

FOIA MARKER

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National Security Council - National Security Issues 1993 I - Cuba

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1

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. memo	Anthony Lake and Laura Tyson to President Clinton re: Helms-Burton legislation (6 pages)	00/00/0000	P1/b(1)
002a. memo	Alan Kreczko to Anthony Lake re: Extradition (1 page)	07/13/1995	P1/b(1)
002b. memo	Harold Ickes to Abner Mikva and Tony Lake re: Possible extradition (1 page)	07/04/1995	P1/b(1)
002c. memo	Anthony Lake and Abner Mikva to President Clinton re: Extradition (1 page)	07/18/1995	P1/b(1)
002d. memo	James Cavanaugh to Bruce Pease re: Extradition (1 page)	06/29/1995	P1/b(1)
002e. form	Tony Lake to President Clinton re: Extradition (2 pages)	07/18/1995	P1/b(1)
003. statement	re: Privileged summary on blockades (2 pages)	00/00/0000	P1/b(1)
004. statement	re: Privileged summary on Cuba policy implementation (5 pages)	08/20/1994	P1/b(1)

COLLECTION:

Clinton Presidential Records
Counsel Office
Charles Ruff
OA/Box Number: 17984

FOLDER TITLE:

National Security Council - National Security Issues 1993 I - Cuba

2016-0920-F

jm1882

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

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C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

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JACK QUINN

Attached FYE is draft ~~CUBA~~
into memo we've done to POTUS
on Helms-Burton. I've also
attached another copy of our
legal analysis of options.

Alan

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NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20504*to Mr. Ickes*ACTION

MEMORANDUM FOR SAMUEL BERGER

FROM: ALAN KRECZKO

SUBJECT: Taking Cuba to the World Court

A memo to Harold Ickes is attached, explaining why we should not authorize Representative Menendez to indicate the United States Government intends to bring the Cuba shootdowns to the World Court. State/L agrees.

Concurrences by: William Danvers, Fulton Armstrong (subs)

RECOMMENDATION

That you initial the memorandum attached at Tab I.

Attachment

Tab I Memorandum to Harold Ickes

Tab A Letter from Representative Menendez

to Mr. Ickes
attached memo
compelling
Jack F.

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20504

3448

MEMORANDUM FOR HAROLD ICKES

FROM: SAMUEL BERGER

SUBJECT: Taking Cuba to the World Court

Representative Menendez has suggested to you that he be authorized to tell the Cuban American National Foundation that the United States intends to take the Cuban shootdown of U.S. aircraft to the International Court of Justice (Tab A). We think this would be counterproductive:

-- to get the case to the World Court, we would need either Cuba's consent or UN referral. Rather than simply reject the suggestion of ICJ adjudication, Cuba could seek to broaden the referral to include Cuban complaints about U.S. behavior (U.S. intrusions into Cuban airspace; other anti-Cuba activities conducted from the U.S.; the Helms-Burton legislation). When we refused, Cuba would score a propaganda victory.

-- even if we could get the matter to the World Court, the risks would outweigh the benefits. While a Court decision might add some international censure to that already obtained in the UN and ICAO, most cases take years of litigation before a decision. While the case is in progress, it would be more difficult to secure action against Cuba from political bodies like ICAO and the UN Security Council, if we desired that, since many States would argue that those bodies should withhold action until the Court had rendered a decision. The Court itself could direct the U.S. to stand down on responses to Cuba until it had rendered a decision. Finally, there is a significant risk that the ultimate decision from the Court could be unfavorable at least in part. The Court would likely pronounce at least on the illegality of the intrusions into Cuban airspace, and some judges could accept Cuba's national security rationale for the shootdowns. (The ICJ has not been a reliable forum for obtaining reasonable decisions in political cases.)

All of these points can be used in explaining to Representative Menendez why we are not inclined to pursue the ICJ option. Alan Kreczko and Bill Danvers of my staff would be happy to go up and brief Representative Menendez on our reasoning.

Tab A
Letter from Representative Menendez

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002a. memo	Alan Kreczko to Anthony Lake re: Extradition (1 page)	07/13/1995	P1/b(1)

COLLECTION:

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002b. memo	Harold Ickes to Abner Mikva and Tony Lake re: Possible extradition (1 page)	07/04/1995	P1/b(1)

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002c. memo	Anthony Lake and Abner Mikva to President Clinton re: Extradition (1 page)	07/18/1995	P1/b(1)

COLLECTION:

Clinton Presidential Records
Counsel Office
Charles Ruff
OA/Box Number: 17984

FOLDER TITLE:

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002d. memo	James Cavanaugh to Bruce Pease re: Extradition (1 page)	06/29/1995	P1/b(1)

COLLECTION:

Clinton Presidential Records
Counsel Office
Charles Ruff
OA/Box Number: 17984

FOLDER TITLE:

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National Security Council
The White House

PROOFED BY: _____

LOG # 5370

URGENT NOT PROOFED: _____

SYSTEM PRS NSC INT

BYPASSED WW DESK: _____

DOCLOG 18K A/O _____

	SEQUENCE TO	INITIAL/DATE	DISPOSITION
<u>15</u> Harmon			
Dohse	<u>5</u>	<u>D</u>	
Sens			
Soderberg			
Berger	<u>6</u>	<u>MU</u>	
Lake	<u>6</u>	Nat Sec Advisor has seen	
Situation Room			<u>TB</u>
West Wing Desk	<u>7</u>	<u>APB 7/17</u>	<u>D</u> <u>mikey</u>
Records Mgt.		<u>18K 7/20</u>	<u>N</u>

A = Action I = Information D = Dispatch R = Retain N = No Further Action

cc:

COMMENTS:

