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DEPARTMENT OF STATE

Washington, D.C. 20520

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February 15, 1973

SECRET/NODIS/HOMER

MEMORANDUM FOR MR. HENRY A. KISSINGER
THE WHITE HOUSE

Subject: Implementation of NSSM-149, China Trade

The President directed in NSDM-170 that memoranda on the implementation of the options and recommendations contained in NSSM-149, US-PRC Trade, be submitted from time to time for his consideration.

Attached are State and Commerce recommendations for further steps which might be taken to facilitate trade between the U.S. and the People's Republic of China.

Copies of this memorandum are being sent to CIEP and to the Department of Agriculture.

Richard L. Sneider
Chairman,
Ad Hoc Interdepartmental Group

Attachment:

Recommendations,
February 1973

SECRET/NODIS/HOMER

SECRET/NODIS/HOMER

Recommendations for Implementing NSSM-149--US-PRC Trade

This paper sets forth joint State and Commerce Department recommendations on the sequence, timing and implementation of certain steps proposed in NSSM-149, US-PRC Trade, as directed in NSDM-170, dated June 8, 1972.

What has already been done

The US has proposed that negotiations be held to resolve the linked issues of US private claims and PRC blocked assets. Although the Chinese have not explicitly agreed to such negotiations, they indicated they are giving "positive consideration" to the question and that "we have made a beginning from which we can proceed steadily to a resolution." Exchanges of information regarding claims have begun, and negotiations appear likely to begin soon. We believe the Chinese understand that a claims settlement is a prerequisite to negotiating an agreement on MFN.

We have given the Chinese lists of potential imports and exports to and from the US. While they have not commented on the lists, the list of potential imports was used by the US to respond to a PRC request for the names of US firms they could invite to the Fall Chinese Export Commodities Fair (October 15-November 15). The Chinese invited some of the firms on the list we provided. The number of US firms attending the Spring Fair (36) was doubled to 72 at the Fall 1972 Fair. The Chinese told some American businessmen at the Fall Fair that a still larger number of US firms is likely to be invited to the Spring 1973 Fair (April 15-May 15).

We have told the Chinese that we are concerned about the rising level of Chinese cotton textile goods being imported into the United States and that it may be necessary to establish quotas on such imports. Similarly, the Chinese have been made aware of US laws and regulations barring imports of certain furs, products of endangered animal species and meat products produced in foreign plants not subject to inspection by the USDA. We have also informed them of the provisions of US anti-dumping laws and regulations.

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Direct air and sea services appear unlikely in advance of a private claims settlement, because a US citizen with a claim against the PRC might initiate legal proceedings to attach Chinese property, including Chinese ships. However, the way has been paved for the eventual discussion of air and sea links by the modification of US port security regulations to permit Chinese vessels to call at US ports and the modification of Transportation Order T-2 to remove the restrictions on visits to the PRC by US ships and aircraft. United States vessels are now subject only to normal export control requirements. The Chinese earlier gave a non-committal response to a statement that we are prepared to discuss establishment of scheduled air services at an appropriate stage in the development of our economic relations.

Since the President's trip to Peking, contracts have been signed for the sale to China of ten Boeing 707 aircraft, two more earth satellite stations and related equipment and shipments of wheat, corn and cotton. Preliminary figures on US-PRC trade show about \$60.2 million in US exports in 1972. The figure could reach \$300 million in 1973. Sale to China of inertial navigation systems for the Boeing aircraft has been approved and licenses for an additional earth satellite station and a Hughes Aircraft proposal for a domestic communications satellite system are now being considered. The Chinese have become familiar with basic export control requirements through a variety of channels, largely unofficial.

* The Chinese have consistently demurred from complying with the standard requirement for end-use/end-user information essential for the United States and the international control organization (COCOM) in making licensing judgments regarding exports of strategic goods. Although this was not a problem in the case of commercial aircraft or earth satellite station sales for reasons peculiar to these transactions, in many other types of transactions it can constitute a serious obstacle to exports. This problem is being separately addressed in connection with a current transaction involving a wide range and large quantity of sophisticated electronic instruments.

PRC exports to the US averaged almost \$3 million per month during 1972 for a year-end total of about \$32.3 million. There is likely to be a substantial increase in the monthly average for 1973 because of contracts signed by US businessmen at the 1972 Fall Canton Fair.

The Chinese have been informed of our intention to establish a National Council for the promotion of US-China trade. The President has approved establishment of the Council which is now being formed by the Department of Commerce in consultation with the Department of State.

RECOMMENDATIONS

1. Encourage the Council to organize a vanguard trade delegation to the PRC (NSSM-149, Option 7). As noted above, we have already informed the Chinese that the Council would be organizing a trade delegation of "prominent US businessmen and one or more US Government representatives to visit Chinese foreign trade corporations, research institutes, marketing agencies and trade fair authorities in the PRC." In view of the positive Chinese response to this proposal, the organization of such a trade delegation should be among the first acts of the Council.

Approve _____ Disapprove _____

2. Provide the Council's delegation with a highly selective list of trade fairs in the US and encourage PRC attendance at such fairs (NSSM-149, variant of Option 14). The Council's vanguard trade delegation should be given a list of trade fairs in the US at which PRC attendance would be appropriate. The list, to be prepared by the Department of Commerce in consultation with the Department of State, would be submitted separately for approval. The trade fairs should be selected on the basis of the following criteria: (1) the exhibitions feature items included in the list of potential US exports to the PRC earlier provided to the Chinese which do not create export control problems, and (2) no official participation by the Republic of China (ROC) is

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anticipated. The Council's trade delegation would deliver the list to the Chinese together with appropriate material on individual expositions, and could discuss the possibility of PRC attendance. The Chinese could then be informed in Paris that the USG would facilitate their attendance at any of the listed fairs.

Approve_____Disapprove_____

3. Provide the Council with assistance in formulating a proposal for a comprehensive solo exhibit in Peking or another Chinese city for presentation to the Chinese authorities by the Council's trade delegation (NSSM-149, Option 10). The Department of Commerce would assist the Council in formulating such a proposal for discussion with the Chinese during the trade delegation's visit to Peking. The goods to be exhibited should be chosen according to: (1) their potential for marketability in the PRC, (2) the prospect of their sale at the exhibition, (3) the likelihood of their being approved for export, and other appropriate criteria.

Approve_____Disapprove_____

4. Encourage the Council to inform the Chinese that it would be willing to host a reciprocal PRC comprehensive solo exhibit in the US at an appropriate time (NSSM-149, Option 13). A PRC trade exhibit in the US would probably have to await settlement of the private claims issue to avoid the danger of attachment by US private claimants. However, once a claims settlement has been concluded, such an exhibit would be appropriate and feasible, and should be undertaken.

