

The original documents are located in Box 26, folder “National Security Council - Documents Circulated for Opinions (2)” of the Philip Buchen Files at the Gerald R. Ford Presidential Library.

Copyright Notice

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Gerald R. Ford donated to the United States of America his copyrights in all of his unpublished writings in National Archives collections. Works prepared by U.S. Government employees as part of their official duties are in the public domain. The copyrights to materials written by other individuals or organizations are presumed to remain with them. If you think any of the information displayed in the PDF is subject to a valid copyright claim, please contact the Gerald R. Ford Presidential Library.

Date: February 3, 1976

Time:

FOR ACTION:

cc (for information):

Doug Bennett

Bob Hartmann

Phil Buchen

Jack Marsh

Jim Cannon

Rogers Morton

Bob Orben (review citation)

Max Friedersdorf

Bill Seidman

FROM THE STAFF SECRETARY

DUE: Date:

Thursday, February 5

Time:

2 P.M.

SUBJECT:

Confidential

Brent Scowcroft memo 2/3/76 re Medal of Freedom for Ambassador Bruce.

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Since the recommendation is for this medal to be presented on February 10th, your prompt reply would be appreciated in order that medal and citation can be prepared.


I support this recommendation.

P.W.B.

Philip W. Buchen
Counsel to the President

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.


James E. Connor
For the President

~~CONFIDENTIAL~~ACTION
February 3, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: Brent Scowcroft *BS*

SUBJECT: Medal of Freedom for Ambassador Bruce

Ambassador David Bruce has returned from his post as U.S. Representative to the North Atlantic Council and is retiring this month after 50 years of service to the United States.

I believe that Ambassador Bruce has demonstrated qualities which make him eminently qualified for consideration as the first recipient of the Medal of Freedom during your Administration. A proposed citation for the award is at Tab A.

If you approve the Medal of Freedom for Ambassador Bruce, I believe it would be fitting if you were to present the award at the conclusion of your February 10 meeting with NATO Secretary General Joseph Luns.

RECOMMENDATION

That you approve the Medal of Freedom for Ambassador David Bruce.

APPROVE _____

DISAPPROVE _____

Determined to be an administrative marking
Cancelled per E.O. 12356, Sec. 1.3 and
Archivist's memo of March 16, 1983
By kl NARS date 8/17/86

~~CONFIDENTIAL~~

Citation for Ambassador Bruce

Distinguished diplomat and scholar, dedicated public servant, David Bruce has been counselor to Presidents and Secretaries of State, and an inspiration to generations of Americans who serve their country abroad. For fifty years, he has represented to the world that which is best and truest in the United States. With wisdom, discipline, dedication to principle, and unerring fidelity to the best interests of the United States, David Bruce has brilliantly discharged an array of diplomatic responsibilities and assignments unmatched in modern American history. It is both fitting and symbolic that he has marked his most recent milestone of service as the United States Representative to the North Atlantic Council guiding this nation's interests with those of our allies in the North Atlantic Treaty Organization. David Bruce's professional achievements combine with his cultural attainments to place him in that elite line of American diplomatists which began with Jefferson, Franklin and Jay. The distinction of this single individual career has meant greater security and more hopeful prospects of lasting peace for every American.

THE WHITE HOUSE
WASHINGTON

February 4, 1976

Handwritten initials

MEMORANDUM FOR:

PHIL BUCHEN

FROM:

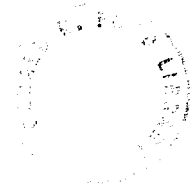
JIM CONNOR *JEC*

SUBJECT:

Transmittal of US-UK Extradition
Treaty to the Senate

When we staffed the transmittal message to the Senate for the US-UK Extradition Treaty, you asked why it had taken from June 8, 1972 until the present to have the President transmit this treaty to the Senate.

The delay was caused by the fact that the British had no criminal code covering narcotic offenders, they used a custom code. In order for the Extradition Treaty to be effective a Criminal Code had to be established. This was only accomplished a short time ago.



NSC

Date: January 29, 1976

Time:

FOR ACTION:

cc (for information):

Phil Buchen

FROM THE STAFF SECRETARY

DUE: Date: As Soon As Possible

Time:

SUBJECT:

Brent Scowcroft's memo 1/28/76 re Transmittal of US-UK Extradition Treaty to Senate

ACTION REQUESTED:

___ For Necessary Action

X For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

X For Your Comments

___ Draft Remarks

REMARKS:

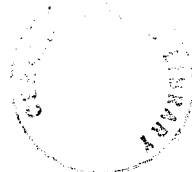
We felt you should review before this goes forward.

PLEASE RETURN ENTIRE ORIGINAL PACKAGE.

No objections, but why has it taken from June 8, 1972, until now to have the President transmit this Treaty to the Senate?

P.W.B.

Philip W. Buchen
Counsel to the President



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

~~James E. Connor~~
For the President

MEMORANDUM

THE WHITE HOUSE
WASHINGTON

481

ADMINISTRATIVELY
CONFIDENTIAL

ACTION
January 28, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: Brent Scowcroft *with you*

SUBJECT: Transmittal to Senate of US-UK Extradition Treaty

At Tab I for your signature is a message transmitting the Extradition Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland, together with a Protocol of Signature and an exchange of notes, to the Senate for its advice and consent to ratification. Your message would also forward the Department of State's report on the Treaty for the information of the Senate.

The Treaty was signed at London on June 8, 1972. It follows generally the form and content of extradition treaties recently concluded by this Government. It provides for the extradition of fugitives who have been charged with any of twenty-nine offenses listed in the Schedule to the Treaty. The most significant offenses added to the 1931 Treaty are those relating to narcotics, including psychotropic and other dangerous drugs, and the offense of aircraft hijacking. There is also inclusion of a provision which authorizes extradition under certain conditions for conspiracy to commit any of the listed offenses.

The Protocol of Signature permits the Government of the United States to obtain extradition of a person for an offense to which the Treaty relates when United States Federal jurisdiction is based upon interstate transport or transportation or the use of the mails or of interstate facilities. Additionally, the Treaty permits refusal of extradition unless assurances are received that the death penalty will not be imposed for an offense not punishable by death in the country from which extradition is requested.

This Treaty will enable the United States and the United Kingdom to update mutual efforts in combating international crime, particularly narcotics traffic and aircraft hijacking. The Department of Justice favors its ratification.

ADMINISTRATIVELY
CONFIDENTIAL

ADMINISTRATIVELY
CONFIDENTIAL

-2-

The text of your message has been cleared with Robert Orben and Max Friedersdorf concurs.

RECOMMENDATION

That you sign the message to the Senate at Tab I.

ADMINISTRATIVELY
CONFIDENTIAL



I

GERALD R. FORD LIBRARY

DEPARTMENT OF STATE
WASHINGTON

January 23, 1976

The President:

I have the honor to submit to you, with a view to the transmittal thereof to the Senate for its advice and consent to ratification, the Extradition Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland, together with a Protocol of Signature and an exchange of notes, signed at London on June 8, 1972.

