

The original documents are located in Box 58, folder “Refugees - Indochina General (2)” of the Philip Buchen Files at the Gerald R. Ford Presidential Library.

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Thursday 4/10/75

12:40 Attorney General Levi called to say he just had a call from Secretary Ingersoll on Vietnam refugees wanting to know the answer to his request that we be willing at the Department of Justice to parole into the country perhaps 200,000 people. You asked him to keep you informed if there was any such further statement of this request, and it may be involved in the President's speech and he knows you are fully informed about it.



Thursday 4/10/75

12:50 Mr. Hills:

Mr. Ingersoll wanted to get word to you about the conversation he had with you, and Secretary Coleman (also had asked if anyone from Defense had been in on the conference call).

He wanted to point out that State has not yet cleared on the ability to take the responsibility for losses under the DOD contract with PanAm if there were a loss claim. State is not sure they can get the appropriation for that loss. He said he gave you an incorrect statement this morning (it was a misunderstanding).

Mr. Ingersoll said they are working on it and will give you an answer later on.



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Thursday 4/10/75

1:15 As Mr. Buchen suggested, I called Rod Hills and gave
m him the message from Ingersoll.

He said to call Ingersoll immediately and tell him that State has not, contrary to earlier indications, approved -- therefore we do not have excess insurance from the Department of Defense. There is a hangup between State and Defense and Eyster may want to call Hoffman right away to work on that.

Don't let the insurance go through. It does not affect the President's approval.

Tell Eyster that Defense has not yet agreed to give excess insurance and he may want to call Marty Hoffmann.



Eva,

Xtra copies.

hand delivered

April 10, 1975

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15/ PWB



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DEFENSE APPROPRIATIONS ACT
Public Law 93-155

Section 806

Notwithstanding any other provision of law, upon enactment of this Act, no funds heretofore or hereafter appropriated may be obligated or expended to finance the involvement of the United States military forces in hostilities in or over or from off the shores of North Vietnam, South Vietnam, Laos, or Cambodia, unless specifically authorized hereafter by the Congress.



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THE WHITE HOUSE

WASHINGTON

In Section 2. (c) of its War Powers Resolution (Tab A), the Congress accepts a limited interpretation of the President's constitutional powers which, if correct, would not permit the President to bring either American citizens or South Vietnamese citizens out of South Vietnam where hostilities are underway. The Office of Legal Counsel, our office and the Department of Defense believe that the Congressional interpretation may be correct with respect to the removal of Vietnam citizens but is incorrect with respect to United States citizens.

Section 806 of the Defense Appropriations Act prohibits the expenditure of funds "to finance the involvement of the United States military forces in hostilities" in South Vietnam. This too probably prohibits the President from spending funds to evacuate South Vietnamese where hostilities exist but probably does not limit the use of such funds for American citizens under similar circumstances.

In view of the nature of the above Congressional expressions and instructions, the following language may be more appropriate:

I also ask Congress to accept by joint resolution the right of the President to use United States military forces in Southeast Asia for the limited purposes of protecting American lives by ensuring their evacuation, if this should become necessary, along with Vietnamese to whom we have an obligation and whose lives may be endangered, and to appropriate such funds as may be necessary for this limited purpose.



**Defense Appropriations Act
Public Law 93-155
Section 806**

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THE WHITE HOUSE

WASHINGTON

April 10, 1975

*Original to
Jerry Jones
cc: Leppert*

MEMORANDUM FOR THE FILE

FROM: Rod Hills

SUBJECT: Discussion points on war risk insurance granted PanAm for flights to, from and over Vietnam, Cambodia and Laos.

Because of the increasing war risks in the Vietnam area, PanAm's commercial carrier (Lloyd's) notified PanAm approximately ten days ago that its premium rates would increase dramatically and would be cancelled at 12:01 a.m. April 11th.

PanAm notified the President by letter of April 7 that it could not fly into Saigon without war risk coverage and asked the President to authorize the Secretary of Transportation to grant Title XIII coverage.

The Secretary of Transportation found as required by Title XIII, that PanAm could not secure insurance adequate for flights into and out of Vietnam on reasonable terms and requested the President's approval to grant Title XIII coverage.

In fact, the Secretary quite some time ago had delegated such authority in the Department of Transportation to the Federal Aviation Administrator so that the statutory certification of the Secretary of Transportation was in fact made by that official.

The Federal Aviation Administrator also pursuant to specific delegation makes the determination of the premium to be paid by PanAm for such coverage. By long-standing practice that premium is set at about the rate charged for such war risk coverage to other carriers flying obviously to other spots. The premium to be set for this coverage is slightly above that which PanAm was paying prior to the increase in war activities around Saigon.



PanAm wrote the President also to point out that the Department of Transportation under Title XIII could not give the complete coverage previously given by PanAm's commercial insurance program and that PanAm therefore would need a broader indemnification from the government than the Department of Transportation could give. After consultation between the Secretaries of State, Transportation and Defense, and the National Security Council, it was determined to be in the national interest to maintain scheduled air service into Saigon. In response the Department of Defense has granted the additional indemnification that PanAm required for such continued service.

By reason of the above facts, PanAm will be insured as of 12:01 a.m. for essentially the same risks that were previously covered by a commercial carrier and PanAm will pay a premium slightly in excess of what it was paying prior to the recent increase in war activities.

The Department of Defense regularly provides complete war risk coverage for chartered aircraft operating in and out of war risk areas for the evacuation of refugees and for other humanitarian purposes.

It was determined by the above governmental officials that the cancellation of scheduled air service by PanAm into Saigon would severely hinder the departure of American citizens and would place additional demands for U. S. military help in removing civilians.

Attached are copies of the documents considered by the President in approving the Title XIII coverage. It should be emphasized that Presidential approval as required by statute was directly solely to the Title XIII coverage of the Department of Transportation and was not required for the broader indemnity granted by the Department of Defense.

Attachments



THE WHITE HOUSE

WASHINGTON

April 10, 1975

MEMORANDUM FOR:

THE PRESIDENT

FROM:

RODERICK M. HILLS *R.H.*

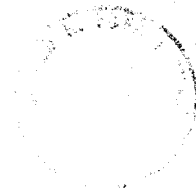
SUBJECT:

War Risk Insurance for PanAm
Flights to Southeast Asia

PanAm's President has notified you by letter of April 7, 1975 (see Tab A) that it must terminate its scheduled operations to, from and over Vietnam, Cambodia and Laos because its insurance underwriters are terminating its third party liability War Risk Coverage as of 12:01 a.m., April 11. The Secretary of State has determined that it is essential to continue these flights, and that they continue to be scheduled rather than charter flights.

Under Title XIII of the Federal Aviation Act, the Secretary of Transportation with the approval of the President may provide such insurance against loss or damages arising out of War Risk, if it is determined by the Secretary of Transportation that the carrier cannot obtain such insurance on reasonable terms or conditions from private carriers that is adequate for the air commerce of the United States. The Secretary of Transportation has consulted with the Departments of State, Defense, and Justice and finds that PanAm cannot obtain such insurance on reasonable terms and conditions, and that such insurance is important to adequate air commerce of the United States (see Tab B).

It is apparent, therefore, that the PanAm flights will terminate unless you approve the proposal of Secretary Coleman to provide War Risk Insurance Coverage to PanAm for so long as it conducts scheduled operations to, from and over Vietnam, Cambodia, and Laos. Transportation will set a premium for this insurance at a price they believe to be reasonable.



Your approval of the Secretary's proposal is supported by the Departments of State, Defense and Justice and by the National Security Council.

In granting this approval, you should know that the insurance to be provided under Title XIII is limited to so-called "hull insurance" which does not cover all the risks now insured by PanAm's commercial insurance program. Such excess insurance would be provided to PanAm by the Department of Defense under authority which they have regularly exercised, which does not require your approval, and which is presently being utilized to provide insurance coverage for presently operating charter services provided to Vietnam. A description of the DOD indemnification is attached (Tab C). State has notified Defense that it will take responsibility for seeking whatever additional appropriations may be necessary for this excess insurance. After discussions with the above Departments and the NSC, we recommend the Secretary's request be granted.

APPROVE

SR3

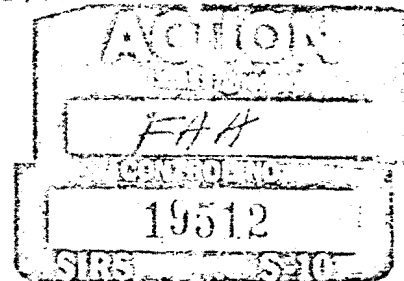
DISAPPROVE _____

Attachments



April 7, 1975

The President of The United
States of America
The White House
Washington, D. C. 20500



Mr. President:

We are, of course, anxious to cooperate in the movement of refugees, orphans and American personnel from Vietnam under a program which we understand is being developed by the U. S. Government, and to endeavor to continue our scheduled and charter services to Vietnam. However, there are problems which we have not been able to solve through our own efforts.