Approve_____Disapprove_____

5. Offer to provide the Chinese with a list of US exporters in product areas of interest to the PRC. The United States has already provided the PRC with a list of US importers. We should offer to provide a similar list of US exporters; this might facilitate the purchase of US goods by the PRC. Such a list should be based on the list of potential US exports provided to the PRC earlier. This list could be revised periodically to include additional firms with demonstrated interest and competence. The Department of Commerce should select

firms according to the following criteria: (1) large, medium and small size firms would be represented; (2) all would be established, reputable firms with good credit ratings; (3) firms would be representative of broad geographic distribution in the US; (4) firms with extensive exporting experience in the categories of goods listed. In accordance with Option 26 of NSSM-149, this would also provide an opportunity to bring US grain exporting firms to the attention of the PRC. The Chinese have thus far only purchased US agricultural commodities through third country firms. In view of the PRC's recent purchases of cotton, firms specialized in exporting cotton should also be added to the list.

If this recommendation is approved, a consolidated list of US exporters prepared by the Department of Commerce in consultation with the Department of Agriculture could be transmitted to the Chinese through the Paris contact point and/or through the National Council that will soon be established.

Approve _____ Disapprove _____

6. Seek Legislation to Eliminate the Embargo on Importing Certain Categories of Soviet and Chinese Furs (NSSM-149, Option 24). NSSM-149 called attention to the desirability of eliminating the legislative ban on imports of certain furs, (ermine, fox, kolinsky, marten, mink, muskrat and weasel) from the USSR and China. Both the PRC and the USSR export these skins and have complained about this discriminatory restriction. Eliminating this restriction would be in line with our policy of promoting East-West trade.

However, as NSSM-149 notes (p. 68), "there are domestic interests involved (mink and fox ranchers) and the Department of Agriculture has indicated that it opposes a change in the legislation on the grounds that admitting these skins would injure the American Fur ranching industry."

State and Commerce favor general removal of discriminatory restrictions on trade with the USSR and China which are not supportable on strategic grounds and which pose a needless irritant to the PRC and USSR.

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Noting that removal of the restriction would be welcomed by furriers in the US as well as by the PRC and the USSR, both Departments again urge that consideration be given to its early elimination in connection with whatever legislation is introduced in the 93rd Congress to give the USSR MFN status. Should imports of such furs (mink and fox) later prove injurious to the fur ranching industry, the President could act to protect the US market from disruption under existing legislative authority (e.g., escape clause of the Trade Expansion Act). Alternatively, he could take action under the anti-market disruption provision of the US-USSR Trade Agreement and negotiate similar voluntary quota restrictions with the PRC (which in any event is able to export a considerably smaller quantity of furs than the USSR can export.)

Approve _____ Disapprove _____

As directed by NSDM-170, the Departments of State and Commerce will periodically submit further recommendations for actions that could be taken by the US Government to facilitate trade with the People's Republic of China.

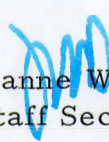
NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

June 14, 1972

MEMORANDUM FOR RECIPIENTS
OF NSDM 170/CIEPDM 7

Subject: Change of Date

The date of NSDM 170/CIEPDM 7 should be changed
to June 8, 1972.


Jeanne W. Davis
Staff Secretary

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THE SECRETARY OF THE TREASURY
WASHINGTON

JUL 13 1972

MEMORANDUM FOR THE HONORABLE HENRY A. KISSINGER
ASSISTANT TO THE PRESIDENT
FOR NATIONAL SECURITY AFFAIRS

SUBJECT: U.S. - PRC TRADE

In response to your request contained in NSDM 170 and CIEP DM 7, enclosed is the report of an interagency committee composed of representatives of State, Commerce, Eximbank and Treasury.

This report has the approval of the participating agencies.

The report outlines the possible courses of action from the point of view of the effect of the debts on lending to the PRC, but does not recommend a policy. I would like to discuss with you the important policy implications of possible Eximbank lending to the PRC.

Ernest P. Steutgen

Enclosure

cc: Mr. Flanigan

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→ Davis FYI

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SUBJECT: OMB option paper on PRC outstanding Eximbank debts
 response to NSOM 1170 + CLEPOM 7

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UNITED STATES GOVERNMENT

Memorandum

SECRET

TO : Deputy Under Secretary Bennett

DATE: July 3, 1972

Chairman, Ad Hoc Inter-agency Committee

FROM :

SUBJECT: Report of Inter-agency Committee; Alleged Debt
Delinquency of People's Republic of China

The Inter-agency Committee was requested to "consider the alleged failure of the People's Republic of China to repay certain debts to the Export-Import Bank and the effect of this alleged failure on the eligibility of the PRC for the use of Export-Import Bank financing facilities."

The basic facts concerning these debts are as follows:

In 1946, Eximbank made four unsecured loans to the Republic of China (ROC) in principal amounts totaling \$29 million. The loans were made for the purpose of financing cargo vessels; procuring electric power equipment and engineering services; railway construction materials; and coal mining machinery and equipment. The ROC stopped payment on these loans on April 1, 1949.

In 1961, following extensive negotiations, the ROC agreed to undertake payments on the portion of the loans that could, according to the ROC's representation at the time, be imputed to materials and equipment utilized on Taiwan, as well as the applicable share of the interest accrued between April 1949 and December 1960. The re-negotiated portion of the debt, which consisted of approximately \$2.6 million in principal and \$1 million in interest, was repaid by the ROC, together with current interest on principal, in twenty semi-annual payments ending on January 1, 1971.

The agreement of 1961, as evidenced by the Bank's letter to Ambassador Yeh, dated May 11, 1961, granted a moratorium on payment of that portion of the loans which, according to the ROC, were not used on Taiwan. As the letter stated in relevant part, in consideration for resuming payment on the agreed portion of the loans, "Eximbank agrees to forebear and take no action with respect to the remaining balance of the indebtedness of the Republic of China until such time as the matter may be opened for discussion by Eximbank or your Government." The letter further stated that in the event of a default on the agreed

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installments, ". . . Eximbank will be free to take such action with respect to the total indebtedness of your Government as it may deem appropriate."