Exec Sec Office has diskette yes

National Security Council
The White House

PROOFED BY: _____

LOG # 5370

URGENT NOT PROOFED: _____

SYSTEM PRS NSC INT

BYPASSED WW DESK: _____

DOCLOG [Signature] A/O _____

	SEQUENCE TO	INITIAL/DATE	DISPOSITION
<u>15</u> Harmon	_____	_____	_____
Dohse	<u>1</u>	<u>D</u>	_____
Sens	_____	_____	_____
Soderberg	<u>copy</u>	_____	_____
Berger	<u>2</u>	<u>sw</u>	_____
Lake	_____	_____	_____
Situation Room	_____	_____	_____
West Wing Desk	<u>3</u>	_____	_____
Records Mgt.	_____	_____	_____
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cc:

COMMENTS:

*please see
SRB note
Thank*

Exec Sec Office has diskette up

THE WHITE HOUSE

WASHINGTON

ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: ANTHONY LAKE
JOHN HILLEY
JACK QUINN

SUBJECT: Response to Letter from Senator Dole and Senator Mack Concerning Cuban Shootdown

Purpose

To respond to a letter from Senators Dole and Mack requesting the indictment of those responsible for Cuba's shootdown of two U.S. aircraft.

Background

Senator Dole and Senator Mack have written to urge you to seek the indictment of all Cubans responsible for the shootdown.

The Justice Department is investigating the incident under applicable domestic and international law. Apart from ordinary prosecutorial considerations, prosecution of military officers in these circumstances, even if technically possible, will raise serious legal policy issues -- including reciprocity concerns.

The attached response advises the Senators that the Justice Department is investigating the incident.

RECOMMENDATION

That you sign the attached response.

Attachments

Tab A Response to Letter from Senators Dole and Mack
Tab B Incoming Correspondence

cc: Vice President
Chief of Staff

THE WHITE HOUSE

WASHINGTON

Dear Mr. Leader:

Thank you for your letter expressing outrage over the unprovoked shooting down of two United States civilian aircraft by Cuban authorities.

As I said at the time of the shootdown, the United States cannot tolerate the loss of American lives. Beginning on Sunday, February 25, I ordered a series of steps. As a result of U.S. efforts, the United Nations Security Council unanimously adopted a Presidential Statement strongly deploring Cuba's actions. In addition, the United States has taken a number of unilateral measures to obtain justice from the Cuban government, as well as its agreement to abide by international law in the future.

As part of these measures, I signed the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act. The Act is a strong, bipartisan response to Cuba's unlawful behavior that tightens the economic embargo against the Cuban regime and permits us to continue to promote democratic change in Cuba.

With regard to the possible indictment of those responsible for this brutal act, the Attorney General has advised me that a comprehensive inquiry is underway. It will take into account all aspects of the incident in light of domestic and international law.

Once again, thank you for your interest in this matter.

Sincerely,

The Honorable Robert Dole
Majority Leader
United States Senate
Washington, D.C. 20510

THE WHITE HOUSE

WASHINGTON

Dear Senator Mack:

Thank you for your letter expressing outrage over the unprovoked shooting down of two United States civilian aircraft by Cuban authorities.

As I said at the time of the shootdown, the United States cannot tolerate the loss of American lives. Beginning on Sunday, February 25, I ordered a series of steps. As a result of U.S. efforts, the United Nations Security Council unanimously adopted a Presidential Statement strongly deploring Cuba's actions. In addition, the United States has taken a number of unilateral measures to obtain justice from the Cuban government, as well as its agreement to abide by international law in the future.

As part of these measures, I signed the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act. The Act is a strong, bipartisan response to Cuba's unlawful behavior that tightens the economic embargo against the Cuban regime and permits us to continue to promote democratic change in Cuba.

With regard to the possible indictment of those responsible for this brutal act, the Attorney General has advised me that a comprehensive inquiry is underway. It will take into account all aspects of the incident in light of domestic and international law.

Once again, thank you for your interest in this matter.

Sincerely,

The Honorable Connie Mack
United States Senate
Washington, D.C. 20510

THE WHITE HOUSE

WASHINGTON

March 8, 1996

MEMORANDUM FOR ANDREW SENS
NSC Executive Secretariat

FROM: SUSAN BROPHY *SB*
SUBJECT: Presidential Correspondence

Attached are copies of letters sent to the President from various members of Congress. Since these letters address national security issues, we would appreciate your assistance in drafting a response.

Thank you very much for your assistance. If you have any questions, please feel free to call Jocelyn Jolley at x7500.

The following is a brief description of these letters:

- 1) Rep. Glen Browder (D-AL), requesting that the President not transfer \$368 million of military hardware to Pakistan;
- 2) Rep. Tim Johnson (D-SD), concerning his support for the Brown Amendment;
- 3) Rep. Ileana Ros-Lehtinen (R-FL), concerning the declassification of the final flight of Crispian Lucio Garcia Fernandez and Juan de Mata Gonzalez Romero, who died in the U.S. effort to liberate Cuba;
- 4) Sen. Bob Dole (R-KS) and Sen. Connie Mack (R-FL), concerning the indictment of all those responsible for the February 24, 1996 killing of the four Cuban American pilots; and
- 5) Rep. Dick Zimmer (R-NJ), concerning the immigration status of Brothers to the Rescue Pilot Pablo Morales.

1653

United States Senate

OFFICE OF THE REPUBLICAN LEADER

WASHINGTON, DC 20510-7010

March 7, 1996

The President
The White House
Washington, D.C.

Dear Mr. President:

All Americans share the shock and outrage we have expressed over the brutal murder of unarmed Americans by Fidel Castro's Air Force. All long-time supporters of the LIBERTAD legislation tightening the economic noose on Castro's dictatorship welcome your endorsement of the legislation. Enactment of this legislation is critical to send the right signal to Havana and to the world.