The Treaty follows generally the form and content of extradition treaties recently concluded by this Government. It provides for the extradition of fugitives who have been charged with any of the twenty-nine offenses listed in the Schedule to the Treaty. The most significant offenses added are those relating to narcotics, including psychotropic and other dangerous drugs, and the offense of aircraft hijacking. Also significant is the inclusion of a provision in Article III which authorizes extradition under certain conditions for conspiracy to commit any of the listed offenses.

The Protocol of Signature permits the Government of the United States to obtain extradition of a person for an offense to which the Treaty relates when United States Federal jurisdiction is based upon interstate transport or transportation or the use of the mails or of interstate facilities.

The President,

The White House.

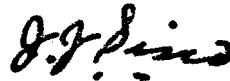


Article IV permits refusal of extradition unless assurances are received that the death penalty will not be imposed for an offense not punishable by death in the country from which extradition is requested. A similar article has been included in other recent treaties.

Article XVI(3) terminates the Extradition Treaty of December 22, 1931, as between the United States of America and the United Kingdom.

Prompt ratification of this Treaty will enable the United States and the United Kingdom to update mutual efforts in combating international crime. The Department of Justice favors the ratification of the present Treaty. It is hoped that the Senate will consider and approve the Treaty at an early date.

Respectfully submitted,



Enclosure:

Extradition Treaty
Between the Government of
the United States of America
and the Government of the
United Kingdom of Great
Britain and Northern Ireland,
together with a Protocol of
Signature and an exchange of
notes, signed at London
June 8, 1972.



TO THE SENATE OF THE UNITED STATES:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Extradition Treaty Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland, together with a Protocol of Signature and an exchange of notes, signed at London on June 8, 1972. I transmit also, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty, one of a series of extradition treaties being negotiated by the United States, significantly updates the present extradition relations between the United States and the United Kingdom and adds to the list of extraditable offenses both narcotic offenses, including those involving psychotropic drugs, and aircraft hijacking.

The Treaty will make a significant contribution to the international effort to control narcotics traffic and aircraft hijacking. I recommend that the Senate give early and favorable consideration to the Treaty and give its advice and consent to ratification.

THE WHITE HOUSE,



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

MSC

Date: February 13, 1976

Time:

FOR ACTION:

cc (for information):

Phil Buchen

FROM THE STAFF SECRETARY

DUE: Date: Tuesday, February 17

Time: 10 A. M.

SUBJECT:

Brent Scowcroft memo 2/12/76 re
Transmittal to the Senate of US-Swiss
Treaty on Mutual Assistance in Criminal
Matters

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

February 16, 1976

I concur.

P.W.B.

Philip W. Buchen
Counsel to the President



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James E. Connor
For the President

ADMINISTRATIVELY
CONFIDENTIALACTION
February 12, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: Brent Scowcroft *W.H. for*

SUBJECT: Transmittal to the Senate of US-Swiss Treaty
on Mutual Assistance in Criminal Matters

At Tab A for your signature is a message transmitting the Treaty on Mutual Assistance in Criminal Matters between the Government of the United States of America and the Swiss Confederation, together with seven exchanges of interpretative letters, to the Senate for its advice and consent to ratification. Your message would also forward the Department of State's report on the Treaty for the information of the Senate.

The Treaty was signed at Bern on May 25, 1973 and the final interpretative letter was signed on December 23, 1975. The Treaty is a pioneering effort. Signed after seven years of negotiations, it represents the first major agreement for the United States in the area of mutual assistance in dealing with criminal matters. For Switzerland, it is the first agreement of this type with a country having an Anglo-Saxon system of law.

The Treaty provides for broad assistance in the investigation and prosecution of criminal matters. This includes assistance in locating witnesses, obtaining statements and testimony of witnesses, production and authentication of business records, and service of judicial or administrative documents. The Treaty also provides for special assistance where organized crime is involved. Several provisions of the Treaty deal with the Swiss concept of banking secrecy. The negotiators gave careful attention to how Swiss bank information could be made available to, and used by, the United States in connection with serious crimes here. When the conditions of the Treaty have been met, bank secrecy now is no bar to assistance.

ADMINISTRATIVELY
CONFIDENTIAL

ADMINISTRATIVELY
CONFIDENTIAL

2

The Treaty should contribute to a further strengthening of United States-Swiss cooperation in combating crime, particularly organized crime. It is a noteworthy addition to the current close, effective United States-Swiss cooperation in dealing with the illegal narcotics trade and in various Interpol activities. No implementing legislation by the United States appears to be necessary.

The Departments of Treasury and Justice and the Securities and Exchange Commission concur. The text of your message has been cleared with Robert Hartmann's office and Max Friedersdorf concurs.

RECOMMENDATION

That you sign the message to the Senate at Tab A.

ADMINISTRATIVELY
CONFIDENTIAL



DEPARTMENT OF STATE
WASHINGTON

February 5, 1976

The President:

I have the honor to submit to you the Treaty between the United States of America and the Swiss Confederation on Mutual Assistance in Criminal Matters, signed at Bern on May 25, 1973, six exchanges of interpretative letters of the same date, and an exchange of interpretative letters dated December 23, 1975. I recommend that the Treaty and the related letters be transmitted to the Senate for advice and consent to ratification.

The Treaty is a pioneering effort. It represents the first major agreement for the United States in the area of mutual assistance in dealing with criminal matters. For Switzerland it is the first agreement of this type with a country having an Anglo-Saxon system of law. A number of its provisions are based on provisions in the European Convention on Mutual Assistance in Criminal Matters, done at Strasbourg on April 20, 1959, to which Switzerland is a party.

The Treaty provides for broad assistance in the investigation and prosecution of criminal matters. This includes assistance in locating witnesses, obtaining statements and testimony of witnesses, production and authentication of business records, and service of judicial or administrative documents. The Treaty also provides for special assistance where organized crime is involved.

The President,

The White House.

The United States and Switzerland will each have an obligation to furnish assistance to the other in connection with investigations or court proceedings involving certain types of offenses. Compulsory measures are generally required to be used only in connection with matters considered to be offenses in both countries and listed in the schedule to the Treaty. Organized crime cases are governed by special provisions.

Tax fraud, being governed exclusively by the Convention of May 24, 1951, between the United States and Switzerland on the avoidance of double taxation, is excluded from the Treaty except in certain organized crime situations.

Several provisions of the Treaty deal with the Swiss concept of banking secrecy. The negotiators gave careful attention to how Swiss bank information could be made available to, and used by, the United States in connection with serious crimes here. When the conditions of the Treaty have been met, bank secrecy is no bar to assistance.

The Treaty is limited to providing to each country additional evidence and information for its use in investigating or prosecuting crimes established by its domestic law. It establishes no new crimes. Its object is to assist in overcoming the problems presented in obtaining information or evidence concerning activities taking place outside of a country in furtherance of crimes committed in violation of the laws of that country. Requests for assistance would be made through the respective Departments of Justice and will require execution by appropriate authorities in the two countries.

