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 By **AB** NARA Date **9/30**

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DEPARTMENT OF STATE
 WASHINGTON

COPIES TO: Signed orig. Pouched 10/20/71
 Register # 1500356

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Oct. 20, **HAND CARRIED BY SPECIAL COURIER** October 8, 1971
 to arrive Friday. (per P. Washington)
 Signed original received dated 10/19/71.

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MEMORANDUM FOR THE PRESIDENT

Subject: U.S. Oceans Policy: Spanish Opposition
 to the U.S. Straits Proposal

For the past several months, Spain has actively and publicly opposed the major objective of your Oceans Policy which is to assure the continued mobility of our strategic deterrent forces. Spain, which abuts the Strait of Gibraltar, the most important strait in the world, has worked against our goal of achieving international agreement on a right of free transit through and overflight of international straits, which we consider essential if we are to accept a twelve mile territorial sea. Instead, Spain supports a twelve mile territorial sea but has advocated adhering to the present right of innocent passage which does not allow for overflight of territorial waters. Spain has even stated that the right of innocent passage does not extend to nuclear powered ships, giant tankers, and ships carrying dangerous cargoes, i.e., nuclear weapons. If the territorial sea is expanded beyond three miles, transit through the Strait of Gibraltar, if limited by the Spanish version of innocent passage, would be unacceptably restricted. The principal proponent of the Spanish position is Foreign Minister Lopez Bravo, who most recently condemned the principle of free transit in his speech at the U.N. General Assembly on October 1.

On October 4, I chaired a meeting to consider the Spanish opposition to our straits proposal and the

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status of our discussions with Spain on Project Darlington, an undersea detection system designed for installation in the Strait of Gibraltar. Among those attending the meeting were Deputy Secretary Packard, Admiral Moorer, Admiral Zumwalt, Navy Under Secretary Warner, Legal Adviser Stevenson and Ambassador Hill.

The participants agreed that our proposal for free transit is essential to maintain the strategic mobility upon which the Western defense posture depends and that persistent Spanish opposition to our proposal is seriously damaging to U.S. and Western security interests.

In order to emphasize to the highest level of the Spanish Government our vital interest in achieving international agreement on a right of free transit, Ambassador Hill suggested that Vice President Agnew deliver a message to this effect from you to President Franco during his stop at Torrejon on October 22 enroute to Washington from Iran. I fully endorse this suggestion and am prepared to ask Legal Adviser Stevenson and Ambassador Hill to accompany the Vice President and provide the necessary background information on this matter.

Recommendation:

That you instruct Vice President Agnew, accompanied by the Legal Adviser and the Ambassador, to call on President Franco and deliver the attached letter from you.

W. Alex. Thomson
Acting Secretary

Attachment:

Draft letter to Franco

Drafted: L/OA: CJPitman: cck #21248, 10/8/71

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Concurrences:

L - Mr. Stevenson
IO/WSP - Mr. McIntyre
S/PC - Capt. Meier
DOD - Mr. Carter

PM/ISO - Mr. Stoddart
EUR/SRP - Mr. Landau
S/TW-COA - Amb. McKernan

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THE WHITE HOUSE
 WASHINGTON

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RS/R FILES

Attention MRS. MULLETTE
 Keep this study together.

October 19, 1971

Dear General Franco:

As you know, the United States has put forward a law of the sea proposal which would provide for a right of free transit through and overflight of international straits. The successful negotiation of this right and of our proposal for a twelve mile territorial sea at the Law of the Sea Conference scheduled for 1973 is of the highest importance to the United States and, we believe, to the security of the West. I was disturbed, therefore, to learn that Spanish officials have expressed opposition to this proposal at various international gatherings, including the General Assembly of the United Nations.

We believe that the right of free transit is essential for preserving the mobility of both our general purpose and nuclear deterrent forces, not only in meeting our commitments in Western Europe, but in fulfilling our responsibilities in other parts of the world as well. This right would be an objective one, established by international agreement and applicable to all straits used for international navigation. We do not think that the present international law right of innocent passage is sufficient for Western security requirements because it is a subjective standard, does not include the right of overflight, and carries a requirement that submarines must navigate on the surface.

Your Government has closely identified itself with the Western defense effort and we are pleased to know that you anticipate an even more active role in the future. I am confident, too, that Spain shares the concern of many

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Western nations over the recent increase in Soviet naval strength in the Mediterranean. It is to counter this potential threat by maintaining the maximum strategic flexibility for our own forces and those of our allies that we have proposed a right of free transit through and over international straits. We have concluded that an international agreement recognizing this right would benefit all countries interested in maintaining the political and military balance on which world stability is presently based.

We have discussed these issues with officials of your Government and will continue to do so, but I wanted you to know of my deep personal concern. I will welcome your views on this subject and have therefore asked Ambassador Hill to deliver this letter personally to you and to provide you with any additional information on this issue which you may require.

With warm regards,

Sincerely,



His Excellency
General Francisco Franco Bahamonde
Chief of the Spanish State
Madrid

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