While the LIBERTAD bill is vital and necessary, America must do more to ensure the brutal murder of innocent American citizens does not go unpunished. If America does not take action, the murderers of Armando Alejandro, Carlos Costa, Mario de la Pena and Pablo Morales will not be held accountable for their crimes. We urge you to immediately direct the Attorney General to seek the indictment of all those responsible for the heinous crime of February 24, 1996.

There are numerous statutes in the United States Code which apply to the brutal murders last month. For example, the willful destruction of U.S. civil aircraft employed in overseas or foreign airspace carries the penalty of 20 years in prison (18 U.S.C. §32(a)). The act of murder of American citizens as part of an activity which appears to be intended to influence the policy of a government by intimidation or coercion carries a penalty of death or life imprisonment (18 U.S.C. §2331 and §2332)).

The transcripts of Cuban Air Force pilots and ground personnel cited by the U.S. Ambassador to the United Nations during U.N. Security Council debate on February 27, 1996 make it amply, and obscenely, clear that the brutal actions over the Straits of Florida were the willful destruction of U.S. civil aircraft. Statements justifying the Cuban action by government officials, including President Fidel Castro, Foreign Minister Robaina, and Assembly President Alarcon, make it crystal clear that the murders of February 24, 1996 were designed to change U.S. government policy toward the activities of Brothers to the Rescue. Clearly, this action falls within the statutory definition of an act of international terrorism.

Mr. President, the indictment of all those responsible for this vicious crime is essential. Specifically, we urge you to seek indictment for capital murder in an act of international terrorism to ensure there is no statute of limitation for this ruthless crime. U.S.

96 MAR 8 PM 12:40

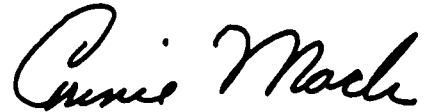
NSC

indictments would mean the murderers would be subject to seizure and return to the United States or extradition to the United States any time they travel outside the territory of Cuba -- in international airspace, in international waters, or in any country in the world. U.S. indictment would ensure that, ultimately, justice would be served after this tragedy. Pursuing justice in federal court is the least we can do to honor the brave, young Americans killed by Castro's regime. Directing the U.S. Attorney General to seek the indictment of those responsible would be the best way to fulfill your pledge that "the United States will not tolerate further loss of American life."

Sincerely,

A handwritten signature in black ink, appearing to read "Bob Dole", with a stylized, cursive script.

BOB DOLE

A handwritten signature in black ink, appearing to read "Connie Mack", with a stylized, cursive script.

CONNIE MACK

OK

STATEMENT BY THE PRESIDENT

Today, I am signing into law H.R. 927, the "Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996." The Act imposes additional sanctions on the Cuban regime, mandates the preparation of a plan for United States assistance to transition and democratically-elected Cuban governments, creates a cause of action enabling United States persons to sue persons who expropriate or "traffic" in expropriated properties in Cuba, and denies "traffickers" entry into the United States.

H.R. 927 is an appropriate response to the Cuban government's unlawful and unjustified shooting down of unarmed, U.S.-registered civilian aircraft on February 24, 1996, which caused the death of three American citizens and one U.S. resident. Immediately after Cuba's brutal deed, I urged that differences on the bill be set aside so that the United States could speak in a single, strong voice. By acting swiftly, we are sending a powerful message to the Cuban regime that we will not tolerate any further loss of life.

I am particularly pleased that H.R. 927 reasserts our common goal of promoting a peaceful transition to democracy in Cuba by tightening the existing embargo while reaching out to the Cuban people. Our current efforts are beginning to yield results:

they are depriving the Cuban regime of the hard currency it needs to maintain its grip on power; most importantly, they are empowering the agents of peaceful change on the island. This Act provides further support for the Administration's efforts to strengthen independent organizations in Cuba intent on building democracy and respect for human rights. I welcome its call for a plan to provide assistance to Cuba under transition and democratically-elected governments. I continue to have serious doubts regarding whether Title III would expedite a transition to democracy in Cuba and further U.S. national interests. Accordingly, I am pleased that section 306 allows for the suspension of Title III or, if it becomes effective, for the suspension of the right to bring new actions, based on an appropriate Presidential determination.

Because the Cuban government's downing of the civilian aircraft demanded a unified response, I have signed this Act notwithstanding the reservations that I have regarding certain of its provisions. I am particularly concerned that these provisions not derogate from the President's authority under the Constitution to conduct United States foreign policy. A number of provisions -- sections 104(a), 109(b), 113, 201, 202(e), and 202(f) -- would state the foreign policy of the United States, or

would direct that particular diplomatic initiatives or other courses of action be taken with respect to foreign countries or governments. While I support the underlying intent of these sections, the President's constitutional authority over foreign policy necessarily entails discretion over these matters. Accordingly, I will construe these provisions to be precatory rather than mandatory.

I also am concerned that provisions in the Act might hamper the President's ability to respond effectively to rapid changes in Cuba. This ability is required to ensure that we can advance our national interests in a manner that is conducive to a democratic transition in Cuba. Section 102(h), concerning the codification of the economic embargo, and the requirements for determining that a transition or a democratically-elected government is in power, can be read to impose rigid and unwelcome constraints on the implementation of our foreign policy. I will continue to work with the Congress to obtain the flexibility needed if the United States is to be in a position to advance our shared interest in a rapid and peaceful transition to democracy in Cuba.

Finally, Title IV of the Act provides for the Secretary of State to deny visas to, and the Attorney General to exclude from

the United States, certain individuals who, after the date of enactment of the Act, confiscate or traffic in expropriated property. I understand that the provision was not intended to reach individuals coming to the United States, including to the United Nations, as diplomats. A categorical prohibition on the entry of all individuals who fall within the scope of section 401 could constrain the exercise of my exclusive authority under Article II of the Constitution to receive ambassadors and to conduct diplomacy. I am, therefore, directing the Secretary of State and the Attorney General to ensure that this provision is implemented in a way that does not interfere with my constitutional prerogatives and responsibilities.