There are 41 articles, grouped in 9 chapters, and a schedule listing 35 categories of offenses to which the Treaty would be applicable. The Treaty is supplemented by seven exchanges of letters interpreting language used in certain of its provisions. These letters are essential to an understanding of the Treaty and should be included in the Senate's resolution of advice and consent. A more detailed explanation of the Treaty's provisions is provided in the enclosed Technical Analysis.

Negotiations were conducted over a period of seven years, with the United States represented by officers of the Departments of State, Treasury, Justice, and the Securities and Exchange Commission. The extended discussions were prompted by the need to better understand the respective American and Swiss legal systems and to devise ways in which the two countries could work together in providing assistance to each other in connection with criminal matters.

The Treaty should contribute to a further strengthening of United States-Swiss cooperation in combating crime, particularly organized crime. It is a noteworthy addition to the current close, effective United States-Swiss cooperation in dealing with the illegal narcotics trade and in various Interpol activities.

The Swiss Federal Council has approved the Treaty along with proposed Federal legislation to implement it and submitted both to the Parliament. On January 13, 1976, Parliamentary approval of this treaty was completed.

No implementing legislation by the United States appears to be necessary. The United States would normally utilize Federal courts and agencies to carry out the Treaty's substantive obligations. In several respects, however, the Treaty would create new substantive or procedural law for the United States. Following are some examples.

Paragraph 3 of Article 1 provides for the expansion of assistance provided by the Treaty in certain ancillary administrative proceedings by exchange of diplomatic notes. It is anticipated that the notes will refer to classes of administrative proceedings, although the possibility of an exchange with respect to individual proceedings is not excluded. Examples of the types of proceedings which might be covered would be disbarment of an attorney or revocation of a driver's license, both sanctions resulting from conduct constituting an offense within the purview of the Treaty.

Article 15 and one of the accompanying exchanges of notes concern withholding from public disclosure information provided by the Swiss Government which is subject to banking or business secrecy requirements in Switzerland. The Treaty creates a limitation by force of law subject only to constitutional requirements, specifically, our Constitutional requirement that the public be permitted access in public trial. In view of the importance of this provision to Switzerland and its internal law, this limitation would have to be viewed as an additional exception to the Freedom of Information Act, 5 USC 552, since the Treaty is later in time than the Act.

While Article 20, which authorizes our Central Authority (the Department of Justice) to summon persons, appears to create a new subpoena power in an executive agency, in practice it is expected that application will be made to courts for subpoenas where necessary to carry out the requirements of this article.

Paragraph 1 of Article 25 creates a legal privilege against compulsion of testimony by United States courts if the person in question has a right to refuse under

Swiss law, or, under certain limited circumstances, if the information is protected by banking or business secrecy requirements in Switzerland.

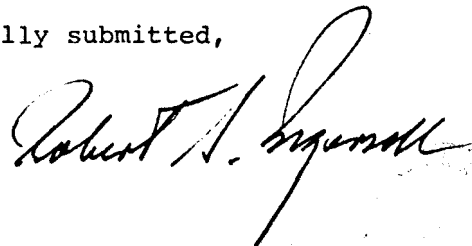
Under Article 26 a person in Swiss custody whom the United States requests as a witness and who is sent here by Switzerland would have to be held in custody in the United States and subsequently returned to Switzerland.

While Article 31 authorizes the use of grand juries in aid of collection of evidence for Switzerland, it is anticipated that little, if any, use will be made of this provision.

Paragraph 3 of Article 38 would override any inconsistent provision of Federal or state law. Thus, for example, Article 37, which provides that an individual shall not have access to judicial relief in connection with requests under the Treaty except with respect to enumerated articles, would mean that access to judicial review of Federal action pursuant to this Treaty is limited to actions for relief under the enumerated articles.

The Departments of Treasury and Justice and the Securities and Exchange Commission join with the Department of State in recommending prompt action toward ratification of this Treaty.

Respectfully submitted,



Enclosures:

1. Treaty between the United States and the Swiss Confederation on Mutual Assistance in Criminal Matters, and related letters.
2. Technical Analysis.

TO THE SENATE OF THE UNITED STATES:

I transmit herewith the Treaty between the United States of America and the Swiss Confederation on Mutual Assistance in Criminal Matters, signed at Bern on May 25, 1973, six exchanges of interpretative letters of the same date, and an exchange of interpretative letters dated December 23, 1975. I urge that the Senate advise and consent to ratification of the Treaty and related matters.

The Treaty is the first major international agreement by the United States aimed at obtaining information and evidence needed for criminal investigations and prosecutions. Cooperation of this kind with Switzerland is uniquely important because of its position as an international financial center. Despite the general cooperation of Swiss authorities in criminal cases, the procedures for obtaining needed information have been generally ponderous and inadequate. Despite this cooperation, United States law enforcement and investigative agencies have frequently encountered severe difficulties in obtaining needed information from Swiss banks because of banking secrecy laws.

The new Treaty, as implemented by Swiss legislation, should open up new avenues of cooperation in Switzerland and greatly facilitate the work of the United States law enforcement and prosecutive agencies, especially in dealing with cases involving organized crime. Assistance will extend to ascertaining the whereabouts of persons, taking testimony, producing and preserving judicial and other documents, records and evidence, and serving and authenticating judicial and administrative documents.

The Treaty is expected to provide a useful and significant tool in combating crime and bringing offenders to justice. I recommend that the Senate give the Treaty and related letters prompt consideration and consent to their ratification.

THE WHITE HOUSE,

Date: February 17, 1976

Time:

FOR ACTION:

cc (for information):

Max Friedersdorf

Phil Buchen

Jack Marsh

FROM THE STAFF SECRETARY

DUE: Date: Wednesday, February 18

Time: 10 A. M.

SUBJECT:

Brent Scowcroft memo 2/17/76 re
U. S. Military Relationship with Egypt

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

UNCLASSIFIED UPON REMOVAL
OF CLASSIFIED ATTACHMENTS

~~SECRET~~ MATERIAL ATTACHED

February 19, 1976

No legal objections. (I assume that the Letter of Offer to be provided in accordance with the Nelson-Bingham Amendment will be reviewed by the legal offices at State and Defense before it is submitted to the Congress.)

P.W.B.
Philip W. Buchen

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James E. Connor
For the President

~~SECRET~~

THE WHITE HOUSE
WASHINGTON

February 17, 1976

MEMORANDUM FOR: MR. PHILIP W. BUCHEN
FROM: JAMES A. WILDEROTTER
SUBJECT: Brent Scowcroft Memorandum to the
President Concerning the U.S. Military
Relationship With Egypt

I have reviewed the captioned memorandum and have no legal problems with it.

Under the Foreign Military Sales Act (22 U.S.C. § 2751 et. seq.) no defense article or defense service may be sold to any country unless the President "finds that the furnishing of defense articles and defense services to such country . . . will strengthen the security of the United States and promote world peace." As I read the statute, there is no requirement for a Presidential determination on an article-by-article or sale-by-sale basis. Therefore, the unrestricted determination recommended by General Scowcroft presents no legal problem.