We have been advised by our insurance underwriters that they are terminating, effective 12:01 AM EST on April 11, 1975, our third party liability War Risk coverage with respect to operations to, from and over Vietnam, Cambodia and Laos. We are seeking to reinstate this coverage but have not been successful to date. Under the terms of our existing indenture and mortgage with our creditors, we cannot operate any aircraft into any recognized area of hostilities unless fully covered by war risk insurance or a United States Government contractual indemnity. Further, the premiums on our aircraft covered under our War Risk hull insurance have been quoted at 25¢ per \$100 of aircraft insured value per trip on any additional flights into Vietnam and this coverage is subject to revised rating or cancellation at any time. This amounts to a premium of approximately \$12,500 for a 707 aircraft, and \$62,500 for a 747 aircraft, per trip.

We have sought coverage under Title XIII of the Federal Aviation Act, but have found, however, that such coverage is restricted and does not cover all the risks which are insured by our commercial insurance program such as:

- a. Riots and civil commotion
- b. Sabotage and malicious acts or other acts intended to cause loss or damage
- c. Hijacking, any unlawful seizure, diversion or exercise of control of the aircraft
- d. The detonation of an explosive
- e. The exercise of military power by a foreign government

The President of The
United States of America

2

April 7, 1975

Therefore, due to lack of insurance coverage and prohibitive costs, if Pan Am is to participate in such a program we must secure compensation for additional costs for insurance over the costs in effect prior to March 31, 1975 or a fully enforceable indemnity and hold harmless agreement by the U. S. Government applicable to all aircraft hulls, third party and crew liability involved in such operation. Such indemnity and hold harmless provisions are described in our wire dated April 4, 1975 to the Military Airlift Command, a copy of which is enclosed herewith. If such coverage cannot be obtained by 12:01 AM EST on April 11, 1975, the time of termination of our war risk liability insurance as referred to above, we will not only be denied the opportunity to expand our operations to and from Vietnam but will be forced to suspend all scheduled and charter service to Vietnam.

We would appreciate your good offices in developing such a United States Government indemnification program.

Respectfully yours,

William T. Scawell

Enclosure



OFFICE OF SECRETARY
OF IMPROVEMENT
EXECUTIVE SECRETARIATE

75 APR 8 PM 3:23

U.S. DEPT. OF TRANSPORTATION

Copies of this letter have also been sent to the following persons:

Attorney General of the United States

Secretary of Defense

Secretary of State

Secretary of Transportation

Acting Chairman, Civil Aeronautics Board

Acting Administrator of the Federal
Aviation Administration





THE SECRETARY OF TRANSPORTATION
WASHINGTON, D.C. 20590

April 10, 1975


MEMORANDUM FOR THE PRESIDENT

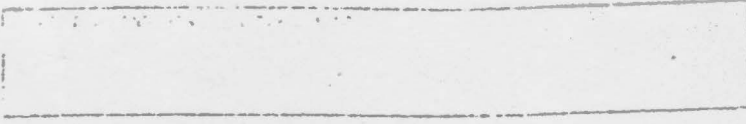
The Federal Aviation Act of 1958, Title XIII - WAR RISK INSURANCE, provides that the Secretary of Transportation, with the approval of the President, and after such consultation with interested agencies of the Government as the President may require, may provide insurance against loss or damage arising out of war risks in the manner and to the extent provided in Title XIII, whenever it is determined by the Secretary of Transportation that such insurance adequate for the needs of the air commerce of the United States cannot be obtained on reasonable terms and conditions from companies authorized to do an insurance business in a State of the United States.

The Department of Transportation has consulted with the Departments of State, Defense and Justice.

Investigation of the availability of such war risk insurance has been made and it is my finding that such aviation war risk insurance adequate for the needs of the air commerce of the United States cannot be obtained on reasonable terms and conditions.

Therefore, in order that the aviation war risk program may be placed in effect, your approval is requested.


William T. Coleman, Jr.
Secretary of Transportation



THIS MESSAGE WILL BE DECLASSIFIED UNLESS OTHERWISE INDICATED BY CROSSING OUT THE WORDS

PRIORITY _____

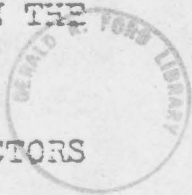
DATE April 04 1975

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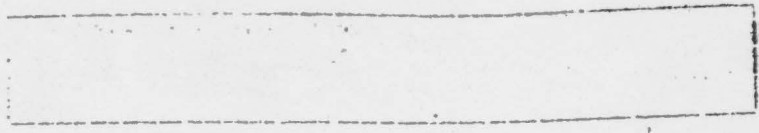
HEADQUARTERS
MILITARY AIRLIFT COMMAND
SCOTT AIR FORCE BASE, ILLINOIS

ATTENTION: ARTHUR W. PURKEL, AIRFORCE CONTRACTING OFFICER

YR TEL APRIL 3, 1975 CONCERNING INDEMNIFICATION AND INSURANCE PROVISIONS BE APPLICABLE TO MAC CONTRACT CARRIERS' PARTICIPATION IN VIETNAM EVACUATION PROGRAM CMA IN VIEW OF TOTAL INABILITY TO PROCURE LIABILITY INSURANCE CMA RESTRICTED COVERAGE UNDER TITLE XIII INSURANCE AND EXCESSIVE COSTS FOR COMMERCIAL HULL AND WAR RISK INSURANCE CMA PAN AM MUST INSIST UPON OBTAINING INDEMNITY ALONG THE FOLLOWING LINES AND FULLY ENFORCEABLE BEFORE WE CAN CONSIDER PARTICIPATION IN SUCH PROGRAM COLON QTE THE GOVERNMENT HEREBY INDEMNIFIES THE CONTRACTOR AGAINST AND SHALL HOLD IT HARMLESS FROM AND/ ANY TOTAL LOSS PAREN WHICH SHALL INCLUDE DAMAGE RENDERING REPAIR PRACTICAL OR UNECONOMICAL PAREN OF ANY AIRCRAFT OF THE CONTRACTOR ENGAGED IN OPERATION TO OR FROM VIETNAM CMA INCLUDING ANY PERIOD WHEN SUCH AIRCRAFT BE ON THE GROUND IN VIETNAM CMA IN AN AMOUNT EQUAL TO THAT FOR WHICH THE CONTRACTOR OTHERWISE INSURES SUCH AIRCRAFT WHILE NOT ENGAGED IN SUCH OPERATION AND FOR DAMAGE TO SUCH AIRCRAFT NOT AMOUNTING TO TOTAL LOSS THEREOF IN AMOUNT EQUAL TO THE COST TO THE CONTRACTOR OF REPAIRING SUCH DAMAGE AND RESTORING SUCH AIRCRAFT TO AIRWORTHY CONDITION CMA BUT NOT MORE THAN THE AMOUNT WHICH WOULD BE APPLICABLE TO TOTAL LOSS THEREOF CMA AND NO/ ALL LOSSES OR DESTRUCTION OF OR DAMAGE TO ANY OF THE CONTRACTORS PROPERTY PAREN OTHER THAN AIRCRAFT PAREN CMA USED IN THE PERFORMANCE OF SERVICES REFERRED TO IN ONE ABOVE CMA AND ALL LOSSES AND EXPENSES PAREN INCLUDED



(cont'd)



FOR OFFICIAL USE ONLY

THIS MESSAGE WILL BE SENT BY AIRMAIL UNLESS OTHERWISE INDICATED BY CROSSING OUT THE AIRMAIL

PRIORITY _____

DATE April 04 1975

PAGE TWO

HEADQUARTERS
MILITARY AIRLIFT COMMAND
SCOTT AIR FORCE BASE, ILLINOIS

XXXXXXXX

LEGAL FEES AND EXPENSES PAREN INCURRED BY THE CONTRACTOR IN THE DEFENSE
OR DISCHARGE OF CLAIMS OF OTHERS RESPECTING PROPERTY OR RESPECTING DEATH
CMA DISEASE CMA DISABILITY CMA INJURY CMA OR IMPAIRMENTS OF RIGHTS OF
PERSONS CMA INCLUDING EMPLOYEES OF THE CONTRACTOR CMA ARISING OUT OF OR IN
ANY MANNER CONNECTED WITH THE OPERATION OF ANY AIRCRAFT IN THE PERFORMANCE
OF SERVICES REFERRED TO IN ONE ABOVE STP THE INDEMNITIES PROVIDED FOR ABOVE
IN THIS PARAGRAPH SHALL BE APPLICABLE WHETHER OR NOT THE LOSS IS CAUSED
BY ANY ACT OF NEGLIGENCE ON THE PART OF THE CONTRACTOR CMA ITS OFFICERS
CMA AGENTS OR EMPLOYEES IN CONNECTION WITH SUCH OPERATION OF SUCH AIRCRAFT
ND

PAN AMERICAN WORLD AIRWAYS, INC.

