ETC. WITH THE PROPOSAL THAT YOU ARE PREPARED TO ACCEPT THEIR RECOMMENDATION THAT WE STOP THE BOMBING OF NORTH VIETNAM PROVIDED REPEAT PROVIDED (1) THEY WILL FROM THAT MOMENT ON TAKE RESPONSIBILITY FOR BRINGING ABOUT MEANINGFUL NEGOTIATIONS;

B. ONCE A SATISFACTORY SETTLEMENT IS NEGOTIATED, THEY WILL JOIN WITH UNITED STATES IN SUPPORTING A POSTWAR ECONOMIC RECONSTRUCTION PROGRAM FOR SOUTHEAST ASIA THAT WILL (1) ASSURE RAPID DEVELOPMENT OF THE AREA AND (2) HELP CREATE A POLITICAL-ECONOMIC STRUCTURE OR SYSTEM THAT WILL ASSURE THAT THE PEACE SETTLEMENT WILL BE DURABLE.

IN PROPOSING SOME SUCH CONSORTIUM-SUPPORTED DEVELOPMENT PROGRAM FOR PEACE, YOU COULD REFER TO YOUR EXCELLENT JOHNS HOPKINS SPEECH OF APRIL, 1965. IN ORDER TO COUNTER THE CHARGE THAT YOUR PROPOSAL IS A DEVICE TO ASSURE U.S. ECONOMIC HEGEMONY IN SEA YOU COULD PROPOSE THAT THE PROGRAM BE ADMINISTERED BY THE ASIAN DEVELOPMENT BANK IN COOPERATION WITH ECAFE.

THE PROGRAM COULD FOLLOW THE LINES OF THE MARSHALL PLAN PROPOSAL BY CALLING ON THE NATIONS THAT ARE DIRECTLY OR INDIRECTLY INVOLVED TO PROCEED IN THEIR OWN WAY AND AT THEIR OWN PACE STEP BY STEP TO ESTABLISH A COMMON MARKET COVERING THE 100 MILLION PEOPLE OF THIS AREA AND TO DEVELOP THE MEKING AND RED RIVERS POWER AND IRRIGATION POTENTIAL. A FURTHER POSSIBILITY IS COMBINED POWER GRID THAT WOULD PROMOTE ECONOMIC INTEGRATION AND THUS ACT AS A DETERRENT TO RENEWED FIGHTING.

IN EFFECT, WHAT I AM SUGGESTING IS THAT WE SUPPLEMENT OUR EFFORTS QUIETLY TO TALK HANOI INTO A SETTLEMENT BY CHALLENGING KEY NATIONS WHICH HAVE BEEN PRESSING US TO STOP THE BOMBING TO ASSUME THEIR OWN FULL SHARE OF RESPONSIBILITY FOR BRINGING ABOUT A PEACEFUL SETTLEMENT AND THEN IN HELPING TO ADMINISTER AND TO GUARANTEE THAT SETTLEMENT.

AT BEST THIS APPROACH MIGHT ENABLE YOU TO LAY THE GROUNDWORK FOR A PEACEFUL SETTLEMENT BETWEEN NOW AND SEPTEMBER, AN ACCOMPLISHMENT WHICH SHOULD ASSURE YOU A MASSIVE MAJORITY IN NOVEMBER, A COOPERATIVE LIBERAL CONGRESS AND FOUR FULL YEARS TO ACHIEVE THE THREE OBJECTIVES WHICH I ASSURED TITO ARE CLOSEST TO YOUR HEART.

AT WORST YOU WILL HAVE DRAMATICALLY

Monday, March 18, 1968
6:00 p. m.

Pres file

3

Mr. President:

Herewith a sad and gallant note
to you from George Brown.

W. W. Rostow

~~CONFIDENTIAL~~ attachment (Patrick Dean's note of 18 March w/text of msge
from George Brown)

~~CONFIDENTIAL~~

3a



BRITISH EMBASSY,
WASHINGTON, D.C.

18 March, 1968

Dear Mr. President,

I have been asked to pass to you the
enclosed personal message from Mr. George Brown.

*Yours Sincerely
Patrick Dean.*

The President

of the United States of America

~~CONFIDENTIAL~~

DECLASSIFIED
E.O. 12356, Sec. 3.4
NIJ 93-291
By ju, NARA, Date 7-14-94

~~CONFIDENTIAL~~

36

TEXT OF MESSAGE

Frankly I had no choice but to do this. I will write to you in due course a personal letter about it.

I want you to know that I feel myself very involved in the problems which you now have to face.

I would have liked to have stayed to give you such help and comfort as I could. Alas, events here have made that impossible.

I hope you saw what I wrote in the "Sunday Times". I trust you understand there is not the slightest chance of my deserting so long as you stand firm.

DECLASSIFIED
E.O. 12356, Sec. 3.4
NJ 94-252
By g/cb, NARA, Date 4/21/96

~~CONFIDENTIAL~~

4

ACTION

Monday, March 18, 1968 -- 5:45 p.m.

Mr. President:

I have discovered the following.

After forwarding the Barnett-Pye-Reischauer letter to Sec. Rusk, he talked with Bill Bundy. Bundy discovered that Phil Habib was going to be in the Boston area. Bundy arranged for Habib to have breakfast tomorrow with the three in Belmont, Massachusetts, to explain our policies.

I suspect we should await a report from Phil Habib before proceeding.

W. W. Rostow

Arrange for Sec. Rusk to see them, in addition _____

I will see them after Sec. Rusk _____

Get report from Habib and we will consider
the matter again _____

Call me _____

WWRostow:rla

Pres file

5

INFORMATION

THE WHITE HOUSE
WASHINGTON

~~SECRET~~

Monday, March 18, 1968
5 p. m.

MR. PRESIDENT:

Herewith the Department of Defense figures on additional financing, which you requested.

You will note that the additional forces themselves (Program 6) add a relatively modest proportion to the additional expenditures (\$960 million FY 1968, \$2.96 billion FY 1969).

You should also know that Clark Clifford has been in consultation with selected members of the Senate and House Armed Services Committees and Congressman Mahon. He will report at lunch tomorrow, unless you wish him to report sooner.

W. Rostow
W. Rostow

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DECLASSIFIED
White House Guidelines, Feb. 24, 1983
By *phg*, NARA, Date *6/25/96*

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Department of Defense

Additional Financing

	<u>1968</u>	<u>1969</u>
<u>New Obligational Authority</u>		
Operations	430	1,300
Aircraft Procurement	140	80
Munitions Procurement	530	450
Equipment Procurement	550	140
Stock funds	400	0
Construction	<u>140</u>	<u>20</u>
Subtotal, Program 6	2,190	1,990
Zero Supplemental and prudent actions (net)	<u>3,300</u>	<u>1,120</u>
Total Additional NOA	5,490	3,110

Expenditures

From pay supplemental	0	1,350
From zero supplemental and faster tempo	1,800	0
From prudent actions	530	2,510
Program 6		
Operations	410	1,260
Other	<u>550</u>	<u>1,700</u>
Additional Expenditures	3,290	6,820
Per President's Budget	<u>74,200</u>	<u>77,100</u>
Total Expenditures	77,490	83,920

Balance of Payments (DoD not adverse balance)

As forecast, January 23, 1968	3,530	3,480
Additional from above	<u>70</u>	<u>340</u>
Total DoD Adverse Balance	3,600	3,820*

*Balance of Payments effect assumes that current value of dollar will be maintained, which is highly unlikely.

ASD(C)
March 16, 1968

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DECLASSIFIED
E.O. 12958, Sec. 3.6
NLJ 96-256
By CB, NARA Date 2-27-97

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Monday, March 18, 1968 -- 2:25 p.m.

Mr. President:

Herewith assembled are the legal memoranda concerning the constitutional authority of the President to employ U. S. armed forces in Vietnam.

Tab A -- State Department memorandum, June 29, 1964, on the legal basis for sending American forces to Viet-Nam.

Tab B -- State Department memorandum, February 11, 1965, on legal basis for US and South Vietnamese air strikes against North Vietnamese.

Tab C -- State Department memorandum April 6, 1965, on the President's authority to send American troops to Viet-Nam.

Tab D -- State Department Legal Adviser memorandum, June 11, 1965, considers the President's authority to increase from 52,000 to 95,000 and authorize use of ground forces in combat.

Tab E -- Memorandum for the President from the Attorney General (Katsenbach), June 10, 1965, on whether Congressional approval is necessary or desirable in connection with proposed deployment and use of troops in South Vietnam.

Tab E missing from this file

Tab F -- A comprehensive statement dealing with both international law and U. S. constitutional considerations, dated March 4, 1966.

W. W. Rostow

WWRostow:rlh

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DECLASSIFIED
E.O. 12336, Sec. 3.4(b)
White House Guidelines, Feb. 24, 1983
By *NY* 3/31/92



DEPARTMENT OF STATE

Washington, D.C. 20520


SECRET ATTACHMENTS

March 18, 1968

MEMORANDUM FOR MR. WALT W. ROSTOW
THE WHITE HOUSE

Subject: Legal Memoranda on Viet Nam

In accordance with your request I am enclosing a series of legal memoranda considering the Constitutional authority of the President to employ United States armed forces in the defense of Viet Nam. The first is dated June 1964 and deals with the question of legal basis for sending United States troops to Viet Nam. This memorandum was forwarded to the President by Secretary Rusk on June 29, 1964. The next is dated February 11, 1965, and deals with the legal basis for air strikes against North Viet Nam. In April 1965 we prepared another memorandum on the President's authority to send American troops to Viet Nam. A memorandum of June 11, 1965 considers the question of the President's authority to increase the total of United States ground forces in Viet Nam to 95,000 and to authorize the use of ground forces in combat. A comprehensive statement dealing with both international law and United States Constitutional considerations is set forth in the Department's memorandum of March 4, 1966.


Leonard C. Meeker
The Legal Adviser

Attachments:

As stated.

SECRET ATTACHMENTS

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June 29, 1964

Authority
To use
US Forces
in VN

MEMORANDUM FOR THE PRESIDENT

Subject: Legal Basis for Sending
American Forces to Viet-Nam

The enclosed memorandum is submitted in response to your request of June 22 for a consideration of the legal basis for sending American forces to Viet-Nam. The conclusions of the memorandum may be summarized as follows:

1. The sending of American military personnel to serve in an advisory, non-combatant role rests on specific authority contained in the Foreign Assistance Act of 1961 and on a Mutual Defense Assistance Agreement with Viet-Nam.

2. The assignment of United States military personnel to duty in Viet-Nam involving participation in combat rests on the constitutional powers of the President as Commander-in-Chief of the armed forces, as Chief Executive, and in the field of foreign affairs. There have been numerous precedents in history for the use of these powers to send American forces abroad, including various situations involving their participation in hostilities. In the case of Viet-Nam, the President's action is additionally supported by the fact that South Viet-Nam has been designated to receive protection under Article IV of the Southeast Asia Collective Defense Treaty; both the Treaty and the Protocol covering Viet-Nam received the advice and consent of the Senate.

/s/ Dean Rusk

Dean Rusk

Enclosure:

Memorandum

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L:LCMeeker/L/PK:CFSalans:lr 6/26/64

FE-Mr. Bundy(draft)

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Authority State ltr. 12/29/77

By rmj/ly NARA, Date 4/6/92

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62
June 26, 1954.

**MEMORANDUM ON LEGAL BASIS
FOR SENDING AMERICAN FORCES
TO VIET-NAM**

1.

Advisory and noncombatant activities of American Forces in Viet-Nam are authorized by Section 503 of the Foreign Assistance Act of 1951 (22 U.S.C. (Supp. IV) 2311). That provision authorizes the President to furnish military assistance abroad to any friendly country through, inter alia, "assigning or detaching members of the Armed Forces of the United States... to perform duties of a noncombatant nature, including those related to training or advice." Furthermore, the United States and Viet-Nam are parties to an agreement for mutual defense assistance in Indo-China dated December 23, 1950 (TIAS 2440, 3 UST 2795), which was concluded pursuant to Public Law 329, 81st Congress (63 Stat. 714, 22 USC (1952 ed.) 1571-1604). This Agreement provides for the furnishing by the United States to Viet-Nam of military assistance in the form of equipment, material and services. Article IV, paragraph 2 of the Agreement states that "To facilitate operations under this Agreement, each Government agrees... To receive within its territory such personnel of the United States of America as may be required for the purposes of this Agreement..."

2.

The President's authority to send United States military personnel to Viet-Nam on assignments that include participation in combat derives from Article II, Section 2 of the Constitution, which provides that "The President shall be Commander-in-Chief of the Army and Navy of the United States." This power of the President is complemented by his special responsibilities under the Constitution in the field of foreign affairs (U.S. v. Curtiss-Wright Export Corp., 299 U.S. 304 (1936)) and by his position as Chief Executive with the duty to see that the laws are faithfully executed.

The line between Executive and Legislative power is not marked out with precision in the Constitution. For example, Article I, Section 8, provides that Congress "shall have power... To declare war, ...To raise and support armies,... To provide and maintain a navy". However, the debate at the Federal Convention in 1787 when the Constitution was being drafted makes clear that the powers of Congress are without prejudice to the right of the President to take action on his own "to repel sudden attacks".

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Since the Constitution was adopted there have been at least 125 instances in which the President, without Congressional authorization and in the absence of a declaration of war, has ordered the armed forces to take action or maintain positions abroad. These instances range from the war against the Barbary pirates in Jefferson's time to the sending of troops to Lebanon in 1958 by President Eisenhower. In a number of cases the President has acted in accordance with the general opinion of Congress or has sought Congressional ratification later. Many other cases, however, have not been referred to Congress at all.

While the most numerous class of these instances involved the protection of American property or American citizens in foreign lands, a number of them--such as the intervention in Texas in 1845 and in Mexico in 1917, the intervention in Panama in 1903-04, the dispatch of troops to Lebanon in 1958--were not concerned with the interests of individual citizens but with the general defense of the United States or the protection of some national interest or some concern of American foreign policy.

A memorandum detailing these historical events and discussing the question of the President's constitutional authority, prepared in the Department of State at the outset of the Korean conflict in 1950, is attached (Tab A). A further presentation of the views of the Executive Branch on this subject, published in 1951 as a Joint Committee Print of the Senate Committees on Foreign Relations and Armed Services, is also attached (Tab B).

Supreme Court decisions have not determined the extent of the President's authority to deploy and use United States armed forces abroad in the absence of express authorization from the Congress. The question has been the subject of Congressional debate at different times, and the power of the President to take action on his own responsibility has been generally supported. It has been supported on the theory that the President has both a right and a duty to take measures which he considers necessary for the defense of the United States. The view has sometimes been stated that the commitment of United States forces to combat may be made by the President on his own responsibility only when he judges the situation to be one of such urgency as to brook no delay and to allow no time for seeking the approval of Congress. Presidential decision that such an emergency exists is one which other branches of the Government are unlikely to try to overturn. There is, of course, a difference between (a) the participation in combat of individual U. S. military personnel attached to the armed forces of another country, and (b) the commitment of organized United States forces to combat. Congressional concern

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has been particularly with the latter, because of the clearer possibility it carries of involving the United States in large-scale hostilities.

If any question were raised as to the importance of Viet-Nam to the defense of the United States, this would be answered not only by the President's own evaluation, but by the fact that a Protocol to the Southeast Asia Treaty extends its protection to the Republic of Viet-Nam. Both the Treaty and Protocol received the advice and consent of the Senate. They represent a decision of the United States Government, in the constitutional form of a treaty, that the defense and security of Viet-Nam are necessary to the United States. Although the Treaty and Protocol have not been invoked with respect to the situation in Viet-Nam (since it is difficult to characterize North Vietnamese actions in South Viet-Nam as "armed attack" within the meaning of the Southeast Asia Treaty and the U. N. Charter), the existence of the Treaty and Protocol lends support to the President's action in sending American forces to Viet-Nam. The legislative history of the Treaty and Protocol indicates, however, an understanding that if the treaty were formally invoked as a basis for United States military action or if organized United States forces were committed to combat on a substantial scale, the President would act through Congress if it were in session, and if not in session would call Congress, "unless the emergency were so great that prompt action was necessary to save a vital interest of the United States."

This memorandum has been reviewed in the Department of Justice and approved by Mr. Schlei, Assistant Attorney General in charge of the Office of Legal Counsel.

L: LChaecker/L/FE: CFSalans:lr 6/26/64

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February 11, 1965

MEMORANDUM FOR THE UNDER SECRETARY

THROUGH: S/S

FROM: L - Leonard C. Meeker

**SUBJECT: Legal Basis for United States and
South Vietnamese Air Strikes**

The attached memorandum considers the legal basis for United States and South Vietnamese air strikes on target areas in North Viet-Nam. The memorandum develops a justification based on collective self-defense against North Vietnamese aggressive conduct amounting to armed attack; the right of collective self-defense is recognized in Article 51 of the United Nations Charter. The memorandum avoids reliance on theories of reprisal or retaliation, which are less readily available under contemporary international law than they were before the Charter.

There would, moreover, be some inconsistency in U.S. reliance on reprisal or retaliation with respect to Viet-Nam when we have been publicly critical of such justifications in other circumstances -- for example, in the Near East in situations involving Israel and the Arab states.

There is the further consideration that a legal analysis based on self-defense is politically more appealing in presenting our case to other governments and in the court of public opinion around the world.

Attachment:

Memorandum

L:LCMeeker:jst

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Legal Basis for United States Actions Against
North Viet-Nam

I

The Issue

This memorandum considers the question whether recent United States-South Vietnamese actions against military targets in North Viet-Nam are justified in international law, particularly in light of the United Nations Charter and the 1954 Geneva Accords on Viet-Nam. It concludes that these actions are fully justified.

II

The Facts

A. Recent Incidents

On February 7, Viet Cong forces attacked South Viet-Nam air bases in Pleiku and Tuy Hoa, two barracks installations in the Pleiku area, and a number of villages in the vicinity of Tuy Hoa and Nha Trang. Numerous casualties were inflicted. Since February 8, a large number of South Vietnamese and United States personnel have been killed in an increased number of Viet Cong ambushes and attacks. A district town in Phuoc Long province was overrun, resulting in further Vietnamese and United States casualties. In Qui Nhon, Viet Cong terrorists in

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Authority, State Dec 12/21/77
By my/ky NARA, Date 4-6-92

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an attack on an American military billet murdered Americans and Vietnamese. In addition, there have been a number of mining and other attacks on bridges and railways in South Viet-Nam as well as assassinations and ambushes involving South Vietnamese civil and military officials.

The Governments of the Republic of Viet-Nam and the United States consulted and agreed on the necessity of taking prompt action to meet these attacks. Accordingly, on February 7, 8 and 11 United States and South Vietnamese air forces carried out attacks against military facilities in the southern area of North Viet-Nam. These military installations have been used by Hanoi as major training and staging areas for armed cadres infiltrating from the north into South Viet-Nam.

B. Background

In 1954, agreements were concluded in Geneva for the cessation of hostilities in Viet-Nam, Laos, and Cambodia. These Geneva Accords divided Viet-Nam by establishing a provisional military demarcation line. The agreements provided for the complete cessation of all hostilities in Viet-Nam and for the withdrawal of the forces of either party from the territory under the control of the other. The Accords required the parties to ensure that the zones assigned to them were not

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used for the resumption of hostilities or to further an aggressive policy. They also required the parties--and North Viet-Nam was a signatory--to respect the territory under the control of the other party and to commit no act and undertake no operation against the other party.

From the beginning, it was apparent that North Viet-Nam sought to subvert South Viet-Nam in utter disregard of the 1954 Geneva Accords. Arms and ammunition were cached throughout the south. Key guerrilla forces were ordered to remain intact in South Viet-Nam. Political agents were left behind to promote Hanoi's cause. In the ensuing years, these elements gradually emerged and turned to the use of force and terror against the Government in Saigon.

By 1959, the guerrilla units in the south were being reinforced by the infiltration of both men and materiel from North Viet-Nam. Infiltration from the north has increased rapidly; up to 34,000 armed and trained personnel have moved into South Viet-Nam from the north since 1959. Military operations in the south have been directed, staffed and supplied in crucial respects from Hanoi. These activities on the part of North Viet-Nam were documented in "A Threat to the Peace," a publication issued by the Department of State in December 1961.

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Shortly thereafter, in a special report of June 1962, the International Control Commission in Viet-Nam concluded that there was "sufficient evidence to show beyond reasonable doubt" that these violations by North Viet-Nam had occurred.

To meet the threat created by these violations of the Geneva Accords and by North Viet-Nam's aggressive intervention contrary to general international law, the Government of the Republic of Viet-Nam requested United States assistance. We had been providing Viet-Nam since 1950-1951 with both economic and military aid. This assistance was continued after the conclusion of the 1954 Geneva Accords, within the limitations prescribed by those agreements. It had become apparent, however, by 1961 that limited assistance was not sufficient to meet the growing Communist threat. Consequently, in 1961, the Government of the Republic of Viet-Nam requested additional aid from the United States. The United States responded with increased supplies and with larger numbers of training and advisory personnel to assist the Vietnamese forces in prosecuting the war against the Viet Cong. This response was proportioned with the design of sustaining Viet-Nam in its defense against aggression without extending the conflict beyond the borders of the country.

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The Communists, however, increased their intervention without regard to obligations under international law and international agreements by which they were bound. They stepped up the assistance from the north and increased the use of neighboring Laos as an infiltration route, in violation of the freshly concluded 1962 Geneva Agreement for the Settlement of the Laotian Question.

In August 1964, the North Vietnamese launched a direct attack against United States vessels on the high seas in the Gulf of Tonkin. We responded, in self-defense, by striking the bases from which the attacking North Vietnamese torpedo boats operated and by destroying oil storage facilities used to support these bases.

The Viet Cong attacks since February 7 are part of a continuing aggression made possible only by North Viet-Nam. As indicated, the North Vietnamese have trained and dispatched cadres to the south and provided direction and supplies to the Viet Cong. In more recent months they have sharply increased the infiltration of men and equipment into the south, and virtually all personnel now coming in are natives of North Viet-Nam. What began as covert and indirect aggression has become open armed aggression. This aggression has been carried out across the internationally agreed demarcation line of 1954

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between North and South Viet-Nam, and across international frontiers between Viet-Nam and Laos.

III

International Law The U.N. Charter

The recent Viet Cong attacks were not, as has been seen, an isolated occurrence. They were part of a continuing armed aggression directed by North Viet-Nam against South Viet-Nam in violation of international agreements and international law.

This being the case, what are the Republic of Viet-Nam and the United States entitled to do under international law by way of response?

Under international law, the victim of armed aggression is obviously permitted to defend itself and to organize a collective self-defense effort in which others who are willing may join. This right is recognized in Article 51 of the United Nations Charter. Article 51 states that

"Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a member of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security. Measures taken by the members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council

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under the present Charter to take at any time such actions as it deems necessary in order to maintain or restore international peace and security."

As has been seen above, the whole course of conduct of North Viet-Nam, particularly as it has evolved in recent months, adds up to open armed attack within the meaning of Article 51--armed aggression carried on across international frontiers. In these circumstances, South Viet-Nam has requested and received assistance from the United States and other nations in a collective defense effort.

The question may be raised as to the applicability to the Viet-Nam situation of Article 2, paragraph 4, of the Charter. Article 2, paragraph 4 provides that

"All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations."

In the first place, it is plain that the use of force against territorial integrity and political independence has been initiated by North Viet-Nam and not by anyone else. Secondly, paragraph 2 of Article 4 of the Charter does not place an absolute prohibition on the use of force. It implicitly permits the use of force in a manner consistent with the purposes and principles of the Charter. Moreover, the Charter itself specifically provides for the use of force in certain circumstances

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--action through the United Nations itself, action through regional arrangements and action in self-defense. The actions of the United States and the Republic of Viet-Nam, being defensive in character and designed to resist armed aggression, are consequently consistent with the purposes and principles of the Charter and specifically with Article 2, paragraph 4.

It was as a measure of self-defense under Article 51 that the United States responded in August 1964 to the North Vietnamese attack on our vessels in the Gulf of Tonkin. Those measures were immediately reported to the Security Council in accordance with Article 51. The Security Council did not see fit to take any action to maintain or restore international peace and security in the area. Indeed, North Viet-Nam refused to participate in the deliberations of the Security Council and explicitly denied the right of the Council to examine this problem.

The attacks against South Viet-Nam have mounted in intensity since August, culminating in the recent attacks and acts of terror. In these circumstances, it was mutually agreed between the Government of South Viet-Nam and the United States Government that further means of providing for the collective defense of South Viet-Nam were required. Prompt defensive action was decided upon, and on February 7, 8, and 11 air strikes

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were made against the supply bases and assembly points in North Viet-Nam from which the aggression against the south was being carried out. The actions taken constituted a limited and measured response, fitted to the situation that produced it. Again, these measures were immediately reported to the Security Council in accordance with Article 51 of the United Nations Charter. As yet, the Council has taken no action to maintain an effective peace in the area. Until the regime in Hanoi decides to cease its aggressive intervention in South Viet-Nam, and until effective steps are taken to maintain international peace and security in the area, the Governments of the United States and the Republic of Viet-Nam have every right to continue their individual and collective self-defense against the Communist armed aggression coming from North Viet-Nam.

IV

The Geneva Accords

It has been demonstrated that the North Vietnamese have repeatedly violated the 1954 Geneva Accords in a most serious and flagrant manner. In so doing, of course, North Viet-Nam is ignoring an international Agreement which it signed and by which it is bound. In addition, by the

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continued presence in neighboring Laos of North Vietnamese forces and their use of Laotian territory for infiltration into South Viet-Nam, North Viet-Nam is violating solemn commitments which it undertook in the 1962 Geneva Agreements to refrain from such activities.

In these circumstances, international law recognizes the principle that a material breach of a treaty by one party entitles other parties at least to withhold compliance with an equivalent, corresponding or related provision until the other party is prepared to observe its obligations.

The actions of the Republic of Viet-Nam and the United States are fully consistent with this principle. North Vietnamese violations of the Geneva Agreements have created an immediate danger to the continued independence and integrity of the Republic of Viet-Nam. The response of South Viet-Nam and the United States is designed to meet this threat created by North Viet-Nam's disregard of the Accords. The extensive North Vietnamese violations certainly justify South Viet-Nam at least to withhold compliance with those provisions of the Accords which limit its ability to protect its very existence. Both South Viet-Nam and the United States have made clear that the actions

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which they have taken will no longer be necessary if North Viet-Nam would begin to comply with the Accords.

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APR 6 1965

MEMORANDUM FOR THE ACTING SECRETARY

THROUGH: S/S

FROM: L - Leonard C. Mecker

SUBJECT: President's Authority to Send American Troops
to Viet-Nam - BRIEFING MEMORANDUM

Attached is a question and proposed answer on the President's authority to send very large numbers of American troops to Viet-Nam (e.g., 300,000 ground troops). Such a question may be raised in the course of your appearance tomorrow on the Hill, as it was with Ambassador Taylor last week.

The suggested answer makes four basic points:

(1) Should circumstances require urgently the sending of large numbers of American forces to Viet-Nam, the President would have authority to deploy these forces by virtue of his constitutional powers as Commander-in-Chief and as Chief Executive and in the exercise of his constitutional responsibilities in the field of foreign affairs;

(2) The August 7, 1964, Congressional Joint Resolution on Southeast Asia provides confirmation from the Congress of the President's Constitutional authority, and has the effect of supplementing that authority to the extent that any supplement might be thought needed. The Resolution covers the taking of "all necessary steps, including the use of armed force, to assist any member or protocol State of the SEA Collective Defense Treaty requesting assistance in the defense of its freedom." This includes the sending to Viet-Nam

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of such units of the armed forces as the President in his judgment considers necessary.