Under the Nelson-Bingham amendment (22 U.S.C. § 2776) the President must submit to the Speaker of the House and the Chairman of the Senate Foreign Relations Committee any "letter of offer to sell any defense articles or services (under the Foreign Military Sales Act) for \$25,000,000 or more before issuing such letter of offer." The Congress then has twenty calendar days to adopt a concurrent resolution "stating in effect that it objects to such proposed sale, unless the President in his statement certifies that an emergency exists which requires such sale in the national security interests of the United States." The proposed "letter of offer" to be submitted to the Congress is not included in General Scowcroft's memorandum. However, since the memorandum

DECLASSIFIED

E.O. 12958, Sec. 3.5

NSC Memo, 11/24/98, State Dept. Guidelines

By WJM, NARA, Date 5/5/00

~~SECRET~~

~~SECRET~~

2

states that a letter of offer will in fact be provided the Congress under the Nelson-Bingham amendment, I feel you can sign off on it. I would suggest, however, that you add a remark as follows:

"No legal objections. (I assume that the Letter of Offer to be provided in accordance with the Nelson-Bingham Amendment will be reviewed by the legal offices at State and Defense before it is submitted to the Congress.)"

SECRET

THE WHITE HOUSE

WASHINGTON

SECRET/NODIS/GDSACTION

February 17, 1976

MEMORANDUM FOR: THE PRESIDENT

FROM: BRENT SCOWCROFT *BS*

SUBJECT: U. S. Military Relationship with Egypt

Secretary Kissinger has developed a proposal (Tab C) for dealing with our future military relationship with Egypt. This proposal is designed so as to cope with the opposition to such a relationship in Israel as well as in the U. S. It is based on a concept of grouping equipment which we might supply into categories ranging from the least to the most sensitive politically.

You have approved the sale of six C-130s and the provision of military training to the Egyptians. Secretary Kissinger informed Israeli Prime Minister Rabin of the C-130 sale, and you have broached the issue in general terms with Chairman Morgan and the group of Congressmen who visited Egypt in early January. If we are to meet the commitment to Sadat to begin delivery of the C-130s in March, it will be necessary to begin consultations with Congress immediately. Moreover, word of the C-130 sale has appeared in the press and has provoked a sharp increase in questioning from Congress. Two required elements in consulting Congress will be a Presidential Determination making Egypt eligible for purchases under the Foreign Military Sales Act and a Letter of Offer and Availability for the C-130s in accordance with the Nelson-Bingham Amendment.

The Kissinger memorandum points up the need to develop an overall strategy at the outset of our military supply relationship with Egypt. Sadat has been promised C-130s and U. S. military training, as well as a response for his broader request for U. S. arms. There is pressure from U. S. firms for licenses to export military-related equipment to Egypt. There is also considerable public and Congressional interest in the issue, and countries such as Great Britain are pressing us to approve the transfer to Egypt of certain weapons manufactured by them under U. S. license. It is in the U. S. interest to establish at least a modest military relationship with Egypt in order to sustain Sadat's confidence in the U. S., with all that implies for our ability to influence events in the

SECRET/NODIS/GDS*WHM 5/5/00*

area, and to maintain our credibility with countries such as Iran and Saudi Arabia. These nations see a U. S. /Egyptian military supply relationship as a symbol of U. S. support for a moderate Arab leader who has turned away from the USSR. Weighing against this is Israel's extreme sensitivity to any U. S. arms relationship with the Arabs.

Given the high visibility and political sensitivity of this issue, we must expect a major debate in Congress on the entire question of U. S. arms assistance to Egypt when any notification is made to Congress. The Administration's response to Congressional and public questioning as to what we plan to do militarily for Egypt, including our long-term intentions, will have a significant effect on whether or not approval can be obtained for the C-130s, and on the fate of other items we may wish to provide in the future.

It is therefore important to have an overall approach which will provide a framework for the C-130s transfer and for our overall arms relationship with Egypt. Sadat, as well as the Congress, needs to know what we intend to do. A first step is to devise categories of equipment or services according to their probable political sensitivity, ranging from a minimal U. S. response to a full-scale U. S. /Egyptian military cooperation relationship. The following categories include illustrative items or services which have attracted Egyptian interest, in ascending order of political sensitivity and military impact. (Approval of this categorical approach is not intended to imply approval for any specific items, which should be examined on a case-by-case basis.)

CATEGORY A: Dual Purpose Military/Civilian Equipment

Executive aircraft

Telephone and telegraph equipment

Air traffic control equipment

CATEGORY B: Military Training and Visits

Training at U. S. schools

Visits by senior military officers

CATEGORY C: Passive Military Equipment (Surveillance/Electronic)

Target drones

Radio transceivers

Passive night vision devices

CATEGORY D: Transport Equipment

Military Transport aircraft (C-130s)

Helicopters

CATEGORY E: Non-Lethal Items Associated with Lethal Systems

Air Defense Command and Control Equipment

U.S. Engines for installation in Soviet-built tanks

CATEGORY F: Lethal Military Equipment (politically less sensitive)

Armored personnel carriers

Anti-tank missiles (TOW)

Less sophisticated fighter/interceptor aircraft (particularly F-5) and related equipment and arms

Torpedoes

CATEGORY G: Lethal Military Equipment (politically more sensitive)

Tanks

Advanced and attack aircraft (particularly F-4, A-7, F-14/15/16)

Missiles

I concur in the recommendation of Secretary Kissinger to develop an overall strategy for dealing with this very sensitive issue. The category approach offers a reasonable framework for developing our own planning on the subject,

for discussing our intentions with Egypt and other interested states (e. g., Iran and Saudi Arabia) and for explaining our position to Congress.

The question of Congressional consultations will have to be handled with care. There will need to be a full and frank discussion as to why it is in the national interest to pursue an arms relationship with Egypt, what effect our sales to Egypt will have on the Arab-Israeli military balance, and an exploration of what categories of equipment and services would be acceptable to Congress. During this consultation process, the question of approval of exceptional items in the higher categories such as the MK-44 torpedo and the F-5 aircraft, in which Egypt is particularly interested, can be introduced if the climate appears favorable.

I believe these consultations should begin immediately. The Presidential Determination and the Letter of Offer should actually go to Congress by March 1 if we are to meet the C-130 delivery schedule promised Sadat. Two alternative Presidential Determinations with accompanying justification have been prepared for your consideration and are attached at Tabs A and B.

The first Determination at Tab A is unrestricted, consistent with the approach of trying to work out with Congress prior agreement on general categories, with a case-by-case follow-up. In the course of consultations more precision would be developed as to what we will and will not sell, and when. This would become a sort of unofficial "legislative history" of our military supply relationship and, as such, would tend to supplement the formal Determination and accompanying justification. This approach would allow maximum flexibility, give us the possibility of moving gradually into a broader military supply relationship which would be more meaningful to Egypt, and would avoid the problem of having to go back to Congress with a new Determination for each new step.