When discussions concerning the remaining portion of the debt were resumed by the Eximbank and ROC in 1967, ROC's legal responsibility for the debt was recognized again. According to a Bank memorandum of conversation dated February 20, 1968, Vice President Sauer, who had raised this matter with Minister Counselor Wong, suggested "that the Government of China direct its attention to these obligations, recalling that there had been no question, in the earlier negotiations as to their validity." Minister Wong, in turn, while recognizing ". . . that there had been no repudiation or denial of the obligations . . ." questioned whether it was the proper time to resume payments in view of the status of the Chinese economy.

The status of the debt to Eximbank, which the Bank carries on its list of delinquencies under "China (Mainland)", was as follows on March 31, 1972.

<u>Credit No.</u>	<u>Principal Outstanding</u>	<u>Delinquent Principal</u>	<u>Delinquent Interest</u>	<u>Total Delinquent</u>	<u>Purpose</u>
396	292,300	292,300	235,600	527,900	Cargo Vessels
397	7,949,200	6,509,200	5,487,500	11,996,700	Power Generating Equipment
398	16,650,000	13,653,000	11,498,100	25,151,100	Railway Repair Materials
399	1,494,500	1,494,500	1,032,000	2,526,500	Coal Mining Equipment and Supplies
	<u>26,386,000</u>	<u>21,949,000</u>	<u>18,253,200</u>	<u>40,202,200</u>	

These figures do not include interest accrued on overdue interest, which Eximbank normally calculates only at the time of final settlement. The additional amount due on this account, as of the date of the above figures, is of the

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rough order of magnitude of \$6 million. Thus the total approximate delinquent amount is \$46 million.

The four 1946 Eximbank loans to the ROC are only a part of the ROC's debts to the USG. The ROC has acknowledged a lend-lease obligation of \$81.6 million, representing civilian-type articles furnished during the war, and in the possession of the ROC on VJ Day, as well as lend-lease aid after VJ Day covered by specific arrangements. The \$81.6 million covered by these arrangements is only a small part of the \$1.6 billion in lend-lease furnished to China during World War II. Other ROC debts to the USG include a surplus property claim against the ROC of about \$5.8 million in arrears; about \$45 million under a 1946 Bulk Sale Agreement; and about \$20 million under a 1945 "West China Balance" agreement.

The fixing of responsibility for the 1946 Eximbank loans is complicated by the fact that the U.S. continues to recognize and maintain diplomatic relations with the ROC and has not recognized the PRC. The U.S. normally looks to the government of a foreign state recognized by it for fulfillment of that state's financial obligations.

Ultimate liability and means or method of settlement of these debts appear to the committee to involve both difficult issues of international law and delicate political questions which it seems neither possible nor necessary to resolve at the present time. However on the basis of available facts, it is possible to draw certain conclusions.

1. The debts exist as valid receivables of Eximbank, i.e., they represent credits disbursed and not repaid or otherwise settled.
2. They are state obligations of China validly entered into by its government.
3. In the light of the letter of May 11, 1961, referred to above, in which Eximbank agreed "... to forebear and take no action with respect to the remaining balance of the indebtedness of the Republic of China until such time as the matter may be opened for discussion ...", these debts are not now in default. However, Eximbank could, as a legal matter, place the ROC in default by opening the issue for discussion and demanding repayment.

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4. Eximbank appears never, either explicitly or by implication, to have released the ROC from these obligations and the ROC, as recorded in the Eximbank Memorandum of Conversation of February 20, 1968, cited above, recognized their validity.
5. In the event of U.S. recognition of the PRC as the successor government to the government of the ROC for the State of China, Eximbank would have a clear legal basis for holding the PRC responsible for these debts.
6. In the event of less than full succession by the PRC (with, for example, the U.S. recognizing the PRC in addition to the ROC), there would be no clear legal basis for PRC liability, although there are some precedents where by agreement there has been a division of financial responsibility for debts, depending upon benefit.
7. As a matter of law, Eximbank is entitled to look to the ROC for payment and the U.S. has the option to make no claim against the PRC. In this case, the debts would not constitute an obstacle to Eximbank lending to the PRC.
8. Should a policy decision be made to look to the PRC for repayment, there are precedents in international practice which would support a request to the PRC for agreement to assume these debts, on the theory that the mainland benefitted from the utilization of the loans. However, our non-recognition of the PRC would militate against PRC acceptance of responsibility for the loans; also, should a claim be made against the PRC and should the PRC refuse repayment, future Eximbank lending to the PRC would raise questions in the light of Eximbank's policy against lending to debtors in default. However, the PRC could not, in any event, be "in default" until there had been a formal demand for repayment and the demand had been refused by the PRC. Even if the PRC were considered

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in default, this would not, as a legal matter prevent Eximbank's lending to the PRC although it would be contrary to the long-standing policy of Eximbank and the National Advisory Council.

9. A middle course between 7 and 8 would be to seek PRC acceptance of responsibility on the benefit-of-use theory, without holding the PRC in default. Under this course, Eximbank's default policy would not constitute an impediment to lending to the PRC.

Any future policy determination on the issue of responsibility for the Eximbank debts must take into account the following factors:

1. Eximbank loans are among a number of ROC debts to the U.S. Government which have been in suspense since at least 1961, and any decision regarding Eximbank's loans will have inevitable implications for the resolution of the larger question of the ROC's debt to the U.S. Government and to the U.S. Government's claims, both public and private, against the PRC.

2. We could seek PRC agreement to assume the debt obligations on the benefit theory (as described in numbered paragraph 9 above) without changing our recognition policy or our support for the ROC's international position, but any such agreement could raise questions about the ROC's claim to legitimacy.

3. Any decision as to ultimate settlement of these debts will have implications for potential delinquencies in other areas.

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D. Davis
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SUBJECT: *US-PRC Trade - USSM 177 DISDM 170 implementation cables*

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DEPARTMENT OF STATE

Washington, D.C. 20520

July 7, 1972

SECRET/NODIS/HOMERMEMORANDUM FOR MR. HENRY A. KISSINGER
THE WHITE HOUSE

Subject: US - PRC Trade

The attached draft cables to Paris implementing the proposals of NSSM-149 are forwarded for your clearance. They have been modified in accordance with NSDM-170 and to take account of discussions on trade matters during the "counterpart meetings" in Peking, June 19 - 23, 1972.