(3) Neither the Constitution nor the Joint Resolution contains any ceilings on numbers of ground troops or elements of naval or air forces that the President might decide to employ in the over-all national defense.

(4) In the exercise of his broad constitutional responsibilities, the President would consult with Congressional leaders on the sending of any greatly increased numbers of troops to Viet-Nam. The President has consistently engaged in such Congressional consultation with respect to major decisions on Viet-Nam.

L:LCMeeker:lr

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THE LEGAL ADVISER
DEPARTMENT OF STATE
WASHINGTON

June 11, 1965

MEMORANDUM OF LAW

Question

This memorandum examines the power of the President to commit ground and air forces to South Viet Nam, above the present total of approximately 52,000 to an anticipated total of 95,000, and to authorize the use of ground forces in combat in accordance with the terms of the White House statement of June 9, 1965.

Summary

The President does have power, under the Constitution and under the Joint Resolution of Congress of August 10, 1964, to deploy United States ground and air forces to South Viet Nam in the numbers and for the purposes indicated above.

Where the President determines that the defense of the United States requires immediate action, he is empowered under the Constitution to engage United States forces in combat without Congressional authorization. There are numerous precedents in United States history for deployment abroad of United States armed forces, and some of them include use in combat. In the Korean conflict, the United States maintained a troop strength in Korea of over 250,000.

If authorization from the Congress is considered requisite to sending 43,000 additional United States troops to Viet Nam at this time, the Joint Resolution of August 10, 1964 gives a broad authorization to the President. The Resolution declares:

"Consonant with the Constitution of the United States and the Charter of the United Nations and in accordance with its obligations under the Southeast

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Authority Staff ltr 12/29/77
By rmj/sg, NARA, Date 4/6/92

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Asia Collective Defense Treaty; the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol State of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom."

While the Joint Resolution expresses no limitation on numbers of forces or on the missions they might be assigned, and while the legislative history does not disclose a purpose to effect any such limitations, the record shows that the Resolution was passed on the understanding that there would be consultation with the Congress "in case a major change in present policy becomes necessary." The committing of an additional 43,000 United States forces to South Viet Nam, with combat missions included in their assignment, could be argued to constitute a policy decision calling for Congressional consultation. Consultation would not require new affirmative action by the Congress, but would afford the Congress an opportunity for review.

Deployment by the President of United States forces as indicated in the question stated at the outset of this memorandum would not require the declaration of a state of war.

Discussion

The missions of the additional 43,000 American troops to be deployed to South Viet Nam would be governed by the terms of the White House statement dated June 9. The text of that statement is as follows:

"There has been no change in the mission of United States ground combat units in Vietnam in recent days or weeks. The President has issued no order of any kind in this regard to General [William C.] Westmoreland recently or at

any

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any other time. The primary mission of these troops is to secure and safeguard important military installations like the air base at Danang. They have the associated mission of active patrolling and securing action in and near the areas thus safeguarded.

"If help is requested by the appropriate Vietnamese commander, General Westmoreland also has authority within the assigned mission to employ these troops in support of Vietnamese forces faced with aggressive attack when other effective reserves are not available and when, in his judgment, the general military situation urgently requires it."

This memorandum will consider, in turn, four aspects of the question of Presidential authority:

1. The power of the President under the Constitution;
2. The authorization given by the Joint Resolution of Congress dated August 10, 1964;
3. The political commitment of the Administration in connection with the Joint Resolution, to consult with the Congress "in case a major change in present policy becomes necessary";
4. Whether any declaration of war is required.

1. The Constitution. Basic Presidential authority to deploy United States military forces abroad derives from Article II, Section 2 of the Constitution which provides that "The President shall be commander in chief of the army and navy of the United States". This power of the President is complemented by his position as Chief Executive: Under

Article

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- 4 -

Article II, Section 3, "he shall take care that the laws be faithfully executed". The power is also complemented by the special responsibilities of the President in the field of foreign affairs. U.S. vs. the Curtiss-Wright Export Corp., 299 U.S. 304 (1936).

The line between Executive and Legislative power is not marked out with precision in the Constitution. For example, Article I, Section 8, provides that Congress "shall have power...To declare war, ...To raise and support armies,... To provide and maintain a navy". However, the debate at the Federal Convention in 1787 when the Constitution was being drafted makes clear that the powers of Congress are without prejudice to the right of the President to take action on his own "to repel sudden attacks". In cases where the President considers the need of military measures to defend the United States so urgent as to brook no delay, the President is empowered to commit and use United States forces in hostilities without first securing an authorization from the Congress. In the case of Viet Nam, Congressional authorization has already been given in the Joint Resolution of August 10, 1964.

Since the Constitution was adopted, there have at least been 125 instances in which the President, without Congressional authority and in the absence of a declaration of war, has ordered the armed forces to take action or maintain positions abroad. These instances range from the war of the Barbary Pirates in Jefferson's time to the sending of troops to Lebanon in 1958 by President Eisenhower. Substantial numbers of troops have sometimes been involved; President Roosevelt in 1941 deployed over 10,000 United States troops to Iceland to secure that country against Nazi aggression, and President Eisenhower in 1958 dispatched 14,000 American troops to Lebanon. Some of the historical instances have involved the use of United States forces in combat; in the most notable case--the Korean conflict of 1950-53--the United States maintained a troop strength of over 250,000 in Korea.

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A memorandum detailing these historical events and discussing the question of the President's constitutional authority, prepared in the Department of State at the outset of the Korean conflict in 1950, is attached (Tab A). A further presentation of the views of the Executive Branch on this subject, published in 1951 as a Joint Committee Print of the Senate Committees on Foreign Relations and Armed Services, is also attached (Tab B).

Supreme Court decisions have not determined the extent of the President's authority to deploy and use United States armed forces abroad in the absence of express authorization from the Congress. The question has been the subject of Congressional debate at different times, and the power of the President to take action on his own responsibility has been generally supported. It has been supported on the theory that the President has both a right and a duty to take measures which he considers necessary for the defense of the United States. The view has sometimes been stated that the commitment of United States forces to combat may be made by the President on his own responsibility only when he judges the situation to be one of such urgency as to brook no delay and to allow no time for seeking the approval of Congress. Presidential decision that such an emergency exists is one which other branches of the Government are unlikely to try to overturn. There is, of course, a difference between (a) the participation in combat of individual U.S. military personnel attached to the armed forces of another country, and (b) the commitment of organized United States forces to combat. Congressional concern has been particularly with the latter, because of the clearer possibility it carries of involving the United States in large-scale hostilities.

If any question were raised as to the importance of Viet-Nam to the defense of the United States, this would be answered not only by the President's own evaluation, but by the fact that a Protocol to the Southeast Asia Treaty extends its protection to the Republic of Viet-Nam. Both the Treaty and Protocol received the advice and consent of the Senate. They represent a decision of the United States Government, in the constitutional form of a treaty, that the defense and security of Viet-Nam are necessary to the United States.

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2. Joint Resolution of the Congress. The August 10, 1964 Joint Resolution on Southeast Asia provides Congressional authorization for the sending of United States military forces to Viet-Nam and for their use in combat operations.

The Joint Resolution provides "That the Congress approves and supports the determination of the President, as Commander-in-Chief, to take all necessary measures to repel any armed attack against the forces of the United States and, to prevent further aggression." In section 2 of the Joint Resolution, Congress has declared: "Consonant with the Constitution of the United States and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol State of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom."

In the course of Congressional consideration of this resolution, a number of statements were made bearing on the question of the President's authority to commit U. S. military forces to Viet-Nam and to use them in a combat role:

a. Statement by Secretary Rusk before House Committee on Foreign Affairs, August 6, 1964:

"I believe it to be the generally accepted constitutional view that the President has the constitutional authority to take at least limited armed action in defense of American national interests... As I have said before, we cannot now be sure what actions may be required."

b. On the floor of the Senate, August 6, 1964:

"Mr. Brewster: ...So my question is whether there is anything in the resolution which would authorize or recommend or approve the landing of large American armies in Viet-Nam or in China.

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"Mr. Fulbright: There is nothing in the resolution, as I read it, that contemplates it. I agree with the Senator that that is the last thing we would want to do. However, the language of the resolution would not prevent it. It would authorize whatever the Commander-in-Chief feels is necessary. It does not restrain the Executive from doing it."

c. On the floor of the Senate, August 6, 1964:

"Mr. Nelson: Am I to understand that it is the sense of Congress that we are saying to the executive branch: 'If it becomes necessary to prevent further aggression, we agree now, in advance, that you may land as many divisions as deemed necessary, and engage in a direct military assault on North Vietnam if it becomes the judgment of the Executive, the Commander-in-Chief, that this is the only way to prevent further aggression'?"

"Mr. Fulbright: If the situation should deteriorate to such an extent that the only way to save it from going completely under to the Communists would be action, such as the Senator suggests, then that would be a grave decision on the part of our country as to whether we should confine our activities to a very limited personnel on land and the extensive use of naval and air power, or whether we should go further and use more manpower.

"I personally feel it would be very unwise under any circumstances to put a large land army on the Asian Continent.

"I do not know what the limits are. I do not think this resolution can be determinative of that fact. I think it would indicate that he would take reasonable means first to prevent any further aggression, or repel further aggression against our own forces, and that he will live up to our obligations under the SEATO treaty and with regard to the protocol states.

"I do not know how to answer the Senator's question and give him an absolute assurance that large numbers

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of troops would not be put ashore. I would deplore it. And I hope the conditions do not justify it now."

d. On the floor of the Senate, August 6, 1964:

"Mr. Nelson: ...But I would be most concerned if the Congress should say that we intend by the joint resolution to authorize a complete change in the mission which we have had in South Vietnam for the past 10 years, and which we have repeatedly stated was not a commitment to engage in a direct land confrontation with our Army as a substitute for the South Vietnam Army or as a substantially reinforced U. S. army to be joined with the South Vietnam Army in a war against North Vietnam and possibly China.

"Mr. Fulbright: Mr. President, it seems to me that the joint resolution would be consistent with what we have been doing. We have been assisting the countries in Southeast Asia in pursuance of the treaty. But in all frankness I cannot say to the Senator that I think the joint resolution would in any way be a deterrent, a prohibition, a limitation, or an expansion on the President's power to use the Armed Forces in a different way or more extensively than he is now using them. In a broad sense, the joint resolution states that we approve of the action taken with regard to the attack on our own ships, and that we also approve of our country's effort to maintain the independence of South Vietnam...

"In frankness, I do not believe the joint resolution would substantially alter the President's power to use whatever means seemed appropriate under the circumstances. Our recourse in Congress would be that if the action were too inappropriate, we could terminate the joint resolution, by a concurrent resolution, and that would precipitate a great controversy between the Executive and the Congress. As a practical question, that could be done."

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- e. On the floor of the Senate, August 6, 1964:

"Mr. Cooper:... The Senator will remember that the SEATO Treaty, in article IV, provides that in the event of an armed attack upon a party to the Southeast Asia Collective Defense Treaty, or upon one of the protocol states such as South Vietnam, the parties to the treaty, one of whom is the United States, would then take such action as might be appropriate, after resorting to their constitutional processes. I assume that would mean, in the case of the United States, that Congress would be asked to grant the authority to act.

"Does the Senator consider that in enacting this resolution we are satisfying that requirement of article IV of the Southeast Asia Collective Defense Treaty? In other words, are we now giving the President advance authority to take whatever action he may deem necessary respecting South Vietnam and its defense, or with respect to the defense of any other country included in the treaty?

"Mr. Fulbright: I think that is correct.

"Mr. Cooper: Then, looking ahead, if the President decided that it was necessary to use such force as could lead into war, we will give that authority by this resolution?

"Mr. Fulbright: That is the way I would interpret it. If a situation later developed in which we thought the approval should be withdrawn, it could be withdrawn by concurrent resolution.

- f. Senator Nelson, on August 7, proposed an amendment to the Joint Resolution which read, in part:

"Our continuing policy is to limit our role to the provision of aid, training assistance, and military advice,

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and it is the sense of Congress that, except when provoked to a greater response, we should continue to attempt to avoid a direct military involvement in the Southeast Asian conflict.

Mr. Fulbright: (in rejecting the amendment)
"It states fairly accurately what the President has said would be our policy, and what I stated my understanding was as to our policy; also what other Senators have stated.

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3. Political commitment of consultation.

On August 6, 1964 Secretary Rusk, in testifying in executive session before a joint meeting of the Senate Committees on Foreign Relations and Armed Services concerning the Southeast Asia resolution assured the members of Congress that there would be close and continuing bipartisan consultations between the Executive and Legislative Branches on the problems in Southeast Asia, especially if the situation there developed "in ways which we cannot now anticipate."

In the Senate on August 6, Senator Fulbright made the following response after a brief statement by Senator Cooper:

"Mr. Fulbright: I have no doubt that the President will consult with Congress in case a major change in present policy becomes necessary."

The language of the Resolution and the statements made on the floor evidently recognized that the President might find it necessary to deploy large numbers of American forces in a combat role to accomplish the goal set forth in the Resolution. At the same time, the Congress passed the Resolution on the understanding that the President would consult with Congress in case a major change in policy became necessary. The commitment of substantially larger numbers of American troops in a short period of time and their assignment to combat would appear to be the kind of policy change which would call for such Congressional consultation. Consultation would not require new affirmative action by the Congress, but would afford the Congress an opportunity to express its views.

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Supplemental Appropriation for Southeast Asia

Congress reaffirmed its support of the Administration policy in Viet Nam as recently as May 6, 1965 when it appropriated at the President's request an additional \$700,000,000 for United States military activities in Southeast Asia. The President stated in his message of May 4:

"This is not a routine appropriation. For each Member of Congress who supports this request is also voting to persist in our effort to halt Communist aggression in South Viet Nam."

The Congress adopted the resolution by an overwhelming vote -- 408 to 7 in the House and 88 to 3 in the Senate. However, a number of Congressmen stated for the record that their vote should not be construed as a blanket endorsement of any future action on the Asian mainland of a different character than the policy then in effect.

Senator Stennis who sponsored the resolution in the Senate was asked directly by Senator Church whether he believed a vote in favor of the resolution endorsed whatever action might be taken in the future. Stennis replied that the resolution placed no limitations on the President's judgment but that each Senator must interpret his own vote. Stennis added:

"I do not believe we are signing a blank check. We are backing up our men and also backing up the present policy of the President. If he substantially enlarges or changes it, I would assume he would come back to us in one way or another."

The appropriation by Congress neither enlarged nor restricted the legal authority of the President to send combat troops to South Viet Nam. The vote did express strong support for the policy which the President was pursuing to

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defend South Viet-Nam, with the expectation that a substantial change in character of U. S. actions would be preceded by the President's going back to Congress "one way or another."

4. Declaration of War

A declaration of war by Congress is not necessary to commit American forces to South Viet-Nam for the purposes set forth earlier.

The President's powers under the Constitution exist side by side with the authority of Congress in this area. In addition to the power to raise and support armies and to provide and maintain a navy, the power to express Congressional policy and the power of the purse, the Congress has the power to declare war. As Constitutional history will show, this is not the same as the power to "make" war -- a power which the Federal Convention in 1787 deliberately withheld from the Congress.

Our Constitutional arrangements are such that the President is endowed with power to take actions which may eventuate in armed conflict. It remains for the Congress to give the legal characterization of "war", with the resulting legal consequences, to a particular conflict if it so decides. Thus no declaration of war is necessary for hostilities to occur or for U. S. forces to be major participants in them. The Korean conflict illustrates these points well.

By reason of the general legislative power of Congress, including its power over finances, there must be a basic concurrence and collaboration between the Executive and Legislative Branches of Government if any given policy and

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course of action of the President is to be sustained over a period of time. The Congress thus has a major role, and indeed a major influence, on the decisions made by the President both as Commander-in-Chief and in the field of foreign relations.

Leonard C. Meeker

Leonard C. Meeker

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QUESTION AND ANSWER

Q. Does the President today have authority, for example, to send 300,000 American troops to Viet-Nam?

A. Under the authority that is conferred on the President by the Constitution, which is reflected and confirmed by the Congressional Joint Resolution of August 7, 1964, the President is empowered to send and employ elements of the armed forces of the United States wherever and whenever he judges them to be urgently needed in the over-all national defense. To the extent that any doubts might remain concerning the scope of the President's Constitutional power as Commander-in-Chief, Chief Executive, and the organ of the national government in foreign relations, these are resolved with respect to Viet-Nam by the terms of the Joint Resolution. Section 2 of the Resolution provides:

"Consonant with the Constitution of the United States and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom."

Neither the Constitution nor the Joint Resolution imposes any limitation on numbers of ground troops or other elements of the armed forces to be deployed.

In accordance with practice up to the present time, the President would wish to engage in Congressional consultations before making major new decisions with respect to the conduct of operations in Viet-Nam.

Background

The following points may be made by way of explanation:

1. President's Constitutional Powers.

The President's authority to send United States military forces to Viet-Nam derives from Article II, section 2, of the Constitution, which provides that "the President shall be Commander-in-Chief of the Army and Navy of the United States." This power of the President is complemented by his special responsibilities under the Constitution in the field of foreign affairs and by his position as Chief Executive.

There have been numerous precedents in history for exercise of Presidential power to send American forces abroad, including various situations involving their participation in hostilities. For example, during the Korean conflict, the United States maintained a troop strength of over 250,000 in Korea. In 1958, the President despatched 14,000 American troops to Lebanon, also without prior Congressional approval.

Earlier, in 1941, President Roosevelt deployed over 10,000 U. S. forces to Iceland to secure that island against German aggression. In the Cuban crisis of October 1962, no one questioned the authority of the President to deploy substantial elements of the United States Navy and Air Force in the Caribbean.

In the case of Viet-Nam, the President's action would be additionally supported by the fact that South Viet-Nam has been designated to receive protection under Article IV of the Southeast Asia Collective Defense Treaty; both the Treaty and the Protocol covering Viet-Nam received the advice and consent of the Senate.

2. Joint Resolution of the Congress.

The August 7, 1964 Joint Resolution of Congress provides "That the Congress approves and supports the determination of the President, as Commander-in-Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression." In section 2 of the Joint Resolution, Congress has declared: "Consonant with the Constitution of the United States and the

Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol State of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom."

There was no discussion in the Congress, in connection with the adoption of the Joint Resolution, of precise numbers of forces which the President could send to Viet-Nam. The Resolution gave political and legal support to the future exercise by the President of his Constitutional power to take all necessary steps, including the despatch of American forces, which in his judgment are required to assist in the defense of Viet-Nam. Relevant excerpts from the Congressional debate on the Resolution are attached at Tab A. They indicate a Congressional understanding that the President has authority to send large numbers of American troops to Viet-Nam.

3. Consultation with the Congress.

The President has continuously consulted with Congress on the situation in Viet-Nam and on United States

actions there. In the course of the Congressional debate on the Southeast Asia Joint Resolution, Senator Fulbright, in an exchange with Senator Cooper, stated "I have no doubt that the President will consult with Congress in case a major change in present policy becomes necessary." The commitment of large numbers of organized United States forces to combat in Viet-Nam would be a matter on which the President would undoubtedly wish to consult with appropriate Congressional leaders.

Similarly, in connection with the adoption of a Congressional Joint Resolution on Cuba in September 1962, Secretary Rusk assured the Senate Committees on Foreign Relations and on Armed Services that "...if a situation arose in which it were necessary to make a major use of the United States armed forces against Cuba, the consequences certainly as far as Cuba is concerned and this country and the potential consequences in other places in the world, would be so large and so significant that the President would be in close consultation with the leadership of the Congress in connection with any such move."

4. Declaration of War.

The President's powers under the Constitution exist side by side with the authority of Congress in this area. In addition to the power to raise and support armies and to provide and maintain a navy, the power to express Congressional policy and the power of the purse, the Congress has the power to declare war. As Constitutional history will show, this is not the same as the power to "make" war -- a power which the Federal Convention in 1787 deliberately withheld from the Congress.

Our Constitutional arrangements are such that the President is endowed with power to take actions which may eventuate in armed conflict. It remains for the Congress to give the legal characterization of "war" to a particular conflict if it so decides. Thus no declaration of war is necessary for hostilities to occur or for U.S. forces to be major participants in them. The Korean conflict illustrates these points well.

A declaration of war operates to activate a number of statutes giving the President special authority, for example, with respect to the movement of aliens in and out of the United States; the Armed Forces, Reserves and the National Guard; procurement of materials and services; security and protection of defense information; and merchant

shipping and the use of vessels. Almost all of these statutes are presently operative by virtue of the state of emergency proclaimed by President Truman in December 1950, which continues in effect.

As indicated earlier, Congress possesses other constitutional powers, in addition to the power to declare war, that bear upon the policies and actions of the President in the field of armed conflict. By reason of the general legislative power of Congress, including its power over finances, there must be a basic concurrence and collaboration between the Executive and Legislative Branches of Government if any given policy and course of action of the President is to be sustained over a period of time. The Congress thus has a major role, and indeed a major influence, on the decisions made by the President both as Commander-in-Chief and in the field of foreign relations.

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Excerpts from Statements made on Joint Resolution
of August 7, 1964.

1. Statement by Secretary Rusk before House Committee on Foreign Affairs, August 6, 1964:

"I shall not take your time this morning to review the constitutional aspects of resolutions of this character. I believe it to be the generally accepted constitutional view that the President has the constitutional authority to take at least limited armed action in defense of American national interests; in at least 85 instances, Presidents of the United States have in fact taken such action. As I have said before, we cannot now be sure what actions may be required. The Formosa resolution of 1955 was followed by the use of U. S. warships to escort supply convoys to the offshore islands in 1958; the Middle East resolution was followed by President Eisenhower's sending of troops to Lebanon in 1958; the Cuba resolution was followed by the well-known events of October 1962. I do not suggest that any of these actions may serve as a parallel for what may be required in southeast Asia. There can be no doubt, however, that these previous resolutions form a solid legal precedent for the action now proposed. Such action is required to make the purposes of the United States clear and to protect our national interests.

2. Report of the House Committee on Foreign Affairs on the Joint Resolution:

"As it had during earlier action on resolutions relating to Formosa and to the Middle East, the committee considered the relation of the authority contained in the resolution and the powers assigned to the President by the Constitution. While the resolution makes it clear that the people of the United States stand behind the President, it was concluded that the resolution does not enter the field of controversy as to the respective limitations of power

in the executive and the legislative branches. As stated in the committee report on the Formosa resolution:

Acting together, there can be no doubt that all the constitutional powers necessary to meet the situation are present.

3. On the floor of the Senate, August 6, 1964:

Mr. Brewster: ...So my question is whether there is anything in the resolution which would authorize or recommend or approve the landing of large American armies in Viet-Nam or in China.

Mr. Fulbright: There is nothing in the resolution, as I read it, that contemplates it. I agree with the Senator that that is the last thing we would want to do. However, the language of the resolution would not prevent it. It would authorize whatever the Commander in Chief feels is necessary. It does not restrain the Executive from doing it."

4. On the floor of the Senate, August 6, 1964:

Mr. Nelson:...But I would be most concerned if the Congress should say that we intend by the joint resolution to authorize a complete change in the mission which we have had in South Vietnam for the past 10 years, and which we have repeatedly stated was not a commitment to engage in a direct land confrontation with our Army as a substitute for the South Vietnam Army or as a substantially reinforced U. S. Army to be joined with the South Vietnam Army in a war against North Vietnam and possibly China.

Mr. Fulbright: Mr. President, it seems to me that the joint resolution would be consistent with what we have

been doing. We have been assisting the countries in southeast Asia in pursuance of the treaty. But in all frankness I cannot say to the Senator that I think the joint resolution would in any way be a deterrent, a prohibition, a limitation, or an expansion on the President's power to use the Armed Forces in a different way or more extensively than he is now using them. In a broad sense, the joint resolution states that we approve of the action taken with regard to the attack on our own ships, and that we also approve of our country's effort to maintain the independence of South Vietnam... .

"In frankness, I do not believe the joint resolution would substantially alter the President's power to use whatever means seemed appropriate under the circumstances. Our recourse in Congress would be that if the action were too inappropriate, we could terminate the joint resolution, by a concurrent resolution, and that would precipitate a great controversy between the Executive and the Congress. As a practical question, that could be done."

5. On the floor of the Senate, August 6, 1964:

"Mr. Cooper:...The Senator will remember that the SEATO Treaty, in article IV, provides that in the event of an armed attack upon a party to the Southeast Asia Collective Defense Treaty, or upon one of the protocol states such as South Vietnam, the parties to the treaty, one of whom is the United States, would then take such action as might be appropriate, after resorting to their constitutional processes. I assume that would mean, in the case of the United States, that Congress would be asked to grant the authority to act.

"Does the Senator consider that in enacting this resolution we are satisfying that requirement of article IV of the Southeast Asia Collective Defense Treaty? In other words, are we now giving the President

advance authority to take whatever action he may deem necessary respecting South Vietnam and its defense, or with respect to the defense of any other country included in the treaty?

Mr. Fulbright: I think that is correct.

Mr. Cooper: Then, looking ahead, if the President decided that it was necessary to use such force as could lead into war, we will give that authority by this resolution?

Mr. Fulbright: That is the way I would interpret it. If a situation later developed in which we thought the approval should be withdrawn, it could be withdrawn by concurrent resolution.

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The Legality of U.S. Participation in the Defense of Viet-Nam



Reprint from

The DEPARTMENT of STATE BULLETIN

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This legal memorandum was prepared by Leonard C. Meeker, Legal Adviser of the Department, and was submitted to the Senate Committee on Foreign Relations on March 8.

The Legality of United States Participation in the Defense of Viet-Nam

MARCH 4, 1966

I. THE UNITED STATES AND SOUTH VIET-NAM HAVE THE RIGHT UNDER INTERNATIONAL LAW TO PARTICIPATE IN THE COLLECTIVE DEFENSE OF SOUTH VIET-NAM AGAINST ARMED ATTACK

In response to requests from the Government of South Viet-Nam, the United States has been assisting that country in defending itself against armed attack from the Communist North. This attack has taken the forms of externally supported subversion, clandestine supply of arms, infiltration of armed personnel, and most recently the sending of regular units of the North Vietnamese army into the South.

International law has long recognized the right of individual and collective self-defense against armed attack. South Viet-Nam and the United States are engaging in such collective defense consistently with international law and with United States obligations under the United Nations Charter.

A. South Viet-Nam Is Being Subjected to Armed Attack by Communist North Viet-Nam

The Geneva accords of 1954 established a demarcation line between North Viet-Nam and South Viet-Nam.¹ They provided for withdrawals of military forces into the respective zones north and south of this line.

¹ For texts, see *American Foreign Policy, 1950-1955; Basic Documents*, vol. I, Department of State publication 6446, p. 750.

The accords prohibited the use of either zone for the resumption of hostilities or to "further an aggressive policy."

During the 5 years following the Geneva conference of 1954, the Hanoi regime developed a covert political-military organization in South Viet-Nam based on Communist cadres it had ordered to stay in the South, contrary to the provisions of the Geneva accords. The activities of this covert organization were directed toward the kidnaping and assassination of civilian officials—acts of terrorism that were perpetrated in increasing numbers.