JAMES J. RICE
STAFF VICE PRESIDENT-
MILITARY TRAFFIC



April 10, 1975

*taken
to Oval
Office*

I have just been advised by the Attorney General that he had a call from Secretary Ingersoll on Vietnam refugees wanting to know the answer to his request that the Department of Justice be willing to parole into the country perhaps 200,000 people.

My own reading of the 2:00 a.m. draft of the speech does not indicate that this point is to be covered in the President's address tonight, but my position is that this will require a Presidential decision and prior consultation with Congress. Also, if the subject is to be covered in the address, I would like to be consulted.

151



Evacuees

April 10, 1975

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151 PW 13



As requested from
office of Max Friedersdorf

Evacuees

*To all
Co signers*

April 10, 1975

Dear Senator:

Thank you for your April 9 letter to the President in which you joined with 19 of your colleagues in the Senate to outline your views on the tragic situation facing thousands of refugees in Vietnam.

I want to assure you that I shall call your letter to the President's attention without delay.

With kind regards,

Sincerely,

William T. Kendall
Deputy Assistant
to the President

The Honorable Hubert H. Humphrey
United States Senate
Washington, D.C. 20510

bcc: w/incoming to General Scowcroft for appropriate handling

WTK:EF:VO:vo



4-9

United States Senate

WASHINGTON, D.C. 20510

April 9, 1975

The President
The White House
Washington, D.C.

Dear Mr. President:

The retreat of government forces from the central and northern provinces of Vietnam in recent days is widely recognized as a military disaster. But it is also a personal tragedy for the countless thousands of refugees who have fled to the perimeter of Saigon.

This is not a time for recrimination or assessing of blame. It is a time to focus our national attention on alleviating the plight of the homeless, the hungry, and the abandoned.

Assistance must be provided on an emergency basis to the refugees who are trapped in the Saigon vicinity. The United States can and should assume a leading role, perhaps in conjunction with other nations and multilateral institutions, in seeing that food and shelter are made available to the needy as quickly as possible.

Among the most regrettable incidents in connection with the evacuation was the reported abandonment of Vietnamese civilians who had worked for the American government in Nhatrang. Regardless of the factors which led to that tragic result, the United States should make clear its willingness to offer help and sanctuary to any Vietnamese whose lives might be imperiled because of their past or current ties to this country. Liaison should be attempted with authorities in control of occupied areas to assist the work of voluntary relief agencies and to help individuals who have been friendly in the past.

We recognize the need to avoid any action which could add to the fear and desperation in Saigon. Nevertheless, we urge that you declare your willingness to use the authority under Section 212 of the Immigration and Nationality Act to aid not just orphans, but all Vietnamese who may face reprisals for their association with the United States. We would hope that you would use your influence in persuading other governments to offer asylum to refugees as well.

It goes without saying that all possible steps should be taken to assure that those who are relatives of American citizens are afforded every opportunity to be reunited with their families here in the United States.

We are sure you will agree that the planning and coordination of refugee relief efforts at this time deserve every bit as much high level attention and priority as did the war effort itself. Plans should be formulated without delay to permit the swift and orderly evacuation of those who are now endangered or might be threatened in the days and weeks ahead. We must not wait until imminent collapse makes such planning impossible and escape an option available only to those with wealth and influence.

In this urgent matter of human survival, there is not time for delay or indecision. We can assure you that the Congress will cooperate fully in the task of preventing needless suffering among the victims of this tragic war.

Sincerely,

Walter F. Mondale

Walter F. Mondale, U.S.S.

Harrison A. Williams, Jr.

Harrison A. Williams, Jr.

Russell B. Long

Russell B. Long, U.S.S.

Dick Clark

Dick Clark, U.S.S.

Hubert H. Humphrey

Hubert H. Humphrey, U.S.S.

Birch Bayh

Birch Bayh, U.S.S.

Richard Stone

Richard Stone, U.S.S.

Frank E. Moss

Frank E. Moss, U.S.S.

Warren G. Magnuson
Warren G. Magnuson, U.S.S.

Edmund S. Muskie
Edmund S. Muskie, U.S.S.

Alan Cranston
Alan Cranston, U.S.S.

William Proxmire
William Proxmire, U.S.S.

Floyd K. Haskell
Floyd K. Haskell, U.S.S.

Charles Mathias, Jr.
Charles Mathias, Jr., U.S.S.

Claiborne Pell
Claiborne Pell, U.S.S.

John C. Culver
John C. Culver, U.S.S.

James Abourezk
James Abourezk, U.S.S.

William D. Hathaway
William D. Hathaway, U.S.S.

Philip A. Hart
Philip A. Hart, U.S.S.

Vance Hartke
Vance Hartke, U.S.S.



THE ATTORNEY GENERAL



April 10, 1975

TO: Honorable Phillip Buchen

I believe you should see
the attached.

EHL

Attachment



April 10, 1975

Seventh Preference for non-Western
Hemisphere aliens under the Immigration
and Nationality Act

Of the 170,000 non-Western Hemisphere aliens who may be issued immigrant visas or otherwise acquire lawfully admitted status each year, 6% (or 10,200) may obtain conditional entry (which is similar to parole admission) into the United States under the provisions of the seventh preference specified in Section 203(a) of the I&N Act (8 USC 1153(a)). This preference category embraces aliens who because of persecution or fear of persecution on account of race, religion or political opinion have fled from any Communist or Communist-dominated country or area, certain other countries or areas, etc.

The figure of 10,200 for the current fiscal year has already been exhausted. In brief, the seventh preference can provide little or no help in situations involving substantial numbers of political refugees seeking to enter this country within a short period of time. Accordingly, the use of the parole power is the only feasible way to accomplish the intended result.





Office of the Attorney General

Washington, D. C. 20530

April 11, 1975

~~Secret~~

The Honorable Robert S. Ingersoll
Deputy Secretary of State
Room 7220, State Department
Washington, D. C.

Dear Mr. Ingersoll:

I am writing in response to your request that I exercise the parole authority vested in me by Section 212(d)(5) of the Immigration and Naturalization Act to permit entry into the United States of the classes of refugees about whom you have expressed concern.

As you know, prior to receiving your letter, the Immigration and Naturalization Service decided that it would not now require the departure of South Vietnamese or Cambodians in the United States. Therefore, the question of asylum for individuals in this class is not of immediate importance, but will be addressed if it becomes necessary to do so.

You have also expressed concern about South Vietnamese and Cambodians in third countries who are unable to remain in those countries or who face the threat of forcible return to their countries of nationality. With regard to such persons now residing in nations which have signed the United Nations Convention relating to the Status of Refugees, we believe it would be appropriate for the United States to request that such countries fulfill their obligations under the Convention to permit such persons to remain. We propose to treat such persons now in non-signatory countries in the same manner as those presently in South Vietnam and Cambodia.

The largest number of people about whom you have expressed concern are those in South Vietnam and Cambodia who are in danger of death or persecution. While you indicate that there may be 200,000 people in this category,

DECLASSIFIED

E.O. 12356, Sec. 3.4

NR 92-47, #17 DOJ ltr. 2/17/95

By KSH NARA, Date 2/23/95

Secret

Page 2
Hon. Robert S. Ingersoll
April 11, 1975

other estimates of people to whom the United States may be deemed to have an obligation have ranged as high as 865,000.

The provisions of the Immigration and Nationality Act which permit the annual entry of 10,200 refugees from Communist countries or areas are presently unavailable because the quota for such refugees for this year has already been committed. Therefore, you are correct in assuming that the parole authority vested in the Attorney General is the only available means of permitting the immediate entry of refugees at this time. As you know, the parole authority was not originally intended to be used for classes of aliens and the Department of Justice informally agreed to consult, when possible, with the appropriate committees of Congress if it is to be exercised in this manner.

I understand that there is an immediate question regarding parole for 67 South Vietnamese now in the Philippines and approximately 2,000 Cambodians now in Thailand. I am advised by the Immigration and Naturalization Service that while these refugees are likely to present some problems with regard to the necessary identification, medical clearances, and security clearances, these matters can be handled. I am willing to exercise my parole power to admit these refugees if the President confirms that such action would be consistent with the treatment he would propose for future applicants who are similarly situated. I will attempt to obtain his guidance on this question as soon as possible.