Robert H. Miller
Robert H. Miller
Acting Executive Secretary

Attachments:

As Stated

SECRET/NODIS/HOMER

FORM DS 322(OCR)

SECRET

EA/ACA: CWFREEMAN, JR.: MFC
7/5/72 EXT 22657
EA/ACA: RWSULLIVAN

PRIORITY PARIS

NODIS/HOMER

FOR AMBASSADOR ONLY

SUBJ: US-PRC TRADE

1. WE BELIEVE THAT YOU SHOULD SEEK AN EARLY APPOINTMENT WITH THE PRC CHARGE' TO INFORM THE PRC OF A NUMBER OF CONCRETE ACTIONS THE US HAS TAKEN OR IS TAKING TO IMPLEMENT THE TRADE SECTIONS OF THE SHANGHAI COMMUNIQUE.

2. WE HAVE PREPARED A LIST OF IMPORTS AND EXPORTS THAT APPEAR TO OFFER THE GREATEST POTENTIAL FOR US-PRC TRADE. LIST FOLLOWS IN SEPTEL. YOU SHOULD INDICATE TO THE CHINESE THAT THIS LIST IS MERELY PRELIMINARY. WE WOULD WELCOME THEIR COMMENT ON IT AND CLARIFICATION FROM THEM OF WHAT THEY WOULD LIKE TO BUY AND SELL. WE FOR OUR PART ARE PREPARED TO PROVIDE THEM WITH WHATEVER COMMERCIAL INFORMATION THEY WOULD LIKE--INCLUDING ECONOMIC DATA, MARKET INFORMATION, TRADE REGULATIONS, ETC. WE HOPE THAT THEY WILL BE ABLE TO PROVIDE US WITH SIMILAR INFORMATION IN RETURN.

3. YOU SHOULD INFORM THE CHARGE' THAT WE WILL CONSIDER FAVORABLY EXPORT LICENSE APPLICATIONS FOR A BROAD RANGE OF COMMODITIES IN LINE WITH NORMAL EXPORT CONTROL REQUIREMENTS, INCLUDING APPROPRIATE INFORMATION ON INTENDED END USE OF COMMODITIES PURCHASED.

RUS
CWFZ

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4. YOU SHOULD INFORM THE CHARGE' THAT WE ARE ABOUT TO ENCOURAGE THE FORMATION OF A COUNCIL OF PROMINENT BUSINESSMEN AND MANUFACTURERS DEDICATED TO THE PROMOTION OF US-PRC TRADE. THE COUNCIL WILL BE IN TOUCH WITH THE CHINA COUNCIL FOR THE PROMOTION OF INTERNATIONAL TRADE {CCPIT} AND MAY WISH TO SPONSOR A VANGUARD TRADE DELEGATION OF PROMINENT US BUSINESSMEN AND ONE OR MORE US GOVERNMENT REPRESENTATIVES TO VISIT CHINESE FOREIGN TRADE CORPORATIONS, RESEARCH INSTITUTES, MARKETING AGENCIES AND TRADE FAIR AUTHORITIES IN THE PRC IF THIS PROVES ACCEPTABLE AND OF INTEREST TO BOTH SIDES. WE WILL INFORM AMBASSADOR HUANG WHEN THE COUNCIL HAS BEEN FORMED AND WILL REQUEST HIS ASSISTANCE IN FACILITATING CONTACT BETWEEN IT AND THE CCPIT.

5. WE HAVE PREPARED A MEMORANDUM SETTING FORTH POSSIBLE FUTURE TOPICS FOR DISCUSSION IN PARIS BETWEEN YOU AND AMBASSADOR HUANG OR YOUR REPRESENTATIVES. YOU SHOULD LEAVE THE MEMORANDUM, WHICH FOLLOWS SEPTEL, WITH THE CHARGE', INDICATING THAT THESE ARE TOPICS WE BELIEVE IT DESIRABLE TO DISCUSS LATER AT TIMES TO BE MUTUALLY AGREED. WE WOULD WELCOME COMMENTS AND THE PROPOSAL OF ADDITIONAL TOPICS BY THE CHINESE SIDE AFTER HE~~RE~~THE CHINESE SIDE HAS HAD AN OPPORTUNITY TO STUDY IT.

6. WHEN YOU HAND THIS MEMORANDUM TO THE CHINESE YOU SHOULD TAKE THE OPPORTUNITY TO INFORM THEM THAT WE ARE PREPARING FURTHER MEMORANDA ON THE SUBJECTS OF RESTRICTIONS ON IMPORTATION OF COTTON TEXTILES AND PRODUCTS OF CERTAIN ENDANGERED ANIMAL SPECIES, AS WELL AS ON US ANTI-DUMPING REGULATIONS. WE EXPECT TO BE ABLE TO HAND THESE TO THE CHINESE IN THE NOT TOO DISTANT D~~E~~FUTURE.

GP-3 44

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EA/ACA: CWFREEMAN, JR.: MFC
7/5/72 EXT 22657
EA/ACA: RWSULLIVAN

PRIORITY PARIS

NODIS/HOMER

FOR AMBASSADOR ONLY

SUBJ: US-PRC TRADE -- MEMORANDUM TO BE LEFT WITH
AMBASSADOR HUANG

REF: STATE

A. THE UNITED STATES NOTES THAT THERE ARE A NUMBER OF HIGHLY TECHNICAL AND SPECIALIZED SUBJECTS RELATING TO THE FACILITATION OF TRADE BETWEEN THE UNITED STATES AND THE PEOPLE'S REPUBLIC OF CHINA WHICH COULD BE THE TOPIC OF DISCUSSION IN PARIS AT TIMES TO BE DETERMINED BY MUTUAL AGREEMENT.

WE WOULD WELCOME AN OPPORTUNITY FOR EARLY DISCUSSION OF THE FOLLOWING SUBJECTS IN PARTICULAR:

J. SETTLEMENT OF PRIVATE CLAIMS BETWEEN THE TWO COUNTRIES.

WE RECALL THAT SECRETARY OF STATE ROGERS PRAISED THIS ISSUE IN INFORMAL CONVERSATION WITH MINISTER OF FOREIGN AFFAIRS CHI P'ENG-FEI IN PEKING AND THAT THE MINISTER INDICATED THAT THIS WAS A MATTER WHICH COULD BE DISCUSSED BY THE TWO SIDES. IT WAS ALSO RAISED IN THE MORE RECENT "COUNTERPART" CONVERSATIONS IN PEKING THIS JUNE. WE BELIEVE THAT THE TIME HAS NOW COME TO BEGIN OUR DISCUSSION OF THIS PROBLEM. WE REMAIN CONCERNED THAT PRIVATE CLAIMANTS MAY