In the 3-year period from 1959 to 1961, the North Viet-Nam regime infiltrated an estimated 10,000 men into the South. It is estimated that 13,000 additional personnel were infiltrated in 1962, and, by the end of 1964, North Viet-Nam may well have moved over 40,000 armed and unarmed guerrillas into South Viet-Nam.

The International Control Commission reported in 1962 the findings of its Legal Committee:

... there is evidence to show that arms, armed and unarmed personnel, munitions and other supplies have been sent from the Zone in the North to the Zone in the South with the objective of supporting, organizing and carrying out hostile activities, including armed attacks, directed against the Armed Forces and Administration of the Zone in the South.

... there is evidence that the PAVN [People's Army of Viet Nam] has allowed the Zone in the North to be used for inciting, encouraging and supporting hostile activities in the Zone in the

South, aimed at the overthrow of the Administration in the South.

Beginning in 1964, the Communists apparently exhausted their reservoir of Southerners who had gone North. Since then the greater number of men infiltrated into the South have been native-born North Vietnamese. Most recently, Hanoi has begun to infiltrate elements of the North Vietnamese army in increasingly larger numbers. Today, there is evidence that nine regiments of regular North Vietnamese forces are fighting in organized units in the South.

In the guerrilla war in Viet-Nam, the external aggression from the North is the critical military element of the insurgency, although it is unacknowledged by North Viet-Nam. In these circumstances, an "armed attack" is not as easily fixed by date and hour as in the case of traditional warfare. However, the infiltration of thousands of armed men clearly constitutes an "armed attack" under any reasonable definition. There may be some question as to the exact date at which North Viet-Nam's aggression grew into an "armed attack," but there can be no doubt that it had occurred before February 1965.

B. International Law Recognizes the Right of Individual and Collective Self-Defense Against Armed Attack

International law has traditionally recognized the right of self-defense against armed attack. This proposition has been asserted by writers on international law through the several centuries in which the modern law of nations has developed. The proposition has been acted on numerous times by governments throughout modern history. Today the principle of self-defense against armed attack is universally recognized and accepted.²

The Charter of the United Nations, concluded at the end of World War II, imposed

an important limitation on the use of force by United Nations members. Article 2, paragraph 4, provides:

All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

In addition, the charter embodied a system of international peacekeeping through the organs of the United Nations. Article 24 summarizes these structural arrangements in stating that the United Nations members:

... confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.

However, the charter expressly states in article 51 that the remaining provisions of the charter—including the limitation of article 2, paragraph 4, and the creation of United Nations machinery to keep the peace—in no way diminish the inherent right of self-defense against armed attack. Article 51 provides:

Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken the measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

Thus, article 51 restates and preserves, for member states in the situations covered by the article, a long-recognized principle of international law. The article is a "saving clause" designed to make clear that no other provision in the charter shall be interpreted to impair the inherent right of self-defense referred to in article 51.

Three principal objections have been raised against the availability of the right of individual and collective self-defense in the case of Viet-Nam: (1) that this right applies

² See, e.g., Jessup, *A Modern Law of Nations*, 163 ff. (1948); Oppenheim, *International Law*, 297 ff. (8th ed., Lauterpacht, 1955). And see, generally, Bowett, *Self-Defense in International Law* (1958). [Footnote in original.]

only in the case of an armed attack on a United Nations member; (2) that it does not apply in the case of South Viet-Nam because the latter is not an independent sovereign state; and (3) that collective self-defense may be undertaken only by a regional organization operating under chapter VIII of the United Nations Charter. These objections will now be considered in turn.

C. The Right of Individual and Collective Self-Defense Applies in the Case of South Viet-Nam Whether or Not That Country Is a Member of the United Nations

1. South Viet-Nam enjoys the right of self-defense

The argument that the right of self-defense is available only to members of the United Nations mistakes the nature of the right of self-defense and the relationship of the United Nations Charter to international law in this respect. As already shown, the right of self-defense against armed attack is an inherent right under international law. The right is not conferred by the charter, and, indeed, article 51 expressly recognizes that the right is inherent.

The charter nowhere contains any provision designed to deprive nonmembers of the right of self-defense against armed attack.³ Article 2, paragraph 6, does charge the United Nations with responsibility for insuring that nonmember states act in accordance with United Nations "Principles so far as may be necessary for the maintenance of

³ While nonmembers, such as South Viet-Nam, have not formally undertaken the obligations of the United Nations Charter as their own treaty obligations, it should be recognized that much of the substantive law of the charter has become part of the general law of nations through a very wide acceptance by nations the world over. This is particularly true of the charter provisions bearing on the use of force. Moreover, in the case of South Viet-Nam, the South Vietnamese Government has expressed its ability and willingness to abide by the charter, in applying for United Nations membership. Thus it seems entirely appropriate to appraise the actions of South Viet-Nam in relation to the legal standards set forth in the United Nations Charter. [Footnote in original.]

international peace and security." Protection against aggression and self-defense against armed attack are important elements in the whole charter scheme for the maintenance of international peace and security. To deprive nonmembers of their inherent right of self-defense would not accord with the principles of the organization, but would instead be prejudicial to the maintenance of peace. Thus article 2, paragraph 6—and, indeed, the rest of the charter—should certainly not be construed to nullify or diminish the inherent defensive rights of nonmembers.

2. The United States has the right to assist in the defense of South Viet-Nam although the latter is not a United Nations member

The cooperation of two or more international entities in the defense of one or both against armed attack is generally referred to as collective self-defense. United States participation in the defense of South Viet-Nam at the latter's request is an example of collective self-defense.

The United States is entitled to exercise the right of individual or collective self-defense against armed attack, as that right exists in international law, subject only to treaty limitations and obligations undertaken by this country.

It has been urged that the United States has no right to participate in the collective defense of South Viet-Nam because article 51 of the United Nations Charter speaks only of the situation "if an armed attack occurs against a Member of the United Nations." This argument is without substance.

In the first place, article 51 does not impose restrictions or cut down the otherwise available rights of United Nations members. By its own terms, the article preserves an inherent right. It is, therefore, necessary to look elsewhere in the charter for any obligation of members restricting their participation in collective defense of an entity that is not a United Nations member.

Article 2, paragraph 4, is the principal provision of the charter imposing limitations on the use of force by members. It states that they

... shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

Action taken in defense against armed attack cannot be characterized as falling within this proscription. The record of the San Francisco conference makes clear that article 2, paragraph 4, was not intended to restrict the right of self-defense against armed attack.⁴

One will search in vain for any other provision in the charter that would preclude United States participation in the collective defense of a nonmember. The fact that article 51 refers only to armed attack "against a Member of the United Nations" implies no intention to preclude members from participating in the defense of nonmembers. Any such result would have seriously detrimental consequences for international peace and security and would be inconsistent with the purposes of the United Nations as they are set forth in article 1 of the charter.⁵ The right of members to participate in the defense of nonmembers is upheld by leading authorities on international law.⁶

D. The Right of Individual and Collective Self-Defense Applies Whether or Not South Viet-Nam Is Regarded as an Independent Sovereign State

1. South Viet-Nam enjoys the right of self-defense

It has been asserted that the conflict in Viet-Nam is "civil strife" in which foreign intervention is forbidden. Those who make this assertion have gone so far as to compare Ho Chi Minh's actions in Viet-Nam with the efforts of President Lincoln to preserve the Union during the American Civil War. Any such characterization is an entire fiction disregarding the actual situation in Viet-Nam. The Hanoi regime is anything but the legitimate government of a unified country in which the South is rebelling against lawful national authority.

The Geneva accords of 1954 provided for a division of Viet-Nam into two zones at the

17th parallel. Although this line of demarcation was intended to be temporary, it was established by international agreement, which specifically forbade aggression by one zone against the other.

The Republic of Viet-Nam in the South has been recognized as a separate international entity by approximately 60 governments the world over. It has been admitted as a member of a number of the specialized agencies of the United Nations. The United Nations General Assembly in 1957 voted to recommend South Viet-Nam for membership in the organization, and its admission was frustrated only by the veto of the Soviet Union in the Security Council.

In any event there is no warrant for the suggestion that one zone of a temporarily divided state—whether it be Germany, Korea, or Viet-Nam—can be legally overrun by armed forces from the other zone, crossing the internationally recognized line of demarcation between the two. Any such doctrine would subvert the international agreement establishing the line of demarcation, and would pose grave dangers to international peace.

The action of the United Nations in the Korean conflict of 1950 clearly established the principle that there is no greater license for one zone of a temporarily divided state to attack the other zone than there is for one state to attack another state. South

⁴ See 6 UNCIO Documents 459. [Footnote in original.]

⁵ In particular, the statement of the first purpose: To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace. . . . [Footnote in original.]

⁶ Bowett, *Self-Defense in International Law*, 193-195 (1958); Goodhart, "The North Atlantic Treaty of 1949," 79 *Recueil Des Cours*, 183, 202-204 (1951, vol. II), quoted in 5 *Whiteman's Digest of International Law*, 1067-1068 (1965); Kelsen, *The Law of the United Nations*, 793 (1950); see Stone, *Aggression and World Order*, 44 (1958). [Footnote in original.]

Viet-Nam has the same right that South Korea had to defend itself and to organize collective defense against an armed attack from the North. A resolution of the Security Council dated June 25, 1950, noted "with grave concern the armed attack upon the Republic of Korea by forces from North Korea," and determined "that this action constitutes a breach of the peace."

2. The United States is entitled to participate in the collective defense of South Viet-Nam whether or not the latter is regarded as an independent sovereign state

As stated earlier, South Viet-Nam has been recognized as a separate international entity by approximately 60 governments. It has been admitted to membership in a number of the United Nations specialized agencies and has been excluded from the United Nations Organization only by the Soviet veto.

There is nothing in the charter to suggest that United Nations members are precluded from participating in the defense of a recognized international entity against armed attack merely because the entity may lack some of the attributes of an independent sovereign state. Any such result would have a destructive effect on the stability of international engagements such as the Geneva accords of 1954 and on internationally agreed lines of demarcation. Such a result, far from being in accord with the charter and the purposes of the United Nations, would undermine them and would create new dangers to international peace and security.

E. The United Nations Charter Does Not Limit the Right of Self-Defense to Regional Organizations

Some have argued that collective self-defense may be undertaken only by a regional arrangement or agency operating under chapter VIII of the United Nations Charter. Such an assertion ignores the structure of the charter and the practice followed in the more than 20 years since the founding of the United Nations.

The basic proposition that rights of self-defense are not impaired by the charter—as expressly stated in article 51—is not conditioned by any charter provision limiting the application of this proposition to collective defense by a regional arrangement or agency. The structure of the charter reinforces this conclusion. Article 51 appears in chapter VII of the charter, entitled "Action With Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression," whereas chapter VIII, entitled "Regional Arrangements," begins with article 52 and embraces the two following articles. The records of the San Francisco conference show that article 51 was deliberately placed in chapter VII rather than chapter VIII, "where it would only have a bearing on the regional system."⁷

Under article 51, the right of self-defense is available against any armed attack, whether or not the country attacked is a member of a regional arrangement and regardless of the source of the attack. Chapter VIII, on the other hand, deals with relations among members of a regional arrangement or agency, and authorizes regional action as appropriate for dealing with "local disputes." This distinction has been recognized ever since the founding of the United Nations in 1945.

For example, the North Atlantic Treaty has operated as a collective security arrangement, designed to take common measures in preparation against the eventuality of an armed attack for which collective defense under article 51 would be required. Similarly, the Southeast Asia Treaty Organization was designed as a collective defense arrangement under article 51. Secretary of State Dulles emphasized this in his testimony before the Senate Foreign Relations Committee in 1954.

By contrast, article 1 of the Charter of Bogotá (1948), establishing the Organization of American States, expressly declares that the organization is a regional agency within

⁷ 17 UNCIO Documents 288. [Footnote in original.]

the United Nations. Indeed, chapter VIII of the United Nations Charter was included primarily to take account of the functioning of the inter-American system.

In sum, there is no basis in the United Nations Charter for contending that the right of self-defense against armed attack is limited to collective defense by a regional organization.

F. The United States Has Fulfilled Its Obligations to the United Nations

A further argument has been made that the members of the United Nations have conferred on United Nations organs—and, in particular, on the Security Council—exclusive power to act against aggression. Again, the express language of article 51 contradicts that assertion. A victim of armed attack is not required to forgo individual or collective defense of its territory until such time as the United Nations organizes collective action and takes appropriate measures. To the contrary, article 51 clearly states that the right of self-defense may be exercised “until the Security Council has taken the measures necessary to maintain international peace and security.”⁸

As indicated earlier, article 51 is not literally applicable to the Viet-Nam situation since South Viet-Nam is not a member. However, reasoning by analogy from article

⁸ An argument has been made by some that the United States, by joining in the collective defense of South Viet-Nam, has violated the peaceful settlement obligation of article 33 in the charter. This argument overlooks the obvious proposition that a victim of armed aggression is not required to sustain the attack undefended while efforts are made to find a political solution with the aggressor. Article 51 of the charter illustrates this by making perfectly clear that the inherent right of self-defense is impaired by “Nothing in the present Charter,” including the provisions of article 33. [Footnote in original.]

⁹ For a statement made by U.S. Representative Adlai E. Stevenson in the Security Council on Aug. 5, 1964, see BULLETIN of Aug. 24, 1964, p. 272.

¹⁰ For texts, see *ibid.*, Feb. 22, 1965, p. 240, and Mar. 22, 1965, p. 419.

¹¹ For background and text of draft resolution, see *ibid.*, Feb. 14, 1966, p. 231.

51 and adopting its provisions as an appropriate guide for the conduct of members in a case like Viet-Nam, one can only conclude that United States actions are fully in accord with this country's obligations as a member of the United Nations.

Article 51 requires that:

Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

The United States has reported to the Security Council on measures it has taken in countering the Communist aggression in Viet-Nam. In August 1964 the United States asked the Council to consider the situation created by North Vietnamese attacks on United States destroyers in the Tonkin Gulf.⁹ The Council thereafter met to debate the question, but adopted no resolutions. Twice in February 1965 the United States sent additional reports to the Security Council on the conflict in Viet-Nam and on the additional measures taken by the United States in the collective defense of South Viet-Nam.¹⁰ In January 1966 the United States formally submitted the Viet-Nam question to the Security Council for its consideration and introduced a draft resolution calling for discussions looking toward a peaceful settlement on the basis of the Geneva accords.¹¹

At no time has the Council taken any action to restore peace and security in Southeast Asia. The Council has not expressed criticism of United States actions. Indeed, since the United States submission of January 1966, members of the Council have been notably reluctant to proceed with any consideration of the Viet-Nam question.

The conclusion is clear that the United States has in no way acted to interfere with United Nations consideration of the conflict in Viet-Nam. On the contrary, the United States has requested United Nations consideration, and the Council has not seen fit to act.

G. International Law Does Not Require a Declaration of War as a Condition Precedent To Taking Measures of Self-Defense Against Armed Attack

The existence or absence of a formal declaration of war is not a factor in determining whether an international use of force is lawful as a matter of international law. The United Nations Charter's restrictions focus on the manner and purpose of its use and not on any formalities of announcement.

It should also be noted that a formal declaration of war would not place any obligations on either side in the conflict by which that side would not be bound in any event. The rules of international law concerning the conduct of hostilities in an international armed conflict apply regardless of any declaration of war.

H. Summary

The analysis set forth above shows that South Viet-Nam has the right in present circumstances to defend itself against armed attack from the North and to organize a collective self-defense with the participation of others. In response to requests from South Viet-Nam, the United States has been participating in that defense, both through military action within South Viet-Nam and actions taken directly against the aggressor in North Viet-Nam. This participation by the United States is in conformity with international law and is consistent with our obligations under the Charter of the United Nations.

II. THE UNITED STATES HAS UNDERTAKEN COMMITMENTS TO ASSIST SOUTH VIET-NAM IN DEFENDING ITSELF AGAINST COMMUNIST AGGRESSION FROM THE NORTH

The United States has made commitments and given assurances, in various forms and

¹² For a statement made by President Eisenhower on June 21, 1954, see *ibid.*, Aug. 2, 1954, p. 163.

¹³ For text, see *ibid.*, p. 162.

¹⁴ For text, see *ibid.*, Sept. 20, 1954, p. 393.

at different times, to assist in the defense of South Viet-Nam.

A. The United States Gave Undertakings at the End of the Geneva Conference in 1954

At the time of the signing of the Geneva accords in 1954, President Eisenhower warned "that any renewal of Communist aggression would be viewed by us as a matter of grave concern," at the same time giving assurance that the United States would "not use force to disturb the settlement."¹² And the formal declaration made by the United States Government at the conclusion of the Geneva conference stated that the United States "would view any renewal of the aggression in violation of the aforesaid agreements with grave concern and as seriously threatening international peace and security."¹³

B. The United States Undertook an International Obligation To Defend South Viet-Nam in the SEATO Treaty

Later in 1954 the United States negotiated with a number of other countries and signed the Southeast Asia Collective Defense Treaty.¹⁴ The treaty contains in the first paragraph of article IV the following provision:

Each Party recognizes that aggression by means of armed attack in the treaty area against any of the Parties or against any State or territory which the Parties by unanimous agreement may hereafter designate, would endanger its own peace and safety, and agrees that it will in that event act to meet the common danger in accordance with its constitutional processes. Measures taken under this paragraph shall be immediately reported to the Security Council of the United Nations.

Annexed to the treaty was a protocol stating that:

The Parties to the Southeast Asia Collective Defense Treaty unanimously designate for the purposes of Article IV of the Treaty the States of Cambodia and Laos and the free territory under the jurisdiction of the State of Vietnam.

Thus, the obligations of article IV, paragraph 1, dealing with the eventuality of

armed attack, have from the outset covered the territory of South Viet-Nam. The facts as to the North Vietnamese armed attack against the South have been summarized earlier, in the discussion of the right of self-defense under international law and the Charter of the United Nations. The term "armed attack" has the same meaning in the SEATO treaty as in the United Nations Charter.

Article IV, paragraph 1, places an obligation on each party to the SEATO treaty to "act to meet the common danger in accordance with its constitutional processes" in the event of an armed attack. The treaty does not require a collective determination that an armed attack has occurred in order that the obligation of article IV, paragraph 1, become operative. Nor does the provision require collective decision on actions to be taken to meet the common danger. As Secretary Dulles pointed out when transmitting the treaty to the President, the commitment in article IV, paragraph 1, "leaves to the judgment of each country the type of action to be taken in the event an armed attack occurs."¹⁵

The treaty was intended to deter armed aggression in Southeast Asia. To that end it created not only a multilateral alliance but also a series of bilateral relationships. The obligations are placed squarely on "each Party" in the event of armed attack in the treaty area—not upon "the Parties," a wording that might have implied a necessity for collective decision. The treaty was intended to give the assurance of United States assistance to any party or protocol state that might suffer a Communist armed attack, regardless of the views or actions of other parties. The fact that the obligations are individual, and may even to some extent differ among the parties to the treaty, is demonstrated by the United States understanding, expressed at the time of signature, that its obligations under article IV, paragraph 1, apply only in the event of *Communist*

aggression, whereas the other parties to the treaty were unwilling so to limit their obligations to each other.

Thus, the United States has a commitment under article IV, paragraph 1, in the event of armed attack, independent of the decision or action of other treaty parties. A joint statement issued by Secretary Rusk and Foreign Minister Thanat Khoman of Thailand on March 6, 1962,¹⁶ reflected this understanding:

The Secretary of State assured the Foreign Minister that in the event of such aggression, the United States intends to give full effect to its obligations under the Treaty to act to meet the common danger in accordance with its constitutional processes. The Secretary of State reaffirmed that this obligation of the United States does not depend upon the prior agreement of all other parties to the Treaty, since this Treaty obligation is individual as well as collective.

Most of the SEATO countries have stated that they agreed with this interpretation. None has registered objection to it.

When the Senate Committee on Foreign Relations reported on the Southeast Asia Collective Defense Treaty, it noted that the treaty area was further defined so that the "Free Territory of Vietnam" was an area "which, if attacked, would fall under the protection of the instrument." In its conclusion the committee stated:

The committee is not impervious to the risks which this treaty entails. It fully appreciates that acceptance of these additional obligations commits the United States to a course of action over a vast expanse of the Pacific. Yet these risks are consistent with our own highest interests.

The Senate gave its advice and consent to the treaty by a vote of 82 to 1.

C. The United States Has Given Additional Assurances to the Government of South Viet-Nam

The United States has also given a series of additional assurances to the Government of South Viet-Nam. As early as October 1954 President Eisenhower undertook to provide direct assistance to help make South Viet-

¹⁵ For text, see *ibid.*, Nov. 29, 1954, p. 820.

¹⁶ For text, see *ibid.*, Mar. 26, 1962, p. 498.

Nam "capable of resisting attempted subversion or aggression through military means."¹⁷ On May 11, 1957, President Eisenhower and President Ngo Dinh Diem of the Republic of Viet-Nam issued a joint statement¹⁸ which called attention to "the large build-up of Vietnamese Communist military forces in North Viet-Nam" and stated:

Noting that the Republic of Viet-Nam is covered by Article IV of the Southeast Asia Collective Defense Treaty, President Eisenhower and President Ngo Dinh Diem agreed that aggression or subversion threatening the political independence of the Republic of Viet-Nam would be considered as endangering peace and stability.

On August 2, 1961, President Kennedy declared that "the United States is determined that the Republic of Viet-Nam shall not be lost to the Communists for lack of any support which the United States Government can render."¹⁹ On December 7 of that year President Diem appealed for additional support. In his reply of December 14, 1961, President Kennedy recalled the United States declaration made at the end of the Geneva conference in 1954, and reaffirmed that the United States was "prepared to help the Republic of Viet-Nam to protect its people and to preserve its independence."²⁰ This assurance has been reaffirmed many times since.

III. ACTIONS BY THE UNITED STATES AND SOUTH VIET-NAM ARE JUSTIFIED UNDER THE GENEVA ACCORDS OF 1954

A. Description of the Accords

The Geneva accords of 1954²¹ established the date and hour for a cease-fire in Viet-Nam, drew a "provisional military demarcation line" with a demilitarized zone on both sides, and required an exchange of prisoners and the phased regroupment of Viet Minh forces from the south to the north and of French Union forces from the north to the south. The introduction into Viet-Nam of troop reinforcements and new military equipment (except for replacement and

repair) was prohibited. The armed forces of each party were required to respect the demilitarized zone and the territory of the other zone. The adherence of either zone to any military alliance, and the use of either zone for the resumption of hostilities or to "further an aggressive policy," were prohibited. The International Control Commission was established, composed of India, Canada and Poland, with India as chairman. The task of the Commission was to supervise the proper execution of the provisions of the cease-fire agreement. General elections that would result in reunification were required to be held in July 1956 under the supervision of the ICC.

B. North Viet-Nam Violated the Accords From the Beginning

From the very beginning, the North Vietnamese violated the 1954 Geneva accords. Communist military forces and supplies were left in the South in violation of the accords. Other Communist guerrillas were moved north for further training and then were infiltrated into the South in violation of the accords.

¹⁷ For text of a message from President Eisenhower to President Ngo Dinh Diem, see *ibid.*, Nov. 15, 1954, p. 735.

¹⁸ For text, see *ibid.*, May 27, 1957, p. 851.

¹⁹ For text of a joint communique issued by President Kennedy and Vice President Chen Cheng of the Republic of China, see *ibid.*, Aug. 28, 1961, p. 372.

²⁰ For text of an exchange of messages between President Kennedy and President Diem, see *ibid.*, Jan. 1, 1962, p. 13.

²¹ These accords were composed of a bilateral cease-fire agreement between the "Commander-in-Chief of the People's Army of Viet Nam" and the "Commander-in-Chief of the French Union forces in Indo-China," together with a Final Declaration of the Conference, to which France adhered. However, it is to be noted that the South Vietnamese Government was not a signatory of the cease-fire agreement and did not adhere to the Final Declaration. South Viet-Nam entered a series of reservations in a statement to the conference. This statement was noted by the conference, but by decision of the conference chairman it was not included or referred to in the Final Declaration. [Footnote in original.]

C. The Introduction of United States Military Personnel and Equipment Was Justified

The accords prohibited the reinforcement of foreign military forces in Viet-Nam and the introduction of new military equipment, but they allowed replacement of existing military personnel and equipment. Prior to late 1961 South Viet-Nam had received considerable military equipment and supplies from the United States, and the United States had gradually enlarged its Military Assistance Advisory Group to slightly less than 900 men. These actions were reported to the ICC and were justified as replacements for equipment in Viet-Nam in 1954 and for French training and advisory personnel who had been withdrawn after 1954.

As the Communist aggression intensified during 1961, with increased infiltration and a marked stepping up of Communist terrorism in the South, the United States found it necessary in late 1961 to increase substantially the numbers of our military personnel and the amounts and types of equipment introduced by this country into South Viet-Nam. These increases were justified by the international law principle that a material breach of an agreement by one party entitles the other at least to withhold compliance with an equivalent, corresponding, or related provision until the defaulting party is prepared to honor its obligations.²²

In accordance with this principle, the systematic violation of the Geneva accords by North Viet-Nam justified South Viet-Nam in suspending compliance with the provision controlling entry of foreign military personnel and military equipment.

D. South Viet-Nam Was Justified in Refusing To Implement the Election Provisions of the Geneva Accords

The Geneva accords contemplated the reunification of the two parts of Viet-Nam. They contained a provision for general elections to be held in July 1956 in order to obtain a "free expression of the national will." The accords stated that "consultations will be held on this subject between the compe-

tent representative authorities of the two zones from 20 July 1955 onwards."

There may be some question whether South Viet-Nam was bound by these election provisions. As indicated earlier, South Viet-Nam did not sign the cease-fire agreement of 1954, nor did it adhere to the Final Declaration of the Geneva conference. The South Vietnamese Government at that time gave notice of its objection in particular to the election provisions of the accords.

However, even on the premise that these provisions were binding on South Viet-Nam, the South Vietnamese Government's failure to engage in consultations in 1955, with a view to holding elections in 1956, involved no breach of obligation. The conditions in North Viet-Nam during that period were such as to make impossible any free and meaningful expression of popular will.