U. S. Department of Justice

Office of Legislative Affairs

C
B
A

Office of the Assistant Attorney General

Washington, D.C. 20530

The Honorable Alice M. Rivlin
Director
Office of Management and Budget
Washington, D.C. 20503

Dear Ms. Rivlin:

This is in response to your request for the views and recommendation of the Department of Justice on the enrolled bill, H.R. 927, the "Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996". The Act would strengthen the economic embargo against Cuba and make other changes in United States policy toward Cuba. The Department believes that some provisions of the Act are unconstitutional. However, these infirmities can be avoided by construing these provisions as precatory. Therefore, we recommend approval with an explanation to this effect in the signing statement.

Several provisions of H.R. 927 would interfere unconstitutionally with the President's exclusive authority under the Constitution to conduct and manage our relations with other countries:

- Section 104(a) would require the Secretary of the Treasury to instruct United States executive directors of international financial institutions to speak and vote in a stipulated manner on a request for Cuban membership in these institutions;
- Section 109(b) would require the President to encourage the Organization of American States to create a special emergency fund for deploying human rights observers, election support, and election monitors in Cuba;

- Section 113 would require the President to instruct all United States Government officials who have contact with the Cuban government to raise on a regular basis the subject of return to the United States of persons residing in Cuba who are sought for crimes committed in the United States;

- Section 202(e) would require the President to seek the agreement of other countries, international financial institutions, and multilateral organizations for providing a transitional government in Cuba with assistance comparable to that set forth in the Act and to work with these countries and organizations to coordinate such assistance.

- Section 202(f) would require the President to communicate to the Cuban people the plan for assistance developed in the Act.

The courts have repeatedly said that the President is "exclusively responsible" for the "conduct of diplomatic and foreign affairs." Johnson v. Eisenstrager, 339 U.S. 763, 789 (1950). The Constitution requires that the President and his subordinates have discretion over whether to enter into negotiations with foreign governments and over the content of those negotiations. See Earth Island Inst. v. Christopher, 6 F.3d 648, 652-54 (9th Cir. 1993) (holding unconstitutional a statute that purported to require the Secretary of State to enter into negotiations with foreign governments upon the occurrence of designated conditions); see also Haig v. Agee, 453 U.S. 280, 293-94 (1981); Chicago & Southern Air Lines, Inc. v. Waterman Steamship Corp., 333 U.S. 103, 109 (1948).

The President uses our diplomatic personnel abroad, our representatives to international financial and multilateral institutions, and other Executive branch officials to execute foreign policy. Although Congress has the authority to appropriate funds for their activities, the nature and scope of their activities is a function of the President's foreign affairs authority. Accordingly, unless construed as precatory, the cited sections would interfere unconstitutionally with the President's foreign affairs authority.

We therefore recommend that the President include the following text in his signing statement:

The United States Constitution vests authority over the nation's foreign and diplomatic affairs in the President, requiring that the President and his subordinates have discretion over the conduct of those affairs. Accordingly, I will construe sections 104(a), 109(b), 113, 202(e) and 202(f), which otherwise would unconstitutionally interfere with the exclusive responsibility of the President over the conduct of foreign and diplomatic affairs, as merely precatory.

Thank you for the opportunity to present our views.

Sincerely,



Andrew Feio *JA AF*
Assistant Attorney General

WHITE HOUSE STAFFING MEMORANDUM

DATE: 2/26/96 ACTION/CONCURRENCE/COMMENT DUE BY: ImmediateSUBJECT: Cuba Statement

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☒	☐	McCURRY	☒	☐
PANETTA	☒	☐	McGINTY	☐	☐
McLARTY	☐	☐	NASH	☐	☐
ICKES	☒	☐	QUINN	☒	☐
LIEBERMAN	☒	☐	RASCO	☐	☐
RIVLIN	☐	☐	REED	☐	☐
BAER	☒	☐	SOSNIK	☒	☐
CURRY	☐	☐	STEPHANOPOULOS	☒	☐
EMANUEL	☐	☐	STIGLITZ	☐	☐
GIBBONS	☐	☐	STREETT	☐	☐
HALE	☒	☐	TYSON	☐	☐
HERMAN	☒	☐	WALLEY	☐	☐
HIGGINS	☐	☐	WILLIAMS	☐	☐
HILLEY	☒	☐	<u>TON</u>	☒	☐
KLAIN	☐	☐		☐	☐
LAKE	☐	☐		☐	☐
LINDSEY	☐	☐		☐	☐

REMARKS:

Comments to Dan Benjamin - x69371

RESPONSE:

2/26/96 1:30 p.m.

**PRESIDENT WILLIAM JEFFERSON CLINTON
REMARKS ON THE CUBAN INCIDENT
THE WHITE HOUSE
FEBRUARY 26, 1996**

96 FEB 26 P2:2

Two days ago, in broad daylight and without justification, Cuban military aircraft shot down two civilian planes in international airspace. Search and rescue efforts by the Coast Guard, which began immediately after we received news of this incident, have failed to find any of the four individuals who were aboard the airplanes.

These small airplanes were unarmed. Cuban authorities knew that. They posed no credible threat to Cuba's security. Although the group that operated the planes had entered Cuban airspace in the past on other flights, there is no excuse for this attack. We must be clear: this shooting down of civilian aircraft was a flagrant violation of international law. It is wrong, and the United States will not tolerate it.

Saturday's attack is further evidence that Havana has become more desperate in its efforts to deny freedom to the people of Cuba. Also on Saturday, the Cuban Council -- a broad group that wants to bring democracy to Cuba -- had planned a day of peaceful discussion and debate. Instead, in the days leading up to this gathering, scores of activists were arrested and detained. Two already have been sentenced to long terms in prison. They join roughly one thousand others in Cuban jails because of their desire for freedom.