The alternative Determination at Tab B would be part of a more limited approach to the entire problem, in which we would consult Congress and seek approval only for the C-130s and military training, stating that this is all we intend to do at present and that we will come back to Congress at a later date when and if we decide to do more. This concept, because of its restrictive nature, would cause us problems with Egypt and other governments such as Iran, Saudi Arabia and the UK. However, it might be more acceptable to some members of Congress than opening up the idea of a broader relationship, even though we could always fall back from the broader to the narrower approach if absolutely necessary in the context of consulting Congress on the former.

RECOMMENDATION:

That you approve moving forward with an unrestricted Presidential Determination and beginning consultations with Congress immediately on the basis of the category approach outlined above. A Presidential Determination, accompanied by a justification, is attached for your signature at Tab A. (State and Defense concur.)

Approve _____ Disapprove _____

Alternatively

That we proceed on the basis of a Presidential Determination and Congressional consultations restricted to the sale of C-130s and training services. An appropriate Presidential Determination and justification for this more restricted alternative is provided for your signature at Tab B.

Approve alternative option _____

THE WHITE HOUSE
WASHINGTON

Presidential Determination
No. _____

MEMORANDUM FOR THE SECRETARY OF STATE

Subject: Eligibility of Egypt for Cash Purchases of Equipment
and Services under the Foreign Military Sales Act,
as Amended

Pursuant to the authority vested in me by Section 3(a)(1) of the Foreign Military Sales Act, as amended, I hereby find that the cash sale to Egypt of equipment and services, including training of Egyptian personnel, will strengthen the security of the United States and promote world peace.

You are requested, on my behalf, to report this finding to the Congress.

This finding, which futher amends Presidential Determination No. 73-10 of January 2, 1973 (38 F.R. 7211) as amended by Presidential Determinations No. 73-12 of April 26, 1973 (38 F.R. 12799), No. 74-9 of December 13, 1973 (39 F.R. 3537), and No. 75-2 of October 29, 1974 (39 F.R. 39863), shall be published in the Federal Register.

cc: The Secretary of Defense

THE WHITE HOUSE

WASHINGTON

Justification for Presidential Determination to Authorize Cash Purchases of Equipment and Services for Egypt

United States policy in the Middle East since late 1973 has had two thrusts:

- the intensive effort to help Arabs and Israelis move toward a negotiated peace and
- an effort to broaden and deepen our bilateral relationships with the nations of the Middle East.

The two are mutually reinforcing and are intended to strengthen the US position in an area of increasing importance, and reduce the potential for another war in the Middle East.

Since the October 1973 Arab-Israeli war, relations between the United States and Egypt have evolved in a manner which has opened the way for mutual cooperation on a broad front. Over the past two years, a close and fruitful political relationship necessary for the continued success of the step-by-step approach to a Middle East settlement has been established between the United States and Egypt. In pursuance of the goal of a peaceful settlement to the Middle East conflict, President Sadat has taken major steps toward a negotiated solution and has turned much of Egypt's resources to the task of economic and social development. He has made clear his desire to work closely with the United States in developing Egypt and has turned away from previous policies of close cooperation with the USSR in the political, economic and military fields.

The United States has an important stake in maintaining the momentum behind our new relationship with Egypt. We have embarked upon a program of economic and technical assistance to Egypt designed to strengthen its economy and improve the lot of its people. It is particularly important that we allow our improved bilateral relationship with Egypt to develop by allowing at this time a modest degree of cooperation in the military field.

As a result of severe restrictions placed upon its acquisition of military equipment from other sources the Egyptian Government seeks to diversify its sources of military supply. In this context, and because of its desire to increase its cooperation with the United States, Egypt has asked the

United States to provide training for Egyptian personnel and make available certain types of military equipment. The provision of such equipment and services would strengthen the confidence of Egyptians in the United States, broaden the constructive relationship between Americans and Egyptians, make it possible for Egypt to continue to follow the policy course it has pursued over the past two years, and thus assist in our efforts to obtain a final and durable peace in the area.

With authorization under the Foreign Military Sales Act, the Department of Defense can respond to these requests through cash sales.

THE WHITE HOUSE

WASHINGTON

Presidential Determination
No. _____

MEMORANDUM FOR THE SECRETARY OF STATE

Subject: Eligibility of Egypt for Cash Purchases of C-130 Aircraft
and United States Military Schools under the Foreign
Military Sales Act, as Amended

Pursuant to the authority vested in me by Section 3(a)(1) of the Foreign Military Sales Act, as amended, I hereby find that the cash sale to Egypt of C-130 aircraft and training of Egyptian personnel, will strengthen the security of the United States and promote world peace.

You are requested, on my behalf, to report this finding to the Congress.

This finding, which futher amends Presidential Determination No. 73-10 of January 2, 1973 (38 F.R. 7211) as amended by Presidential Determinations No. 73-12 of April 26, 1973 (38 F.R. 12799), No. 74-9 of December 13, 1973 (39 F.R. 3537), and No. 75-2 of October 29, 1974 (39 F.R. 39863), shall be published in the Federal Register.

cc: The Secretary of Defense

THE WHITE HOUSE

WASHINGTON

Justification for Presidential Determination to Authorize Cash Purchases of C-130 Aircraft and Training for Egyptian Personnel in United States Military Schools

United States policy in the Middle East since late 1973 has had two thrusts:

- the intensive effort to help Arabs and Israelis move toward a negotiated peace and
- an effort to broaden and deepen our bilateral relationships with the nations of the Middle East.

The two are mutually reinforcing and are intended to strengthen the US position in an area of increasing importance, and reduce the potential for another war in the Middle East.

Since the October 1973 Arab-Israeli war, relations between the United States and Egypt have evolved in a manner which has opened the way for mutual cooperation on a broad front. Over the past two years, a close and fruitful political relationship necessary for the continued success of the step-by-step approach to a Middle East settlement has been established between the United States and Egypt. In pursuance of the goal of a peaceful settlement to the Middle East conflict, President Sadat has taken major steps toward a negotiated solution and has turned much of Egypt's resources to the task of economic and social development. He has made clear his desire to work closely with the United States in developing Egypt and has turned away from previous policies of close cooperation with the USSR in the political, economic and military fields.

The United States has an important stake in maintaining the momentum behind our new relationship with Egypt. We have embarked upon a program of economic and technical assistance to Egypt designed to strengthen its economy and improve the lot of its people. It is particularly important that we allow our improved bilateral relationship with Egypt to develop by allowing at this time a modest degree of cooperation in the military field.

As a result of severe restrictions placed upon its acquisition of military equipment from other sources the Egyptian Government seeks to diversify its sources of military supply. In this context, and because of its desire to increase its cooperation with the United States, Egypt has asked the

United States to provide training for Egyptian personnel and make available C-130 aircraft. The provision of such equipment and services would strengthen the confidence of Egyptians in the United States, broaden the constructive relationship between Americans and Egyptians, make it possible for Egypt to continue to follow the policy course it has pursued over the past two years, and thus assist in our efforts to obtain a final and durable peace in the area.

With authorization under the Foreign Military Sales Act, the Department of Defense can respond to these requests through cash sales.