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ATTEMPT TO ATTACH CHINESE COMMERCIAL PROPERTY FOR SHIPS WHICH COME WITHIN THE JURISDICTION OF U.S. COURTS BY BRINGING LAWSUITS AS TRADE DEVELOPS BETWEEN OUR TWO COUNTRIES. WE WOULD BE UNABLE TO PREVENT SUCH SUITS DESPITE THE ADVERSE IMPACT THAT THEY WOULD HAVE ON THE PROGRESSIVE DEVELOPMENT OF MUTUALLY BENEFICIAL TRADE BETWEEN THE US AND CHINA. WE ARE AWARE THAT CHINA MAY WISH TO ASSERT CLAIMS FOR ASSETS BLOCKED IN THE US SINCE 1950. IN THESE CIRCUMSTANCES WE BELIEVE THAT OUR TWO COUNTRIES SHOULD BEGIN NEGOTIATIONS SOON TO REACH AN EQUITABLE SETTLEMENT OF PRIVATE CLAIMS BEFORE TRADE REACHES DIMENSIONS WHICH MIGHT PROMPT A CLAIMANT TO INITIATE A COURT SUIT. SUCH A SETTLEMENT WOULD SIGNIFICANTLY FACILITATE THE LONG-TERM GROWTH OF TRADE BETWEEN OUR TWO COUNTRIES. US CLAIMS HAVE BEEN INVENTORIED AND EVALUATED IN PRE-ADJUDICATION PROCEEDINGS BY THE US FOREIGN CLAIMS SETTLEMENT COMMISSION. THE FINDINGS OF THE COMMISSION ARE A MATTER OF PUBLIC RECORD. WE WILL SUPPLY A COPY TO THE CHINESE EMBASSY IN PARIS.

2. SCHEDULED AIR SERVICE BETWEEN THE TWO COUNTRIES. ONE OBVIOUS WAY OF FACILITATING TRADE MIGHT BE TO INAUGURATE SCHEDULED AIR SERVICE BETWEEN THE UNITED STATES AND THE PEOPLE'S REPUBLIC OF CHINA. ACTION BY THE U.S. CIVIL AVIATION BOARD WOULD BE NECESSARY TO DETERMINE WHICH U.S. AIRLINE WOULD BE AUTHORIZED TO SERVE AIR ROUTES WHICH MIGHT BE ESTABLISHED BY MUTUAL AGREEMENT BETWEEN OUR TWO COUNTRIES. WE WOULD WELCOME AN EXPRESSION OF THE CHINESE VIEW ON INAUGURATION OF RECIPROCAL SCHEDULED AIR SERVICE AT AN APPROPRIATE TIME.

3. IN THE TALKS IN PEKING THE CHINESE SIDE RAISED THE ISSUE OF MOST FAVORED NATION STATUS AND THE EFFECT THAT THE LACK OF IT WOULD HAVE ON THE DEVELOPMENT OF TRADE RELATIONS BETWEEN OUR TWO COUNTRIES. THE US SIDE HAS AGREED THAT THE QUESTION OF MOST FAVORED NATION STATUS CAN BE TAKEN UP AS A MATTER OF PRINCIPLE AT AN APPROPRIATE STAGE IN THE DEVELOPMENT OF OUR ECONOMIC RELATIONS. THE US HAS FURTHER NOTED THAT SUCH STATUS IS CUSTOMARILY CONFERRED AFTER NEGOTIATION OF A BILATERAL AGREEMENT AND THAT SPECIAL LEGISLATION MUST BE SOUGHT FROM THE U.S. CONGRESS IN ORDER TO CONFER MOST FAVORED NATION STATUS UPON SOCIALIST STATES. AT PRESENT ONLY POLAND AND YUGOSLAVIA HAVE SUCH STATUS AMONG EASTERN EUROPEAN STATES, AND LEGISLATION IS PENDING IN CONGRESS TO GRANT MOST FAVORED NATION STATUS TO ROMANIA. WE WOULD BE PREPARED TO ENTER NEGOTIATIONS ON MFN WITH THE PEOPLE'S REPUBLIC OF CHINA AT A MUTUALLY CONVENIENT TIME.

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4. THE PROBLEM OF INDUSTRIAL PROTECTION. WE NOTE THAT THE PEOPLE'S REPUBLIC OF CHINA IS NOT A SIGNATORY OF INTERNATIONAL CONVENTION FOR THE PROTECTION OF INDUSTRIAL PROPERTY {PARIS UNION}. NEVERTHELESS, WE ARE PREPARED TO FACILITATE CHINESE REGISTRATION OF TRADEMARKS AND PATENTS IN ACCORDANCE WITH OUR LAWS AND REGULATIONS. WE WOULD WELCOME RECIPROCAL TREATMENT FOR OUR CITIZENS BY THE PEOPLE'S REPUBLIC OF CHINA.

B. THE UNITED STATES ALSO WISHES TO INFORM THE PEOPLE'S REPUBLIC OF CHINA OF LONG-STANDING RESTRICTIONS IMPOSED BY LEGISLATION ON THE IMPORTATION OF CERTAIN KINDS OF MEAT AND FURS. THEY ARE DESCRIBED IN THE ATTACHED ANNEX TO THIS MEMORANDUM. SHOULD THE CHINESE SIDE SO DESIRE, WE WOULD BE PLEASED TO EXPLAIN THESE IN DETAIL.

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EA/ACA: CWFREEMAN, JR.: MFC
7/5/72 EXT 22657
EA/ACA: RWSULLIVAN

PRIORITY PARIS

NODIS/HOMER

FOR AMBASSADOR ONLY

SUBJ: US-PRC TRADE -- MEMORANDUM TO BE LEFT WITH PRC
AMBASSADOR OR CHARGE' - ANNEX

REF: STATE

1. RESTRICTIONS ON IMPORTATION OF CERTAIN KINDS OF MEAT.

SEVERAL ACTS OF CONGRESS REQUIRE THE U.S. SECRETARY OF AGRICULTURE TO ASSUME THE RESPONSIBILITY FOR PROTECTING THE UNITED STATES AGAINST DISEASES OF FOREIGN ORIGIN.

THE ACT OF JUNE 17, 1939~~0~~, CONTAINS AN ABSOLUTE PROHIBITION AGAINST THE IMPORTATION INTO THE UNITED STATES OF DOMESTIC RUMINANTS OR SWINE AND FRESH, CHILLED, OR FROZEN MEAT OF ALL RUMINANTS OR SWINE FROM COUNTRIES DECLARED TO BE INFECTED WITH FOOT-AND-MOUTH DISEASE OR RINDERPEST. ONCE SUCH DECLARATION IS MADE, NO GOVERNMENTAL AGENCY HAS ANY DISCRETIONARY AUTHORITY AND THE PROHIBITION IS ABSOLUTE. BOTH FOOT-AND-MOUTH DISEASE AND RINDERPEST ARE BELIEVED TO EXIST IN THE PEOPLE'S REPUBLIC OF CHINA.