Now, the downing of these planes demands a firm response -- both by the United States and the international community.

Last night, on my instructions, Ambassador Albright convened an emergency session of the UN Security Council to condemn the Cuban action and present the case for sanctions on Cuba until it agrees to abide by its obligations to respect civilian aircraft and compensates the families of the victims. In the meantime, I am asking that Congress pass legislation that will provide immediate compensation to the families out of Cuba's blocked assets in the United States.

Today, I am also ordering the following unilateral actions:

First, I will move promptly to reach agreement with Congress on the pending Helms-Burton Cuba legislation so that it will enhance the effectiveness of the embargo in a way that advances the cause of democracy in that country.

Second, I have ordered that Radio Marti expand the reach of its broadcasts into Cuba. All the people of Cuba must learn the truth about the regime in Havana...and the isolation it has earned for itself...through its contempt for basic human rights.

Third, I am ordering that additional restrictions be put on travel in the U.S. by Cuban officials who reside here and that visits by Cuban officials to our nation be further limited.

Finally, all charter air travel from the U.S. to Cuba will be suspended indefinitely.

In our time, a tide of democracy has swept the globe -- from the Philippines, exactly ten years ago...to Central and Eastern Europe...to South Africa...to Haiti and all but one nation in our hemisphere. I will do everything in my power to see that this historic tide reaches the shores of Cuba.

These deliberate actions are the right ones at this time. They respond to Havana in a way that serves our goals of accelerating the arrival of democracy in Cuba. But I am not ruling out any further steps in the future should they be required.

Saturday's attack was an appalling reminder of the nature of the Cuban regime. It is repressive, violent and scornful of international law. Cuba must answer for its action.

###

To Mack McLarty:

I know Lan degger.
He is very intense and
stubborn. P & W probably
has expropriated assets in
Cuba. The idea makes
some sense, but I don't
think it would convince
Mas Canosa

LNC
9-27-94

To: *Glenn Cutler*
From: *Maech McCarty*

Parsons & Whittemore

ENTERPRISES
CORPORATION



4 SEP 26 P 8: 54
4 INTERNATIONAL DRIVE - RYE BROOK, NEW YORK 10573

TELEPHONE (914) 937-9009
TELECOPIER (914) 937-2259

GEORGE F. LANDEGGER
CHAIRMAN

September 20, 1994

The Honorable Bill Clinton
President of the United States
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear Mr. President,

I would like to respectfully suggest for your consideration an approach aimed at resolving the so-called Cuban problem, which I believe would be consistent with American interests, Cuban interests, and even those of the south Florida Cuban community.

Firstly, I believe that it's important to focus on the origin of the American embargo of Cuba which many people would prefer to see removed, thereby allowing relationships to develop more fruitfully and President Castro to be made irrelevant by the influence of capitalism in that country. The Cuban embargo was not placed on Cuba in an effort to bring democracy to Cuba, which was our avowed purpose in the problematic Haitian embargo. It was imposed because in 1959 and 1960 the Castro government began a process of expropriating properties, including American properties, and when pressed by the U.S. Government, refused to provide compensation. In my opinion, at this time, things are so deteriorated in Cuba that President Castro probably doesn't much care who owns the properties that were previously owned by Americans. I believe a diplomatic initiative on our part to offer the lifting of the embargo if the reasons for its existence were removed by President Castro's expressed, contractually written, willingness to return expropriated American properties, is doable.

It is not conceivable that President Castro will offer to resign in return for a lifting of the embargo, as we seem to be demanding, because he identifies himself completely with his people. It is also not a serious suggestion that the embargo has to wait until free elections, since the infrastructure for free elections such as a free press, free political parties, *et alia*, does not exist.

As many others, I believe that the aftermath to the lifting of the embargo will increase communication, travel, and investment by Americans in Cuba, which will not only improve living standards, but also create an increase in Cuban people's understanding of the art of the possible - a rising level of expectations of participatory democracy, and the increasing irrelevancy of President Castro - unless he chooses, like Deng Xiao Ping in China, to declare capitalism to be the ultimate victory of Cuban Communism.

The Honorable Bill Clinton
President of the United States
September 20, 1994
Page 2

If there's one thing that I think we have learned in the post-Communist era is that little is gained by humiliating those left-over leaders who simply never got the word, or understood, or were willing to accept, that Communism had failed as an economic system. We should, as a nation, approach their efforts to reach a rapprochement with us in a spirit of mutual respect in the knowledge that we and our system of freedom and capitalism will be around a lot longer than they will anyway.

I understand that patience is a very difficult virtue, but a combination of patience in the Cuban situation, free exchange of communication and investment through the lifting of the embargo, is the right answer. The return of American properties will set the right tone and provide you with a demonstrable diplomatic victory, thereby permitting the *quid pro quo* of the lifting of the embargo. It will be understood and perhaps even appreciated by the Cubans in Miami, who if nothing else, have understood the capitalistic system.

Respectfully yours,

A handwritten signature in cursive script, reading "George Landegger". The signature is written in dark ink and is positioned to the right of the typed name "George Landegger".

/mr
enclosure



Marston Webb International

60 Madison Avenue, New York, New York 10010 USA • (212) 684-6601 • FAX: (212) 725-4709

August 31, 1994

Mr. Lloyd N. Cutler
White House Counsel
Washington

VIA FAX

RE: CUBA

Dear Mr. Cutler:

You might recall our meeting in your White House office during the Iran crisis.

Going back farther in time -- to your involvement in the Bay of Pigs prisoner exchange -- you may recall that I went to Cuba with my father, James B. Donovan, at a time when the lives of a number of Americans were at stake, and we came home with 12 American prisoners. During a five-day visit with Castro (which included a trip for spear-fishing in the Bay of Pigs) a number of larger bilateral issues were taken up in a manner that seemed quite favorable to U.S. interests.

