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MEMORANDUM

THE WHITE HOUSE
WASHINGTON

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ACTION
November 12, 1969

MEMORANDUM FOR THE PRESIDENT

FROM: Henry A. Kissinger *HK*
SUBJECT: Note to Cuban Government on Hijacking

In the memorandum at Tab A, Secretary Rogers asks that you approve the dispatch of a note to the Cuban Government stating that the United States is prepared, on a basis of reciprocity, to return hijackers of Cuban ships and aircraft except in the case of US nationals or when we determine to grant political asylum.

The note is intended to follow up on the Cuban hijacking decree of September 19, which offered to return hijackers--political asylees excepted--on a basis of strict reciprocity with states entering into an agreement with Cuba to that effect.

The Secretary believes that the hijacking situation has reached serious proportions and that we should take every step we can to resolve it. He believes that sending the proposed note might lead to an arrangement that would help deter future hijackings.

The Secretary's memorandum argues that:

- The return from Cuba of hijackers for prosecution in the United States would be the most effective deterrent to future hijacking we can achieve; announcement of an agreement with Cuba to return hijackers would have a strong deterrent effect.
- An understanding with Cuba on hijacking would not alter the status of our relations with the Castro Government. There are many precedents for discussions and agreements with governments in the absence of diplomatic relations. A prime example is the 1965 agreement with Cuba itself establishing the refugee airlift. The 1955 agreement with Communist China for the exchange of civilian prisoners and the 1962 agreement on Laos are other examples.

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- Chances that such an action would be misunderstood as portending an intention to regularize relations with Cuba are small. A hijacking agreement would be readily understandable--and explainable--as a specific thing limited to that subject. Such an agreement, in fact, is likely to be received favorably in many sectors of the US, the industry and the Congress because of its promise to end the vexing problem of hijacking.
- While the reciprocal obligation to return hijackers to Cuba might be criticized domestically, as a practical matter most hijackers coming from Cuba are most likely to be entitled to political asylum. In the exceptional case of a common criminal who uses hijacking to escape justice we should be prepared to reciprocate in order to achieve the return of hijackers to the US and to establish precedents for the international community.
- The proposed note has been discussed with the Attorney General who agrees to the use of deportation or exclusion procedures under the immigration laws for this purpose.

The text of the proposed note is at Tab B. It is not drafted in the form of an agreement as such. We would, however, be prepared to proceed with a more direct memorandum of understanding--as was done in the 1965 refugee airlift understanding--if that is necessary to reach agreement. Background on the situation and the text of the Cuban decree is at Tab C.

I concur in the Secretary's recommendation because I think the opportunity to find a solution to the very troublesome hijacking problem is sufficiently promising that we should not miss it. I also agree that the adverse implications or consequences are likely to be minimal.

RECOMMENDATION:

That you approve the dispatch of the note at Tab B to the Cuban Government through the Swiss Embassy in Havana.

Approve *[Signature]* Disapprove _____ See Me _____

Attachments

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