IN ADDITION TO THE PROHIBITORY STATUTE, THERE ARE A NUMBER OF OTHER ACTS OF CONGRESS WHICH PROVIDE THE SECRETARY OF AGRICULTURE WITH THE AUTHORITY AND RESPONSIBILITY FOR

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ESTABLISHING RESTRICTIONS APPLICABLE TO THE IMPORTATION OF ANIMALS OR ANIMAL PRODUCTS THAT MIGHT TRANSMIT DISEASES OF LIVESTOCK AND POULTRY. THE DEPARTMENT'S CURRENT IMPORT RESTRICTIONS ARE APPLICABLE TO CATTLE, SHEEP, GOATS, OTHER RUMINANTS, SWINE (INCLUDING DOMESTIC HOGS AND ALL VARIETIES OF WILD HOGS), HORSES (INCLUDING MULES, BURROS, ZEBRAS), DOGS TO BE USED AROUND LIVESTOCK, AND POULTRY (CHICKENS, DUCKS, GEESE, SWANS, TURKEYS, PIGEONS, DOVES, PHEASANTS, GROUSE, PARTRIDGES, QUAIL, GUINEA FOWL, PEAFOWL, AND HATCHING EGGS FROM THESE BIRDS). RECENTLY PSITTACINE BIRDS AND GREATER AND LESSER HILL MYHNAH BIRDS HAVE BEEN ADDED TO THE RESTRICTED LIST BECAUSE OF NEWCASTLE DISEASE.

OTHER ANIMAL PRODUCTS ARE POTENTIALLY ELIGIBLE BUT ALL ARE REQUIRED TO BE CONSIGNED TO SPECIFICALLY APPROVED ESTABLISHMENTS FOR FURTHER TREATMENT OR PROCESSING. MEAT PRODUCTS, FULLY COOKED BY A COMMERCIAL METHOD AND PROPERLY CANNED MAY BE PERMITTED ENTRY INSOFAR AS ANIMAL HEALTH IS CONCERNED; HOWEVER, SUCH PRODUCTS ARE SUBJECT TO GOVERNMENT MEAT INSPECTION REQUIREMENTS.

THE MEAT AND POULTRY INSPECTION PROGRAM OF THE U.S. DEPARTMENT OF AGRICULTURE ADMINISTERS LAWS AND REGULATIONS GOVERNING INSPECTION REQUIREMENTS FOR ALL FORMS OF RED MEAT AND POULTRY PRODUCTS INCLUDING CANNED PRODUCTS BUT EXCLUDING MEAT OF RABBITS, GAME BIRDS AND WILD ANIMALS. TO MEET THESE REQUIREMENTS A FOREIGN MEAT EXPORTING COUNTRY MUST:

1) APPLY, THROUGH DIPLOMATIC CHANNELS, FOR OFFICIAL RECOGNITION OF THEIR SYSTEM OF EXPORT MEAT INSPECTION

2) PROVIDE, AT THE TIME OF APPLICATION, COPIES OF LAWS AND REGULATIONS WHICH WILL GOVERN ACTIVITIES IN THE PLANTS HANDLING PRODUCT FOR EXPORT

3) AFTER IT HAS BEEN DETERMINED THAT THE APPLICABLE LAWS AND REGULATIONS CORRESPOND TO U.S. STANDARDS, INVITE A TEAM OF U.S. DEPARTMENT OF AGRICULTURE EXPERTS TO PERFORM ON-SITE INSPECTION OF THE SYSTEM IN OPERATION.

IF AT THIS POINT THE U.S. DEPARTMENT OF AGRICULTURE'S FINDINGS ARE FAVORABLE, THE FOREIGN EXPORTING NATION CAN BE AUTHORIZED TO SHIP MEAT AND/OR POULTRY TO THE UNITED STATES. IN CONNECTION WITH THE REQUIREMENTS OF THE MEAT AND POULTRY INSPECTION PROGRAM, U.S. INSPECTORS USUALLY VISIT "APPROVED" FOREIGN PLANTS FOUR TIMES ANNUALLY.

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THE MEAT IMPORT ACT OF 1964 REQUIRES THE PRESIDENT TO LIMIT IMPORTS OF FRESH, CHILLED OR FROZEN BEEF AND VEAL, MUTTON AND GOAT MEAT. THE LAW ESTABLISHES A FORMULA, BASED ON THE RELATIONSHIP BETWEEN IMPORTS AND DOMESTIC COMMERCIAL PRODUCTION, FOR PROCLAIMING A QUOTA WHEN ESTIMATED IMPORTS EXCEED TRIGGER LEVELS. WHEN MEAT IMPORTS APPROACHED THE TRIGGER LEVEL IN 1968, A VOLUNTARY MEAT EXPORT RESTRAINT PROGRAM WAS ADOPTED WITH THE MAJOR SUPPLYING COUNTRIES AGREEING TO LIMIT EXPORTS TO THE UNITED STATES TO SPECIFIC LEVELS TO AVOID THE NEED TO IMPOSE AN IMPORT QUOTA. VOLUNTARY RESTRAINTS ARE STILL IN EFFECT. PROVISIONS CAN BE MADE FOR NEW SUPPLIERS.

2. RESTRICTION ON IMPORTATION OF CERTAIN KINDS OF FURS. CURRENT U.S. TARIFF LEGISLATION PROHIBITS IMPORTATION FROM EITHER CHINA OR THE USSR OF SEVEN KINDS OF SKINS: ERMINE, FOX, KOLINSKY, MARTEN, MINK, MUSKRAT AND WEASEL, RAW OR NOT DRESSED OR DRESSED. THE PROHIBITION DOES NOT APPLY TO GARMENTS MANUFACTURED FROM SUCH SKINS.