Your request that I exercise my parole authority to permit entry of up to 200,000 people raises important questions which should be expeditiously, but systematically resolved before a decision is reached. These concern our immediate and long range capacity to employ, house, school and otherwise support varying numbers of refugees and the proper programs to do so. In addressing these questions,

Secret

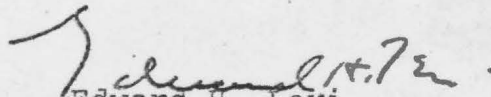
Page 3
Hon. Robert S. Ingersoll
April 11, 1975

it may be determined that the United States could not adequately accommodate every South Vietnamese and Cambodian who may wish to come here. In that case, it may be necessary to establish priorities among potential immigrants and procedures to assure that those priorities are fairly and effectively implemented. I have asked Acting Commissioner Greene of the Immigration and Naturalization Service to consult with the State Department on those matters.

As with the use of the parole authority for the Cambodians now in Thailand and the South Vietnamese now in the Philippines, the exercise of the authority for large numbers of persons now in Vietnam and Cambodia should follow consultation with the appropriate committees of Congress and have the approval of the President.

I appreciate the importance of resolving the questions raised by your request. We look forward to continuing to work with you to do so.

Sincerely,


Edward H. Levi
Attorney General

cc. Philip Buchen
Counsel to the President



Office of the Attorney General
Washington, D. C. 20530

Scorsy

April 11, 1975

Secret

The Honorable Robert S. Ingersoll
Deputy Secretary of State
Room 7220, State Department
Washington, D. C.

Dear Mr. Ingersoll:

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As you know, prior to receiving your letter, the Immigration and Naturalization Service decided that it would not now require the departure of South Vietnamese or Cambodians in the United States. Therefore, the question of asylum for individuals in this class is not of immediate importance, but will be addressed if it becomes necessary to do so.

You have also expressed concern about South Vietnamese and Cambodians in third countries who are unable to remain in those countries or who face the threat of forcible return to their countries of nationality. With regard to such persons now residing in nations which have signed the United Nations Convention relating to the Status of Refugees, we believe it would be appropriate for the United States to request that such countries fulfill their obligations under the Convention to permit such persons to remain. We propose to treat such persons now in non-signatory countries in the same manner as those presently in South Vietnam and Cambodia.

The largest number of people about whom you have expressed concern are those in South Vietnam and Cambodia who are in danger of death or persecution. While you indicate that there may be 200,000 people in this category,

DECLASSIFIED

EO 12356, Sec. 3.4

MR 98-47 #17 Doc Hr. 2/17/95

By KSH NARA, Date 2/23/95

Page 2
Hon. Robert S. Ingersoll
April 11, 1975

other estimates of people to whom the United States may be deemed to have an obligation have ranged as high as 865,000.

The provisions of the Immigration and Nationality Act which permit the annual entry of 10,200 refugees from Communist countries or areas are presently unavailable because the quota for such refugees for this year has already been committed. Therefore, you are correct in assuming that the parole authority vested in the Attorney General is the only available means of permitting the immediate entry of refugees at this time. As you know, the parole authority was not originally intended to be used for classes of aliens and the Department of Justice informally agreed to consult, when possible, with the appropriate committees of Congress if it is to be exercised in this manner.

I understand that there is an immediate question regarding parole for 67 South Vietnamese now in the Philippines and approximately 2,000 Cambodians now in Thailand. I am advised by the Immigration and Naturalization Service that while these refugees are likely to present some problems with regard to the necessary identification, medical clearances, and security clearances, these matters can be handled. I am willing to exercise my parole power to admit these refugees if the President confirms that such action would be consistent with the treatment he would propose for future applicants who are similarly situated. I will attempt to obtain his guidance on this question as soon as possible.

Your request that I exercise my parole authority to permit entry of up to 200,000 people raises important questions which should be expeditiously, but systematically resolved before a decision is reached. These concern our immediate and long range capacity to employ, house, school and otherwise support varying numbers of refugees and the proper programs to do so. In addressing these questions,

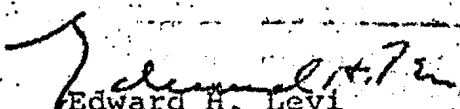
Page 3
Hon. Robert S. Ingersoll
April 11, 1975

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As with the use of the parole authority for the Cambodians now in Thailand and the South Vietnamese now in the Philippines, the exercise of the authority for large numbers of persons now in Vietnam and Cambodia should follow consultation with the appropriate committees of Congress and have the approval of the President.

I appreciate the importance of resolving the questions raised by your request. We look forward to continuing to work with you to do so.

Sincerely,


Edward H. Levi
Attorney General

cc. Philip Buchen
Counsel to the President



Office of the Attorney General
Washington, D. C. 20530

April 11, 1975

Secret

The Honorable Robert S. Ingersoll
Deputy Secretary of State
Room 7220, State Department
Washington, D. C.

Dear Mr. Ingersoll:

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DECLASSIFIED
E.O. 12958, Sec. 3.4

MR 92-47 #17 DOJ/lt 2/17/95
By 1031t NARA, Date 2/23/95

Secret

Page 2
Hon. Robert S. Ingersoll
April 11, 1975

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Secret

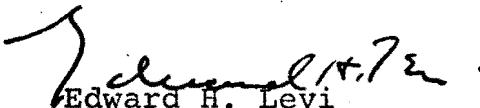
Page 3
Hon. Robert S. Ingersoll
April 11, 1975

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Sincerely,


Edward H. Levi
Attorney General

cc. Philip Buchen
Counsel to the President

THE WHITE HOUSE

WASHINGTON

April 14, 1975

MEMORANDUM FOR: ✓ PHIL BUCHEN
BRENT SCOWCROFT

FROM: JACK MARSH *Jack*

In reference to the immigration question involving a waiver for admission in large numbers of Vietnam refugees, the President asked me to obtain for him a history and precedence on such waivers.

I think he would like to have as quickly as possible some background on previous use of the waivers, which I believe occurred in the Hungarian situation in 1956/1957 and the Cuban exodus following Castro's takeover.

cc: Don Rumsfeld

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

April 14, 1975

MEMORANDUM FOR THE RECORD

FROM: The Situation Room

SUBJECT: Request for Political Asylum

NAME: Ltcl Thach Poch
Cambodian Army

POB: Dac Lieu, SVN
DOB: 18 November 1931

Presently training at Fort Lee, Va.

SON: Sopagna
DOB: 25 September 1958
POB: Cambodia

NOTE: State is taking action. This is for
your information only.



Monday 4/14/75

Meeting
4/14/75
9 a.m.

10:20 Those who attended the 9 o'clock meeting this morning :

Philip Habib, Assistant Secretary of State for East Asian Affairs	632-9596
William Kellogg, Special Assistant for Refugee and Migration Affairs	632-2258
Leonard Walentynowicz, Administrator of the Bureau of Security and Consular Affairs	632-9576
Andrew Antipas, Special Assistant to Mr. Walentynowicz	

Attorney General Edward Levi
Antonin Scalia
Mark Wolf
James Greene, Immigration and Naturalization Service
Dr. Ted Marrs

Gen. Leonard Chapman, U. S. Marine Corps

Dick Smyser, National Security Council

I am still checking on the people who were in attendance but this would be most of them.

National Security Council promised a list because the EPS officer needs such a list.

1) Cambodians in U.S. (1300) VN.
2) " in third countries
(1,000 in Thailand evacuated
by us)
-responsibility question



THE ATTORNEY GENERAL



April 15, 1975

Philip Buchen,



UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE
WASHINGTON, D.C. 20536

PLEASE ADDRESS REPLY TO

AND REFER TO THIS FILE NO.

CO 212.28a-P

April 15, 1975

VIETNAM-CAMBODIA REFUGEE STATUS REPORT - #5

1. Discussions have been held with the House Immigration Subcommittee and expansion of the parole program has been discussed. The Subcommittee agreed to consider to bring out Cambodian escapees and relatives of persons in the United States.

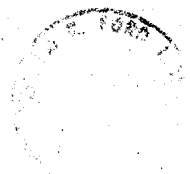
Discussions are now being held with the Department of State to identify who will be included in the expanded program. When the criteria has been worked out, further consultation will be had with the Subcommittees of the Congress.