Some of the facts about conditions in the North were admitted even by the Communist leadership in Hanoi. General Giap, currently Defense Minister of North Viet-Nam, in addressing the Tenth Congress of the North Vietnamese Communist Party in Oc-

²² This principle of law and the circumstances in which it may be invoked are most fully discussed in the Fourth Report on the Law of Treaties by Sir Gerald Fitzmaurice, articles 18, 20 (U.N. doc. A/CN.4/120(1959)) II Yearbook of the International Law Commission 37 (U.N. doc. A/CN.4/SER.A/1959/Add.1) and in the later report by Sir Humphrey Waldock, article 20 (U.N. doc. A/CN.4/156 and Add. 1-3 (1963)) II Yearbook of the International Law Commission 36 (U.N. doc. A/CN.4/SER.A/1963/Add.1). Among the authorities cited by the fourth report for this proposition are: II Oppenheim, *International Law* 136, 137 (7th ed. Lauterpacht 1955); I Rousseau, *Principes généraux du droit international public* 365 (1944); II Hyde, *International Law* 1660 et seq. (2d ed. 1947); II Guggenheim, *Traité de droit international public* 84, 85 (1935); Spiropoulos, *Traité théorique et pratique de droit international public* 289 (1933); Verdross, *Völkerrecht*, 328 (1950); Hall, *Treatise* 21 (8th ed. Higgins 1924); 3 Accioly, *Tratado de Direito Internacional Publico* 82 (1956-57). See also draft articles 42 and 46 of the Law of Treaties by the International Law Commission, contained in the report on the work of its 15th session (General Assembly, Official Records, 18th Session, Supplement No. 9(A/5809)). [Footnote in original.]

tober 1956, publicly acknowledged that the Communist leaders were running a police state where executions, terror, and torture were commonplace. A nationwide election in these circumstances would have been a travesty. No one in the North would have dared to vote except as directed. With a substantial majority of the Vietnamese people living north of the 17th parallel, such an election would have meant turning the country over to the Communists without regard to the will of the people. The South Vietnamese Government realized these facts and quite properly took the position that consultations for elections in 1956 as contemplated by the accords would be a useless formality.²³

IV. THE PRESIDENT HAS FULL AUTHORITY TO COMMIT UNITED STATES FORCES IN THE COLLECTIVE DEFENSE OF SOUTH VIET-NAM

There can be no question in present circumstances of the President's authority to commit United States forces to the defense of South Viet-Nam. The grant of authority to the President in article II of the Constitution extends to the actions of the United States currently undertaken in Viet-Nam. In fact, however, it is unnecessary to determine whether this grant standing alone is sufficient to authorize the actions taken in Viet-Nam. These actions rest not only on the exercise of Presidential powers under article II but on the SEATO treaty—a treaty advised and consented to by the Senate—and on actions of the Congress, particularly the joint resolution of August 10, 1964. When these sources of authority are taken together—article II of the Constitution, the SEATO treaty, and actions by the Congress—there can be no question of the legality

²³ In any event, if North Viet-Nam considered there had been a breach of obligation by the South, its remedies lay in discussion with Saigon, perhaps in an appeal to the cochairmen of the Geneva conference, or in a reconvening of the conference to consider the situation. Under international law, North Viet-Nam had no right to use force outside its own zone in order to secure its political objectives. [Footnote in original.]

under domestic law of United States actions in Viet-Nam.

A. The President's Power Under Article II of the Constitution Extends to the Actions Currently Undertaken in Viet-Nam

Under the Constitution, the President, in addition to being Chief Executive, is Commander in Chief of the Army and Navy. He holds the prime responsibility for the conduct of United States foreign relations. These duties carry very broad powers, including the power to deploy American forces abroad and commit them to military operations when the President deems such action necessary to maintain the security and defense of the United States.

At the Federal Constitutional Convention in 1787, it was originally proposed that Congress have the power "to make war." There were objections that legislative proceedings were too slow for this power to be vested in Congress; it was suggested that the Senate might be a better repository. Madison and Gerry then moved to substitute "to declare war" for "to make war," "leaving to the Executive the power to repel sudden attacks." It was objected that this might make it too easy for the Executive to involve the nation in war, but the motion carried with but one dissenting vote.

In 1787 the world was a far larger place, and the framers probably had in mind attacks upon the United States. In the 20th century, the world has grown much smaller. An attack on a country far from our shores can impinge directly on the nation's security. In the SEATO treaty, for example, it is formally declared that an armed attack against Viet-Nam would endanger the peace and safety of the United States.

Since the Constitution was adopted there have been at least 125 instances in which the President has ordered the armed forces to take action or maintain positions abroad without obtaining prior congressional authorization, starting with the "undeclared war" with France (1798-1800). For example, President Truman ordered 250,000 troops to Korea during the Korean war of the early

1950's. President Eisenhower dispatched 14,000 troops to Lebanon in 1958.

The Constitution leaves to the President the judgment to determine whether the circumstances of a particular armed attack are so urgent and the potential consequences so threatening to the security of the United States that he should act without formally consulting the Congress.

B. The Southeast Asia Collective Defense Treaty Authorizes the President's Actions

Under article VI of the United States Constitution, "all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land." Article IV, paragraph 1, of the SEATO treaty establishes as a matter of law that a Communist armed attack against South Viet-Nam endangers the peace and safety of the United States. In this same provision the United States has undertaken a commitment in the SEATO treaty to "act to meet the common danger in accordance with its constitutional processes" in the event of such an attack.

Under our Constitution it is the President who must decide when an armed attack has occurred. He has also the constitutional responsibility for determining what measures of defense are required when the peace and safety of the United States are endangered. If he considers that deployment of U. S. forces to South Viet-Nam is required, and that military measures against the source of Communist aggression in North Viet-Nam are necessary, he is constitutionally empowered to take those measures.

The SEATO treaty specifies that each party will act "in accordance with its constitutional processes."

It has recently been argued that the use of land forces in Asia is not authorized under the treaty because their use to deter armed attack was not contemplated at the time the treaty was considered by the Senate. Secretary Dulles testified at that time that we did not intend to establish (1) a land army in Southeast Asia capable of deterring Communist aggression, or (2) an

integrated headquarters and military organization like that of NATO; instead, the United States would rely on "mobile striking power" against the sources of aggression. However, the treaty obligation in article IV, paragraph 1, to meet the common danger in the event of armed aggression, is not limited to particular modes of military action. What constitutes an adequate deterrent or an appropriate response, in terms of military strategy, may change; but the essence of our commitment to act to meet the common danger, as necessary at the time of an armed aggression, remains. In 1954 the forecast of military judgment might have been against the use of substantial United States ground forces in Viet-Nam. But that does not preclude the President from reaching a different military judgment in different circumstances, 12 years later.

C. The Joint Resolution of Congress of August 10, 1964, Authorizes United States Participation in the Collective Defense of South Viet-Nam

As stated earlier, the legality of United States participation in the defense of South Viet-Nam does not rest only on the constitutional power of the President under article II—or indeed on that power taken in conjunction with the SEATO treaty. In addition, the Congress has acted in unmistakable fashion to approve and authorize United States actions in Viet-Nam.

Following the North Vietnamese attacks in the Gulf of Tonkin against United States destroyers, Congress adopted, by a Senate vote of 88-2 and a House vote of 416-0, a joint resolution containing a series of important declarations and provisions of law.²⁴

Section 1 resolved that "the Congress approves and supports the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression." Thus, the Congress gave its sanction to specific actions by the President

²⁴ For text, see BULLETIN of Aug. 24, 1964, p. 268.

to repel attacks against United States naval vessels in the Gulf of Tonkin and elsewhere in the western Pacific. Congress further approved the taking of "all necessary measures . . . to prevent further aggression." This authorization extended to those measures the President might consider necessary to ward off further attacks and to prevent further aggression by North Viet-Nam in Southeast Asia.

The joint resolution then went on to provide in section 2:

The United States regards as vital to its national interest and to world peace the maintenance of international peace and security in southeast Asia. Consonant with the Constitution of the United States and the Charter of the United Nations and in accordance with its obligations under the Southeast Asia Collective Defense Treaty, the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force, to assist any member or protocol state of the Southeast Asia Collective Defense Treaty requesting assistance in defense of its freedom.

Section 2 thus constitutes an authorization to the President, in his discretion, to act—using armed force if he determines that is required—to assist South Viet-Nam at its request in defense of its freedom. The identification of South Viet-Nam through the reference to "protocol state" in this section is unmistakable, and the grant of authority "as the President determines" is unequivocal.

It has been suggested that the legislative history of the joint resolution shows an intention to limit United States assistance to South Viet-Nam to aid, advice, and training. This suggestion is based on an amendment offered from the floor by Senator [Gaylord] Nelson which would have added the following to the text:

The Congress also approves and supports the efforts of the President to bring the problem of peace in Southeast Asia to the Security Council of the United Nations, and the President's declaration that the United States, seeking no extension of the present military conflict, will respond to provocation in a manner that is "limited and fitting." Our continuing policy is to limit our role to the provision of aid, training assistance, and military

advice, and it is the sense of Congress that, except when provoked to a greater response, we should continue to attempt to avoid a direct military involvement in the Southeast Asian conflict."

Senator [J. W.] Fulbright, who had reported the joint resolution from the Foreign Relations Committee, spoke on the amendment as follows:

It states fairly accurately what the President has said would be our policy, and what I stated my understanding was as to our policy; also what other Senators have stated. In other words, it states that our response should be appropriate and limited to the provocation, which the Senator states as "respond to provocation in a manner that is limited and fitting," and so forth. We do not wish any political or military bases there. We are not seeking to gain a colony. We seek to insure the capacity of these people to develop along the lines of their own desires, independent of domination by communism.

The Senator has put into his amendment a statement of policy that is unobjectionable. However, I cannot accept the amendment under the circumstances. I do not believe it is contrary to the joint resolution, but it is an enlargement. I am informed that the House is now voting on this resolution. The House joint resolution is about to be presented to us. I cannot accept the amendment and go to conference with it, and thus take responsibility for delaying matters.

I do not object to it as a statement of policy. I believe it is an accurate reflection of what I believe is the President's policy, judging from his own statements. That does not mean that as a practical matter I can accept the amendment. It would delay matters to do so. It would cause confusion and require a conference, and present us with all the other difficulties that are involved in this kind of legislative action. I regret that I cannot do it, even though I do not at all disagree with the amendment as a general statement of policy."

Senator Nelson's amendment related the degree and kind of U. S. response in Viet-Nam to "provocation" on the other side; the response should be "limited and fitting." The greater the provocation, the stronger are the measures that may be characterized as "limited and fitting." Bombing of North Vietnamese naval bases was a "limited and fitting" response to the attacks on U. S. destroyers in August 1964, and the subse-

"110 Cong. Rec. 18459 (Aug. 7, 1964). [Footnote in original.]

"Ibid.

quent actions taken by the United States and South Viet-Nam have been an appropriate response to the increased war of aggression carried on by North Viet-Nam since that date. Moreover, Senator Nelson's proposed amendment did not purport to be a restriction on authority available to the President but merely a statement concerning what should be the continuing policy of the United States.

Congressional realization of the scope of authority being conferred by the joint resolution is shown by the legislative history of the measure as a whole. The following exchange between Senators Cooper and Fulbright is illuminating:

Mr. COOPER [John Sherman Cooper]. . . . The Senator will remember that the SEATO Treaty, in article IV, provides that in the event an armed attack is made upon a party to the Southeast Asia Collective Defense Treaty, or upon one of the protocol states such as South Vietnam, the parties to the treaty, one of whom is the United States, would then take such action as might be appropriate, after resorting to their constitutional processes. I assume that would mean, in the case of the United States, that Congress would be asked to grant the authority to act.

Does the Senator consider that in enacting this resolution we are satisfying that requirement of article IV of the Southeast Asia Collective Defense Treaty? In other words, are we now giving the President advance authority to take whatever action he may deem necessary respecting South Vietnam and its defense, or with respect to the defense of any other country included in the treaty?

Mr. FULBRIGHT. I think that is correct.

Mr. COOPER. Then, looking ahead, if the President decided that it was necessary to use such force as could lead into war, we will give that authority by this resolution?

Mr. FULBRIGHT. That is the way I would interpret it. If a situation later developed in which we thought the approval should be withdrawn it could be withdrawn by concurrent resolution.²⁷

The August 1964 joint resolution continues in force today. Section 2 of the resolution provides that it shall expire "when the President shall determine that the peace and security of the area is reasonably assured by international conditions created by action of the United Nations or otherwise, except that it may be terminated earlier by concurrent resolution of the Congress." The

President has made no such determination, nor has Congress terminated the joint resolution.²⁸

Instead, Congress in May 1965 approved an appropriation of \$700 million to meet the expense of mounting military requirements in Viet-Nam. (Public Law 89-18, 79 Stat. 109.) The President's message asking for this appropriation stated that this was "not a routine appropriation. For each Member of Congress who supports this request is also voting to persist in our efforts to halt Communist aggression in South Vietnam."²⁹ The appropriation act constitutes a clear congressional endorsement and approval of the actions taken by the President.

On March 1, 1966, the Congress continued to express its support of the President's policy by approving a \$4.8 billion supplemental military authorization by votes of

²⁷ 110 *Cong. Rec.* 18409 (Aug. 6, 1964). Senator [Wayne] Morse, who opposed the joint resolution, expressed the following view on August 6, 1964, concerning the scope of the proposed resolution:

Another Senator thought, in the early part of the debate, that this course would not broaden the power of the President to engage in a land war if he decided that he wanted to apply the resolution in that way.

That Senator was taking great consolation in the then held belief that, if he voted for the resolution, it would give no authority to the President to send many troops into Asia. I am sure he was quite disappointed to finally learn, because it took a little time to get the matter cleared, that the resolution places no restriction on the President in that respect. If he is still in doubt, let him read the language on page 2, lines 3 to 6, and page 2, lines 11 to 17. The first reads:

The Congress approves and supports the determination of the President, as Commander in Chief, to take all necessary measures to repel any armed attack against the forces of the United States and to prevent further aggression.

It does not say he is limited in regard to the sending of ground forces. It does not limit that authority. That is why I have called it a predated declaration of war, in clear violation of article I, section 8, of the Constitution, which vests the power to declare war in the Congress, and not in the President.

What is proposed is to authorize the President of the United States, without a declaration of war, to commit acts of war. (110 *Cong. Rec.* 18426-7 (Aug. 6, 1964)). [Footnote in original.]

²⁸ On March 1, 1966, the Senate voted, 92-5, to table an amendment that would have repealed the joint resolution. [Footnote in original.]

²⁹ For text, see BULLETIN of May 24, 1965, p. 822.

392-4 and 93-2. An amendment that would have limited the President's authority to commit forces to Viet-Nam was rejected in the Senate by a vote of 94-2.

D. No Declaration of War by the Congress Is Required To Authorize United States Participation in the Collective Defense of South Viet-Nam

No declaration of war is needed to authorize American actions in Viet-Nam. As shown in the preceding sections, the President has ample authority to order the participation of United States armed forces in the defense of South Viet-Nam.

Over a very long period in our history, practice and precedent have confirmed the constitutional authority to engage United States forces in hostilities without a declaration of war. This history extends from the undeclared war with France and the war against the Barbary pirates at the end of the 18th century to the Korean war of 1950-53.

James Madison, one of the leading framers of the Constitution, and Presidents John Adams and Jefferson all construed the Constitution, in their official actions during the early years of the Republic, as authorizing the United States to employ its armed forces abroad in hostilities in the absence of any congressional declaration of war. Their views and actions constitute highly persuasive evidence as to the meaning and effect of the Constitution. History has accepted the interpretation that was placed on the Constitution by the early Presidents and Congresses in regard to the lawfulness of hostilities without a declaration of war. The instances of such action in our history are numerous.

In the Korean conflict, where large-scale hostilities were conducted with an American troop participation of a quarter of a million men, no declaration of war was made by the Congress. The President acted on the basis of his constitutional responsibilities. While the Security Council, under a treaty of this country—the United Nations Charter—recommended assistance to the Republic of Korea against the Communist armed attack, the United States had no treaty commitment

at that time obligating us to join in the defense of South Korea. In the case of South Viet-Nam we have the obligation of the SEATO treaty and clear expressions of congressional support. If the President could act in Korea without a declaration of war, *a fortiori* he is empowered to do so now in Viet-Nam.

It may be suggested that a declaration of war is the only available constitutional process by which congressional support can be made effective for the use of United States armed forces in combat abroad. But the Constitution does not insist on any rigid formalism. It gives Congress a choice of ways in which to exercise its powers. In the case of Viet-Nam the Congress has supported the determination of the President by the Senate's approval of the SEATO treaty, the adoption of the joint resolution of August 10, 1964, and the enactment of the necessary authorizations and appropriations.

V. CONCLUSION

South Viet-Nam is being subjected to armed attack by Communist North Viet-Nam, through the infiltration of armed personnel, military equipment, and regular combat units. International law recognizes the right of individual and collective self-defense against armed attack. South Viet-Nam, and the United States upon the request of South Viet-Nam, are engaged in such collective defense of the South. Their actions are in conformity with international law and with the Charter of the United Nations. The fact that South Viet-Nam has been precluded by Soviet veto from becoming a member of the United Nations and the fact that South Viet-Nam is a zone of a temporarily divided state in no way diminish the right of collective defense of South Viet-Nam.

The United States has commitments to assist South Viet-Nam in defending itself against Communist aggression from the North. The United States gave undertakings to this effect at the conclusion of the Geneva conference in 1954. Later that year the United States undertook an international

obligation in the SEATO treaty to defend South Viet-Nam against Communist armed aggression. And during the past decade the United States has given additional assurances to the South Vietnamese Government.

The Geneva accords of 1954 provided for a cease-fire and regroupment of contending forces, a division of Viet-Nam into two zones, and a prohibition on the use of either zone for the resumption of hostilities or to "further an aggressive policy." From the beginning, North Viet-Nam violated the Geneva accords through a systematic effort to gain control of South Viet-Nam by force. In the light of these progressive North Vietnamese violations, the introduction into South Viet-Nam beginning in late 1961 of substantial United States military equipment and personnel, to assist in the defense of the South, was fully justified; substantial breach of an international agreement by one side permits the other side to suspend performance of corresponding obligations under the agreement. South Viet-Nam was justified in refusing to implement the provisions of the Geneva accords calling for reunification through free elections throughout Viet-Nam since

the Communist regime in North Viet-Nam created conditions in the North that made free elections entirely impossible.

The President of the United States has full authority to commit United States forces in the collective defense of South Viet-Nam. This authority stems from the constitutional powers of the President. However, it is not necessary to rely on the Constitution alone as the source of the President's authority, since the SEATO treaty—advised and consented to by the Senate and forming part of the law of the land—sets forth a United States commitment to defend South Viet-Nam against armed attack, and since the Congress—in the joint resolution of August 10, 1964, and in authorization and appropriations acts for support of the U. S. military effort in Viet-Nam—has given its approval and support to the President's actions. United States actions in Viet-Nam, taken by the President and approved by the Congress, do not require any declaration of war, as shown by a long line of precedents for the use of United States armed forces abroad in the absence of any congressional declaration of war.

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E.O. 12958, Sec. 3.6
NLJ 96-255

INFORMATION

By iso, NARA Date 9-11-97

Monday, March 18, 1968 - 1:25pm

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MEMORANDUM FOR THE PRESIDENT

SUBJECT: Your Meeting with the Vietnamese Ambassador

Pres file

You agreed to see Ambassador Bui Diem at 5:45 p.m. today.

He will be leaving for Saigon on Thursday, for consultation with his government. He expects to see Secretary Rusk tomorrow.

He has a very deep understanding of the problems we face here and will be able to give the men in Saigon a good feel for the current atmosphere. He believes profoundly that it is important for the Vietnamese to move ahead rapidly and effectively -- that the next six months are crucial for the fate of his country.

You may wish to:

- ask him for his assessment of the present situation in Viet-Nam;
- what are the main problems and what can we do about them.

He is likely to stress:

-- the need for President Thieu and Vice President Ky to form a real team and to work closely together. He will be doing all in his power to urge closer unity at the top in Saigon. He may suggest that we should weigh in harder on our side to get the two men together;

-- the need for closest possible cooperation between the Thieu Government and our Mission and for coordination of strategy in all major areas;

-- the absolute necessity for the Vietnamese to do more for themselves.

You may wish to:

-- urge him to give Thieu and Ky and others the clearest possible picture of the situation here -- of the growing criticism of our policy and of the Vietnamese;

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-- tell him you believe that it is of the utmost importance that Thieu and Ky work in close harmony and assure him we shall do all in our power to urge the same course;

-- suggest that he convey in every appropriate way to his colleagues in Saigon that the future of Viet-Nam -- and indeed of Asia -- may be determined in the coming months. It is a time for the utmost sacrifice and teamwork and energy;

-- reassure him that our position is firm and that we are not going to cut and run;

-- underline that it is vital for the Vietnamese to do all in their power to take the initiative, to get their Army on the offensive, and to move vigorously to protect the people and to attack inefficiency and corruption.

He may ask whether there is any likelihood of your meeting with Thieu and Ky in the near future, or of sending a special envoy to stress some of the above points directly with the Saigon leaders.

W. W. Rostow

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Pres. file

INFORMATION

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Monday, March 18, 1968 - 1:20 pm

Mr. President:

Herewith Komer, with Bunker present and at Bunker's initiative, tells Thieu how important it is to generate more vigorous GVN performance, on the basis of Komer's assessment of U.S. public and Congressional opinion.

W. W. Rostow

You may wish to read this before you see Amb. Bui Diem at 5:45 p.m. today.
Saigon 22386

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EXDIS

CINCPAC FOR POLAD

1. I TOOK AMBASSADOR KOMER TO REPORT PRIVATELY TO PRESIDENT THIEU ON HIS WASHINGTON VISIT, AS PART OF OUR CURRENT EFFORT TO GET THE GVN MOVING FASTER. THIEU WAS VERY RECEPTIVE, AND WE HAD A LONG, TWO-HOUR DISCUSSION.
2. I TOLD THIEU THAT BOB KOMER HAD GIVEN ME SUCH A DISTURBING APPRAISAL OF THE GREAT CONCERN IN WASHINGTON OVER THE CURRENT SITUATION AND GVN PERFORMANCE THAT I WANTED PRESIDENT THIEU TO GET THE SAME CANDID APPRAISAL FIRSTHAND. WE CAREFULLY NOTED THAT THIS WAS NOT AN OFFICIAL CALL ON INSTRUCTIONS, BUT RATHER AN EFFORT ON MY PART AND KOMER'S TO MAKE SURE THAT PRESIDENT THIEU UNDERSTOOD THE FULL MAGNITUDE OF WASHINGTON CONCERNS.

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3. KOMER DWELT HEAVILY ON THE DEEP DISCOURAGEMENT OF THE U.S. PRESS AND PUBLIC, AS WELL AS A LARGE SEGMENT OF THE U.S. CONGRESS, AT THE SUCCESS OF THE VC TET OFFENSIVE AND THE SLOWNESS OF THE GVN'S RESPONSE. HE POINTED OUT THAT THIS HAD GREATLY STRENGTHENED ANTI-WAR SENTIMENT AMONG MUCH INFLUENTIAL U.S. OPINION AND HAD RE-ENFORCED THE GROWING CRITICISM OF THE ADMINISTRATION FOR EVEN CONSIDERING FURTHER VIET-NAM FORCE INCREASES AT A TIME WHEN THE GVN WAS NOT CARRYING ITS OWN SHARE OF THE BURDEN. THE GVN WAS REGARDED

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AS MOVING TOO SLOWLY IN REFORMING ITS MACHINERY, IN RECOVERING THE COUNTRYSIDE, COUNTER-ATTACKING THE ENEMY, AND REBUILDING THE CITIES.

4. ON THE CONTRARY, KOMER STRESSED, HE FOUND THE PRESIDENT AND HIS CHIEF ADVISORS DETERMINED AND UNFLAPPABLE. HOWEVER, KOMER FELT COMPELLED TO SAY IN ALL CANDOR THAT HE FOUND THE HIGHEST LEVELS IN WASHINGTON ALSO DEEPLY DISAPPOINTED AND CONCERNED THAT THE GVN WAS NOT MOVING FASTER ON THE CIVIL AND MILITARY FRONTS.

5. TO RE-ENFORCE THIS POINT, KOMER CITED VARIOUS CRITICISMS WHICH HE FOUND AT HIGH LEVELS. HE EMPHASIZED THAT THE CON-

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STANT REAPPEARANCE OF THIEU/KY DISSENT GAVE AN IMPRESSION OF DIVIDED AND UNCERTAIN MANAGEMENT AT JUST THE WRONG TIME. IT WAS REGARDED AS A CRITICAL IMPEDIMENT TO DYNAMIC AND UNIFIED GVN LEADERSHIP. THE PRESS AND CRITICS WERE USING THIS THEME TO ARGUE THAT EVEN THE TOP GVN LEADERSHIP COULDN'T HANG TOGETHER. THE PROLIFERATION OF EFFORTS TO ORGANIZE "NATIONAL FRONTS" WAS ALSO CITED AS EVIDENCE OF THE INABILITY OF THE VIETNAMESE TO PULL TOGETHER.

6. KOMER WENT ON TO SAY THAT HE HAD BEEN TOLD REPEATEDLY THAT THE GVN DID NOT SEEM TO BE MOVING FAST ENOUGH IN PURGING ITS OWN RANKS, DESPITE THE PLUS FROM REMOVAL OF TWO CORPS COMMANDERS AND SEVERAL PROVINCE CHIEFS. SINCE WASHINGTON REGARDED THE NEXT FEW MONTHS AS CRITICAL, IT ALSO HAD DIFFICULTY IN UNDERSTANDING WHY ARVN COULD NOT CONDUCT MORE OF A FULL-SCALE COUNTEROFFENSIVE TO RELIEVE THE THREAT TO THE CITIES AND RECAPTURE THE COUNTRYSIDE. FURTHER, THERE WAS MUCH CRITICISM OF THE LACK OF SOLID ACTION TO DATE AGAINST CORRUPTION, AND EVEN OF THE WEAKNESS OF PRIME MINISTER LOC.

7. KOMER SUMMED UP BY EXPRESSING HIS OWN PERSONAL VIEW THAT IT WOULD BE DIFFICULT FOR THE U.S. TO JUSTIFY YET FURTHER

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SUPPORT FOR THE GVN, OR PERHAPS EVEN SUSTAIN THE PRESENT LEVEL OF SUPPORT, UNLESS THE GVN TOOK MORE DRASTIC STEPS TO SHOW IT WAS RISING BOTH TO THE ENEMY THREAT AND TO THE GREAT OPPORTUNITIES WHICH HANOI'S ALL-OUT OFFENSIVE WAS CREATING. HE FELT THAT THE U.S. POSITION WOULD BE CRITICALLY DEPENDENT ON WHAT THE GVN ITSELF DID OVER THE NEXT FEW MONTHS TO CONVINCE THE U.S. ADMINISTRATION, CONGRESS, AND PUBLIC THAT IT MERITED SUCH SUPPORT. HE APOLOGIZED FOR HAVING TO PRESENT SUCH A GLOOMY VIEW, BUT REPEATED THAT HE AND I FELT WE OWED IT TO THIEU BECAUSE IN THE LAST ANALYSIS ONLY THIEU AS PRESIDENT COULD GALVANIZE THE GVN.

8. THIEU EXPRESSED APPRECIATION, AND RECITED SOME OF HIS DIFFICULTIES IN GETTING THE GVN TO PULL TOGETHER. HE MENTIONED JOICULARLY THAT HE EVEN HAD TO DEAL WITH RUMORED POSSIBILITIES OF A COUP. I SEIZED THE OPENING TO REMIND HIM AGAIN THAT WASHINGTON SUPPORTED HIM AND ONLY HIM AS THE DULY-ELECTED PRESIDENT, AND THAT A COUP WOULD MOST CERTAINLY RISK WITHDRAWAL OF U.S. SUPPORT TO VIET-NAM. WE DOUBTED WHETHER OUR VIET-NAM POLICY WOULD SURVIVE ANOTHER COUP.