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EA/ACA: CWFREEMAN, JR.: MFC
7/5/72 EXT 22657
EA/ACA: RWSULLIVAN

PRIORITY PARIS

NODIS/HOMER

FOR AMBASSADOR ONLY

SUBJ: COMMODITIES FOR EXPORT TO THE PRC

COMMODITIES PRODUCED BY THE PRC WHICH APPEAR TO HAVE GOOD MARKET POSSIBILITIES IN THE US ARE LISTED BELOW. LIMITATIONS MAY BE PLACED ON SOME OF THESE COMMODITIES UNDER SUCH RESTRICTIONS AS QUOTAS, ANTI-DUMPING LEGISLATION, OR FOOD INSPECTION REQUIREMENTS:

FOODSTUFFS {FRESH, FROZEN AND PROCESSED}

TEXTILES

ESSENTIAL OILS

SILK

METALS {TITANIUM, ANTIMONY, ETC.}

ANIMAL HAIR {WOOL, HOG BRISTLES, ETC.}

CHEMICALS

INDUSTRIAL RAW MATERIALS {TALC, ROSIN, PETROLEUM, ETC.}

HAND TOOLS {HAMMERS, AXES, ETC.}

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FORM DS 322{OCR}

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EA/ACA: CWFREEMAN, JR.: MFC
7/5/72 EXT 22656
EA/ACA: RWSULLIVAN

PRIORITY

PARIS

NODIS/HOMER

FOR AMBASSADOR ONLY

SUBJ: COMMODITIES FOR EXPORT TO THE PRC

THE FOLLOWING GENERAL CATEGORIES OF COMMODITIES MADE OR GROWN IN THE UNITED STATES APPEAR TO OFFER THE BEST POTENTIAL FOR EXPORT TO THE PRC, SUBJECT TO FULL INFORMATION ON END USE FOR THOSE COMMODITIES REQUIRING VALIDATED LICENSES.

WHEAT AND GRAINS

RUBBER AND RUBBER PRODUCTS, NATURAL AND SYNTHETIC

SYNTHETIC TEXTILES

MOST METALS AND SEMIFABRICATED METAL PRODUCTS

FERTILIZERS

MOST CHEMICALS

PHARMACEUTICAL AND MEDICINAL PRODUCTS

MINING MACHINERY

MOST PETROLEUM EXPLORATION, DRILLING, AND PRODUCTION EQUIPMENT FOR SHALLOW TO MEDIUM DEPTHS

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CWF

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TEXTILE MACHINERY

FOOD INDUSTRY MACHINERY, AND OTHER MACHINES TO MANUFACTURE
A WIDE RANGE OF CONSUMER GOODS

ROLLING MILLS, MANY TYPES

REFRIGERATION AND AIR CONDITIONING EQUIPMENT

PLASTICS MANUFACTURING AND FABRICATING EQUIPMENT

MOST INDUSTRIAL PROCESS CONTROL EQUIPMENT

MANY TYPES OF MACHINE TOOLS

AGRICULTURAL MACHINERY

ENGINES, GASOLINE AND DIESEL, MOST TYPES

TELEVISION AND RADIO EQUIPMENT, HOME AND STUDIO TYPES

ELECTRONIC COMPONENTS

ELECTRONIC COMPONENTS, MANY TYPES

ELECTRONIC TEST EQUIPMENT, MANY TYPES

OFFICE EQUIPMENT AND MACHINES

SOME ELECTRONIC COMPUTERS

ELECTRIC GENERATION AND TRANSMISSION EQUIPMENT

EARTH MOVING AND CONSTRUCTION EQUIPMENT

AUTOMOTIVE EQUIPMENT, INCLUDING MOST TRUCKS, CARS, BUSES,
ETC.

RAILWAY EQUIPMENT, FIXED AND ROLLING

CIVIL AIRCRAFT, INCLUDING AVIONICS AND FLIGHT CONTROL
EQUIPMENT ESSENTIAL TO SAFETY

GROUND AVIATION ELECTRONIC EQUIPMENT NEEDED FOR SAFETY,
SEVERAL TYPES

LABORATORY INSTRUMENTS, MANY TYPES

PHYSICAL PROPERTIES TESTING EQUIPMENT, MANY TYPES

FORM DS 322A(OCR)

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CAMERAS, PROJECTORS AND OPTICAL EQUIPMENT OF MOST
COMMERCIAL TYPES

TECHNOLOGY FOR MANUFACTURING A WIDE VARIETY OF CONSUMER
GOODS AND COMMON INDUSTRIAL PRODUCTS

GP-3 44

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THE WHITE HOUSE

WASHINGTON

CONFIDENTIAL

June 12, 1972

MEMORANDUM FOR:


The Secretary of State
The Secretary of Defense
The Secretary of Commerce
The Director of the National Aeronautics
and Space Administration

SUBJECT: Differential Treatment of the PRC in
COCOM List Review Negotiations

The President has considered the memorandum submitted by the Department of State and your positions on the above subject. Based on these, he has decided the following:

••• In the review now taking place in COCOM the United States should adopt as a general principle the termination of differential treatment for the PRC as the basis for development of the United States negotiating position. In the event that there are particular items which we and the other COCOM countries agree should be treated on a differential basis, we should endeavor to apply the concept of the "disguised differential" as described in the memorandum submitted by the Department of State.

••• In the event that other COCOM nations agree to the concept of a "disguised differential" on particular items in COCOM negotiations, we should attempt to retain a "disguised differential" for the helium liquefaction equipment and containers for the transportation of liquefied gases. If, however, our holding to this position engenders a confrontation with other COCOM countries, we should accept the removal of these items from the "disguised differential" category.



Henry A. Kissinger



Peter M. Flanigan

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THE WHITE HOUSE

WASHINGTON

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June 12, 1972

MEMORANDUM FOR:

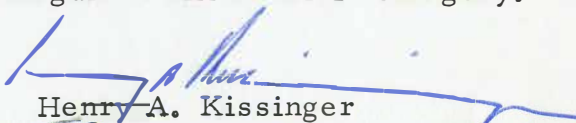
The Secretary of State
The Secretary of Defense
The Secretary of Commerce
The Director of the National Aeronautics
and Space Administration


SUBJECT: Differential Treatment of the PRC in
COCOM List Review Negotiations

The President has considered the memorandum submitted by the Department of State and your positions on the above subject. Based on these, he has decided the following:

-- In the review now taking place in COCOM the United States should adopt as a general principle the termination of differential treatment for the PRC as the basis for development of the United States negotiating position. In the event that there are particular items which we and the other COCOM countries agree should be treated on a differential basis, we should endeavor to apply the concept of the "disguised differential" as described in the memorandum submitted by the Department of State.

-- In the event that other COCOM nations agree to the concept of a "disguised differential" on particular items in COCOM negotiations, we should attempt to retain a "disguised differential" for the helium liquefaction equipment and containers for the transportation of liquefied gases. If, however, our holding to this position engenders a confrontation with other COCOM countries, we should accept the removal of these items from the "disguised differential" category.