2. A hearing before the full Senate Judiciary Committee, chaired by Senator Kennedy will be held at 2PM. Commissioner Chapman, Deputy Commissioner Greene and representatives of the Department of State will appear.
3. Two allegations have appeared in the press regarding mishandling of the orphan parole program.
 - a. The Washington Star reported on April 14, 1975 that non-orphans were lifted for bribes (see attachment). A preliminary investigation indicates no basis for the allegation. However, the investigation is continuing.
 - b. The Washington Post reported this morning on a group of Cambodian children arriving in Washington. From the article it appeared they were not in the approved category of orphans. Investigation is being conducted into the matter.
4. There has been no change in the count of orphans paroled since our report of April 14, 1975.
5. The Air Transport Association has been requested to alert its members as well as IATA and NACA membership of the program to bring fireside citizens in Saigon to this country (see attachment).



James F. Greene
Deputy Commissioner

RECEIVED
OFFICE OF THE
ATTORNEY GENERAL
APR 15 1975



Washington Star, Washington, D. C. - April 14, 1975

Non-Orphans Lifted For Brides, Aides Say

From News Services

SAN FRANCISCO—Many of the orphans airlifted here from Vietnam actually are

turned out to be the daughter of the director of Friends for All Children's Saigon orphanage. The

Mr. James Gorson
Air Transport Association
1700 New York Avenue, 5th Floor
Washington, D. C. 20006

Dear Jim:

This will confirm the telephonic request made by Tom Brobson of my staff on April 14, 1975 that ATA membership, IATA and NACA be informed of the following:

The parole of certain fireside family members of United States citizens in Saigon has been authorized. Eligible family members will present a letter from the American Embassy in Saigon authorizing the carrier to bring the listed family members to a United States port of entry without visas.

I appreciate your cooperation in this matter.

Sincerely,

James F. Greene
Deputy Commissioner



MEMORANDUM

THE WHITE HOUSE
WASHINGTON

Smyser
Buehan

April 15, 1975

MEMORANDUM FOR THE RECORD

FROM: The Situation Room
SUBJECT: Request for Political Asylum

NAME: To Um
Cambodian Navy

POB: Kampot, Cambodia

DOB: 9 November 1954

Presently training in San Diego, Ca.

CONTACT POINT: NMCC Col. Isaac Jones x78322

NOTE: State is taking action. This is for
your information only.



DATE SENT: 4/15/75

CLASSIFIED MATERIAL
Copy for Addressee

V 1458905

FROM: Mr. Habib
(Name)

DA

(Office Symbol)

6209
(Room No.)

New State
(Bldg.)

TO: Mr. Buchan
(Name)

The White House
(Office Symbol)

(Room No.)

(Bldg.)

PART V

DATE RECEIVED

Secret

IDENTIFICATION

Memorandum from Mr. Habib to

Mr. Buchan, The White House

FORM JF-6
2-70
(Formerly DS-406)

THIS PART MAY BE USED FOR DISTRIBUTION AND/OR
DESTRUCTION - 5 FAM 975.b AND 960.4
RETAINED FOR 3 YEARS

Tuesday 4/15/75

8:35 Philip Habib called to say the memo they sent over was signed by someone else in his absence and he doesn't like a part of it.

They are retyping the third page and will send a corrected copy tomorrow morning (Wed. 4/16).

He was most hopeful that you hadn't already used it for some purpose.



DEPARTMENT OF STATE
WASHINGTON

April 15, 1975

~~SECRET~~

MEMORANDUM FOR MR. PHILIP BUCHEN
THE WHITE HOUSE

Subject: Need to Parole Refugee from Indochina

SITUATION

The State Department has recommended to the Attorney General that he exercise his parole authority under Section 212(c)(5) of the Immigration and Naturalization Act for broad categories of Cambodian and Vietnamese subjects. The Attorney General is requesting the President's guidance and approval. (The exchange of correspondence is attached as Tab A.)

The Department of State and the Immigration and Naturalization Service have begun consultations with the House and Senate Judiciary Subcommittees.

It is clear that the Congressional Committees have little or no problem with the use of parole to admit small numbers of Cambodian subjects who are refugees, particularly those with close American ties, those South Vietnamese subjects who are relatives and dependents of American citizens and South Vietnamese persons who are resident aliens of the U.S. who would ordinarily be entitled to immigrant status under the INA given the time, opportunity and desire to use ordinary procedures. On April 13, for instance, the House Subcommittee agreed to the immediate parole of approximately 3,000 Vietnamese dependents of 1,500 U.S. citizens presently in Vietnam who would otherwise have refused to leave that country. This was done to reduce the American presence there in the event total evacuation became necessary.

*no phone
cable
should
be
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instead
of (c)*

DECLASSIFIED
E.O. 12355, Sec. 3.4.

~~SECRET~~
GDS

MR 92-51, #18 State Dr. 1/19/93

By KSH NARA, Date 3/16/93

~~SECRET~~

-2-

Congressional and public controversy will begin to grow as the numbers of potential parolees increase, as they will if we undertake an evacuation of any scale of South Vietnamese even though they may be in a high risk category. Assistance to the resettlement of Indo-Chinese refugees in third countries is vital and we have already obtained the agreement of the United Nations High Commissioner for Refugees for such assistance to Cambodians. (The question of UNHCR help to Vietnamese will be raised at a later date.)

IMMEDIATE ACTION REQUESTED

In order to fulfill the special obligation described in the President's April 10 speech to the Congress, while at the same time limiting public controversy to the extent possible, we ask that the President request the Attorney General to use his parole authority to admit Cambodians and Vietnamese refugees into the United States, in identifiable categories and in the following order of priority:

1. Those of the almost 1,000 "Eagle Pull" Cambodians now in Thailand who may wish to come to the United States. The Thai Government has made it abundantly clear that it urgently desires their onward movement, and our obligation to this group has not ended with their evacuation from Cambodia.
2. Several hundred South Vietnamese who arrived at Clark Air Force Base by American military planes and whose presence there is straining our relationship with the Philippine Government.
3. Cambodian diplomats and other refugees in third countries who are facing forcible return or expulsion, as in India. (If the worst should come to pass and the Saigon Government falls, the same parole authority will be required for Vietnamese diplomats.)

~~SECRET~~

~~SECRET~~

-3-

4. Documented Vietnamese relatives of American citizens in the United States who would otherwise be admissible under normal immigration procedures and whose status will be changed to the appropriate INA preference as soon as feasible after their safe arrival here as parolees.

5. In the event of a large-scale evacuation of South Vietnam, it is possible that as many as 200,000 Vietnamese to whom we have a moral obligation will require resettlement. Although every effort will be made to involve third countries, through international mechanisms such as the UNHCR, and directly, it is apparent that a large number will wish to come to the United States. The Attorney General should be asked to parole those Vietnamese who have left their country under such programs as the President may have authorized for their safety.

The Congress would be consulted and informed at every step but the urgency of most of these actions will not permit the luxury of lengthy debate or expectation of unanimous approval.

Robert H. Miller
Philip Habib *for*

Assistant Secretary
Bureau of East Asian Affairs

Attachment:

Tab A - Acting Secretary's letter to the Attorney General dated April 5 and the Attorney General's reply dated April 11.

~~SECRET~~

T
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B
A

DEPARTMENT OF STATE
WASHINGTON

4/5/75 Original hand delivered
by S/R to General
Chairman of INS 4/5
MSD (D)

Copies to:
S/S-0 Task Force
EA
H
L
S/R
NOBIS
FILE
(ek)

~~SECRET~~

April 5, 1975

Dear Mr. Attorney General:

Communist overrunning of Cambodia and South Vietnam will make refugees out of many Cambodians and South Vietnamese associated with the present governments of those countries and with the United States. These people will face death or persecution from the communist elements if they remain in Cambodia or South Vietnam or if they are presently outside of those countries and return.

There are three categories of such refugees:
(1) South Vietnamese and Cambodians in the United States who have well-founded fear of persecution if they return to their countries of nationality. These are likely to request asylum from the Immigration Service which we presume will be granted.
(2) South Vietnamese and Cambodians in third countries who are unable to remain in these countries or who may face the threat of forcible return to their countries of nationality.
(3) South Vietnamese and Cambodians who face death or persecution by communist elements because of their association with the United States Government or their own governments and must leave their countries of nationality. We estimate there are conservatively 200,000 to whom the United States Government has an obligation and the number may run to many times that number. We hope that many will be able to resettle in third countries but this may not be possible.

DECLASSIFIED
E.O. 12958 Sec. 3.6

The Honorable
Edward H. Levi,
Attorney General.

State Department Guidelines.
by KBH NARA Date 6/2/97

MICROFILMED
BY S/S-1

~~SECRET~~

(B) Operational procedures, including utilization of the INMARSAT space segment and terms of conditions governing such utilization.

(3) Adoption of procurement procedures, regulations and contract terms and conditions and approval of procurement contracts consistent with the provisions of this Agreement and the Operating Agreement.