9. THIEU THEN ASKED CANDIDLY, "SHOULD I HAVE A CHANGE OF

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GOVERNMENT?" WHEN I ASKED HIM WHAT HE MEANT, HE ASKED FRANKLY WHETHER HE SHOULD CHANGE LOC AND OTHER MINISTERS. I REPLIED THAT I RECOGNIZED THE DIFFICULTY OF LOC'S POSITION. HE ALSO STRUCK ME AS A VERY INTELLIGENT MAN, BUT HE DID NOT SEEM TO BE A PARTICULARLY GOOD EXECUTIVE OR MANAGER WHO KNEW HOW TO USE HIS POWER TO MAKE DECISIONS. KOMER ADDED THAT IN HIS AND GENERAL FORSYTHE'S ALMOST DAILY MEETINGS WITH THE CENTRAL RECOVERY COMMITTEE OVER THE PAST SIX WEEKS, THEY HAD BOTH BEEN STRUCK BY HOW THE PRESIDENT OR KY WOULD TAKE DECISIONS BUT HOW THE CRC BECAME MORE OF A DEBATING SOCIETY WHEN LOC WAS IN THE CHAIR.

13. THIEU DISSENTED FROM OUR VIEW, SAYING THAT HE THOUGHT LOC HAD THE CAPABILITY TO MAKE DECISIONS BUT WAS CAUGHT IN A VERY DIFFICULT POSITION IN THE MIDDLE (BETWEEN THIEU AND KY).

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THOUGH LOC HAD BEEN PROPOSED BY KY, HE WAS BEING HAMPERED IN TAKING MANY DECISIONS BECAUSE OF FEAR OF OFFENDING THE KY GROUP. FOR EXAMPLE, LOC KNEW WHO WAS CORRUPT (THIEU CITED THE CUSTOMS DIRECTOR, THE PORT DIRECTOR, AND SOME OTHERS WHOSE NAMES WE DID NOT CATCH), BUT THESE WERE KY APPOINTEES WHOM LOC FEARED TO REMOVE. THE PRESIDENT HAD TOLD LOC THAT

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HE WOULD BACK LOC IN ANY CHANGES, BUT LOC WAS CONCERNED OVER "CUTTING OFF KY'S ARMS AND LEGS." LOC MEANT WELL BUT WAS HAMSTRUNG BY BEING IN THE MIDDLE.

11. KOMER SUGGESTED GIVING LOC A SPECIFIED PERIOD -- SAY TWO MONTHS -- IN WHICH TO PERFORM ON PAIN OF DISMISSAL. THIEU SMILED BUT DID NOT RESPOND. NEXT KOMER SUGGESTED STRENGTHENING ~~THE~~ PRIME MINISTER'S OFFICE BY MAKING DOAN BA CANG DEPUTY PRIME MINISTER WITH POWER TO PULL THE GOVERNMENTAL MACHINERY TOGETHER ON THE RECOVERY FRONT. CANG WAS TOUGH-MINDED AND WAS PERFORMING BRILLIANTLY; HOWEVER, HE LACKED THE AUTHORITY TO COMPEL MINISTERS TO RESPOND.

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EXDIS

2. THIEU THOUGHT THE CABINET WAS A PRETTY GOOD ONE EXCEPT FOR THE INFORMATION DIRECTORATE. HE REPEATED THAT HE PLANNED TO PUT TRAN VAN AN IN AS INFORMATION MINISTER OVER LINH. KOMER MENTIONED THAT ON THE BASIS OF HIS RECOVERY COMMITTEE EXPERIENCE, THE ECONOMIC MINISTER WAS ALSO WEAK, THOUGH QUITE INTELLIGENT AND WELL-INTENTIONED. ~~WHEN~~ THIEU ASKED WHO WOULD BE BETTER, KOMER CITED PHAM KIM NGOC OR GOVERNOR HANH AS BEING TOUGH-MINDED ENOUGH FOR THE CRITICAL PERIOD AHEAD. THIEU SAID HE WAS

AFRAID THAT HANH WOULD NOT AGREE TO TAKE THE MINISTRY; HE PROBABLY PREFERRED A CUSHY JOB WITH THE WORLD BANK. I ADDED THAT I HAD A HIGH REGARD FOR BOTH NGOC AND HANH, BUT REMINDED THIEU THAT AT THE TIME THE NEW CABINET HAD BEEN FORMED HANH HAD

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FELT SOMEWHAT EMBARRASSED BY BEING CONSIDERED A PROTEGE OF THE AMERICANS; THERE WAS NO QUESTION, HOWEVER, THAT EITHER NGOC OR HANH WOULD MAKE COMPETENT ECONOMIC MINISTERS. KOMER ALSO SAID THAT THE EDUCATION MINISTER DID NOT APPEAR PARTICULARLY STRONG.

13. THIEU THEN ASKED KOMER WHAT HE THOUGHT OF THE CURRENT PACIFICATION SITUATION. KOMER REPLIED THAT MOST OF THE PHYSICAL ASSETS, SUCH AS RF/PF, RD TEAMS, POLICE, ETC., WERE STILL PRESENT FOR DUTY; WE HAD LOST ONLY PERHAPS 10 TO 20 PERCENT AT THE OUTSIDE. NONETHELESS KOMER EXPRESSED CONSIDERABLE

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DISCOURAGEMENT. THE REAL PROBLEM WAS NOT PHYSICAL ASSETS BUT THE DEFENSIVE-MINDEDNESS OF ALL THE PACIFICATION PEOPLE IN THE FIELD. HOWEVER, HE DOUBTED THAT THE VC HAD TAKEN OVER ALL THE AREAS THE GVN HAD EVACUATED. THERE WAS PROBABLY MORE OF A VACUUM IN THE COUNTRYSIDE, SINCE THE VC HAD WITHDRAWN

TO ATTACK THE CITIES AT THE SAME TIME AS THE GVN FORCES HAD WITHDRAWN TO PROTECT THEM. BUT THE FAILURE OF THE GVN FORCES TO REASSERT THEIR PRESENCE IN THE COUNTRYSIDE WAS GRADUALLY LETTING THE VC FILL THIS VACUUM. THUS THE BIGGEST PROBLEM WAS HOW TO REVITALIZE THE PACIFICATION

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EFFORT AND GET OUR STILL SUBSTANTIAL ASSETS MOVING OUT INTO THE COUNTRYSIDE.

14. THIEU AGREED, BUT SAID THAT IT WAS ALSO ESSENTIAL TO REFOCUS OUR PACIFICATION EFFORTS. HE HAD DISCUSSED THIS

WITH THE CENTRAL RD COUNCIL THE PREVIOUS WEEK AND HAD ASKED MINISTER TRI TO REPORT NEXT WEEK ON SUCH MATTERS AS THE KIND OF RD TRAINING WHICH SHOULD BE GIVEN AT THE VUNG TAU SCHOOL. THIEU SAID THAT THE MISSION OF THE RD TEAMS SHOULD BE THREE-FOLD: (A) CREATE AN RD SPIRIT; (B) CREATE A SELF-DEFENSE GROUP TO LEAVE BEHIND WHEN THE RD TEAM WENT ON; (C) ALSO DEVELOP STAY-BEHIND POLITICAL CADRE SO THAT THE HAMLET WOULD NOT REVERT TO COMMUNIST CONTROL WHEN THE GROUP MOVED OUT. IN ORDER TO PREVENT REGRESSION OR, AS HE PUT IT, SO THAT NO VACUUM WOULD BE LEFT BEHIND WHEN THE GOVERNMENT FORCES MOVED ON, THE FIVE-MAN UNIT WHICH THE RD TEAM LEFT BEHIND IN THE PACIFIED HAMLET MUST DEVELOP THREE OR FOUR LOCAL CADRE FROM THE HAMLET POPULATION WHO WOULD STAY AFTER THE FIVE-MAN UNIT LEFT. THIEU AGREED THAT THE VC WERE NOT REOCCUPYING THE COUNTRYSIDE WITH LARGE UNITS, BUT FEARED THAT THEY WERE FILLING THE GAP IN EVACUATED HAMLETS

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WITH TWO OR THREE CADRE. THIS WAS ALL IT TOOK TO "CUT HEADS"

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OF A FEW OFFICIALS AND TERRORIZE THE PEOPLE. THIEU SAW THE CHIEF DANGERS TO PACIFICATION AS BEING THAT THE COMMUNISTS WERE FILLING THE "GAP" IN THE HAMLETS WITH JUST A FEW CADRE SINCE THERE WERE NO GVN EFFORTS TO CONTEST THEM, AND SECONDLY THAT THE POPULATION AS PSYCHOLOGICALLY VERY ADVERSELY AFFECTED BECAUSE THE GVN HAD FAILED AGAIN IN ITS PROMISE TO STAY IN THE HAMLETS.

15. ACCORDING TO THIEU, GENERAL CAO VAN VIEN WANTED TO MOVE THE RD CADRE DIRECTORATE BACK INTO THE RD MINISTRY UNDER GENERAL TRI. NOW THAT THANG HAD GONE THERE WAS LESS REASON TO KEEP IT UNDER THE JGS. THIEU APPROVED THIS CHANGE. AT THE SAME TIME HE AGREED THAT THE PLAN TO GIVE PF SOME RD-TYPE TRAINING SHOULD CONTINUE, AND THAT THE CRDC SHOULD CONTINUE TO COORDINATE PACIFICATION PROGRAMS. HOWEVER, THE CRITICAL ROLE IN PACIFICATION HAD TO BE PLAYED BY PROVINCE CHIEFS. THE PROVINCE CHIEF MUST HAVE FULL AUTHORITY OVER ALL ASSETS IN HIS PROVINCE. HE

MUST HAVE CHARGE OF THE ARVN BATTALION PROTECTING THE RD AREA, HE MUST CONTROL THE PEOPLE FROM THE VARIOUS

PAGE 5 RUNJIE 22386/2 ~~SECRET~~

TECHNICAL SERVICES, HE MUST CONTROL THE RD TEAMS. THUS, THE MOST IMPORTANT THING WAS TO GET GOOD PROVINCE CHIEFS. THIEU SAID HE INTENDED TO FIRE THE PROVINCE CHIEFS IN BIEN HOA AND GIA DINH, NOTING THAT KY AND OTHERS HAD FRUSTRATED THIS ON PREVIOUS OCCASIONS.

16. THIEU THEN TURNED TO THE GVN'S NEED TO INCREASE THE SIZE OF RVNAF. HE HAD TOLD GENERAL VIEN TO WORK UP A PLAN AND HAVE IT READY EARLY NEXT WEEK. VIEN HAD ALREADY DEVELOPED A DETAILED PLAN FOR 63,000 MORE TROOPS PLUS 35,000 IN THE PIPELINE IN 1968. HOWEVER THIEU THOUGHT THIS NOT ENOUGH TO MEET THE SITUATION, ESPECIALLY IF THE U.S. KEPT TO THE 525,000 MAN CEILING FOR U.S. FORCES. IN FACT, THIEU BELIEVED THAT THE GVN SHOULD PROVIDE ANY FORCE ADD-ON NEEDED RATHER THAN ASKING THE U.S. FOR MORE TOOPS. THIEU FAVORED A 1968 ADD-ON OF ABOUT 98,000 MEN PLUS 37,000 IN THE

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PAGE 04 SAIGON 22386 181450Z

PIPELINE. I ASKED IF HE COULD RAISE SUCH A FORCE BY MAY IN THE LIGHT OF HIS PREVIOUS COMMENTS THAT THE ENEMY WOULD ATTACK AGAIN IN MAY-JUNE.

17. THIEU REPLIED THAT THE PROBLEM WAS NOT DRAFTEES. THE GVN COULD PROBABLY CALL UP 40,000 MEN IN EACH AGE GROUP

~~PAGE 6 PHNIP 22386/2 181450Z~~

(18 AND 19). THE PROBLEM WAS RATHER ONE OF TRAINING OFFICER/ NCO CADRES. THEREFORE, THIEU HAD TOLD GENERAL VY TO RECALL ALL OFFICER AND NCO CADRES. THESE WERE MOSTLY IN THE CIVIL SERVICE, AND THERE WERE TOO MANY CIVIL SERVANTS ANYWAY. HENCE IN CALLING BACK EVEN 50 PERCENT OF THE CIVIL SERVANTS WOULD NOT SERIOUSLY AFFECT CIVIL ADMINISTRATION. I REPLIED THAT OUR STUDIES INDICATE THERE WERE ABOUT 3,000 ESSENTIAL CIVILIANS WHO SHOULD BE EITHER DEFERRED OR MOBILIZED IN PLACE. HE EXPRESSED CONCERN OVER THE ADVERSE IMPACT ON AN ALREADY OVERBURDENED CIVIL ADMINISTRATION IF THESE 3,000 KEY PEOPLE WERE DRAFTED OR RECALLED TO THE COLORS. I ALSO SUGGESTED PUTTING THE MOBILIZATION DIRECTORATE OF THE DEFENSE MINISTRY DIRECTLY UNDER THE PRIME MINISTER'S OR PRESIDENT'S OFFICE. THIEU'S REJOINDER WAS THAT IF HE DID THIS, MINISTER BY WOULD NOT HAVE ANYTHING ELSE TO RUN, SINCE THE JGS DIRECTLY HANDLED MOST MILITARY FUNCTIONS. HOWEVER, HE TOOK A NOTE AND SAID HE WOULD CONSIDER THE MATTER.

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1968 MAR 18 14 30

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PAGE 01 SAIGON 22386 03 OF 03 181413Z

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ACTION SS 30

INFO SSO 00, NSCE 00, CCO 00, /030 W

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FM AMEMBASSY SAIGON
TO SECSTATE WASHDC IMMEDIATE 8874
INFO CINCPAC

~~SECRET~~ SECTION 3 OF 3 SAIGON 22386

EXDIS

18. THE PRESIDENT THEN REVERTED TO THE URGENT NEED FOR MORE VN TROOPS. HE SAID THAT RAISING 135,000 MORE MEN IN 1968 WOULD SHOW BOTH THE U.S. AND VIETNAMESE PEOPLE THAT SOUTH VIET-NAM WOULD ACCEPT GREAT SACRIFICES. OF COURSE, ANOTHER PROBLEM WAS TO EQUIP ALL THESE TROOPS; BUT HE FELT THAT THE GVN COULD MAKE DO WITH WHATEVER THE U.S. COULD MAKE AVAILABLE. FOR EXAMPLE, ALL RVNAF DID NOT NEED M-16'S; THEY COULD BE GIVEN ONLY TO ELITE TROOPS.

19. AMBASSADOR KOMER POINTED OUT THAT ANOTHER CRITICAL PROBLEM, PARTICULARLY IN THE SHORT-TERM, WAS UNIT LEADERSHIP. UPGRADING UNIT LEADERSHIP, ESPECIALLY AT BATTALION

~~PAGE 2 RUMJIN 22386/3 SECRET~~

TO DIVISION LEVEL, WAS ESSENTIAL. THIEU SAID HE HAD ASKED GENERAL VIEN TO LIST ANY OFFICERS WHO SHOULD BE RELIEVED FOR POOR PERFORMANCE, BUT HAD NOT RECEIVED ANY RECOMMENDATIONS. VIEN SEEMED TO HAVE "COMPLEXES" ABOUT RELIEVING PEOPLE JUST AS PRIME MINISTER LOC DID. THIEU AVERRED, HOWEVER, THAT HE WOULD RELIEVE OR REASSIGN ANY OFFICERS WHOM THE JGS OR FOR THAT MATTER MACV THOUGHT WERE SUB-STANDARD. HE SAID HE WOULD BE HAPPY TO RECEIVE PRIVATELY FROM MACV A LIST OF THE 20-30 WORST COMMANDERS IN THE RVNAF. HIS PROBLEM WAS THAT HE COULD NOT IDENTIFY ALL THESE OFFICERS HIMSELF. SOMEONE HAD TO TELL HIM WHO WAS

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PAGE 02 SAIGON 22385 23 OF 23 181413Z

GOOD AND WHO WAS BAD; THEN HE COULD ACT.

20. REVERTING TO THE PACIFICATION PROGRAM, THIEU SAID HE HAD TOLD RD MINISTER TRI THAT THE RD TEAM PROGRAM MUST BE REVISED. INSTEAD OF 11 CRITERIA, THERE SHOULD BE ONLY 5 CRITERIA. INSTEAD OF 98 TASKS FOR EACH TEAM, THERE SHOULD BE ONLY A FEW. INSTEAD OF SEVERAL CATEGORIES OF RD HAMLETS, THERE SHOULD ONLY BE ONE CATEGORY FOR THE 1968 PROGRAM. LATER WE COULD RETURN TO A MORE SOPHISTICATED SYSTEM. LASTLY, THIEU HAD INSTRUCTED TRI TO HAVE THE LOCATIONS OF

~~PAGE 3 RUMJIR 22386/3 SECRET~~

THE 1968 RD HAMLETS CHANGED TO OIL SPOT AREAS AROUND CITIES, TOWNS, PROSPEROUS VILLAGES, AND VITAL ROADS AND CANALS (THOUGH EXISTING UNTOUCHED RD CAMPAIGN AREAS COULD BE ALLOWED TO CONTINUE). THIEU HAD ASKED TRI TO PRESENT A

REVISED PROGRAM AT THE NEXT MEETING OF THE CRDC.

21. IN SUM, THIEU SAID "WE SHOULD KNOW WHAT TO SACRIFICE." THE GVN SHOULD CUT BACK PROGRAMS TO WHAT WAS ESSENTIAL IN ORDER TO GET THE MAXIMUM IMPACT OVER THE NEXT FEW MONTHS.

22. AS WE LEFT, KOMER BROUGHT THE PRESIDENT BACK TO THE ORIGINAL POINT OF THE MEETING BY REITERATING HIS REGRET AT HAVING HAD TO CONVEY SUCH A HARSH PICTURE OF WASHINGTON CONCERNS. BUT IN THE LAST ANALYSIS WHAT THE U.S. COULD DO FROM HERE ON OUT WOULD DEPEND CRITICALLY ON WHAT THE GVN ITSELF GOT GEARED UP TO DO. I TOLD THE PRESIDENT THAT SUCH

CANDOR WAS AN INDISPENSABLE PART OF OUR RELATIONSHIP, AND HE AGAIN EXPRESSED HIS APPRECIATION OF IT.

BUNKER

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~~EXDIS~~

~~SECRET~~

2

Monday - March 18, 1968

Press file

MEMORANDUM FOR THE PRESIDENT - INFORMATION

SUBJECT: Urban Development in US-Mexico Border Cities

Herewith a memorandum from Ray Telles reporting on a workshop on urban development held at Laredo-Nuevo Laredo on February 27-28 under the auspices of the Border Development Commission.

The meeting was a first step in getting the two communities to talk about their urban problems preliminary to decisions on action programs. From the clippings I see they got excellent press coverage which should help in getting public participation.

W. W. Rostow

Attachment

Press clippings on urban development conference
on needs and priorities of twin Border cities.

DECLASSIFIED

E.O. 12356, Sec. 3.3

DA Memo. Jan. 5, 1988

By mg NARA Date 3/27/92

~~SECRET~~

SENT 10:05 A.M.

1968 MAR 18 15 05

EFAR01
OO WTE
DE WTE 1100

FROM WALT ROSTOW
TO THE PRESIDENT
CITE CAP30703

~~SECRET~~

HEREWITH WESTY'S KHE SANH REPORT.

- WEATHER AND FORECAST REMAIN GOOD;
- 500 INCOMING;
- PROBING ATTACK REPULSED; NO FRIENDLY CASUALTIES;
- 310 FRIENDLY SORTIES PLUS 42 B-52'S;
- 265 TONS DELIVERED.

SUBJ: (U) THIS IS REPORT NUMBER FORTY-THREE ON THE SITUATION IN THE KHE SANH/DMZ AREA FOR THE 24 HOUR PERIOD 18 MARCH.

YESTERDAY AND LAST NIGHT THE ENEMY INTENSIFIED HIS EFFORTS AGAINST THE KHE SANH BASE WITH INCREASED INCOMING FIRE AND A PRE-DAWN GROUND ATTACK. THE INCOMING FIRE FOR THE PERIOD TOTALLED 500 ROUNDS AS COMPARED TO THE PREVIOUS DAYS TOTAL OF 135. NINETEEN MEN WERE WOUNDED AS A RESULT OF THE INCOMING, FOUR REQUIRING MEDICAL EVACUATION.

THE GROUND ATTACK BY AN ESTIMATED ENEMY BATTALION OCCURRED AT 3:45PM ON 18 MARCH, AGAINST THE 37TH ARVN RANGER POSITION AT THE EASTERN PERIMETER. THE ARVN FOUGHT DETERMINEDLY AND THE ATTACK WAS REPELLED AT 5:00 PM. THE WIRE WAS NOT PENETRATED. THERE WERE NO FRIENDLY CASUALTIES; 2 ENEMY WERE REPORTED KILLED.

XEROX FROM QUICK COPY

68 MAR 18 AM 10:08

MONDAY

AS FORECAST, THE WEATHER REMAINED FAVORABLE THROUGH MUCH OF THE DAY, ALLOWING UNRESTRICTED AIR ACTIVITY. THREE HUNDRED TEN TACTICAL AIR SORTIES WERE FLOWN. ALTHOUGH THIS IS A DECREASE FROM THE PREVIOUS PERIOD, BOMB DAMAGE ASSESSMENT DISCLOSED OVER 43 SECONDARY EXPLOSIONS, 28 SECONDARY FIRES AND NUMEROUS STRUCTURES AND WEAPONS POSITIONS DESTROYED. SEVEN ARC LIGHT MISSIONS (42 SORTIES) STRUCK THE NIAGARA AREA. SEVEN AIRCRAFT WERE DIVERTED DUE TO EQUIPMENT MALFUNCTION. THREE OF THE STRIKES REPORTED A TOTAL OF 12 SECONDARY EXPLOSIONS. SEVEN ARC LIGHT STRIKES AND 316 TACTICAL AIR SORTIES ARE SCHEDULED FOR THE NEXT 24 HOURS. THERE IS NO CHANGE IN THE NUMBER OF ALERT SORTIES OR AIRCRAFT ON CALL.

4. IN OTHER AIR ACTIVITY, 45 RESUPPLY SORTIES, LIFTED 266.5 SHORT TONS OF SUPPLIES AND MAIL INTO KHE SANH. NINTY-FIVE REPLACEMENTS WERE LANDED AT THE FIELD.

5. ACTIVITY IN THE REST OF QUANG TRI PROVINCE WAS VERY LIGHT COMPARED TO THE PREVIOUS PERIOD. A TOTAL OF 35 ROUNDS OF MIXED INCOMING WAS RECEIVED COMPARED TO 658 ROUNDS YESTERDAY. TOTAL U.S. CASUALTIES IN THE 3D MARINE DIVISION AREA WERE ONE KILLED, 20 WOUNDED (FOUR EVACUATED). ENEMY; SEVEN KILLED.

6. THE WEATHER FORECAST IS FOR FAVORABLE WEATHER TO CONTINUE DURING THE DAYLIGHT HOURS, WITH SOMEWHAT REDUCED VISIBILITY AND CEILINGS IN THE EARLY MORNING.

1. THE KHE SANH DUMP AND AMMUNITION SUPPLY POINT (ASP) STATUS AS OF 8:00 PM MARCH 17 IS AS FOLLOWS:

	DAYS SUPPLY ON HAND	PREVIOUS STATUS 8:00 PM 16 MAR EST (9:00 AM 17 MAR SVN)
CLASS I (RATIONS)		
MEAL, COMBAT, INDIVIDUAL	21	20 DAYS
B RATIONS	8	8 DAYS
CLASS III (FUEL)		
AVIATION GAS (AVGAS)	3	3 DAYS
JP-4 FUEL (JET FUEL)	10.6	10.6 DAYS
MOTOR GASOLINE (MOGAS)	11.6	10.5 DAYS
DIESEL	4.4	4.4 DAYS

CLASS V (AMMUNITION)

A. HIGH EXPLOSIVE

60-MM MORTAR	54	55 DAYS
81-MM MORTAR	30	23 DAYS
90-MM (TANK)	131	104 DAYS
4.2" MORTAR	31	31 DAYS
105-MM HOWITZER	20	20 DAYS
155-MM HOWITZER	18	20 DAYS

B. ANTITANK

ROUNDS ON HAND

90-MM AP-T	329
90-MM HEAT	1,202
66-MM ROCKET (LAW)	3,475
ANTITANK MINES (M-15)	336
ANTITANK MINES (M-19)	469
ANTITANK MINES (M-21)	0
106-MM HEAT	1,123
106-MM RECOILLESS RIFLE (HEP-T)	2,168
3.5" ROCKET	2,222

C. ANTIPERSONNEL

106-MM BEEHIVE	1,517
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CLASS V (COFRAM)

105-MM HOWITZER	5	5 DAYS
155-MM HOWITZER	5	5 DAYS
40-MM GRENADE LAUNCHER	5	5 DAYS
HAND GRENADES	10	10 DAYS

2. ON 17 MARCH, KHE SANH WAS RESUPPLIED WITH 266.5 TONS AS FOLLOWS:

CLASS I	37 TONS
CLASS III	41 TONS
CLASS IV	18.5 TONS
CLASS V	159 TONS
MISCELLANEOUS	11 TONS

DTG: 181347Z MAR 68

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DE WTE 1087

FROM WALT ROSTOW
TO THE PRESIDENT
CITE CAP80692

1968 MAR 17 18 09

DECLASSIFIED
E.O. 12356, Sec. 3.4
NJ 94-19
By sig, NARA, Date 7-27-94

Pres file

9
-68 MAR 17 PM 1:14

SUNDAY

~~CONFIDENTIAL~~

MARCH 17, 1968

FOR THE PRESIDENT

RAUL SAEZ, THE MR. INTEGRITY OF THE CHILEAN ADMINISTRATION, HAS RESIGNED AS FREI FOUND HE COULD NOT BRING HIMSELF TO GO THROUGH WITH AN ANTI-INFLATION WAGE BILL. HERE IS OUR EMBASSY'S COMMENTARY.

1. THESE ARE OUR IMMEDIATE THOUGHTS, STARKLY STATED, ABOUT IMPLICATIONS OF SAEZ RESIGNATION.
2. IT SEEMS CLEAR THAT PRESIDENT FREI DOES NOT HAVE HEART TO FOLLOW THROUGH ON FUNDAMENTAL COMMITMENTS WHEN POLITICAL SQUEEZE IS ON. HE IS BY NOW EXTREMELY GUN SHY AFTER FIFTEEN MONTHS OF HUMILIATING SERIES OF SETBACKS IN RECALCITRANT SENATE AND HE JUST COULD NOT FACE UP TO IDEA OF ANOTHER BODY BLOW ON WAGE BILL. WE ASSUME THAT PDC LEADERSHIP DID NOT WISH ACCEPT AUSTERE PROGRAM SAEZ HAD IN MIND FOR YEAR PRECEDING CONGRESSIONAL ELECTION AND WAS SUBJECTING FREI TO ENORMOUS PRESSURE WHICH FINALLY CONTRIBUTED TO UNDERMINING SAEZ'S POSITION. THIS, OF COURSE, BEGS QUESTION OF WHAT FREI AND PDC MAY BE BUYING IN TERMS INFLATION IN 1968 AND 1969 PRECEDING PRESIDENTIAL ELECTION, BUT THAT COMES LATER.
3. SAEZ ACTED COMPLETELY IN CHARACTER AS NO NONSENSE TECHNICIAN WHO HAD NOTHING PERSONAL AT STAKE. HE HAD DEFINED HIMSELF CLEARLY BEFOREHAND AND IT WAS FREI AND NOT HE WHO FAILED TO ADHERE TO CONDITIONS OF THEIR PACT. SAEZ HAD SAID THAT HE DID NOT INTEND TO PRESIDE OVER ECONOMIC DETERIORATION OF CHILE AND HE WAS TRUE TO HIS WORD.
4. SAEZ'S DEPARTURE MAY WELL PRESAGE RETIREMENT OF OTHER POLITICAL TECHNICIANS (E.G., MOLINA AND MASSAD WHO DID TENDER RESIGNATIONS BUT WERE PERSUADED NOT TO GO, AT LEAST NOW). BUT EVEN WITHOUT GENERAL ABANDONMENT OF GOC BY "ECONOMIC REALISTS," SAEZ'S RESIGNATION ALONE IS EXPECTED TO SERVE AS SERIOUSLY OMINOUS SIGN TO PRIVATE BUSINESS SECTOR WHICH WAS ALREADY EXPERIENCING MISGIVINGS WITH FREI AND PDC WHEN SAEZ TOOK OFFICE. ECONOMIC CLIMATE UNDER THESE CIRCUMSTANCES IS ANYTHING BUT PROMISING; AND BETWEEN A PROBABLE INFLATIONARY UPTURN AND APPREHENSIVE AND DOUBTING BUSINESS SECTOR, 1968 PROSPECTS ARE GLOOMY INDEED. STORY IS NOT YET ALL IN, SINCE ZALDIVAR, MASSAD, MOLINA ARE ALL EXCELLENT TECHNICIANS AND THEY ARE STILL AROUND. BUT WHAT IS IN IS NOT GOOD AND THE PROSPECTS FOR INFLATION ARE NOW INDEED GREAT.