THE SECRETARY OF STATE
WASHINGTON

7600461
240

January 12, 1976

SECRET/NODIS

MEMORANDUM FOR: THE PRESIDENT

From: Henry A. Kissinger *HK*

Subject: US Military Relationship with Egypt

The purpose of this memorandum is to outline for your consideration a scenario to lay the groundwork for a US military supply policy toward Egypt early in 1976.

There are several reasons for developing an overall strategy for a military supply relationship with Egypt: (a) Sadat has been promised a response to his statement of need, and to his requests for various individual items, (b) we have received during the past year a steady stream of requests from US firms for export licenses or advisory opinions on export licenses, and we need a policy framework for giving applicants a prompt and straight answer, (c) the issue of arms for Egypt is stirring considerable public and Congressional interest -- not only direct supply by the US but our attitude toward the transfer to Egypt of US-supplied arms to third countries, and (d) we are being pressed by third countries (as well as Egypt) to approve the transfer of arms to Egypt, both when our approval is not required (e.g., the British Jaguar) and when it is (e.g., the British MK-44 torpedo).

More fundamentally, establishing at least a modest military supply relationship with Egypt is very important if we are to sustain Sadat's confidence in the United States during a period when he is under heavy criticism and pressures from certain Arab countries and the USSR. It is also important in

SECRET/NODIS
GDS

WIM 5/8/00

maintaining our credibility with the Governments of Iran and Saudi Arabia, who have supported our Middle East policy and support Sadat, as forces for moderation in the Middle East. They have been anxious for some time to have the United States supply military equipment to Egypt, seeing it (as Sadat does) as a concrete symbol of our willingness to support a moderate leader who has turned his country away from the USSR. They are also eager to assist Egypt directly by providing training on US-supplied military equipment, particularly aircraft (F-4s, F-5s and C-130s), and Saudi Arabia has informed us and Sadat that it is prepared to pay for the arms which Egypt is allowed to buy from the US.

On the other hand, Israel is always sensitive to US arms supply to Arab countries and we can be certain that any decision taken with respect to a military supply relationship with Egypt will receive the closest scrutiny. Israel will expect to be consulted by us before a final decision is made and could well come out against even a modest program, despite prior consultation.

The need for a decision on an overall policy is urgent due to our commitment to Sadat to begin delivering C-130s in March and to our earlier commitment to supply military training which the Egyptians have now formally requested us to implement. Also, the British are pressing us about the release of MK-44 torpedoes. Our supply of either aircraft or training will require a Presidential Determination that Egypt is eligible for sales under the Foreign Military Sales Act. Additionally, in order to deliver the first C-130 on schedule, the Letter of Offer (LOA) will have to go to Congress for review under the Nelson-Bingham Amendment before the LOA can be released to Cairo for signing.

Since significant opposition can be expected from the Israelis, certain members of Congress, and some portions of the media and since Egypt's needs are compelling, we must have a strong rationale for whatever we do. Our decisions will have to take into account the "level of tolerance" for US military support

of Egypt. The best way to determine this is through Congressional consultations.

Once the initial request for Congressional approval of C-130s and training is made, we must expect a major debate in the press and Congress, as well as stiff questioning by the Israelis on what else we intend to do for Egypt in the military field. In talking to Congress and/or to Israeli officials about the C-130 and training questions, it will be necessary for us to provide a policy line on the intentions of the USG for direct supply of (or refusal to supply) various broad categories of military equipment to Egypt, on our policy toward third-country assistance or transfers to Egypt involving US-supplied equipment, and probably on our attitude toward the acquisition of sophisticated arms by Egypt from Western European sources. We are certain to get questions on all these aspects of the Egyptian arms issue and our response will have a significant influence upon whether or not we can obtain approval for the C-130s, as well as upon the fate of future items we might wish to supply. There is almost no prospect of being able to avoid answering these questions in fairly specific terms if we wish to obtain the necessary Congressional support and avoid restrictive conditions as the price of approval. Moreover, it is important to Egypt, as well as potential third-country suppliers, to have realistic expectations of what we intend to do and not do, so Sadat can plan to obtain elsewhere what we cannot provide.

This paper sets forth an overall approach, based upon categories of increasing political and military sensitivity, which we might consider as a framework for our overall arms relationship with Egypt. We strongly recommend adopting this or some other overall strategy quickly so that Prime Minister Rabin can be informed of what we intend to do during his January 27-28 visit, and Congressional consultations can begin. Also, as soon as you have decided upon an overall approach, we should inform President Sadat in order to ensure his cooperation, avoid unpleasant surprises and allow him to make realistic plans for Egyptian

procurement. Following this schedule, we would send the Presidential Determination and letter of offer for C-130s (and training) to Congress by mid-February. This will compress the normal PD/LOA time frame, but would still make it possible to meet the March delivery schedule for the C-130s.

Categories of Sensitivity

Our first step has been to place the kinds of equipment Egypt wants in categories based on their political sensitivity, beginning with the most acceptable in terms of US interests and Congressional and public reaction. These categories are meant to provide policy alternatives in a scale ranging from a minimal military supply relationship to full-scale military cooperation including substantial involvement of US training and technical personnel and sophisticated equipment.

These categories are designed to be cumulative; that is, a policy decision to supply items under Category "C" would normally imply a decision also to supply items under the preceding categories.

CATEGORY A: Dual Purpose Military/Civilian Equipment

Executive aircraft
Telephone and telegraph equipment
Air traffic control equipment
Mobile bridging equipment
Trucks/jeeps (not on Munitions list) (already approved)
Machine guns to public security administration (Limited quantities only)

CATEGORY B: Military Training and Visits

Training at US schools
Visits by senior military officers

CATEGORY C: Passive Military Equipment (Surveillance/
Electronic)

Cameras (already approved -- on MIGs)

Target drones
Reconnaissance drones (intelligence only)
Harbor Defense System
Radio transceivers
Integrated flight instrument systems (Soviet
Transport Aircraft) (already approved)
Passive night vision devices
Confidential radar signal detector
Tactical Situation Display
Navy navigation systems (might go on Soviet ships)
Mine detectors

CATEGORY D: Transport Equipment

Military Transport aircraft (C-130s)
Helicopters
Vehicles on Munitions List

CATEGORY E: Non-Lethal Items Associated with Lethal
Systems

Air Defense Command and Control Equipment
Reconnaissance drones (which provide guidance for
attack)
Counter weapons radar
Navigation systems (Mirages and MIGs)
Radio monitoring and jamming equipment
US engines for installation in Soviet-built tanks

CATEGORY F: Lethal Military Equipment (politically less
sensitive)

Armored personnel carriers
Machine guns and rifles (except small quantities
for police), small arms (except for police)
Anti-tank missiles (TOW)
Armed naval equipment
Less sophisticated fighter/interceptor aircraft
(particularly F-5) and related equipment and arms
Torpedoes (MK-44s from UK)

CATEGORY G: Lethal Military Equipment (politically
more sensitive

Tanks

Advanced and attack aircraft (particularly F-4, A-7
F-14/15/16

Missiles

Before deciding upon any specific categories we would also have to consider the following:

-- Certain models of items which otherwise might be acceptable may be so sophisticated that we would not want to release them.