(4) Adoption of financial policies and annual financial statements, approval of the annual budget of the Organization, determination periodically of the charges for use of the space segment, and decisions with respect to all other financial matters, including investment shares and capital ceiling, consistent with the provisions of this Agreement and the Operating Agreement.

(5) Submission to the Assembly of reports on the activities of the Organization, including reports on financial matters, utilization of the space segment and the development of future programs.

(6) Adoption and implementation of management arrangements for the Organization consistent with the provisions of Article XIV of this Agreement.

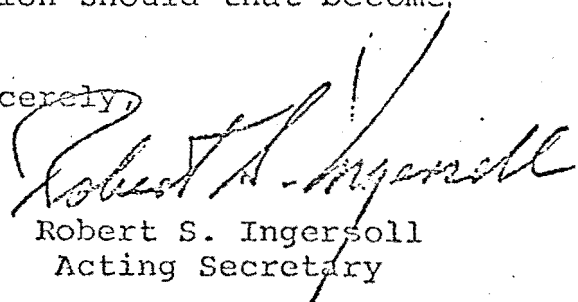
(7) Appointment and removal from office of the Director General and approval of appointments by the Director General of senior officers reporting directly to him.

Because of our deep involvement in Vietnam and Cambodia, these people will look to the United States for resettlement and I believe we have an obligation to receive them. Because of the time involved, I do not believe it will be possible to obtain special legislation from the Congress in time to permit their entry into the United States, although such legislation may well be forthcoming. Therefore, parole under Section 212 (d) (5) of the Immigration and Nationality Act appears to be the only alternative. Such parole clearly meets the emergent reasons and public interest provisions of the Immigration and Nationality Act.

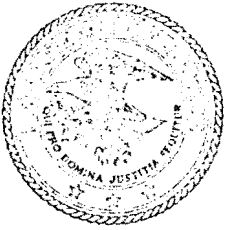
Therefore, I request that you exercise your parole authority under Section 212 (d) (5) of the Immigration and Nationality Act to permit the entry of the above categories of refugees.

If you agree with this proposal, officers of the Department will be in touch with your designees to discuss its implementation should that become necessary.

Sincerely,


Robert S. Ingersoll
Acting Secretary

Drafted by: FRJame⁷¹⁷son:sll
x28345 4/4/75
Clearances: SCA - Mr. Recknagel
L - Mr. Malmberg
EA - Mr. Habib
S/R - Mr. Kellogg
H - Mr. Goldberg



Office of the Attorney General

Washington, D. C. 20530

April 11, 1975

7507263

Secret

The Honorable Robert S. Ingersoll
Deputy Secretary of State
Room 7220, State Department
Washington, D. C.

Dear Mr. Ingersoll:

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As you know, prior to receiving your letter, the Immigration and Naturalization Service decided that it would not now require the departure of South Vietnamese or Cambodians in the United States. Therefore, the question of asylum for individuals in this class is not of immediate importance, but will be addressed if it becomes necessary to do so.

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DECLASSIFIED
E.O. 12958 Sec. 3.6

State Department Guidelines

by KBH NARA, Date 6/2/97

~~Secret~~

Page 2
Hon. Robert S. Ingersoll
April 11, 1975

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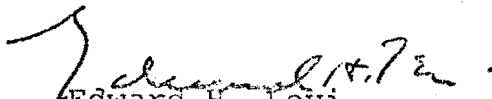
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Hon. Robert S. Ingersoll
April 11, 1975

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I appreciate the importance of resolving the questions raised by your request. We look forward to continuing to work with you to do so.

Sincerely,


Edward H. Levi
Attorney General

cc. Philip Buchen
Counsel to the President

Edward H. Levi
The Attorney General

L. F. Chapman, Jr.
Commissioner of Immigration and Naturalization

Parole for Certain Cambodians and Additional Vietnamese.

CAMBODIANS

The State Department and INS have agreed to parole 903 Cambodians now in Thailand who were evacuated to that country by the United States provided:

1. Each in fact was evacuated by the United States.
2. Each is processed in accordance with specific instructions furnished to the Embassy.

VIETNAMESE

Again State Department and INS have agreed to parole the immediate relatives of United States citizens and permanent residents presently in the United States provided:

1. They desire to enter the United States.
2. They qualify fully for admission to the United States under the immigration laws with certain technical exceptions.

This authorization would allow into the United States the same categories of persons as were authorized over the weekend for the immediate relatives of American citizens who are presently in Vietnam except it would not permit the entry of the brothers and sisters of permanent residents. The number involved in this category could be as high as 75,000.

Subject to your approval we will obtain clearance from the White House, and then consult with the two Committees of the Congress. If all concur, the despatches appended hereto will be released immediately.



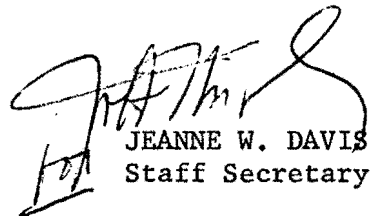
NATIONAL SECURITY COUNCIL

April 16, 1975

MEMORANDUM FOR: MR. RUMSFELD
MR. MARSH
MR. BUCHEN ✓

SUBJECT: State Department Response to
Query on Waivers for Admission
of Refugees....

Attached for your information is a copy of
the State Department response to the questions
raised in Mr. Marsh's memorandum of April 14.


JEANNE W. DAVIS
Staff Secretary





April 15, 1975

MEMORANDUM FOR LIEUTENANT GENERAL BRENT SCOWCROFT
THE WHITE HOUSE

Subject: Waivers for Admission of Refugees

The information below is submitted in response to your memorandum of today on the above subject:

Following the suppression of the abortive Hungarian revolt in the Fall of 1956 over 200,000 Hungarian refugees fled the country, especially to Austria (180,000) and to Yugoslavia (20,000). Resettlement missions from many countries were eager to accept Hungarian refugees, and the asylum countries -- especially Austria -- served as staging areas. President Eisenhower and the American people in general were eager to accept a generous quota of the Hungarians. Fewer than 7,000 refugee visas remained available, however, under the Refugee Relief Act of 1953 as amended. These were quickly used for Hungarians. At this juncture the decision was made to invoke Section 212 (d) (5) of the Immigration and Nationality Act in order to parole larger numbers of Hungarian refugees into the United States.

Section 212 (d) (5) provides inter alia that "The Attorney General may in his discretion parole into the United States temporarily under such conditions as he may prescribe for emergent reasons or for reasons deemed strictly in the public interest any alien applying for admission to the United States"

LIEUTENANT GENERAL BRENT SCOWCROFT



The sympathetic 85th Congress enacted P.L. 85-559, which provides for adjustment of status of paroled Hungarians to that of permanent immigrants to the U.S. The majority of the refugees were brought in from Austria into a U.S. staging area, in Camp Kilmer, New Jersey, administered by the Department of the Army. The refugees were resettled from Camp Kilmer, primarily through the efforts of interested voluntary agencies. A total of 30,701 Hungarian refugees regularized their status in the United States under P.L. 85-559 during 1958-59. This represented the overwhelming majority of the Hungarian refugees who were paroled into this country.

The Cuban refugee situation differs from others in that the United States was the country of first asylum. From 1957-72 this country admitted 621,403 Cuban nationals who fled from Cuba. That exodus was generally divided into three distinct periods: from the advent of the Castro government in 1959 to the breaking of diplomatic relations in January, 1961; from 1961 until the end of commercial travel in October, 1962; the subsequent period. While diplomatic relations existed, Cubans who wanted to leave Cuba went to the consulate in Havana. They were issued B-2 (tourist visas) which documented them and enabled commercial carriers to bring them to the United States. On arrival (usually Miami) the B-2 visa was cancelled by the Immigration Service (INS) and they were paroled into the United States under the parole provisions of the Immigration Act. The B-2 visa was "pro-forma" documentation to enable travel to commence.

After the break in diplomatic relations, the United States initially avoided the use of parole for Cubans fleeing the island and resorted to the device of waiving the visa requirement on a mass basis on the theory that each case represented an unforeseen emergency because of the unavailability of consular services in Cuba. This program largely terminated at the time of the Cuban Missile Crisis of 1962 because travel out of Cuba became impossible.

In October 1962, all commercial transportation between Cuba and the U.S. ended. The Cuban refugee flow was reduced to a trickle. In December 1962 the American Red Cross began sponsoring airflights and vessels which

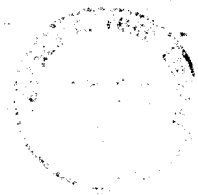


brought Cuban refugees to the United States, primarily relatives of Cubans already here and prisoners from the "Bay of Pigs" invasion. These people were directly paroled.