DTG 171708Z MARCH 1968

~~CONFIDENTIAL~~

EEA279
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DE WTE 1038

10
SENT 12:50 P.M.

FROM WALT ROSTOW
TO THE PRESIDENT
CITE CAP80693

~~TOP SECRET~~

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Pres file

~~TOP SECRET~~

1968 MAR 17 17 1538
MARCH 17, 1968

FROM WALT ROSTOW
FOR THE PRESIDENT

HERewith BUNKER REPORTS THIEU'S WILLINGNESS TO SPEAK
ON WEDNESDAY ABOUT HIS 125,000 TROOP EXPANSION PLAN FOR 1968.

1. I HAVE JUST SEEN PRESIDENT THIEU WHO HAS AGREED TO MAKE
SPEECH ALONG LINES SUGGESTED, ON WEDNESDAY. HE
WANTS TO DEFER SPEECH UNTIL THEN BECAUSE HE IS PLANNING TO
TAKE SOME FURTHER STEPS HAVING TO DO WITH ADMINISTRATIVE
REFORM ON MONDAY AND TUESDAY. HE ALSO PLANS TO CHAIR MEETING
OF CENTRAL RECOVERY COMMITTEE WEDNESDAY MORNING AND
TO TAKE ADDITIONAL DECISIONS TO MOVE THE RECOVERY EFFORT
AHEAD.

2. I EMPHASIZED TO THIEU THAT NO REPEAT NO REFERENCE SHOULD
BE MADE TO THE POSSIBILITY OF ADDITIONAL U.S. OR OTHER OUTSIDE
ASSISTANCE; THAT THE IMPORTANT THING IS TO PRESENT A PICTURE
OF GVN DETERMINATION TO DO EVERYTHING POSSIBLE TO HELP
THEMSELVES WITH ENERGY AND DEDICATION. HE ASKED ME
WHETHER IN REFERRING TO GVN DETERMINATION TO RAISE
ADDITIONAL FORCES (I THINK HE WILL PROBABLY MENTION 125,000)
HE COULD REFER TO THE NEED FOR ASSISTANCE IN PROVIDING
EQUIPMENT FOR THESE FORCES. AS YOU KNOW, HE HAS ALWAYS MADE THE
POINT TO ME THAT THEY WILL NEED ASSISTANCE IN THIS RESPECT.

3. I HAVE AGREED TO SEND HIM AN OUTLINE TOMORROW OF THE
POINTS WE WOULD LIKE TO SEE COVERED. UNLESS YOU HAVE OBJECTION,
IT SEEMS TO ME IT WOULD BE REASONABLE TO PERMIT THIEU TO MENTION
THE NEED FOR ADDITIONAL EQUIPMENT SINCE THIS IS A FACT GENERALLY
UNDERSTOOD HERE. INDEED THERE WOULD BE NO POINT IN RAISING
THE ADDITIONAL TROOPS UNLESS EQUIPMENT CAN BE SUPPLIED, AND
ONLY SOURCE IS U.S. I DON'T KNOW HOW IMPORTANT THIS IS TO
THIEU, BUT HE SEEMS TO FEEL IT WOULD HELP HIS CASE SINCE WHAT
HE IS TRYING TO DO WILL STRAIN THEIR MANPOWER RESOURCES TO
THE LIMIT. I WOULD RECOMMEND THAT WE NOT INTERPOSE OBJECTION.

DTG: 171717Z MAR 68

DECLASSIFIED
E.O. 12958, Sec. 3.6
NLJ 96-255
By jis, NARA Date 9-11-97

PRESERVATION COPY

68 MAR 17 PM 1:14

SUNDAY

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1968 MAR 16 20 57 16 20 -57

EEA270
OO WTE18
DE WTE 1078

FROM WALT ROSTOV
TO THE PRESIDENT
CITE CAP80684

~~SECRET~~ SENSITIVE

MARCH 16, 1968

HEREWITH WESTY REQUESTS YOUR PERMISSION TO USE COFRAM
IN THUA THIEN PROVINCE -- IN UNPOPULATED AREAS.

THIS WOULD EMBRACE THE DEFENSE OF HUE AND ATTACK ON
A SHAU VALLEY.

APPROVED _____

DISAPPROVED _____

CALL ME _____

MEMORANDUM FOR THE PRESIDENT

SUBJECT: USE OF COFRAM (U)

1. ON 14 MARCH 1968, GENERAL WESTMORELAND REPORTED AND
ADMIRAL SHARP CONCURRED THAT ADDITIONAL TARGET AREAS FOR
THE USE OF COFRAM ARE ESSENTIAL TO COMBAT OPERATIONS IN
SOUTH VIETNAM. THE FOLLOWING RECAP IS PROVIDED:

A. QUANG TRI, QUANG NAM, AND THUA THIEN COMPRISE
THE THREE NORTHERNMOST PROVINCES OF SOUTH VIETNAM WITH
THUA THIEN SITUATED BETWEEN THE OTHER TWO.

Pres. file

68 MAR 16 PM 4:01

SATURDAY

DECLASSIFIED

EO 12356, Sec 3.3

DA Memo. Jan 5, 1988

By 17 NARA Date 3-27-92

XEROX FROM QUICK COPY

B. ARTILLERY AND AIR COFRAM HAVE BEEN AUTHORIZED IN QUANG TRI AND QUANG NAM PROVINCES.

C. THE TACTICAL SITUATION IN THE LOWLANDS AROUND HUE AND THE ENEMY ACTIVITY IN THE A SHAU VALLEY POSE AN INCREASING THREAT TO US AND FRIENDLY FORCES IN THUA THIEN PROVINCE.

D. THERE IS AN URGENT NEED TO EMPLOY THE MOST EFFECTIVE MEANS AVAILABLE TO PREEMPT ENEMY OPERATIONS AND TO DESTROY HIS FORCES BEFORE HE CAN SEIZE THE INITIATIVE.

2. GENERAL WESTMORELAND HAS BEEN PREVIOUSLY AUTHORIZED TO EMPLOY COFRAM UNDER THE FOLLOWING CRITERIA:

A. COFRAM ARTILLERY IMPACTS IN SOUTH VIETNAM WILL BE LIMITED TO OBSERVED FIRES AND TO COUNTERFIRES BUT ONLY IN AREAS KNOWN TO BE SPARSELY POPULATED.

B. COFRAM WILL NOT BE USED FOR HARASSING AND INTERDICTION FIRES.

C. NO GEOGRAPHICAL RESTRICTIONS ARE PLACED ON THE USE OF COFRAM HAND GRENADES AND 40MM CARTRIDGES.

3. THE COMBAT AREAS OF THUA THIEN PROVINCE HAVE BEEN ESPECIALLY ACTIVE IN RECENT DAYS. ENEMY MOVEMENTS HAVE BEEN REPORTED WHERE THE TERRAIN INVOLVED IS WELL-SUITED FOR THE EXPLOITATION OF COFRAM, IS WELL-SURVEYED AND ACCURATELY PLOTTED ON ARTILLERY FIRING CHARTS AND LARGE-SCALE MAPS. AREAS INHABITED BY FRIENDLIES ARE WELL-KNOWN, ACCURATELY PLOTTED, AND WOULD BE AVOIDED.

4. IN VIEW OF THE ABOVE, I CONSIDER IT PRUDENT TO RECOMMEND THAT YOU NOW APPROVE THE USE OF COFRAM IN THUA THIEN PROVINCE. THIS AUTHORITY WOULD CLOSE THE GAP NOW EXISTING BETWEEN QUANG TRI AND QUANG NAM PROVINCES AND PROVIDE THE ENEMY NO PRIVILEGED SANCTUARY FROM OUR INCREASED FIREPOWER EFFECTIVENESS WHEN OPERATING IN THUA THIEN. SUBSEQUENT TO YOUR APPROVAL, I SHALL AUTHORIZE THE DISPATCH OF THE ATTACHED MESSAGE TO CINCPAC AND COMUSMACV.

DTG: 152000Z MAR 1968

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~~SECRET~~

1968 MAR 16 20 04

EEA268
CO WTE 12
DE WTE 1076

FROM WALT ROSTOW
TO THE PRESIDENT
CITE CAP80682

~~SECRET~~

MARCH 16, 1968

UPDATE OF CLIFFORD'S CONSULTATION PLANS.

1. BECAUSE RUSSELL IS GOING TO GEORGIA THIS EVENING FOR THREE OR FOUR DAYS, CLIFFORD WILL SEE HIS AT 2:30 THIS AFTERNOON. IF RUSSELL CANNOT ROUND UP COLLEAGUES, HE WILL INDICATE TO CLIFFORD WHOM TO SEE ADDITIONALLY ON MONDAY.

2. CLIFFORD WILL SEE RIVERS AND BATES AT 10:30 A.M. MONDAY.

3. HE WILL ALSO SEE MANON ON MONDAY.

DTG 161851Z MARCH 1968

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DECLASSIFIED

E.O. 12356, Sec. 3.2

White House Guidelines, 1.1.1

By 14, NARA, Date 3-27-92

XEROX FROM QUICK COPY

~~TOP SECRET~~

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1968 MAR 16 20 01

EEA267
OO WTE 10
DE WTE 1075

FROM WALT ROSTOW
TO THE PRESIDENT
CITE CAP80681

DECLASSIFIED
E.O. 12958, Sec. 3.6
NLI 96-255
By ics, NARA Date 9-11-97

Pres file

168 MAR 16 PM 3:05
SATURDAY

~~TOP SECRET~~

MARCH 16, 1968

FROM WALT ROSTOW
FOR THE PRESIDENT

REPORT OF FIRST MORNING WITH CENTRAL BANKERS, FROM ED FRIED.

1. MAINLY TAKEN UP WITH INITIAL POSITIONS.

2. UK CLEARLY IN GREATEST TROUBLE; FLIRTING WITH GOLD PRICE INCREASE; BUT MAINLY CONCERNED ABOUT LIKELY FURTHER FLIGHT FROM THE POUND WHEN EXCHANGES OPEN ON MONDAY AND HOW STERLING BALANCES SHOULD BE HANDLED.

3. CARLI OF ITALY THUS FAR THE STRONG MAN OF THE FIRST SESSION, BEGINNING TO PROPOSE SOLUTIONS LIKE OURS.

4. BLESSING OF GERMANY THUS FAR HAS SPOKEN LITTLE, BUT THAT HELPFULLY; NAMELY, THERE MAY BE, OF COURSE, LARGE MOVEMENTS OF STERLING AND DOLLARS NEXT WEEK; BUT THEY MUST BE HELD UNTIL HYSTERIA SUBSIDES.

5. U.S. HAS NOT SPOKEN EXCEPT FOR MARTIN'S INDICATING A CHANGE IN THE GOLD PRICE IS RULED OUT.

6. IN GENERAL, A TYPICAL OPENING SESSION. ED FRIED REPORTS THE DISCUSSIONS ARE ABSOLUTELY FRANK, AND EVERY MAN IN THE ROOM KNOWS THEY CAN'T GO HOME WITHOUT AGREEMENT.

DTG: 161851Z MAR 68

PRESERVATION COPY

14
EFA008
OO WTEI
DE WTE 1073

FROM WALT ROSTOW
TO THE PRESIDENT
CITE CAP82679

~~TOP SECRET~~

1968 MAR 16 18 41

MARCH 16, 1968

~~TOP SECRET~~

1968 MAR 16 PM 2:01

SATURDAY

Pres file

CLARK CLIFFORD REPORTS AS FOLLOWS:

1. HE HAS BEEN IN TOUCH WITH RIVERS, WHO WILL RETURN SUNDAY EVENING FROM SOUTH CAROLINA AND WILL BE AVAILABLE ONLY BY MONDAY MORNING.

2. HE HAS A CALL IN FOR SENATOR RUSSELL.

3. IN THE LIGHT OF RIVERS' DISPOSITION, CLIFFORD IS USING THE WEEKEND TO GET EXACTLY RIGHT THE DOLLAR FIGURES THAT GO WITH THE PACKAGE. HE IS WORKING WITH THE COMPTROLLER ON THAT NOW.

4. HE PLANS TO LEAVE IT UP TO RIVERS AND RUSSELL AS TO WHO WILL BE PRESENT ON MONDAY MORNING.

5. CLIFFORD ALSO REPORTS THAT HE HAS IN THIS MORNING BLANDFORD, CLERK OF THE ARMED SERVICES COMMITTEE, WHOM HE JUDGES TO BE -- NEXT TO RIVERS -- THE MOST POWERFUL MAN CONNECTED WITH THAT COMMITTEE. HE FINDS THAT COOPERATION BETWEEN THE PENTAGON AND THAT COMMITTEE HAD VIRTUALLY CEASED FOR THREE YEARS. HE IS REESTABLISHING THOSE LINES OF COOPERATION. HE DID NOT, REPEAT NOT, BRIEF BLANDFORD IN ANY DETAIL ON WHAT HE WILL BE LAYING BEFORE RIVERS AND RUSSELL ON MONDAY, BUT HE DID INDICATE THAT HE WOULD BE GOING UP WITH WHEELER ON MONDAY TO DISCUSS MATTERS WITH THEM.

DTG: 161808Z MAR 68

DECLASSIFIED

White House Guidelines, Feb. 24, 1983
By gpl/dch, NARA, Date 4/22/96

~~TOP SECRET~~

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1968 MAR 16 18 41

DECLASSIFIED

Authority 16985-315
By copy, NARA, Date 4-3-92

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68 MAR 16 PM 2:00

SATURDAY

FROM WALT ROSTOW
TO THE PRESIDENT
CITE CAP30571

~~TOP SECRET~~

3/16/63

HEREWITH GOLDBERG PROPOSES WE GO FOR A BOMBING CESSATION AND A NEGOTIATION PROMPTLY. IN MY JUDGMENT, THE RIGHT TIME WILL BE A FEW MONTHS FROM NOW -- ASSUMING WESTY AND THE GVN WEATHER THE WINTER-SPRING OFFENSIVE IN TOLERABLY GOOD SHAPE.

SECRETARY RUSK HAS MADE CLEAR IN HIS STATEMENT TO THE SENATE FOREIGN RELATIONS COMMITTEE THAT THE ENTIRE SITUATION WITH REGARD TO VIETNAM IS UNDER REVIEW FROM A TO Z. IT IS MY UNDERSTANDING THIS REVIEW ENCOMPASSES NOT ONLY MILITARY ASPECTS BUT ALSO POSSIBLE MOVES TOWARD A POLITICAL SOLUTION. IT IS ON THE LATTER QUESTION THAT I SHOULD LIKE TO ADVANCE THE FOLLOWING THOUGHTS FOR THE CONSIDERATION OF THOSE ENGAGED IN THIS POLICY REVIEW.

RECENT DEVELOPMENTS IN OUR COUNTRY HAVE DEMONSTRATED THAT THERE IS GRAVE CONCERN AMONG THE AMERICAN PUBLIC WHETHER THE COURSE WE HAVE SET IN OUR VIETNAM POLICY IS RIGHT OR HOLDS PROMISE OF RESULTS COMMENSURATE WITH THE COST -- CONCERN WHICH HAS BEEN DEEPEENED BY THE REVERSES WE AND THE SOUTH VIETNAMESE SUFFERED DURING THE TET OFFENSIVE, BY THE APPARENT LACK OF ENERGY, EFFECTIVENESS AND APPEAL OF THE SOUTH VIETNAMESE GOVERNMENT, BY THE MOUNTING RATE OF AMERICAN CASUALTIES, BY THE EXTENT OF THE DESTRUCTION OF LIFE AND PROPERTY IN VIETNAM, AND BY REPORTS THAT REQUESTS HAVE BEEN MADE OF THE PRESIDENT FOR SUBSTANTIAL TROOP REINFORCEMENTS IN SOUTH VIETNAM. THIS CONCERN REFLECTS A GROWING PUBLIC BELIEF THAT THE WAR IN SOUTH VIETNAM IS INCREASINGLY AN AMERICAN WAR, NOT A SOUTH VIETNAMESE WAR WHICH THE U.S. IS SUPPORTING, AND, FURTHER, THAT THE WAR CANNOT BE WON ON THIS BASIS WITHOUT EVERMOUNTING COMMITMENTS NOT WORTH THE COST.

AS I SEE IT, UNDER OUR DEMOCRATIC PROCESSES, IF PUBLIC SUPPORT IS PERMANENTLY AND SUBSTANTIALLY ERODED, WE WILL NOT BE ABLE TO MAINTAIN LET ALONE INTENSIFY THE LEVEL OF OUR MILITARY EFFORTS IN VIETNAM. THIS IS NOT TO SAY THAT DECISIONS ON THIS MATTER SHOULD BE CONTROLLED BY THE NORMAL FLUCTUATIONS OF PUBLIC OPINION CONCERNING THE PROGRESS OF THE WAR. MAJOR PRESIDENTIAL DECISIONS CANNOT AND SHOULD NOT BE MADE ON THE BASIS OF A DAY-BY-DAY READING OF THE PUBLIC'S TEMPERATURE. IT IS MY CONSIDERED OPINION THAT THE VERY BEST WAY TO PREVENT FURTHER EROSION OF PUBLIC SUPPORT FROM TAKING PLACE IS TO MAKE A NEW AND FRESH MOVE TOWARD A POLITICAL SOLUTION AT THIS TIME. MOREOVER, AND INDEPENDENTLY OF THIS, I BELIEVE ON THE MERITS THAT A FRESH MOVE TOWARD A POLITICAL SOLUTION SHOULD BE MADE NOW.

THE QUESTION WHICH THEN ARISES IS: WHAT NEW AND FRESH EFFORT SHOULD BE MADE? IN MY VIEW, THERE IS ONLY ONE FEASIBLE STEP AT THIS TIME WHICH OFFERS ANY POSSIBILITY OF MAKING PROGRESS TOWARD A POLITICAL SETTLEMENT AND, AT THE SAME TIME, OF BEING RECEIVED

XEROX FROM QUICK COPY

BY THE AMERICAN PUBLIC AS A GOOD-FAITH MOVE TOWARD SUCH A SETTLEMENT. STATED SIMPLY, THAT STEP WOULD BE TO PUT INTO EFFECT THE SAN ANTONIO FORMULA BY ASSUMING HANOI WOULD NOT TAKE ADVANTAGE OF THE BOMBING CESSATION AND WITHOUT SEEKING PRIOR ASSURANCE FROM HANOI ON THIS POINT. THERE ARE OBVIOUS RISKS IN THIS COURSE OF ACTION. NEVERTHELESS, I BELIEVE IT MUST AND SHOULD BE TAKEN.

IT IS PERTINENT TO RECALL WHAT THE PRESIDENT SAID AT SAN ANTONIO:

"AS WE HAVE TOLD HANOI TIME AND TIME AND TIME AGAIN, THE HEART OF THE MATTER REALLY IS THIS: THE UNITED STATES IS WILLING TO STOP ALL AERIAL AND NAVAL BOMBARDMENT OF NORTH VIETNAM WHEN THIS WILL LEAD PROMPTLY TO PRODUCTIVE DISCUSSIONS. WE, OF COURSE, ASSUME THAT WHILE DISCUSSIONS PROCEED, NORTH VIETNAM WOULD NOT TAKE ADVANTAGE OF THE BOMBING CESSATION OR LIMITATION."

TAKEN AT ITS FACE VALUE, THIS FORMULA DOES NOT CALL FOR ANY PRIOR ASSURANCE THAT NORTH VIETNAM WOULD NOT TAKE ADVANTAGE OF A CESSATION OF THE BOMBING. RATHER, IT FORESEES THAT WE WILL ACT ON THE "ASSUMPTION" THAT NORTH VIETNAM WOULD NOT TAKE SUCH ADVANTAGE. THEREFORE, THE STEP I PROPOSE WOULD NOT INVOLVE A DEPARTURE FROM THE POLICY ENUNCIATED BY THE PRESIDENT.

SINCE THE SAN ANTONIO FORMULA WAS ENUNCIATED, WE HAVE HAD EXPLICIT PUBLIC AND PRIVATE STATEMENTS FROM NORTH VIETNAM THAT: A) TALKS BETWEEN THE U.S. AND HANOI WOULD FOLLOW RELATIVELY SOON AFTER AN END TO THE BOMBING AND OTHER HOSTILE ACTS AGAINST THE NORTH; AND B) NO SUBJECT MATTER WOULD BE EXCLUDED FROM THE TALKS. THIS LEAVES THE WAY OPEN FOR US TO INSIST IN SUCH TALKS THAT THE FIRST ORDER OF BUSINESS WOULD BE APPROPRIATE ARRANGEMENTS TO ENSURE THAT HANOI DOES NOT USE THE BOMBING CESSATION TO OBTAIN A MILITARY ADVANTAGE.

IN SPECIFIC TERMS THEN, MY SUGGESTION, BASED ON THE SAN ANTONIO FORMULA, MEANS THAT--WITHOUT ANNOUNCING ANY CONDITIONS OR TIME LIMIT--WE WOULD "STOP" THE AERIAL AND NAVAL BOMBARDMENT OF NORTH VIETNAM, FOR THE LIMITED TIME NECESSARY TO DETERMINE WHETHER HANOI WILL NEGOTIATE IN GOOD FAITH; IN MY VIEW THIS CAN BEST BE DETERMINED BY WHAT ACTUALLY HAPPENS DURING THE TALKS RATHER THAN ANY ADVANCE VERBAL COMMITMENTS OF THE KIND WE HAVE BEEN SEEKING.

THERE ARE, HOWEVER, MANY THINGS WHICH MY SUGGESTION DOES NOT MEAN:

A) IT DOES NOT MEAN WE WOULD REFRAIN FROM BOMBING THE MAIN INFILTRATION ROUTES THROUGH LAOS OR WITHIN SOUTH VIETNAM;

B) IT DOES NOT MEAN WE WOULD CEASE OR REFRAIN FROM INTENSIFYING OUR BOMBING IN THE KHE SANH AREA, THE NORTHERNMOST PROVINCES OF SOUTH VIETNAM, AND ANY OTHER POINT IN THE SOUTH WHERE VC/NVN TROOPS ARE CONCENTRATED;

C) IT DOES NOT MEAN WE WOULD DISCONTINUE NAVAL BOMBARDMENT SOUTH OF THE 17TH PARALLEL OF HANOI'S SUPPLY AND INFILTRATION OPERATIONS BY SEA;

D) IT DOES NOT MEAN WE WOULD BE INHIBITED FROM ROTATION OR NORMAL AUGMENTATION OF OUR OWN FORCES IN THE SOUTH DURING THE BOMBING CESSATION OR THE SUBSEQUENT TALKS--UNLESS, OF COURSE, THOSE TALKS RESULTED IN AN AGREEMENT CONCERNING NON-AUGMENTATION OF FORCES;

ED) IT DOES NOT MEAN, FINALLY, THAT WE WOULD BE PRECLUDED FROM RESUMING THE BOMBING IF, IN FACT, NORTH VIETNAM WERE IN BAD FAITH TO TAKE MILITARY ADVANTAGE OF THE BOMBING CESSATION.

IN ADDITION TO AND CONCURRENTLY WITH THE BOMBING CESSATION, I WOULD URGE THAT WE PURSUE THE FOLLOWING COURSES:

1. GO PRIVATELY TO THE SOVIETS AND THE BLOC COUNTRIES TO ENLIST THEIR STRONG SUPPORT TOWARD ENSURING THAT, ON THE ONE HAND, HANOI DOES NOT TAKE MILITARY ADVANTAGE OF THE BOMBING CESSATION AND, ON THE OTHER, THAT HANOI WILL PROMPTLY BEGIN NEGOTIATIONS WHICH WILL BE FRUITFUL. WE WOULD ALSO BE IN A STRONG POSITION, HAVING FOLLOWED SOVIET AND BLOC ADVICE ON STOPPING THE BOMBING, TO URGE THAT THEY USE THEIR SUPPLY LEVERAGE IN SUPPORT OF A POLITICAL SETTLEMENT;
2. ENLIST THE SUPPORT OF OTHERS (E.G., FRANCE, INDIA AND OTHER NON-ALIGNED COUNTRIES) TOWARD THE SAME END;
3. ENLIST SIMILAR SUPPORT FROM THE POPE AND THE SECRETARY GENERAL;
4. ATTEMPT TO OBTAIN, AT AN APPROPRIATE TIME, THE SUPPORT OF THE SECURITY COUNCIL FOR OUR DIPLOMATIC EFFORT PRIOR RPT PRIOR TO ANY RESUMPTION OF THE BOMBING. RESORT TO THE COUNCIL, TIMED SO AS NOT TO UNDERMINE OUR OTHER POLITICAL INITIATIVES, WILL ADDITIONALLY SERVE TO SATISFY CONGRESSIONAL AND PUBLIC OPINION IN FAVOR OF INVOLVING THE UNITED NATIONS AND TO MINIMIZE THE DIFFICULTIES WHICH WOULD BE INVOLVED AT ANY TIME BOMBING IS RESUMED.

I REALIZE FULLY THE COURSE I AM PROPOSING WOULD HAVE REPERCUSSIONS AND IMPLICATIONS FOR THE GOVERNMENT IN SAIGON, PARTICULARLY AT THIS TIME. BUT A GROWING EROSION OF SUPPORT BY THE AMERICAN PEOPLE FOR OUR PRESENT POLICIES WOULD HAVE FAR GREATER REPERCUSSIONS AND IMPLICATIONS FOR THAT GOVERNMENT.