Unfortunately, because of assassination attempts and other circumstances, this was a diplomatic venture that never matured. It had promise, however, perhaps because it was undertaken by a man who, though loyal to the administration, was not officially representing it.

I realize that the talks with Cuba now in prospect are not supposed to touch on larger issues, but perhaps some of them should be taken up separately on an informal, unofficial basis. A few months ago, I met in New York with Rene J. Mujica, the advisor to the Cuban Foreign Minister on North American affairs, in my role as senior counselor at a firm involved in the promotion of trade and investment. Our two-hour discussion touched on a wide range of economic and political issues.

If I were to have further discussions with Mr. Mujica or someone he designates, I think the Miami Cubans would hesitate to object, given the service my father performed for them (I was their guest at the 25th anniversary of the Bay of Pigs a few years ago) plus the fact of my being a Vietnam veteran and other conservative credentials.

If this idea sounds useful to the president or others involved, please feel free to contact me. Best wishes.

Sincerely,

John B. Donovan
Senior Counselor

To Sandy Berger
Donovan's father
was RK's principal
negotiator on
swap of Bay of
Pigs
prisoner
for
pharma
centric
suppl
LH
9-16-94



Chelsea Station
P.O. Box 931
New York, NY 10011
(212) 459-4661

August 23, 1994 14 AUG 31 P3:07

Lloyd Cutler
Assistant to the President
Counsel
The White House
Washington, DC

cc S Berger
File Cuba
9.6.94

Dear Mr. Cutler:

With deep alarm and anger we have heard the measures presented by President Clinton on August 19th and 20th, 1994 regarding Cuba and the Cuban people.

It is obvious that the purpose of the U.S. Trade and Economic Embargo, including the Torricelli Bill, is precisely to limit, as much as possible the chance of recovery of the Cuban economy. Combined with a policy of subversion and the broadcasts of radio programming, (24 hours a day), encouraging illegal migration of Cubans from the island to U.S. shores. These elements make up the formula that consecutive U.S. Administrations have used to bring about chaos in Cuba.

In supporting and encouraging these policies, you are bringing to the U.S. what you have long asked for. There cannot be any doubt in the honest minds around the world that the present administration in addition to the ultra right wing Cuban American National Foundation (headed by Jorge Mas Canosa) are the primary contributors to this tragedy.

There are hundreds of thousands of other Cuban Americans, in New York, Miami, New Jersey and in other cities in the U.S., who in spite of profound political differences with the Cuban government will oppose and condemn the measures announced by the White House. Their fundamental concerns are the well-being and welfare of their relatives in Cuba and the possibility of being able to regularly travel to Cuba to visit and help them in their present needs. The measures taken by the administration violates our Constitutionally guaranteed rights as U.S. citizens. Not only does it violates our rights as U.S. citizens, but they are also inconsistent with basic humanitarian principles and only wounds the most vulnerable part of it's society, millions of innocent people are being hurt. It's time to find an alternative to the shameful U.S. policies towards the people of Cuba!

We urge you to advise the President to rescind the course of action that has been taken towards the people of Cuba. We encourage and urge the need to engage in a constructive and healthy dialogue between the U.S. and Cuba. To engage in an open dialogue through good will and negotiations will serve the needs and interest of both countries.

Sincerely,

Comite Cubanos Contra El Bloqueo, NY

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
003. statement	re: Privileged summary on blockades (2 pages)	00/00/0000	P1/b(1)

COLLECTION:

Clinton Presidential Records
Counsel Office
Charles Ruff
OA/Box Number: 17984

FOLDER TITLE:

National Security Council - National Security Issues 1993 I - Cuba

2016-0920-F
jm1882

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

Draft

President William J. Clinton
Opening Statement
Press Conference
August 19, 1994

In recent weeks, the Castro regime has come under increasing pressure from the Cuban people. In response to that pressure, Castro has encouraged Cubans to take to the sea in unsafe vessels to escape their nation's internal problems. In so doing, he willingly risks the lives of thousands of Cubans; several have already died during their attempts to flee.

Castro's action is nothing less than a desperate attempt to maintain his weakening grip on Cuba and to divert attention from his failed policies. He is trying to export to the United States the political and economic crises he has created.

Let me be clear: Castro will not succeed in his attempt to dictate American immigration policy. The United States will do everything within its power to ensure that Cuban lives are saved and that the current outflow of refugees be stopped.

I have today ordered that illegal refugees from Cuba will not be allowed to enter the United States. Refugees rescued at sea will be taken to our naval base at Guantanamo while we explore the possibility of other safe havens in the region.

To enforce this policy, I have directed the Coast Guard to continue its expanded effort to stop any boat attempting to bring Cubans to our shores through the Florida straits. The United States will detain, investigate and if necessary, prosecute Americans who take to sea to pick up Cubans. Vessels used in such activities will be seized.

I have also directed the State Department and the Immigration and Naturalization Service to take new steps to ensure that every possible avenue be made available for legitimate Cuban political refugees to seek asylum in the United States.

I want to compliment the Coast Guard, INS and Florida officials for their cooperation in protecting and saving the lives of Cubans who seek to escape the Castro regime. We are resolved to continue safeguarding the lives of those Cubans that Castro has knowingly put at risk on the seas. We will not allow him to imperil^e the lives of Cuban citizens for the sake of his own defiance of the democratic tide flowing throught^h this hemisphere.

I want to speak for a moment about the Crime Bill. In the last week, we have worked hard to keep the fight for the Crime Bill on track. After talks with members of Congress from both parties, I believe we can make a strong bill even stronger.

made a number of
I have recommended that we require sexual predators who have served their prison time to register with the police, who can then ensure that everyone in a community knows where the ex-offenders live. And I have recommended a ten percent -- \$3.2 billion -- across the board cut in funding authorization levels. Every dollar for this Crime Bill is now paid for by cutting the federal bureaucracy to its lowest level in 30 years.