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Other examples, such as the parole of Soviet Jews from Rome, can be cited if these are desired.

Carolee Sullivan
for George S. Springsteen
Executive Secretary



HISTORY OF THE PAROLE AUTHORITY UNDER THE IMMIGRATION LAWS

Parole is a device by which an inadmissible alien seeking entry is permitted to proceed into the United States, but in contemplation of law is considered to be standing at the water's edge. He is not deemed to be in the United States within the meaning of the expulsion provisions or other provisions of the Immigration and Nationality Act. Standing at the water's edge, as it were, he may be removed only in exclusion proceedings.

Parole is resorted to only in exceptional situations such as emergent medical treatment, avoiding unwarranted detention, and prosecution of criminals returned to the United States. It has also been used for refugees and orphans.

The first express statutory authorization for parole appeared in the Immigration and Nationality Act which became effective December 24, 1952. ^{1/} The statute provides that the Attorney General in his discretion may parole any alien seeking admission for emergent reasons or for reasons deemed strictly in the public interest.

Before 1952, parole was utilized as an administrative expedient. ^{2/} Its peculiar status was recognized by the Supreme Court 50 years ago in the case of Kaplan v. Tod. ^{3/}

There has never been any question concerning the authority to parole individual aliens. However, questions have been raised by the Congress concerning authority to parole groups of aliens. For example, a question was raised after 224 Russian Orthodox Old Believers were paroled into the United States in June 1963. In the House Report on the 1965 Amendments, which established permanent legislation for the conditional entry of refugees, the following statement was made: "The parole provisions were designed to authorize the Attorney General to act only in emergent, individual and isolated situations, such as the case of an alien who requires immediate medical attention, and not for the immigration of classes or groups outside of the limit of the law." ^{4/}

Nevertheless, under the general parole authority of the 1952 Act, large numbers of refugees have been allowed to come into the United States after, as well as before, publication of the House Report. ^{5/} These include:

Over 30,000 refugees from the 1956 Hungarian Revolution, by direction of President Eisenhower.

Over 600,000 refugees from Cuba who began to come to the United States in an almost unbroken stream for more than a decade after the Castro

^{1/} Section 212(d)(5), I&N Act, 8 W.S.C. 1182(d)(5)

^{2/} Matter of R, 3 I&N Dec. 45 (1947)

^{3/} 267 U.S. 228 (1925)

^{4/} H. Rept. No. 745, 89th Cong., 1st Sess., pp. 15-16.

^{5/} In the Act of July 14, 1960, statutory authorization for parole of refugees was specifically provided. That law expired in 1965.



takeover in 1959. (In 1965 when he signed into law the abolition of the National Origins System, President Johnson revived the Cuban parole program despite the House report.)

15,000 Chinese refugees from Hong Kong, by direction of President Kennedy in 1962.

6,500 Czechoslovak refugees after the Soviet invasion of that country in 1968, at the urging of Congress.

Several hundred Soviet Jews and other minorities in the U.S.S.R., at the urging of Congress in 1971.

1,000 stateless Ugandan-Asians, authorized in 1972, at the urgent request of the State Department.



he has exceeded his authority, through passage of a concurrent resolution.

For the first time, Congress has used the authority granted it by the "necessary and proper clause" to establish procedures to insure that the collective judgment of the Congress will be brought to bear on issues of peace and war and the President will not act alone under alleged constitutional authority.

At this point I wish to turn to some of the arguments which have been made against the conference report today.

One of the most curious to me is the charge that this legislation expands the powers of the President. On the other hand, we have heard from those who contend that it unduly restricts and constrains the powers of the President. How can one joint resolution do both? One side must be wrong.

In matter of fact, both contentions are wrong. No simple act of Congress can affect the powers of the President, for they flow from the Constitution. The only way to affect those powers is to amend the Constitution.

Thus, this conference report could not, and does not attempt to, increase or decrease one iota either the powers of the President or the Congress. This is made amply clear in section 8(d) which states—and I quote:

Nothing in this joint resolution (1) is intended to alter the constitutional authority of the Congress or of the President, or the provisions of existing treaties; or (2) shall be construed as any authority to the President with respect to the introduction of United States Armed Forces into hostilities or into situations wherein involvement in hostilities is clearly indicated by the circumstances which authority he would not have had in the absence of this joint resolution.

It is clear from this language, therefore, that any arguments against this conference report on the grounds that power is being given or taken away from the President simply are specious.

A second allegation made about this legislation is that there is an implication that Congress is given the President power under the bill since it provides for the use of a concurrent resolution to require the withdrawal of U.S. troops when they have been committed by the President without prior congressional approval.

The thinking apparently goes this way: In past legislation in which Congress has provided for a veto of executive action by a concurrent resolution, it has given the President extraordinary authority in the first place. Since the war powers legislation provides for the use of a congressional veto through a concurrent resolution, therefore something must have been given to the President by implication.

If, as I pointed out earlier, Congress cannot give the President additional war powers by legislation, it certainly cannot do so by implication. What cannot be delegated by law, cannot be delegated by innuendo.

Finally, let us consider the argument that Congress should move to cut off Presidential commitments of forces into hostilities only by "affirmative action." Let me point out that today we are taking the affirmative action called for. We

will in a few moments be voting up or down on a measure which will lay down guidelines for the exercise of war powers. Once we have established those procedures by an up-and-down vote, and this measure becomes law, we have acted affirmatively.

It is my hope that the House once again will overwhelmingly vote to support the war powers legislation.

If we do, we will have established a guideline in the policy, history, and tradition of this Nation which no President would dare ignore, for he would ignore it at this own risk.

It is my hope that the President will see fit to sign this legislation into law. Whether he does or not, however, the national policy set forth in this conference doctrine will serve to provide the model and test for both Presidents and Congresses of the future as they grapple with issues of peace and war.

For these reasons, regardless of the outcome, this is a historic document and we meet on a historic day.

Ms. HOLTZMAN. Mr. Speaker, will the gentleman yield?

Mr. FASCELL. Mr. Speaker, I have promised to yield to the distinguished gentlewoman from New York (Ms. HOLTZMAN) and I will do so now.

(Ms. HOLTZMAN asked and was given permission to revise and extend her remarks.)

Ms. HOLTZMAN. Mr. Speaker, I wish to thank the gentleman, my good friend and distinguished colleague from Florida, for yielding.

I wonder if the gentleman would answer the following question:

Mr. Speaker, I believe it is quite clear, and I am sure the gentleman would agree, that the Constitution does not permit the President without congressional approval to commit U.S. forces to war, except in certain specific and limited circumstances, such as an emergency, an attack upon the United States, or an action taken in certain instances to protect the lives of American citizens and troops abroad.

However, in this conference report we are saying that if the President commences hostilities, even if they are unconstitutional and illegal, he may continue those hostilities for 60 days.

Mr. Speaker, is that not in essence giving the President power which he does not have under the Constitution?

Mr. FASCELL. Mr. Speaker, I thank the gentlewoman for asking that question.

I will say, first of all, that there is no premise laid down in this conference report which legalizes an illegal act of the President.

If the acts of the President are illegal, that is certainly something we do not sanction in this legislation, they remain ultra vires or illegal. We make it quite clear as a matter of statement that it is our belief that the President can exercise his authority in only three ways, which are very carefully spelled out, as follows: By a declaration of war, specific statutory authority, or in the case of a national emergency created by an attack upon the United States, its territories or possessions, or its Armed Forces. But as

is made clear in section 8(d) we do not, as indeed we cannot, alter the constitutional authority of the President whatever that is and therefore we can neither enlarge nor diminish.

Mr. DENNIS. Will the gentleman yield?

Mr. FASCELL. I am happy to yield to the gentleman.

Mr. DENNIS. I just want to ask the gentleman if this bill were to become law and the President should move the 6th Fleet into the eastern Mediterranean with Armed Forces prepared for combat, would he have to recall them at the end of 60 days unless Congress voted to approve that?

Mr. WOLFF. Will the gentleman yield?

Mr. FASCELL. I yield to the gentleman.

Mr. WOLFF. One of the aspects of the 6th Fleet being there is to remove American citizens. It has nothing to do with the defense of the Mediterranean.

Mr. FASCELL. The answer to the gentleman is "No."

Mr. FRELINGHUYSEN. Mr. Speaker, I yield myself such time as I may consume.

(Mr. FRELINGHUYSEN asked and was given permission to revise and extend his remarks.)

Mr. FRELINGHUYSEN. Mr. Speaker. I rise as a House conferee in strong opposition to this conference report.