IN THE VIETNAM SITUATION, LIKE ALMOST ALL POTENTIAL NEGOTIATING SITUATIONS, THERE CAN NEVER BE AN IDEAL TIME FOR NEGOTIATIONS. IF THINGS ARE GOING WELL MILITARILY, THE NATURAL INCLINATION IS TO LOOK UPON NEGOTIATIONS AS UNNECESSARY. IF, CONVERSELY, THINGS ARE GOING BADLY MILITARILY, THEN THE DISPOSITION IS TO LOOK UPON NEGOTIATIONS AS DISADVANTAGEOUS. IN LIGHT OF OUR PAST EXPERIENCE IN VIETNAM, THERE WILL NOT BE, IN THE FORESEEABLE FUTURE, AN IDEAL TIME FOR NEGOTIATIONS. WERE WE TO DECIDE UPON A SUBSTANTIAL MILITARY BUILD-UP, I SEE NO REASON TO BELIEVE THAT OUR ADVERSARIES ARE INCAPABLE, GIVEN THE SUPPORT THEY ARE RECEIVING, OF STEPPING UP THEIR MILITARY RESPONSE, RATHER THAN BEING FORCED WITHIN PRACTICAL TIME LIMITS INTO NEGOTIATIONS UNDER CIRCUMSTANCES MORE ADVANTAGEOUS TO US THAN THE PRESENT.

MY STRONG CONVICTION ABOUT THE NEED FOR A MOVE TOWARD NEGOTIATIONS NOW IS BASED UPON THESE CONSIDERATIONS. NO FORESEEABLE TIME WILL BE BETTER FOR NEGOTIATIONS THAN THE PRESENT, AND NEVER HAS A SERIOUS MOVE TOWARD A POLITICAL SETTLEMENT BEEN MORE NECESSARY.

~~TOP SECRET~~

DTG 151509Z MAR 68

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1968 MAR 16 18

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Pres file

FROM WALT ROSTOW
TO THE PRESIDENT
CITE CAP80675

~~TOP SECRET~~

MARCH 16, 1968

68 MAR 16 PM 2:00

SATURDAY

FOR THE PRESIDENT

SO THAT YOU CAN STARE AT IT, I HAVE TRANSLATED THE ACHESON IDEA INTO THE FOLLOWING DRAFT DIRECTIVE FOR THE TEAM LEADER.

A KEY QUESTION IS: WHO SHOULD HEAD THE GROUP?

PERHAPS THE BEST CHOICE WOULD BE CY VANCE. BUT HIS BEING ABOUT WASHINGTON WOULD LEAD TO LEAKS. HIS QUALITY IS SUCH THAT IT MIGHT WELL BE WORTH TAKING THAT RISK OR EVEN LETTING IT BE KNOWN THAT HE IS DOING A VIETNAM REVIEW JOB.

OTHER POSSIBLE CANDIDATES: MAX TAYLOR, DEAN ACHESON.

DRAFT INSTRUCTION

I WISH YOU TO DIRECT A STUDY WHICH WILL LOOK BACK TO THE PAST AND FORWARD TO THE FUTURE WITH RESPECT TO OUR VIETNAM POLICY. THE STUDY SHOULD BE COMPLETED BY MAY 15, 1968.

THESE ARE THE QUESTIONS WHICH I SHOULD LIKE ANSWERED FROM ALL THE DATA WE NOW HAVE AVAILABLE AND CAN PROMPTLY GENERATE:

1. WHAT PROGRESS DID WE MAKE -- AND FAIL TO MAKE -- IN THE PERIOD BETWEEN MID-1965 AND TET 1968?
2. WHAT ELEMENTS OF FEAR AND HOPE, WEAKNESS AND STRENGTH, LED HANOI TO MOUNT THE WINTER-SPRING OFFENSIVE?
3. WHERE DOES HANOI STAND WITH RESPECT TO ITS OBJECTIVES, AS OF THE TIME THIS STUDY IS COMPLETED? WHAT ARE ITS OPTIONS AS YOU THINK HANOI SEES THEM? TO WHAT EXTENT ARE THEY DEPENDENT ON WHAT THE UNITED STATES SAYS AND DOES IN THE TIME AHEAD? WHICH OPTION DO YOU BELIEVE HANOI WILL CHOOSE?
4. WHAT CAN WE EXPECT FROM THE GOVERNMENT OF VIETNAM AND ITS ARMED FORCES WITH RESPECT TO: UNITY; EXECUTIVE AND ADMINISTRATIVE ENERGY; SCALE, MODERNIZATION AND EFFECTIVENESS IN COMBAT DURING THE BALANCE OF CALENDAR YEAR 1968? 1969?

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Authority MSC Ltr 4/5/82 re m 281-95
By ewh/ky, NARA, Date 4/1/92

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5. WHAT INCREMENTS OF MILITARY FORCE CAN WE EXPECT -- OR, REALISTICALLY, INDUCE -- FROM OUR PRESENT FIGHTING ALLIES? COULD THAT CIRCLE BE WIDENED?

6. WHAT ARE THE PROSPECTS FOR INHIBITING OR BLOCKING THE FLOW OF NORTH VIETNAMESE FORCES TO THE SOUTH IN THE LIGHT OF OUR EXPERIENCE WITH BOMBING NORTH VIETNAM; WITH THE TECHNOLOGY OF THE SO-CALLED BARRIER; AND WITH THE USE OF AIR AND GROUND FORCES AGAINST NORTH VIETNAMESE FORCES?

7. WHAT IS THE STATE OF THE NORTH VIETNAMESE ARMED FORCES? WHAT REGULAR RESERVES ARE AVAILABLE FOR DISPATCH TO THE SOUTH? WHAT IS THEIR DEMONSTRATED AND POTENTIAL CAPACITY TO PROVIDE REPLACEMENTS IN BOTH QUANTITY AND QUALITY?

8. WHAT IS THE PRESENT STATE OF THE CONTROL OVER THE POPULATION OF SOUTH VIETNAM, PARTICULARLY IN RURAL AREAS? WHAT ARE THE PROSPECTS FOR THE BALANCE OF 1968? 1969?

9. IN THE LIGHT OF YOUR ANALYSIS AND JUDGMENT, CAN WE ENVISAGE AS REALISTIC A POLICY OF GRADUAL REDUCTION OF U.S. FORCES IN VIETNAM: IN THE BALANCE OF 1968; 1969; 1970?

10. AT WHAT MOMENT -- IF ANY -- COULD YOU ENVISAGE AS POTENTIALLY EFFECTIVE A U.S. OR GVN NEGOTIATING INITIATIVE? WHAT SHOULD BE THE CHARACTER OF THAT INITIATIVE?

YOU SHOULD FEEL FREE TO POSE AND ANSWER OTHER QUESTIONS YOU JUDGE RELEVANT TO PAST OR FUTURE POLICY IN VIETNAM.

IN DEVELOPING YOUR REPORT, YOU SHOULD ASSEMBLE A TEAM OF THE MOST KNOWLEDGEABLE AND ABLE VIETNAM EXPERTS IN THE GOVERNMENT; FOR EXAMPLE, GEORGE CARVER, WILLIAM DE PUY, PHILIP HABIB, WILLIAM JORDEN, ROY WEHRLE. (A DOD REPRESENTATIVE IS NEEDED. THE OBVIOUS CHOICE IS RICHARD STEADMAN. HE FEELS STRONGLY THAT VIETNAM IS HOPELESS. BUT, MORE IMPORTANT, I CANNOT RECOMMEND HIM UNTIL IT IS FIRMLY ESTABLISHED THAT HE WAS NOT INVOLVED IN THE NEW YORK TIMES LEAK.) THEY SHOULD, IF NECESSARY, WORK VIRTUALLY FULL-TIME ON THE PROJECT.

YOU SHOULD FEEL FREE, OF COURSE, TO CONSULT WITH OTHER OFFICIALS IN THE GOVERNMENT AND, ON A DISCREET BASIS, WITH OUTSIDE EXPERTS AS WELL.

DTG 161709Z MAR 68

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FROM WALT ROSTOW
TO THE PRESIDENT
CITE CAP80673

Pres file

~~SECRET~~

MARCH 16, 1968

HERewith SECRETARIES RUSK AND CLIFFORD RECOMMEND THAT WE DISPATCH A WORKING-LEVEL TEAM TO EXPLORE WITH THE GERMANS CERTAIN PROPOSITIONS PUT TO US BY THEM WHICH WOULD INTENSIFY OUR NUCLEAR CONSULTATIONS.

BECAUSE OF OTHER RECENT PREOCCUPATIONS, THE TWO SECRETARIES HAVE ONLY JUST NOW COME TO A JOINT DECISION ON THE MATTER.

THE U.S. TEAM IS SCHEDULED TO LEAVE FOR GERMANY TONIGHT. IT WOULD BE HELPFUL IF WE COULD HAVE YOUR DECISION AT THE EARLIEST CONVENIENT TIME.

MEMORANDUM FOR THE PRESIDENT

SUBJECT: CONSULTATION WITH THE FEDERAL REPUBLIC
OF GERMANY ON NUCLEAR WEAPONS RELEASE

RECOMMENDATION:

THAT YOU APPROVE IN PRINCIPLE NUCLEAR CONSULTATION ARRANGEMENTS OF THE TYPE DESCRIBED BELOW SUBJECT TO YOUR FINAL REVIEW WHEN THE DETAILS ARE WORKED OUT.

APPROVE-----DISAPPROVE-----

DISCUSSION:

IN NOVEMBER DR. CARSTENS, THEN STATE SECRETARY FOR DEFENSE OF THE FEDERAL REPUBLIC OF GERMANY, HANDED DEPUTY SECRETARY OF DEFENSE NITZE A MEMORANDUM WHICH PROPOSED A) INCREASED FRG PARTICIPATION IN THE FORMULATION AND REVIEW OF NATO NUCLEAR PLANS, B) NOTICE OF REQUESTS SUBMITTED BY GENERAL LEMNITZER TO THE PRESIDENT FOR SELECTIVE RELEASE OF NUCLEAR WEAPONS TO BE EMPLOYED FROM OR ON GERMAN SOIL IN ORDER TO GIVE THE GERMAN GOVERNMENT AN OPPORTUNITY TO EXPRESS ITS VIEWS, AND C) AN ARRANGEMENT WHEREBY ORDERS FOR SELECTIVE USE OF NUCLEAR WEAPONS BY GERMAN UNITS WOULD BE SUBJECT TO CONFIRMATION BY THE FRG GOVERNMENT. THE GERMANS EXPRESSLY EXEMPTED FROM THEIR REQUEST ANY CHANGE IN CURRENT NUCLEAR PROCEDURES FOR GENERAL RELEASE.

FROM OFFICE COPY

DECLASSIFIED
E.O. 13526, Sec. 3.5
NLJ 12-153
By 442 NARA, Date 12-27-2013

A US-FRG STAFF LEVEL TASK FORCE HAS BEEN EXPLORING WITHOUT COMMITMENT THE DETAILS AND IMPLICATIONS OF THE FRG REQUEST. AT A MEETING NEXT WEEK THE U.S. TEAM EXPECTS TO DISCUSS WITH THE GERMANS A DRAFT TASK FORCE REPORT TO THE RESPECTIVE DEFENSE MINISTERS WHICH WOULD SUGGEST THAT A CONFIDENTIAL LETTER BETWEEN THE PRESIDENT AND THE CHANCELLOR WOULD BE AN APPROPRIATE VEHICLE FOR ANY UNDERTAKING BETWEEN THE TWO GOVERNMENTS

1) TO CONSULT PRIOR TO SELECTIVE RELEASE BY THE U.S. OF NUCLEAR WEAPONS FOR USE IN OR FROM ANY PART OF GERMANY, AND

2) THAT THE U.S. WOULD NOT SELECTIVELY RELEASE NUCLEAR WEAPONS FOR USE BY GERMAN DELIVERY FORCES OVER THE OBJECTION OF THE GOVERNMENT OF THE FEDERAL REPUBLIC.

WHILE THE DRAFT REPORT DOES NOT ACTUALLY RECOMMEND THESE CONSULTATION AND RELEASE COMMITMENTS, SECRETARY CLIFFORD AND I CONSIDER IT DESIRABLE THAT YOU BE INFORMED OF THIS TREND OF THINKING BEFORE OUR STAFFS MENTION IT TO THE FRG, SINCE IT MAY LOGICALLY LEAD TO A PROPOSAL TO YOU FOR CONSIDERATION OF SUCH A LETTER AND UNDERTAKING.

WE WOULD FAVOR IN PRINCIPLE THIS GENERAL APPROACH FOR THE FOLLOWING REASONS:

1) WITH GERMANY THE FRONT LINE OF THE ALLIANCE AND WITH THE BULK OF OUR NUCLEAR WEAPONS STORED THERE, THE GERMAN GOVERNMENT HAS AN UNDERSTANDABLE DESIRE FOR A "RIGHT TO BE HEARD" ON SELECTIVE NUCLEAR RELEASE DECISIONS. THE CONSULTATION COMMITMENT WE ARE SUGGESTING WOULD BE LESS THAN THAT WE ALREADY HAVE WITH THE BRITISH AND ITALIANS WHICH CALLS FOR OBTAINING THEIR AGREEMENT TO ANY USE WHATEVER OF NUCLEAR WEAPONS FROM THEIR SOIL.

2) AS FOR A GERMAN DESIRE FOR SOME MEASURE OF CONTROL OVER USE OF THEIR DELIVERY FORCES, IT IS DIFFICULT TO DENY A REQUEST FOR THIS DEGREE OF RECOGNITION OF SOVEREIGNTY AND CIVILIAN CONTROL, OR TO ENVISAGE CIRCUMSTANCES UNDER WHICH THE PRESIDENT WOULD WANT TO RELEASE NUCLEAR WEAPONS FOR USE BY GERMAN UNITS OVER THE OBJECTION OF THE GERMAN GOVERNMENT. AN ARRANGEMENT RECOGNIZING THIS SEEMS PREFERABLE TO ESTABLISHMENT BY THE FRG OF DE FACTO CONTROL AND COMMUNICATIONS BY WHICH IT COULD ASSURE THAT GERMAN UNITS DO NOT EMPLOY NUCLEAR WEAPONS WITHOUT A CONFIRMATORY ORDER FROM THE GERMAN GOVERNMENT.

3) FAILURE TO ACHIEVE SATISFACTORY NUCLEAR CONSULTATION ARRANGEMENTS COULD CAUSE CONSIDERABLE DIFFICULTY FOR THE KIESINGER GOVERNMENT.

4) A REFUSAL TO GRANT THIS RELATIVELY MODEST REQUEST FOR SOVEREIGN RIGHTS IN THE NUCLEAR FIELD COULD COMPLICATE OTHER NUCLEAR ISSUES INCLUDING THE NON-PROLIFERATION TREATY.

CONFIDENTIAL

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1968 MAR 16 17 23

FROM WALT ROSTOW
TO THE PRESIDENT
CITE CAP80674

~~CONFIDENTIAL~~

MARCH 16, 1968

1968 MAR 16 PM 12:48

SATURDAY

FOR THE PRESIDENT FROM WALT ROSTOW

CAROL LAISE BUNKER REPORTS THAT KING MAHENDRA OF NEPAL HAS APPARENTLY SUFFERED HEART ATTACK WHILE ON HUNTING TRIP IN HIMALAYAS. LATEST WORD IS THE KING'S CONDITION SATISFACTORY. BRITISH SPECIALIST HAS GONE TO HUNTING CAMP, AND CAROL HAS OFFERED OUR EMBASSY PLANE TO FLY UP MEDICINE. WE DO NOT KNOW WHEN KING WILL BE EVACUATED BACK TO KATHMANDU. NEPALESE HAVE NOT ANNOUNCED ILLNESS. CAROL HAS ASKED HOW WE CAN HELP; NEPALESE ANSWERED "NOTHING FOR THE MOMENT".

FOLLOWING, FOR YOUR APPROVAL, IS QUIET MESSAGE TO KING OR CAROL TO DELIVER WHEN SHE THINKS APPROPRIATE.

BEGIN DRAFT CABLE:

FOR AMBASSADOR

SUBJECT: KING'S ILLNESS

1. FOLLOWING IS TEXT OF MESSAGE FROM PRESIDENT TO KING MAHENDRA:

QUOTE: YOUR MAJESTY:

MRS. JOHNSON AND I WERE DEEPLY DISTRESSED TO LEARN OF YOUR ILLNESS. AMBASSADOR LAISE IS STANDING BY TO DO ANYTHING SHE CAN TO BE OF HELP OR COMFORT TO YOUR MAJESTY.

WE ARE PRAYING FOR YOUR SPEEDY AND COMPLETE RECOVERY.

WITH WARMEST PERSONAL WISHES.

SINCERELY,

LYNDON B. JOHNSON

UNQUOTE

2. PRESIDENTIAL MESSAGE MAY BE DELIVERED WHENEVER IN YOUR JUDGEMENT IT CLEARLY APPROPRIATE.

3. WOULD APPRECIATE ASAP ANY FURTHER DETAILS OF KING'S CONDITION AND PROSPECTS.

END DRAFT CABLE

CONFIDENTIAL

DTG 161644Z MARCH 1968
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DECLASSIFIED
White House Guidelines, Feb. 24, 1993
By phg, NARA, Date 6/25/96

ACTION ¹⁹

Pres file

Saturday, March 16, 1968 -- 9:35 a.m.

Mr. President:

Disarmament Deputy Director Adrian Fisher cannot go to Mexico -- due to illness -- to sign the Protocol to the Latin American Nuclear Free Zone Treaty, as we had planned.

Nick Katzenbach is willing to do the honors, but he wonders whether you might wish to have the Vice President do it. No firm date for the signing has been set.

What is your preference?

The Vice President _____

Katzenbach _____

W. W. Rostow

WGB:WWR:rla

INFORMATION

~~SECRET~~

Saturday, March 16, 1968 - 9:00 am

Mr. President:

Weather luck holds at Khe Sanh:

- 234 incoming rounds;
- 351 friendly sorties plus
36 B-52's;
- recce and small attacks on A Shau
Valley, of which we shall have
more;
- 227 tons delivered.

Pres file

W. W. Rostow

~~SECRET~~

WWRostow:rlm

DECLASSIFIED
Authority OSD ltr 10-18-78
By sp/ry, NARA, Date 4/2/92

Saturday, March 16, 1968, 8:30 AM

MEMORANDUM FOR THE PRESIDENT

Herewith, General Westmoreland's report number forty-one on the situation in the Khe Sanh/DMZ area for the 24-hour period ending 8:00 PM, 15 March.

Khe Sanh had clear weather after early morning haze lifted after 11:00 am. Prior to that time, Air Force resupply operations had been hampered.

During the period, Khe Sanh received 30 rounds of artillery, 14 rounds of rocket and 190 rounds of mortar fire, for a total of 234 rounds. The incoming fire resulted in one Marine killed and 13 wounded (three evacuated). Enemy indirect fire attacks marked the only activity at the base, as no ground contacts were reported. There was no change in either the disposition of Marines in defense at Khe Sanh, or in the enemy situation.

Elsewhere along the DMZ, contact was light with one exception. Dong Ha received twenty-five 140mm rocket rounds which wounded 13 personnel. Two required medical evacuation. Total casualty figures for the 3rd Marine Division area for the period were, two Marines killed, 39 wounded (16 evacuated), 14 enemy killed.

In tactical air operations, 351 sorties were flown. Marines flew 130, US Air Force 133, and the Navy 88. Bomb damage assessment included 53 secondary fires, 19 road cuts, 45 bunkers destroyed, three trucks destroyed, 18 secondary explosions, 25 enemy killed by air and one mortar position destroyed.

In the A Shau Valley, US Air Force flew four reconnaissance sorties and seven tactical strike sorties. Bomb damage assessment included three secondary explosions and 10 bunkers destroyed.

Six Arc Light strikes (36 sorties) were scheduled into the Niagara Area. One strike, within 1,200 meters of friendly troops, with fifteen secondary explosions reported.

Aerial resupply for the period totaled 227 short tons. One hundred and forty-two passenger replacements were landed at the field. Throughout the day, 49 sorties were flown. Fixed wing aircraft conducted 16 airdrops. Marine helicopters flew the remaining 33 sorties, delivering passengers and cargo.

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Authority EO 11652 Sec 5.(A) & (D)
By sp/rg, NARA, Date 4/2/92

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Three hundred and sixteen tactical air sorties were scheduled for the next 24-hour period, with the Marines planning 88, Air Force 128 and the Navy 100. Marines will maintain their 16 aircraft on call and the Air Force will have 120 alert sorties available on call. Six Arc Light strikes (36 sorties) are also scheduled.

The forecast for 16 March is for scattered clouds and good visibility by 11:00 am. Ceilings and visibility will again lower by mid-night and fog will reduce conditions to marginal by early morning on the seventeenth.

~~TOP SECRET~~

3/16/68

Pres file

FROM WALT ROSTOW
FOR THE PRESIDENT

21

So that you can stare at it, I have translated the Acheson idea into the following draft directive for the team leader.

A key question is: Who should head the group?

Perhaps the best choice would be Cy Vance. But his being about Washington would lead to leaks. His quality is such that it might well be worth taking that risk or even letting it be known that he is doing a Vietnam review job.

Other possible candidates: Max Taylor, Dean Acheson.

DECLASSIFIED *NLJ81-95-*
Authority *NSC 66 1/5/82*
By *WJG*, NARA, Date *4/1/92*

I wish you to direct a study which will look back to the past and forward to the future with respect to our Vietnam policy. The study should be completed by ^{May 15} ~~June 1~~, 1968.

These are the questions which I should like answered from all the data we now have available and can promptly generate:

1. What progress did we make -- and fail to make -- in the period between mid-1965 and Tet 1968?
2. What elements of fear and hope, weakness and strength, led Hanoi to mount the winter-spring offensive?
3. Where does Hanoi stand with respect to its objectives, as of the time this study is completed? What are its options as you think Hanoi sees them? To what extent are they dependent on what the United States says and does in the time ahead? Which option do you believe Hanoi will choose?
4. What can we expect from the Government of Vietnam and its armed forces with respect to: unity; executive and administrative energy; scale, modernization and effectiveness in combat during the balance of calendar year 1968? 1969?
5. What increments of military force can we expect -- or, realistically, induce -- from our present fighting allies? Could that circle be widened?
6. What are the prospects for inhibiting or blocking the flow of North Vietnamese forces to the South in the light of our experience with bombing North Vietnam; with the technology of the so-called barrier; and with the use of air and ground forces against North Vietnamese forces.

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Authority TSC Dec 1/5/80 MJ 8145
By LW/rg, NARA, Date 4/1/96

7. What is the state of the North Vietnamese armed forces? What regular reserves are available for dispatch to the South? What is their demonstrated and potential capacity to provide replacements in both quantity and quality?

8. What is the present state of the control over the population of South Vietnam, particularly in rural areas? What are the prospects for the balance of 1968? 1969?

9. In the light of your analysis and judgment, can we envisage as realistic a policy of gradual reduction of U.S. forces in Vietnam; in the balance of 1968; 1969; 1970?

10. At what moment -- if any -- could you envisage as potentially effective a U. S. or GVN negotiating initiative? What should be the character of that initiative?

You should feel free to pose and answer other questions you judge relevant to past or future policy in Vietnam.

In developing your report, you should assemble a team of the most knowledgeable and able Vietnam experts in the government; for example, George Carver, William De Puy, Philip Habib, William Jorden, Roy Wehrle. (A DOD representative is needed. The obvious choice is ^{Richard}~~William~~ Steadman. He feels strongly that Vietnam is hopeless. But, more important, I cannot recommend him until it is firmly established that he was not involved in the New York Times leak) They should, if necessary, work virtually full-time on the project.

You should feel free, of course, to consult with other officials in the government and, on a discreet basis, with outside experts as well.

~~confidential~~

March 16, 1968

FOR THE PRESIDENT FROM WALT ROSTOW

Pres file

Carol Laise Bunker reports that King Mahendra of Nepal has apparently suffered heart attack while on hunting trip in Himalayas. Latest word is that King's condition "satisfactory." British specialist has gone to hunting camp, and Carol has offered our embassy plane to fly up medicine. We do not know when King will be evacuated back to Kathmandu. Nepalese have not announced illness. Carol has asked how we can help; Nepalese answered "nothing for the moment".

Following, for your approval, is quiet message to King for Carol to deliver when she thinks appropriate.

BEGIN DRAFT CABLE:

For Ambassador

Subject: King's Illness

1. Following is text of message from President to King Mahendra:

QUOTE: Your Majesty:

Mrs. Johnson and I were deeply distressed to learn of your illness. Ambassador Laise is standing by to do anything she can to be of help or comfort to Your Majesty.

DECLASSIFIED
White House Guidelines, Feb. 24, 1983
By shg, NARA, Date 6/25/96

We are praying for your speedy and complete recovery.

With warmest personal wishes.

Sincerely,

Lyndon B. Johnson

UNQUOTE

**2. Presidential message may be delivered whenever
in your judgement it clearly appropriate.**

**3. Would appreciate ASAP any further details of King's
condition and prospects.**

END DRAFT CABLE

~~TOP SECRET~~

March 16, 1968

Pres file

23

FROM WALT ROSTOW

FOR THE PRESIDENT

Clark Clifford reports as follows:

1. He has been in touch with Rivers, who will return Sunday ^{evening} from South Carolina and will be available only by Monday morning.
2. He has a call in for Senator Russell.
3. In the light of Rivers' disposition, Clifford is using the weekend to get exactly right the ^{dollar} figures that go with the package. He is working with the Comptroller on that now.
4. He plans to leave it up to Rivers and Russell as to ~~whether~~ ^{will} who ~~will~~ be present on Monday morning.
5. Clifford also reports that he has in this morning Blandford, Clerk of the Armed Services Committee, whom he judges to be -- next to Rivers -- the most powerful man connected with that committee. He finds that cooperation between the Pentagon and that committee had virtually ceased for three years. He is reestablishing those lines of cooperation. He did not, repeat not, brief Blandford in any detail on what he will be laying before Rivers and Russell on Monday, but he did indicate that he would be going up with Wheeler on Monday to discuss matters with them.

####

DECLASSIFIED

White House Guidelines, Feb. 24, 1983

By Sp/ach, NARA, Date 4/21/96

24

INFORMATION

Pres file

~~CONFIDENTIAL--SENSITIVE~~

Friday, March 15, 1968 -- 8:25 p.m.

Mr. President:

Should you consider a replacement for Gen Wheeler, I commend:
General David Burchinal.

You met him briefly in Bonn, on the occasion of Adenauer's funeral.

He has these qualifications:

- kept SHAPE vital, despite French defection from NATO;
- handled move from France with efficiency and grace;
- did much of basic planning for movement of our forces to Vietnam, when Director of the Joint Staff;
- able, intelligent, politically sensitive;
- personable, articulate, and a vital personality.

I got to know him well when I was State Department planner.

There may well be other candidates.

He's just the best I know.

W. W. Rostow

DETERMINED TO BE AN ADMINISTRATIVE
MARKING. CANCELLED PER E.O. 12356,
SEC. 1.3 AND ARCHIVIST'S MEMO OF
MAR 16, 1993.

BY *hga* ON 3/31/92

WWRostow:rla

~~CONFIDENTIAL~~

INFORMATION

25

~~CONFIDENTIAL~~

Pres file

Friday, March 15, 1968
7:45 p.m.

Mr. President:

Herewith Radio Free Europe
proves its worth and the lessons of
1956 in Budapest are remembered --
producing cool, factual reporting.

W. W. Rostow

~~CONFIDENTIAL~~

Radio Free Europe and Radio Liberty Comment
and Cross-Reporting on Events in Poland and
Czechoslovakia (68-1256)

Log 984

WWRostow:rla

DECLASSIFIED
E.O. 12356, Sec. 3.4(b)
White House Guidelines, Feb. 24, 1983
By kg, NARA, Date 3/31/92

~~CONFIDENTIAL~~

984

25a

MEMORANDUM FOR: The President

I thought you might be interested to see this brief description of Radio Free Europe and Radio Liberty activities during the current unrest in Poland and Czechoslovakia. You will note that both Radios are carefully following the policy guidance set forth by the Department of State.