Now, we have to get the job done and give the American people and our law enforcement officers the Crime Bill they deserve. With this Bill, we are going to put 100,000 more police on the street, put violent criminals away for good by making "three-strikes-and-you're-out" the law of the land, build more prisons and provide crime prevention programs that will give our young people something to say yes to.

And this Crime Bill will ban handguns for juveniles and take deadly assault weapons off our streets. As we have all seen, there are powerful special interests in Washington led by the National Rifle Association who will do anything to keep the assault weapons ban from becoming law. Even though we have had a lot of pressure from many fronts to take the assault weapons ban out of this Bill, I ~~am not going to let that happen~~ *will continue to oppose such a backward step.* It is time to get on with passing this Crime Bill without any more delay.

*(can be read as
a veto threat)*

Withdrawal/Redaction Marker

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
004. statement	re: Privileged summary on Cuba policy implementation (5 pages)	08/20/1994	P1/b(1)

COLLECTION:

Clinton Presidential Records
Counsel Office
Charles Ruff
OA/Box Number: 17984

FOLDER TITLE:

National Security Council - National Security Issues 1993 I - Cuba

2016-0920-F
jm1882

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

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- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

BRUCE W. HAUPT ASSOCIATES

Attorney Search Consultants

Box 21599, Kolorama Station, N.W.
Washington, D.C. 20009(202) 462-1524
Fax (after voice)PLEASE CLASSIFY TOP SECRET

August 10, 1994

Lloyd Cutler, Esq.
Legal Counsel to the President
The White House
Washington, D.C. 20500

and

Mr. Leon Panetta
Chief of Staff
The White House
Washington, D.C. 20500DETERMINED TO BE AN
ADMINISTRATIVE MARKINGINITIALS: JAM DATE: 6/13/18

2016-0920-F

FAX 456-2883Re: Diversion of incoming illegal Cubans to Panama or Haiti.

Dear Mr. Cutler:

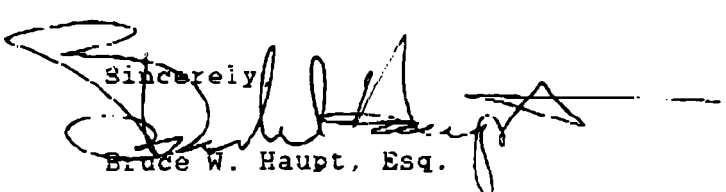
If you wish to decrease the likelihood of a repeat of the Mariana Boatlift, why not announce that any new influx will be diverted to either Panama or Haiti.

There are islands off Panama, witness the Shah's former destination, where Cubans could be held in isolation. Should that occur, they'd likely choose to stay in Cuba.

Announcing that "some" may be diverted to Haiti, whether true or not, would possibly increase the anxiety of the existing regime, likewise discourage a Cuban influx and show a good sense of humor in the process.

Both would please the majority of non-Hispanic residents of Florida and even the Cuban residents can't want more "troublemakers" joining their community, which has finally made a positive impact for new immigrants overall.

Sincerely,


Bruce W. Haupt, Esq.

14 AUG 11 PM 2:19

WHITE HOUSE STAFFING MEMORANDUM

DATE: 06/30/93

ACTION/CONCURRENCE/COMMENT DUE BY: 7/2

SUBJECT: PROPOSED EXECUTIVE ORDER ENTITLED "IMPLEMENTATION OF THE CUBAN
DEMOCRACY ACT"

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	☐	☒	MONTOKA	☐	☐
McLARTY	☐	☐	NUSSBAUM	☐	☒
GEARAN	☐	☐	PASTER	☐	☐
NEEL	☐	☐	RASCO	☐	☐
PANETTA	☐	☐	RUBIN	☐	☐
EMANUEL	☐	☐	SEGAL	☐	☐
GIBBONS	☐	☐	STEPHANOPOULOS	☐	☒
HALE	☐	☐	TYSON	☐	☐
HERMAN	☒	☐	VARNEY	☐	☒
LAKE	☒	☐	WATKINS	☐	☐
LINDSEY	☐	☐	WILLIAMS	☐	☐
McGINTY	☐	☐	CLERK	☐	☒

REMARKS:

Please provide any comments directly to this office no later than
NOON on Friday, 07/02. Thanks.

RESPONSE:

JOHN D. PODESTA
Assistant to the President
and Staff Secretary
Ext. 2702



THE DIRECTOR

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

June 25, 1993

03 JUN 30 P12:40

MEMORANDUM FOR THE PRESIDENT

FROM: Leon E. Panetta
Director

SUBJECT: Proposed Executive Order Entitled "Implementation of the Cuban Democracy Act"

SUMMARY: This memorandum forwards for your consideration a proposed Executive order that was submitted by the National Security Council. The proposed order would delegate the President's authorities under the Cuban Democracy Act (Title XVII of Public Law 102-484) to the federal agencies that can best carry out those authorities.

BACKGROUND: On October 23, 1992, the Cuban Democracy Act (Act) was signed into law. The proposed Executive order would delegate the various Presidential authorities under that law to the Secretaries of State, Commerce and the Treasury. Among other things, it would delegate to the Secretary of State the authority to levy trade sanctions against countries which provide assistance to Cuba. It would delegate to the Secretary of Commerce the authority to regulate the export of medicines and medical supplies and telecommunications equipment from the United States to Cuba. It would delegate to the Secretary of the Treasury the authority to license payments related to the upgrading of telecommunications services from the United States to Cuba and to restrict trade by foreign subsidiaries of U.S. companies to Cuba. It also would delegate to the Secretary of the Treasury the authority to prohibit vessels which enter Cuban ports from loading or unloading any freight in the United States for 180 days after leaving Cuba.