-- We would not wish to sell items or quantities which will give the Israelis a valid justification for weapons requests which will expand (as contrasted with modernize) their capabilities.

-- Some relatively harmless instruments that we might license would be installed on Soviet-built equipment (e.g., navigation systems, tank engines).

-- Some items, though not combat equipment, are politically sensitive (e.g., reconnaissance drones that would be sent over international boundaries).

-- We would have to consider how much qualitative difference there is between selling finished items and permitting their production in Egypt (e.g., Commerce-licensed trucks, helicopters, equipment for production of camouflage nets). Some of these production facilities would be part of the Arab Military Industries Organization.

One additional consideration that cuts across the categories is third-country relationships. Examples are: training on US-supplied equipment, transfer of equipment with US components, and US views on transfer of wholly non-US equipment.

We think that it should be possible to obtain Congressional support for the supply of items under

Categories A thru D, assuming no increase in Middle East tension and a continuation of Sadat's present moderate approach. Category E is mixed, with some sensitive and some less sensitive items. At higher levels of a direct US military relationship (F and G), we can expect strong Israeli and Congressional opposition. It is very unlikely that we could obtain approval to supply any items in these two categories before at least 1977. Our commitment to permit the British to sell MK-44 torpedoes to Egypt would, of necessity, be an exception. It may be that we will have to give Congress assurances that we will not supply items in these categories, in exchange for Congressional approval in principle to the supply of items in Categories A thru D -- subject to submission of specific items for formal review if they fall under the Nelson-Bingham Amendment. Third-country relationships are probably manageable, except for the approval of third-country transfer of FMS equipment. This should probably be avoided in favor of our supplying items directly; otherwise it will probably be portrayed as an attempt to by-pass Congressional prerogatives and would jeopardize support for the direct relationship we hope to establish.

We are preparing a talking paper containing a series of arguments which can be drawn upon to inform Prime Minister Rabin and to consult with Congress upon our arms supply policy toward Egypt. It makes a strong case as to why it is in our interest to assist Egypt in the military field, although making clear that we intend to limit this assistance to the sale of military equipment and services (including training) which do not include the more lethal, politically sensitive items (Categories F and G). It indicates that we will approve third-country training of Egyptians with US equipment (e.g., Iran and Saudi Arabia) but that we will not approve third-country transfers to Egypt of US arms supplied under FMS. It states our intention to continue a dialogue with Israel and Congress on the issue of Egyptian arms as significant specific requests are received. And it describes our policy toward third-country military assistance relationships with Egypt as basically one of supporting a closer military supply relationship between Egypt and

responsible Western European countries, including the transfer of weapons with US components or licensing, as an alternative to Egypt being forced back into a close military and political relationship with the USSR -- provided the strategic balance in the area is not disrupted.

When and how we proceed will need to be reviewed in the light of the January Security Council debate. The position the Egyptians take could complicate our efforts to obtain Congressional understanding and support.

Recommendations:

That the category concept developed above be approved for use in planning and in consultations with Israel, Egypt, and the Congress.

Approve _____ Disapprove _____

That you raise the question of US arms for Egypt with Prime Minister Rabin during his visit to Washington.

Approve _____ Disapprove _____

That we commence consultations with the Congress immediately following Rabin's visit.

Approve _____ Disapprove _____

ALTERNATIVELY, that we begin consultations with the Congress prior to Rabin's visit in order to prevent a possible Israeli counter-lobbying effort.

Approve _____ Disapprove _____

ALTERNATIVELY, that we begin consultations with the Congress and Rabin simultaneously during Rabin's visit.

Approve _____ Disapprove _____

Date:

Time:

FOR ACTION:

cc (for information):

Phil Buchen
Jim Cannon
Bill Seidman

FROM THE STAFF SECRETARY

DUE: Date:

Tuesday, March 9

Time:

10 A.M.

SUBJECT:

Brent Scowcroft memo 3/5/76 re Presidential
Determination for PL 480 Sales to Syria

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

March 8, 1976

I concur in recommended Presidential determination.

P.W.B.

Philip W. Buchen
Counsel to the President



PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James E. Connor
For the President

MEMORANDUM

THE WHITE HOUSE


WASHINGTON

LIMITED OFFICIAL USE

ACTION

March 5, 1976

MEMORANDUM FOR: THE PRESIDENT

FROM: BRENT SCOWCROFT 

SUBJECT: Presidential Determination for PL 480 Sales to Syria

The Department of State proposes (Tab B) to provide 35,000 tons of rice and up to 20,000 tons of vegetable oil to Syria under the PL 480 program. These foodstuffs would be financed by a PL 480 credit sale program of \$19.2 million. However, a Presidential finding and determination that PL 480 sales to Syria are in the national interest is required to overcome the prohibition of Section 103 (d)(3) of PL 480 against sales to countries which engage in trade with Cuba. You signed a similar determination to permit PL 480 sales to Syria in 1975.

A Presidential Determination in the proper form and memorandum of justification prepared by the Department of State is at Tab A.

In the memorandum of justification which accompanies the Determination, the State Department maintains that our efforts to achieve a Middle East peace will depend in large measure on Syrian confidence in our intention to foster a broad and beneficial bilateral relationship. Concessional sales of agricultural commodities would be a tangible demonstration of our intended role in that regard.

James T. Lynn (Tab C) concurs with the recommendation that you sign the attached determination.

John Marsh and Max Friedersdorf concur in this Presidential Determination.

RECOMMENDATION

That you sign the determination at Tab A.

LIMITED OFFICIAL USE



THE WHITE HOUSE

WASHINGTON

Presidential Determination
No. _____

MEMORANDUM FOR THE SECRETARY OF STATE
THE SECRETARY OF AGRICULTURE

Subject: Finding and Determination under
Section 103(d)(3) of the
Agricultural Trade Development and
Assistance Act of 1954, as amended -
Syria

Pursuant to the authority vested in me under the
Agricultural Trade Development and Assistance Act of 1954,
as amended (hereinafter "the Act"), I hereby:

Determine, pursuant to Section 103(d)(3) of the
Act, that the making of an agreement with the Government of
Syria for the sale, under Title I of the Act, of up to \$19.2
million of food commodities is in the national interest of
the United States.



THE WHITE HOUSE

WASHINGTON

Statement of Reasons that Sales to
Syria Under Title I of the Agricultural
Trade Development and Assistance Act of
1954, as amended, are in the National
Interest

Syria is a key to our efforts to achieve a just and lasting peace in the Middle East. Our success will depend in part on Syrian confidence in our intention to develop a broad and constructive bilateral relationship with that country. Concessional sales of agricultural commodities to Syria constitute a tangible demonstration of our intended role in that regard.

In response to current Syrian needs, it is proposed to export to that country up to \$19.2 million of food commodities financed under Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480).