Dir

Richard Helms

Attachment - 1

15 March 1968
(DATE)

~~CONFIDENTIAL~~

FORM NO. 101
1 AUG 54

REPLACES FORM 10-101
WHICH MAY BE USED.

(47)

DECLASSIFIED
Authority NLT007-0441-3
By SP, NARA, Date 11-16-01

~~CONFIDENTIAL~~

984
256

Executive Registry
65-1256

DECLASSIFIED
E.O. 12356, Sec. 3.4
NEJ 93-383
By ing, NARA, Date 3-29-94

MEMORANDUM FOR:

SUBJECT: Radio Free Europe and Radio Liberty Comment
and Cross-Reporting On Events in Poland and
Czechoslovakia

1. Radio Free Europe/Radio Liberty Coverage: ~~Radio Free Europe's coverage of the Warsaw student demonstrations has been factual and restrained with quiet emphasis on the limits of its knowledge.~~ Broadcasts to Poland stress that the students have, in a mature fashion, focused their demands on the immediate student issues involved - the arrest and expulsion of students, violation of the university's extraterritorial status, and disregard of the rights of defendants in university disciplinary proceedings. The broadcasts also point out that the students have been influenced by the events in Czechoslovakia and student discontent elsewhere in the world, compounded by the recent series of repressive cultural measures in their own country and their awareness of Poland's general failure to continue the processes of democratization and modernization that seemed so promising in 1956.

2. Cross-Reporting: ~~News of the street demonstrations in Warsaw is being cross-reported to RFE's other audiences - Czechoslovak, Hungarian, Rumanian and Bulgarian - with special emphasis on comparisons with developments in Czechoslovakia~~ where the Interior Ministry condemned police violence against students during demonstrations in Prague in October. In addition to providing its Soviet audience with full coverage of developments in Poland, Radio Liberty takes Soviet media to task for failure to give any coverage at all to the Polish events.

3. Effectiveness: Ambassador Gronouski has cabled the State Department that RFE's broadcasts to Poland during the present crisis, particularly detailed up-to-date accounts of Polish events and comparative treatment of developments in Czechoslovakia, have been "especially appreciated by the Polish audience." Another

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

Warsaw report states that many Poles are full of praise for RFE coverage of the news, the only source they listen to in order to get the true facts. It notes that RFE broadcasts have left Polish media no choice but to react hastily in their treatment, with resulting fumbling and blunders as they attempt to present some of the facts. Although RFE broadcasts to Czechoslovakia are jammed, there is considerable evidence that they are heard by Czechoslovak listeners. Western broadcasts, including RadLib, are the only source of information about the Polish crisis in the Soviet Union since Soviet media have maintained a complete blackout on news of the Polish demonstrations.

4. Policy Controls: Special procedures have been implemented to insure that RFE broadcasts continue to follow the guidelines set forth in the guidance papers and that there be no "shooting from the hip." The Director of the Polish Broadcast Desk has agreed with American management that it is absolutely essential that tone and content of RFE programming, including news programs, be as unemotional as possible and that the voices of his announcers be normal and unexcited. The Director of the Czechoslovak Broadcast Desk was given a lengthy review by the Director of RFE of the lessons learned from the experience of the Hungarian Revolt in 1956. The new President of Free Europe, Inc., assured his Board of Directors on 11 March that policy controls and script controls were firmly in the hands of American management. Radio Liberty has also instituted emergency policy procedures which entail advance approval of daily policy and programming with their American headquarters.

~~CONFIDENTIAL~~

ACTION 26

Friday, March 15, 1968, ^{7:25} 5:43 P. M.

MEMORANDUM FOR THE PRESIDENT

Pres file

The gold crisis meeting with the Governors of the Central Banks of the Gold Pool countries is scheduled to begin at 10:00 A. M. Saturday and to continue Sunday.

When Bill Martin opens the meeting he would like to tell the Europeans that we would be prepared to have a plane available to take them back on Sunday so that their work on Sunday would not be limited by commercial airline schedules.

I recommend you approve making the plane available on that contingency basis.

W. W. Rostow

_____ Approve

_____ No

_____ Call me

ERF:amc

27
Mr. Rostow

*1. [unclear]
2. Pur file*

~~CONFIDENTIAL~~

Friday, March 15, 1968 - 7:30 pm

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Approval of an Additional \$1.3 Million PL-480 Sale
to Tunisia

Secretary Freeman and Bill Gaud recommend that you authorize a small (\$1.3 million) additional PL-480 sale program for Tunisia. You approved the year's major (\$21.7 million) program last September, but this small additional sale is designed to help bolster Tunisia's foreign exchange resources and cushion our program loan cut.

In addition to the fact that Tunisia uses its economic aid well, this is part of maintaining our continuing political relationship. When President Bourguiba visits you in mid-May, he will be concerned about the economic aspects of the cut of at least \$5 million--and possibly \$10 million--from our \$15 million program assistance loan necessitated by Congressional cuts. Our job is to keep enough going at least to keep him from feeling that the cut indicates we are less interested in backing Tunisia politically.

W. W. Rostow

Approve ✓ 3/16/68

Disapprove _____

DECLASSIFIED
E.O. 12958, Sec. 3.6
NLJ 96-255
By us, NARA Date 9-11-97

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

272

EXECUTIVE OFFICE OF THE PRESIDENT
BUREAU OF THE BUDGET
WASHINGTON, D.C. 20503

MAR 7 1968

MEMORANDUM FOR THE PRESIDENT

Subject: P. L. 480 Sales Program with Tunisia

Orville Freeman and Bill Gaud recommend that you authorize a P. L. 480 sales agreement with Tunisia for \$1.3 million of tobacco and cattle hides, repayable half in local currency and half in dollars. This sales agreement would be a supplement to the one you approved last September for wheat, vegetable oil, corn and cotton which totaled \$21.7 million.

The tobacco included in this P. L. 480 proposal was to be provided under last year's AID program loan. Thus, the \$1 million worth of tobacco in this agreement will add to Tunisia's exchange resources. We concur with AID that this small addition is desirable in view of the drop in program loan assistance from \$15 million in FY 1967 to \$10 million in FY 1968.

This is the first time that raw cattle hides have been included in a P. L. 480 sales agreement. They have been on the Commodity Credit Corporation list of available "surplus" commodities for some time.

Military Expenditures. State/AID concludes that U. S. assistance is not being diverted to military expenditures and that Tunisian military expenditures do not materially interfere with development.

While we do provide military grant assistance, no "sophisticated" weapons are involved, nor are the Tunisians purchasing "sophisticated" equipment from other countries.

Self-Help. The self-help conditions specified in the March 1967 agreement apply to the present agreement. The AID Mission feels that the Tunisians have been cooperative in meeting the self-help provisions specified in the original agreement.

AID agrees that the 1969 program loan and P. L. 480 sales program should be negotiated as a package early in the fiscal year.

I recommend you approve this P. L. 480 supplement.

Attachment

Approve _____

Disapprove _____

Charles J. Zwick
Charles J. Zwick
Director

DECLASSIFIED
E.O. 12958, Sec. 3.6
NLJ 96-255

~~CONFIDENTIAL~~

By is, NARA Date 9-11-97

~~CONFIDENTIAL~~

276

To: The President

MAR 1 1968

Subject: Public Law 480 Sales Program with Tunisia

We recommend that you authorize us to negotiate with the Government of Tunisia a PL 480 sales agreement split fifty-fifty between dollar credit and local currency terms. The proposed sale would include 650 tons of unmanufactured tobacco, and 816 tons of cattle hides, for which the current market value is \$1.3 million. Except for an increase in the dollar credit initial interest rate, the credit terms are the same as in the last agreement: 20 years credit, two years grace, interest two percent during the grace period and two and one-half percent thereafter. The local currency terms are 80 percent for development loans, 8 percent for U.S. uses, 10 percent for Cooley loans and 2 percent for maternal and child welfare and family planning. The Departments of State and Treasury concur in this recommendation.

In our previous memoranda, (attached) the latest of which was approved by you September 18, 1967, we outlined Tunisia's requirements for vegetable oil, wheat, corn and cotton, the U.S. interest in Tunisia and self-help efforts to improve that country's agriculture. In 1966, the last full year reported, Tunisia imported about 2300 tons of unmanufactured tobacco of which 613 tons were financed by AID. The cattle hides provided under this agreement will fill the increased needs for this commodity over the levels of the 1966 imports.

Military Expenditures Review

Based on a review of existing information, State/AID has concluded that U.S. development assistance is not being diverted to military expenditures and that Tunisian resources are not being diverted to military expenditures to a degree which materially interferes with its development.

Recommendation

That you authorize us to proceed with this PL 480 sales agreement as described above.

February 14, 1968

William F. Gaud

Administrator

Agency for International Development

Charles H. Felt

Secretary

Department of Agriculture

DECLASSIFIED

E.O. 12958, Sec. 3.6

NLJ 96-272

By cb, NARA Date 3-3-97

Approve: _____

Disapprove: _____

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

27c

To: The President

September 12 1967

Subject: Public Law 480 Sales Program with Tunisia

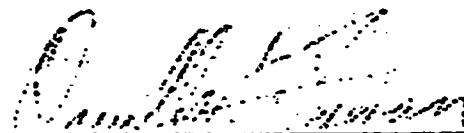
We recommend that you authorize us to negotiate with the Government of Tunisia a \$21.9 to \$26.6 million increase in the \$8.5 million PL 480 dollar credit and local currency sale approved by you early in January and the \$5.0 million increase approved by you early in March. The proposed \$21.9 to \$26.6 million increase would add 35,000 tons of soybean/cottonseed oil, 9,500 bales of cotton, 150,000 tons of wheat and 40,000 tons of corn to the soybean/cottonseed oil, wheat and barley already approved. (This 190,000 MT of grains may be increased up to 260,000. We are not certain at this time how much grain the Government of Tunisia can actually absorb and we are working toward determining this level.) Under this proposal the dollar credit portion of the program has been increased to 50 percent. The dollar credit terms remain the same; that is, 20-years credit, two-year grace, interest at one percent during the grace period and two and one-half percent thereafter. The local currency terms are 80 percent for development loans, 8 percent for U.S. uses, 10 percent for Cooley loans and 2 percent for maternal and child welfare and family planning. The Departments of State and Treasury have endorsed this proposal.

In our memoranda of December 23, 1966 and March 2, 1967 (attached), in which we recommended the PL 480 sale, we outlined the Tunisia requirements for agricultural commodities, the U.S. interest in Tunisia and self-help efforts to improve that country's agriculture.

Recommendation: That you authorize us to negotiate with Tunisia the sale of up to 260,000 tons of wheat and corn, 9,500 bales of cotton and 35,000 tons of soybean/cottonseed oil of which the current export market value is \$26.6 million.

/s/ William S. Gaud

Administrator
Agency for International Development



Secretary
Department of Agriculture

Approve: _____

SEP 18 1967

Disapprove: _____

DECLASSIFIED
E.O. 12958, Sec. 3.6
NLJ 96-262
By Cb, NARA Date 3.3.97

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

27d

To: The President

MAR 8 1967

Subject: P.L. 480 Sales Program with Tunisia

We recommend that you authorize us to negotiate with the Government of Tunisia, a \$5.0 million increase in the \$8.5 million P.L. 480 dollar credit and local currency sale approved by you early in January. The proposed increase would add 20,000 metric tons of soybean/cottonseed oil to the soybean/cottonseed oil, wheat and barley already approved. The same payment terms will apply, that is: under the dollar credit terms, 20 years credit, two-year grace, interest at 1 percent during the grace period and 2½ percent thereafter; and under the local currency terms, 70 percent of local currency proceeds are intended for development loans, 20 percent for U.S. uses and 10 percent for Cooley loans. The Department of State has endorsed this proposal.

Although Tunisia had asked for 30,000 tons of edible oil for the current fiscal year, it was not thought possible when the current approved program was developed to offer more than 10,000 tons. Subsequently, additional quantities have become available for programming under P.L. 480 to several countries including Tunisia. This addition will fulfill the amount requested.

In our memorandum of December 23, 1966 (attached), in which we recommended the current P.L. 480 sale, we outlined the Tunisia requirements for agricultural commodities, the U.S. interest in Tunisia and self-help efforts to improve that country's agriculture.

Recommendation: That you authorize us to negotiate with Tunisia the sale of 20,000 metric tons of soybean/cottonseed oil valued at \$5.0 million.

Cyril L. Freeman

/s/ William S. Gaud

Administrator
Agency for International Development

Secretary
Department of Agriculture

DECLASSIFIED

E.O. 12958, Sec. 3.6

NLJ 96 262

By cb, NARA Date 3-3-97

Approve: _____

Disapprove: _____

~~CONFIDENTIAL~~

UNITED STATES GOVERNMENT

~~CONFIDENTIAL~~

Memorandum

DEC 23 1966

TO : The President

DATE:

DEC 23 1967

FROM :

SUBJECT: PL 480 Program with Tunisia

We recommend that you authorize us to proceed with negotiations with the Government of Tunisia for PL 480 sales agreements as outlined below.

Title I Commodity Composition (75% of the commodity value)U.S. Fiscal Year 1967

<u>Commodity</u>	<u>Approximate Maximum Quantity (metric tons)</u>	<u>Estimated Market Value -----(1,000)-----</u>	<u>Estimated CCC Cost -----</u>
Foodgrains (wheat and barley)	90,000	\$5,770	\$6,610
Soybean oil/cottonseed oil	2,000	530	530
Total		\$6,300	\$7,140

Local Currency Uses

U.S. uses.....	20%
Cooley Loan (Sec. 104(e)).....	10%
Loans for economic development (Sec. 104(g)).....	70%

Title IV Commodity Composition (25% of the commodity value)U.S. Fiscal Year 1967

<u>Commodity</u>	<u>Approximate Maximum Quantity (metric tons)</u>	<u>Estimated Market Value -----(1,000)-----</u>	<u>Estimated CCC Cost -----</u>
Cottonseed and/or soybean oil	8,000	\$2,086	\$2,086
Ocean transportation (estimated)		70	95
Total		\$2,156	\$2,181

DECLASSIFIED
E.O. 12958, Sec. 3.6
NLJ 96-262
By Ct, NARA Date 3-3-97

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

2

Credit Terms

The credit terms will provide that payment for shipments in each calendar year will be made in 19 approximately equal annual installments, the first of which shall become due two years after the date of last delivery of commodities under the agreement in any calendar year. Subsequent payments of principal for commodities delivered in each calendar year will be due and payable annually thereafter. Interest during the period between the date of last delivery in each calendar year and the date of first payment of principal shall be at the rate of 1 percent per annum. Applicable interest shall be at the rate of 2½ percent per annum thereafter.

The State Department concurs in this recommendation.

Tunisia's Food Situation

Tunisia is faced with a serious food shortage due to a severe drought which has reduced agricultural production in the 1965-1966 season by 50% for bread wheat and barley and 45% for edible oil and is expected to result in a 1966-67 edible oil crop of less than half of the poor 1965-66 crop. Tunisia's severe balance of payments problems and inability to obtain assistance from other donors have made the situation very critical.

The drought has resulted in the production of only 350,000 metric tons of wheat in the 1966-67 growing season which is 170,000 MT less than was produced in the preceding season. Above and beyond usual commercial purchases and PL 480 assistance provided earlier this fiscal year, there still remains a gap of 100,000 metric tons. The proposed sale of 60,000 metric tons would not eliminate the diversion of scarce Tunisian foreign exchange from crucial imports needed for development, but it would considerably reduce the disruptive effect of this diversion on the development effort.

The Tunisian barley situation is similar to that of wheat. The deficit in 1966-67 production due to the drought is 160,000 metric tons. With barley provided under PL 480 earlier this fiscal year and through extensive substitution, the requirement has been reduced to 52,000 metric tons. We propose to provide 30,000 metric tons leaving 22,000 metric tons which Tunisia will have to purchase commercially. Barley was a foreign exchange earning export for Tunisia in FY 1966, whereas in FY 1967 the situation is reversed. Any further increase in commercial purchases beyond the 22,000 MT contemplated would divert scarce foreign exchange needed for Tunisia's development.

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

3

The edible oil situation is extremely serious. This year's crop is 45% less than last year's crop and next year's crop (ie., 1966-67) is expected to be less than one-half the size of this year's crop. During the 1966-67 growing seasons, 51,000 metric tons of oil imports will be required. After taking into account PL 480 assistance provided earlier in this fiscal year and normal commercial purchases, the gap is a staggering 39,000 metric tons. Tunisia has requested CCC credit sales of 1,200 tons and use of the FY 1966 program loan to finance 4,000 metric tons. Tunisia has requested 30,000 metric tons under PL 480, but due to limited U.S. availabilities, we are prepared to provide only 10,000 metric tons at this time, leaving an unfilled gap of 23,800 metric tons. Later in the fiscal year we will examine whether we can provide additional edible oil to ease the strain on Tunisian foreign exchange.

Tunisia's Self-Help Efforts

We believe Tunisia is making good progress in undertaking self-help measures. Tunisia has improved its planning and budgeting, undertaken a stabilization program including strict credit ceilings and limitations on gross investment, placed controls on government operating budget expenditures, and sharply curtailed the use of short-term, high interest-rate suppliers' credits. Wages and prices have remained virtually frozen. A nation-wide population control program has begun. In 1967 the Government has pledged to drastically curtail investment and further restrict credit in order to significantly increase the effectiveness of the stabilization effort.

In the period 1960-65, the growth of agricultural production has been approximately 3% per annum or half the 6% rate of growth for the economy as a whole. While the Government fell short of overly optimistic agriculture investment goal in the previous four-year plan, it has made a major effort to increase the growth of agricultural production, including a major agricultural reorganization and heavy investments in irrigation, tree planting, livestock, and research. The returns are now beginning to be felt and by 1969 annual growth in agriculture is expected to reach 4.6%. The following self-help measures set forth in the current three-year plan have begun and will accelerate during the period 1967-72:

- 1) A broad land reform and a national program to establish agricultural production cooperatives. 146 such cooperatives had begun operation through last year. 68 have been started this year and the Government plans to establish 100 annually for the next several years.

- 2) A comprehensive nation-wide water development program to increase irrigated land from 150,000 acres in 1961 to 450,000 acres by 1972. 50,000 acres have been completed and projects are now underway to irrigate an additional 135,000 acres. With U.S.

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4

assistance, the Government has adopted American well-drilling technique and expanded its capability to the point where it expects to complete 395 new wells over the next four years.

3) A national public works program which has more and more been channeled to support and extend the agricultural development effort. Drainage ditches, access roads, farm ponds, waterways, soil saving dams, fences, and farm buildings are being built, land is being leveled for irrigation and hillsides terraced, wells and cisterns are being dug; and grass, forage, and great numbers of fruit, nut, and forest trees are being planted.

4) A program to grow vegetable stock and tree seedlings and distribute them to farmers throughout the country and, through the public works program, a major tree planting program which will result in a million new fruit trees coming into production in each of the next five years and a large increase in olive oil production and export by 1975.

5) A major emphasis on increasing yields per acre through modern land classification, new cropping patterns, increased forage production to facilitate a major expansion in livestock production, introducing new export crops (e.g. pistachios, early and late ripening vegetables for the growing European markets), and applied crop research. Experimental trials have begun to identify improved wheat varieties and to introduce sunflower seeds and other crops for edible oil production. These programs reflect the Tunisian Government's intention to reduce Tunisia's dependence on cereal and oil imports.

Our Aid Understanding with Tunisia

The Tunisian Government understands that the major assistance provided by the U.S. is dependent upon continued self-help efforts to improve economic performance and must be in conjunction with efforts to maximize other donor contributions.

Improved Tunisian performance and increased assistance from other donors should make it possible to reduce Tunisia's dependence upon the U.S. as the major donor. In part through U.S. influence, the Tunisian Government has requested IMF standby credits, agreed to undertake a major stabilization program, and devalued its currency. We have encouraged the IERD and Tunisia into greater cooperative efforts to achieve better development planning and increased IERD assistance. Success to date is reflected in the heavy degree to which both the IMF and the IERD have participated in the preparation of the Tunisian 1967 economic budget and the establishment in 1966 of an improved budgeting process as a specific condition of U.S. assistance.

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

5

Recommendation: That you authorize us to begin negotiations with the Tunisian Government to sell 10,000 metric tons of edible oil, 30,000 metric tons of barley, and 60,000 metric tons of wheat under PL 480, Titles I and IV.

We will use the negotiations to encourage the Government of Tunisia to continue its numerous self-help measures to increase food production, particularly emphasizing improved agricultural planning and policies, expanded services for the farmer, improved farm practices, and essential investment for water development and agricultural equipment.

Approve: _____

Disapprove: _____

Administrator
Agency for International
Development

Secretary
Department of Agriculture

USDA-FAS/AID PBirnbaum:AFR/WA (typed IADS:LBrown:FAS:GSM:FWJack/ev 12-21-66)

~~CONFIDENTIAL~~

~~SECRET~~

March 15, 1968

28

MEMORANDUM TO: Secretary of State

Pres file

Ernie Goldstein reports the following from his recent trip to Paris.

He ran into Benno Vallieres of Dassault, with which he had had business connections when in private life. Out of a conversation with Vallieres, in the presence of General Fourquet (Messmer's Deputy for Armaments), Dassault's chief overseas salesman, Pierre Francois, called on Goldstein. Francois raised the following matters:

1. The Danes were flirting with the purchase of Swedish fighter aircraft rather than Mirages. We should encourage them to take Mirages. France, at least, was within the Alliance. If the Danes bought the Swedish aircraft, so might the Norwegians. This could lead to a Nordic bloc which, oriented toward Sweden, might move out of NATO.

2. There ought to be quiet cooperation and understandings between U. S. and French aircraft industry despite the difficulties posed by the Sherman Anti-Trust Act. The market ought to be divided by understandings that there were certain areas in which neither side would sell aircraft (perhaps Latin America); and other areas where precedence would be accorded to either French or American aircraft.

3. Such cooperation in general could be helpful to the United States. The French have solved a problem of wing fold-back which is still plaguing us with the F-111.

If we wish to proceed along these cooperative lines, Pierre Francois will be in the U. S. about March 25. (He will probably be accompanied by Benno Vallieres, but that is not yet certain.)

W. W. Rostow

cc: Secretary Clifford
Director Helms

DECLASSIFIED
E.O. 12958, Sec. 3.6
NLJ 96-255
By is, NARA Date 9-11-97

~~SECRET~~

DECLASSIFIED

ACTION

29

Authority OSD Lt 10-18-78, NSC 12-6-78

By del/ry, NARA, Date 4-6-92

~~TOP SECRET~~

Friday, March 15, 1968 -- 4:20 p.m.

MEMORANDUM FOR THE PRESIDENT

SUBJECT: 5:00 p.m. Meeting, March 15, 1968

Pres file

1. Ask Sec. Clifford to present his recommendations.
2. Questions, if not answered:
 - What level of draft call-ups go with the proposed package: in 1968; in 1969?
 - What are the budgetary implications of the proposed package: for FY 1968; for FY 1969?
 - What end strength figure for the Armed Forces goes with this package: end FY 1968; end FY 1969?
 - I note this package will bring our strategic reserve up to 7 divisions. How would this compare with the reserves before our commitment of major forces in mid-1965?
 - How thin has this package been pared: is the call-up sufficient to backstop the additional forces?
 - Do I take it that I am receiving from the Secretary of Defense a recommendation in which the JCS concurs?
 - How long can we maintain this posture without changing current personnel policies or calling up more reserves?
 - Has this recommended package been communicated to General Westmoreland?
 - Suppose the enemy commits his forces to a simultaneous offensive against: Saigon; Western Highlands; Khe Sanh; Quang Tri; and Hue. Is Westy in a position to deal with such an all-out offensive by the Nor North Vietnamese regular units? In such an emergency, are there any additional forces that could be quickly generated or deployed?
 - What is your present assessment of enemy intentions over coming weeks?

~~TOP SECRET~~

~~TOP SECRET~~

-2-

3. ARVN

- How is recruiting proceeding?
- Do we have a plan to modernize ARVN equipment rapidly?
- If we give the rebuilding and reequipping of the ARVN top priority, does this package cut across that objective? If so, to what extent?

4. Timing.

(Obviously the timing of this announcement must be related to our situation with respect to the monetary consultations and your confidence that we can cover the extra costs fully by increased taxes and reduced expenditures. In any case, Joe Fowler and Bill Martin should be promptly informed of any decision at which you arrive.)

5. Vietnam General Review.

(You may -- or may not -- wish to discuss how we proceed to examine where we go with Vietnam policy after the winter-spring offensive. My strong recommendation is: have a separate meeting on that subject.)

6. Depending on your feeling and judgment at the end of the session, you may wish to:

- arrange for further Congressional consultation and/or leadership meeting;
- give Secretaries Rusk and Ellifford guidance on the themes for your speech.

W. W. Rostow

WWRostow:rla

~~TOP SECRET~~

~~TOP SECRET~~

Friday, March 15, 1968
4:20 p. m.

Pres file

30

Mr. President:

Herewith Westy discloses how he plans to go on the offensive in I Corps.

If this plan goes well and the siege mentality is lifted around Saigon, the whole mood of the country about Vietnam could be quite different in two months.

W. W. Rostow

~~TOP SECRET EYES ONLY~~ attachment

DECLASSIFIED

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

White House Guidelines, Feb. 2

By sg, NARA, Date 3-27-92

~~TOP SECRET~~

Copy of MAC 03572 EYES ONLY March 15, 1968

30a

Subject: I Corps Operations

1. I have reviewed Gen. Cushman's plans for the next six-eight weeks in Northern I Corps. Priority will be given to destroying enemy forces in coastal areas of Thua Thien and Quang Tri; blocking enemy use of Route 547 and interdicting his line of communication in the A Shau valley; and mounting offensive operations against enemy forces in Khe Sanh area; to include opening of Route 9. The latter is planned to commence about 1 April.

2. As a result of above priorities, with extreme demands on logistic and helicopter support, Gen. Cushman does not plan to execute the assault and occupation of A Shau valley and raids into the associated base areas 607 and 611, as had been planned and approved for approximately 1 April. In lieu of assault operations into the A Shau valley, extensive reconnaissance operations by U. S. and Vietnamese special forces, and organic assets will continue along Route 547 to the valley. The reconnaissance will be backed up by at least one brigade of the 101st Airborne, operating out of Cumberland fire base. Targets in the valley will be developed for air and artillery attack. Raids of short duration by air mobile forces may be conducted to harass and destroy enemy logistical installations.

3. In conjunction with operations beginning in early April along Highway 9 and on the Khe Sanh plateau, we will submit contingency plans employing up to brigade size forces (US/ARVN) in operations against enemy bases in Laos. These plans will be focused on known enemy installations and/or forces which we cannot reduce by B-52 strikes, tactical air and other measures short of incursions by ground forces. Plans will be in consonance with Southeast Asia Coordination Conference discussions and coordinated with American Embassy, Laos. I will keep you apprised of our plans and requirements as they evolve.

~~TOP SECRET EYES ONLY~~

DECLASSIFIED

Authority OSD ltr 4/26/79

By isp/rg, NARA, Date 4-1-92