The order would require the Secretaries of the Treasury and Commerce to consult with the Secretary of State in carrying out the functions under the Act.

None of the affected agencies objects to the proposed order.

RECOMMENDATION: I recommend that you sign the proposed Executive order.



U.S. Department of Justice

Office of Legal Counsel

Office of the
Assistant Attorney General

Washington, D.C. 20530

June 30, 1993

MEMORANDUM

Re: Proposed Executive Order Entitled
"Implementation of the Cuban Democracy Act

The attached proposed Executive Order was prepared by the National Security Council. The Office of Management and Budget, with the approval of the Director, forwarded it to this Department for review with respect to form and legality.

The proposed Order would delegate various Presidential authorities under the Cuban Democracy Act, Pub. L. No. 102-484, to the Secretaries of State, Commerce and the Treasury. Among other things, it would delegate to the Secretary of State the authority to levy sanctions against countries that provide assistance to Cuba. It would delegate to the Secretary of Commerce the authority to regulate the export of medicines and medical supplies and telecommunications equipment from the United States to Cuba. It would delegate to the Secretary of the Treasury the authority to license payments related to the upgrading of telecommunications services from the United States to Cuba and to restrict trade by foreign subsidiaries of United States companies to Cuba. It would also delegate to the Secretary of the Treasury the authority to prohibit vessels that enter Cuban ports from loading or unloading any freight in the United States for 180 days after leaving Cuba.

The proposed Order is approved with respect to form and legality.

Daniel L. Koffsky
Acting Assistant Attorney General
Office of Legal Counsel



U.S. Department of Justice

Office of Legal Counsel

Office of the
Assistant Attorney General

Washington, D.C. 20530

June 30, 1993

The President,

The White House.

My dear Mr. President:

I am herewith transmitting a proposed Executive Order entitled "Implementation of the Cuban Democracy Act." This proposed Executive Order was prepared by the National Security Council. The Office of Management and Budget, with the approval of the Director, forwarded it to this Department for review with respect to form and legality.

The proposed Executive Order is approved with respect to form and legality.

Respectfully,

A handwritten signature in dark ink, reading "Daniel L. Koffsky", is positioned above the printed name.

Daniel L. Koffsky
Acting Assistant Attorney General
Office of Legal Counsel



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

June 25, 1993

Honorable Janet Reno
United States Attorney General
Washington, D.C. 20530

Dear Madame Attorney General:

Enclosed in accordance with the provisions of Executive Order No. 11030, as amended, is a proposed Executive order entitled "Implementation of the Cuban Democracy Act." The proposed order, which was submitted by the National Security Council, would delegate the President's authorities under the Cuban Democracy Act (Title XVII of Public Law 102-484) to the federal agencies that can best carry out those authorities.

On October 23, 1992, the Cuban Democracy Act (Act) was signed into law. The proposed Executive order would delegate the various Presidential authorities under that law to the Secretaries of State, Commerce and the Treasury. Among other things, it would delegate to the Secretary of State the authority to levy trade sanctions against countries which provide assistance to Cuba. It would delegate to the Secretary of Commerce the authority to regulate the export of medicines and medical supplies and telecommunications equipment from the United States to Cuba. It would delegate to the Secretary of the Treasury the authority to license payments related to the upgrading of telecommunications services from the United States to Cuba and to restrict trade by foreign subsidiaries of U.S. companies to Cuba. It also would delegate to the Secretary of the Treasury the authority to prohibit vessels which enter Cuban ports from loading or unloading any freight in the United States for 180 days after leaving Cuba.

The order would require the Secretaries of the Treasury and Commerce to consult with the Secretary of State in carrying out the functions under the Act.

Your staff may direct any questions concerning this proposed Executive order to Mac Reed of this office (202-395-3563).

This proposed Executive order has the approval of the Director of the Office of Management and Budget.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert G. Damus", with a long horizontal flourish extending to the right.

Robert G. Damus
Acting General Counsel

Enclosure

EXECUTIVE ORDER

IMPLEMENTATION OF THE CUBAN DEMOCRACY ACT

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Trading with the Enemy Act, as amended (50 U.S.C. App. 1-6, 7-39, 41-44), the Cuban Democracy Act of 1992 (Public Law 102-484, sections 1701-1712, October 23, 1992, 106 Stat. 2575) (the "Act"), and section 301 of title 3, United States Code,

I, WILLIAM J. CLINTON, President of the United States of America, hereby order:

Section 1. Implementation of the Act. All agencies are hereby directed to take all appropriate measures within their authority, including the promulgation of rules and regulations, to carry out the provisions of the Act.

Sec. 2. Functions of the Department of State. The Secretary of State shall be responsible for implementing sections 1704, 1707, and 1708 of the Act. Responsibility for transmitting the certification required by section 1707 and the report required by section 1708 of the Act is delegated to the Secretary of State.

Sec. 3. Functions of the Department of the Treasury. Except as provided in section 4 of this order, the Secretary of the Treasury shall be responsible for implementing sections 1705(b)-(e) and 1706 of the Act, to the extent that these sections pertain to transactions with Cuba.

Sec. 4. Functions of the Department of Commerce. The Secretary of Commerce shall be responsible for implementing sections 1705(b)-(e) of the Act, to the extent that these sections pertain to the exportation to Cuba from the United States or from a third country of goods and technology subject to the jurisdiction of the Department of Commerce.

Sec. 5. Consultation. In consultation with the Secretary of State, the Secretary of the Treasury and the Secretary of Commerce are hereby authorized to take such actions, including

the promulgation of rules and regulations, as may be necessary to carry out the purposes of the Act and this order.

Sec. 6. Nothing in this order shall be deemed to affect any functions vested by law in the Federal Communications Commission.

Sec. 7. Effective Date. This order shall be effective immediately.

THE WHITE HOUSE,