I do so with some disappointment, because we have had an opportunity to come up with legislation that could have been signed into law. Now however, the obvious fact is that the product of the conference committee is inevitably going to be vetoed by the President. I have received assurances from the White House that that is the case, and I think it is quite right that the President should do so.

I do not believe this legislation constitutes a reasonable restraint on the President. Rather, I think it is an unreasonable and probably an unconstitutional effort to restrain him. I emphatically do not believe it is better to do something, as the gentleman from Delaware suggested, than to do nothing at all.

I was glad to see one of the chief cosponsors of warpower legislation in the other body, Senator EAGLETON, voted against the measure even though he was an originator and prime advocate of legislative action in the other body. He obviously believes it helps to do nothing, than to take action of which he disapproves.

I believe the conference report is unwise in its major provisions. I am quite sure it is untimely. One only has to look at the raging conflict in the Middle East to realize that this is not a good time for us to be playing around with an attempt to restrict the President's authority.

I think this is basically a futile exercise, and I am unhappy as I would like to see the legislative process result in something constructive.

Mr. Speaker, I want to add that I support certain major provisions of this bill and regret that these will be vetoed along with the rest.

As an example, it seems to me, if the

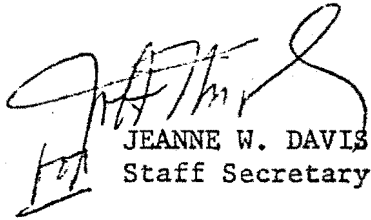
NATIONAL SECURITY COUNCIL

April 16, 1975

MEMORANDUM FOR: MR. RUMSFELD
MR. MARSH
MR. BUCHEN ✓

SUBJECT: State Department Response to
Query on Waivers for Admission
of Refugees....

Attached for your information is a copy of
the State Department response to the questions
raised in Mr. Marsh's memorandum of April 14.


JEANNE W. DAVIS
Staff Secretary



April 15, 1975

MEMORANDUM FOR LIEUTENANT GENERAL BRENT SCOWCROFT
THE WHITE HOUSE

Subject: Waivers for Admission of Refugees

The information below is submitted in response to your memorandum of today on the above subject:

Following the suppression of the abortive Hungarian revolt in the Fall of 1956 over 200,000 Hungarian refugees fled the country, especially to Austria (180,000) and to Yugoslavia (20,000). Resettlement missions from many countries were eager to accept Hungarian refugees, and the asylum countries -- especially Austria -- served as staging areas. President Eisenhower and the American people in general were eager to accept a generous quota of the Hungarians. Fewer than 7,000 refugee visas remained available, however, under the Refugee Relief Act of 1953 as amended. These were quickly used for Hungarians. At this juncture the decision was made to invoke Section 212 (d) (5) of the Immigration and Nationality Act in order to parole larger numbers of Hungarian refugees into the United States.

Section 212 (d) (5) provides inter alia that "The Attorney General may in his discretion parole into the United States temporarily under such conditions as he may prescribe for emergent reasons or for reasons deemed strictly in the public interest any alien applying for admission to the United States"

UNITED STATES DEPARTMENT OF STATE

The sympathetic 85th Congress enacted P.L. 85-559, which provides for adjustment of status of paroled Hungarians to that of permanent immigrants to the U.S. The majority of the refugees were brought in from Austria into a U.S. staging area, in Camp Kilmer, New Jersey, administered by the Department of the Army. The refugees were resettled from Camp Kilmer, primarily through the efforts of interested voluntary agencies. A total of 30,701 Hungarian refugees regularized their status in the United States under P.L. 85-559 during 1958-59. This represented the overwhelming majority of the Hungarian refugees who were paroled into this country.

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Carolee Seelman
per George S. Springsteen
Executive Secretary

DECLASSIFIED

E.O. 12333, Sec. 3.4.

MA 92-51, #19 State Dept. 1/17/93

By KOH, NARA, Date 3/14/93

DEPARTMENT OF STATE
WASHINGTON

April 16, 1975

~~SECRET~~

MEMORANDUM FOR MR. PHILIP BUCHEN
THE WHITE HOUSE

Subject: Need to Parole Refugees from Indochina

SITUATION

The State Department has recommended to the Attorney General that he exercise his parole authority under Section 212(d)(5) of the Immigration and Naturalization Act for broad categories of Cambodian and Vietnamese subjects. The Attorney General is requesting the President's guidance and approval. (You have copies of this correspondence.)

The Department of State and the Immigration and Naturalization Service have begun consultations with the House and Senate Judiciary Subcommittees.

It is clear that the Congressional Committees have little or no problem with the use of parole to admit small numbers of Cambodian subjects who are refugees, particularly those with close American ties, those South Vietnamese subjects who are relatives and dependents of American citizens and South Vietnamese persons who are resident aliens of the U.S. who would ordinarily be entitled to immigrant status under the INA given the time, opportunity and desire to use ordinary procedures. On April 13, for instance, the House Subcommittee agreed to the immediate parole of approximately 3,000 Vietnamese dependents of U.S. citizens presently in Vietnam who would otherwise have refused to leave that

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country. This was done to reduce the American presence there in the event total evacuation became necessary. Congressional and public controversy grows as the numbers of potential parolees increase, as they will if we undertake an evacuation of any scale of South Vietnamese, even though the people may be in a high-risk category. Therefore, assistance to the resettlement of Indochinese refugees in third country is vital. We have already obtained the agreement of the United Nations High Commissioner (UNHCR) and the Intergovernmental Committee for European Migration (ICEM) for such assistance to Cambodians. Our Mission in Geneva is being asked to approach the UNHCR and ICEM on a confidential basis to request similar assistance to Vietnamese refugees once they are out of their own country.

Whatever action is taken, the Congress should be consulted and informed at every step, but the urgency of some of these recommendations may not permit lengthy debate or expectation of unanimous approval.

IMMEDIATE ACTION REQUESTED

In order to fulfill the special obligation described in the President's April 10 speech to the Congress, while at the same time limiting public controversy to the extent possible, the State and Justice Departments have agreed to ask that the President request the Attorney General to use his parole authority to admit certain Cambodian and Vietnamese refugees in identifiable categories into the United States. With the two exceptions noted below, State and Justice are agreed on the following categories and order of priority:

1. Those of the 1,000 "Eagle Pull" Cambodians now in Thailand who may wish to come to the United States. The Thai Government has made it clear that it urgently desires their onward movement.

n.b.: all figures used are State Department estimates. Justice Department estimates are included in the Attorney General's memo of April 15 which you have.

2. There are 100 South Vietnamese at Clark Air Force Base, who constitute the exception referred to above. They arrived via American military airlifts and their presence is straining our relationship with the Philippine Government. The State Department recommends that they be paroled. Justice concurs, provided the 100 figures is subtracted from the total number of parolees finally agreed upon.

3. Documented Vietnamese relatives of American citizens in the United States who would otherwise be admissible under normal immigration procedures and whose status will be changed to the appropriate INA preference as soon as feasible after their safe arrival here as parolees. (Embassy Saigon reports 3,000 such relatives currently registered with the Visa Section.)

4. Approximately 5,000 Cambodian diplomats and other refugees in third countries who may face forcible return or expulsion, as in India. If the worst should come to pass, the same parole authority will be required for Vietnamese diplomats and other refugees in third countries, also roughly estimated at 5,000. Justice does not wish to parole any of these categories into the U.S., in order to force the UNHCR to take action. State disagrees.

CONTINGENCY PLANNING

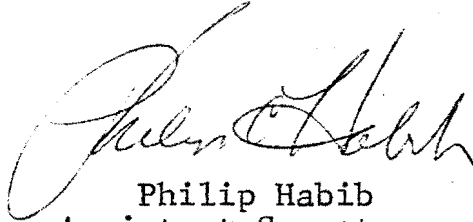
In the event of a large-scale evacuation of those high-risk Vietnamese to whom we have a moral obligation, as many as 200,000 may require resettlement. (Under certain circumstances, this figure could be much larger but there is no clear indication of just how great the number might be.) Every effort will be made to involve third countries, through international mechanisms such as the UNHCR and ICEM, and directly. Nevertheless, it is apparent that a large number will wish to come to the United States. If they are to do so, it would require the Attorney General's use of parole.

The State and Justice Departments are agreed on the principle of parole for Vietnamese who have left their

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country under such programs as the President may have authorized for their safety but differ sharply as to numbers. The Justice Department would limit the use of parole to a maximum of 50,000, or 40% of the total number of refugees, whichever is less, because of domestic impact. The State Department believes that we should take our fair share of the residual refugees unable to be resettled elsewhere.



Philip Habib
Assistant Secretary
Bureau of East Asian Affairs