Section 103(d)(3) of P.L. 480 prohibits the sale of agricultural commodities under Title I of the Act to any nation which sells or furnishes or permits ships or aircraft under its registry to transport to or from Cuba or North Vietnam any equipment, materials, or commodities. Syria has been trading with Cuba in recent years. However, sales agreements may be made if the President determines that they are in the national interest of the United States. Therefore, in order to enter into an agreement with the Government of Syria for such a sale under Title I, it is necessary that the President determine that such sales would be in the national interest of the United States.

The considerations noted above make the proposed sale important to the national interest of the United States notwithstanding the prohibition contained in section 103(d)(3) of P.L. 480.



DEPARTMENT OF STATE
WASHINGTONLIMITED OFFICIAL USE

February 10, 1976

MEMORANDUM FOR: THE PRESIDENT

FROM: Robert S. Ingersoll *RSI*SUBJECT: Finding and Determination under
Section 103(d)(3) of the Agricultural Trade Development and
Assistance Act of 1954, as amended
(P.L. 480) -- Sale of Food
Commodities to SyriaINTRODUCTION:

We propose to provide Syria, under the fiscal year 1976 P.L. 480 program, up to \$19.2 million in food commodities.

In order to enter into and execute the proposed sales agreement, a Presidential Determination is required under section 103(d)(3) of the P.L. 480 Act which deals with trade with Cuba or North Vietnam. You made an identical determination preceding negotiations of the FY-1975 program with Syria. You also made a determination at that time with respect to section 410 of P.L. 480 which deals with expropriated American property.

I recommend that you again exercise your authority under section 103(d)(3) to determine that the sale of food commodities to Syria is in the national interest of the United States. For the reasons discussed below, a waiver of the prohibition in section 410 is not required for this agreement.

LEGAL CONSIDERATIONS:

Legal considerations underlying the actions proposed in the attached Determination are as follows:

LIMITED OFFICIAL USE

(a) Agreement with a country which trades with Cuba

Section 103(d)(3) of P.L. 480 legislation prohibits sales agreements with countries which sell or furnish or permit their ships or aircraft to transport to or from Communist Cuba or North Vietnam any equipment, materials or commodities. However, the Act authorizes the President to waive this prohibition if he determines it is in the national interest of the United States to do so. While there is no Syria trade with North Vietnam, Syria does traditionally export cotton products to Cuba.

(b) Sale to a country that has expropriated property owned by Americans

Section 410 of P.L. 480 applies to Title I transactions provisions contained in Section 620(e) of the Foreign Assistance Act which require suspension of assistance to a country which has expropriated or nationalized property owned by Americans unless by compensation or other means appropriate steps are taken by that country to discharge its obligations under international law. Such prohibition, if applicable, may be waived by the President if he determines and certifies that such waiver is important to the national interest of the United States.

At the time the FY-1975 P.L. 480 program was being considered for Syria, there was concern that the prohibition in section 410 of P.L. 480 might be applicable to Syria since it was uncertain that Syria would undertake good faith negotiations on several potential claims. Accordingly, you made a determination, at the recommendation of the Department of State, that in the event the prohibition in section 410 were applicable, it was in the national interest to waive that prohibition. Such waiver was recommended out of an abundance of caution, and was an exception to our usual policy consistent with the statutory provision, of making a finding, short of a waiver, that the country in question has taken appropriate steps toward a settlement of such claims.



LIMITED OFFICIAL USE

- 3 -

We are not requesting such a waiver this year. The Administrator of A.I.D., pursuant to his delegated authority, has made a determination that appropriate steps are being taken toward resolution of the claims and, therefore, section 620(e) of the Foreign Assistance Act does not bar assistance to Syria. Accordingly, a Presidential determination and waiver under section 410 and 620(e) is not required for this proposed agreement with Syria.

REPORT TO THE CONGRESS

Section 103(d) (3) of P.L. 480, as amended by Section 203 of P.L. 94-161, requires that any waiver thereunder be reported to the Congress within 10 days of the President's determination that such a waiver is in the national interest. As amended, there is no requirement that a Statement of Reasons accompany the report to Congress under this section, but, as a matter of policy, such a statement has been prepared to accompany the Determination. Formal notification to the Congress after your Determination is signed will be provided by the Department of State. Section 203 of P.L. 94-161 has eliminated the former requirement that Determinations under Section 103(d) (3) be published in the Federal Register.

RECOMMENDATION:

I recommend that you approve and sign the attached Determination, and thereby also approve the attached Statement of Reasons for the Determination. The Department of Agriculture concurs in this recommendation.

Attachment:

Tab 1 - Presidential Determination
Tab 2 - Statement of Reasons

LIMITED OFFICIAL USE



THE WHITE HOUSE

WASHINGTON

Presidential Determination
No. _____

MEMORANDUM FOR THE SECRETARY OF STATE
THE SECRETARY OF AGRICULTURE

Subject: Finding and Determination under
Section 103(d)(3) of the
Agricultural Trade Development and
Assistance Act of 1954, as amended -
Syria

Pursuant to the authority vested in me under the
Agricultural Trade Development and Assistance Act of 1954,
as amended (hereinafter "the Act"), I hereby:

Determine, pursuant to Section 103(d)(3) of the
Act, that the making of an agreement with the Government of
Syria for the sale, under Title I of the Act, of up to \$19.2
million of food commodities is in the national interest of
the United States.



THE WHITE HOUSE

WASHINGTON

Statement of Reasons that Sales to Syria Under Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended, are in the National Interest

Syria is a key to our efforts to achieve a just and lasting peace in the Middle East. Our success will depend in part on Syrian confidence in our intention to develop a broad and constructive bilateral relationship with that country. Concessional sales of agricultural commodities to Syria constitute a tangible demonstration of our intended role in that regard.

In response to current Syrian needs, it is proposed to export to that country up to \$19.2 million of food commodities financed under Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (Public Law 480).

Section 103(d) (3) of P.L. 480 prohibits the sale of agricultural commodities under Title I of the Act to any nation which sells or furnishes or permits ships or aircraft under its registry to transport to or from Cuba or North Vietnam any equipment, materials, or commodities. Syria has been trading with Cuba in recent years. However, sales agreements may be made if the President determines that they are in the national interest of the United States. Therefore, in order to enter into an agreement with the Government of Syria for such a sale under Title I, it is necessary that the President determine that such sales would be in the national interest of the United States.

The considerations noted above make the proposed sale important to the national interest of the United States notwithstanding the prohibition contained in section 103(d) (3) of P.L. 480.





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

FEB 24 1976

MEMORANDUM FOR: THE PRESIDENT
FROM: JAMES T. LYNN
SUBJECT: Presidential Determination for the P.L. 480
Program in Syria

Acting Secretary of State Robert S. Ingersoll recommends that you determine it to be in the national interest to undertake a 1976 P.L. 480 credit sale program for Syria of \$19.2 million. The funds would finance 35,000 tons of rice and up to 20,000 tons of vegetable oil. This food aid program for Syria is within your 1976 P.L. 480 budget. Your determination on Syria is required to waive the prohibitions in the P.L. 480 legislation on credit sales to countries which trade with Cuba.

I concur with the Acting Secretary of State that you make the proposed Presidential Determination for Syria.