Henry A. Kissinger


Peter M. Flanigan

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MEMORANDUM

THE WHITE HOUSE

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WASHINGTON

ACTION

June 9, 1972

THE PRESIDENT HAS SEEN... *Handwritten initials*

MEMORANDUM FOR:

THE PRESIDENT

FROM:

HENRY A. KISSINGER *HK*
PETER M. FLANIGAN *PMF*

SUBJECT:

Differential Treatment of the PRC in
COCOM List Review Negotiations

COCOM -- the NATO and Japan Committee on strategic trade with Communist nations -- is presently reviewing items which it restricts for sale to Communist countries. A major issue is the "China differential" -- which results in stricter application of COCOM controls on exports of 30 items to the PRC than to the USSR or Eastern Europe.

The agencies (Tab C) agree in principle that we should reduce the "differential" as much as possible. However, DOD (Tab D) feels items should be eliminated on an item-by-item basis and that helium liquification equipment and containers for transportation of liquefied gases should be retained for embargo to China alone. Several other COCOM members -- particularly Japan -- plus State (Tab B), Commerce, and NASA, favor deletion of all "differential" items from the COCOM list, and rejection of the "China differential" principle.

There are two options:

Option A. Adopt the general principle of termination of differential treatment for the PRC in COCOM. Pros: Consistent with our equal treatment of the PRC and the USSR on U. S. export controls, benefits our relations with the PRC, and enables us to agree with Japan on an issue important to her. Cons: Establishes a principle of equality when we recognize there is a greater likelihood of diversion of certain items to military uses in the PRC than in the USSR, decreases our flexibility to agree to a relaxation of controls on items for the USSR and Eastern Europe because such items would then necessarily have to be decontrolled for China.

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Option B. Retain the China "differential" on an item-by-item basis. However, the differential would not be applied explicitly but would be disguised by attaching two conditions to the export of hard-core items: (a) a determination by the exporting government that the item could not reasonably be used for strategic purposes, and (b) a certification by the importing country that the item would be used for peaceful purposes. Although these conditions would not apply only to the PRC, its inability to comply would mean that these few items could not be exported by COCOM members to the PRC. (Pros and Cons are the reverse of those under Option A.)

On balance, I recommend Option A -- push for removal of the "China differential" as a matter of general principle. If, however, there are a few items on which we and the other COCOM countries agree require retention of a "differential" this should be done in the form of a "disguised differential". In the latter case, other nations' support for retaining the "differential" would absolve us of total responsibility for its maintenance. And, the real effect of the "differential" on the PRC is not significant.

RECOMMENDATION:

That you approve Option A (eliminating as a general principle differential treatment in the COCOM for the PRC while attempting to apply a "disguised differential" to those few items which we and other COCOM members agree should be treated on a differential basis. We would attempt to retain gas transportation equipment and helium separators on the China "differential" list as DOD proposes, but would not hold to this position at the risk of a confrontation with other COCOM countries).

Approve  _____

Disapprove, prefer Option B (deal with the differential on an item-by-item basis while attempting to place such a "disguised differential" on these items--including the gas transportation equipment and helium separators--on which we believe a differential should be maintained) _____

MEMORANDUM

NATIONAL SECURITY COUNCIL

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MEMORANDUM FOR: DR. KISSINGER

FROM: JOHN HOLDRIDGE, JMH
ROBERT HORMATS, RH

SUBJECT: Differential Treatment of the PRC in COCOM
List Review Negotiations

COCOM--the international (NATO and Japan) Committee on strategic trade with Communist nations--is presently reviewing items which it restricts for sale to Communist countries. An interagency paper (Tab C) asks for a Presidential decision on our position in that review. Japan has repeatedly urged that COCOM eliminate the "China differential"-- which results in stricter application of COCOM controls on exports to the PRC than on exports to the USSR or Eastern Europe. During the first phase of the present review 15 of the 45 "differential" items have been removed entirely from COCOM control or from "China differential" status.

There is agreement in principle among the agencies that we should reduce the "differential" as much as possible. However, DOD/feels items should be eliminated on an item-by-item basis, and argues that there are two items which should be retained for embargo to China alone-- helium liqui- dation equipment and containers for transportation of liquified gases. Several other COCOM members--with Japan in the forefront--plus State (Tab B), Commerce, and NASA, favor deletion of all "differential" items from the COCOM list, and rejection of the principle of the "China differ- ential".

There are two options:

Option A: Adopt the general principle of termination of differential treat- ment for the PRC in the COCOM.

Option B: Deal with the "China differential" on an item-by-item basis, with a view toward retention of a small number of "hard-core" items for embargo to China alone.

The pros and cons of each option are set forth in the proposed memorandum to the President.

On balance, we recommend that the President approve Option A. Peter Flanigan concurs. This would put us in the position of advocating equal

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treatment for the USSR and the PRC in COCOM and remove another barrier to trade with the PRC. If, however, there are items on which we and the other COCOM countries agree require retention of a "differential", this should be done in the form of a "disguised differential".

There are in addition two suboptions:

-- To retain through a "disguised differential" the two items which Defense wishes to have included on the COCOM list for embargo to the PRC alone--helium liquification equipment and liquified gas containers (sub-option 1), or

-- To remove these items from the embargoed list (sub-option 2).

Arguments in favor of Sub-option 2 are that these items can be purchased by the PRC from USSR and Eastern Europe (to which they are not embargoed under COCOM), and that other COCOM nations believe that the rationale for restricting their export to the PRC--on the grounds that they contribute to China's rocket technology--is weak. However, DOD--which favors Sub-option 1--argues that while the items may be available in Eastern Europe, the amounts in which they would be available to the PRC are not adequate, it is incorrect to assume such specialized items would be made easily available by these countries to the PRC, and that Japan might not object strenuously to the retention of controls on these items if most other "differential" items are decontrolled.

We recommend that the President approve Sub-option 1. These items-- if any "differential" is to be retained--are logical candidates for inclusion under it. However, because our case for retention of these items on the embargo list is weak and our holding out for including them on such might cause friction in our relations with our COCOM countries and thereby make cooperation with them in other aspects of the COCOM negotiations more difficult, we recommend that the US not hold to this position if it means an open confrontation with other COCOM countries.

RECOMMENDATION:

That you sign the memo for the President at Tab I.

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THE SECRETARY OF STATE
WASHINGTON

CONFIDENTIAL

March 20, 1972

MEMORANDUM FOR THE PRESIDENT

Subject: Differential Treatment of the PRC
in COCOM List Review Negotiations

The Department of State has conveyed to the National Security Council a memorandum (attached) describing the nature of the PRC/COCOM problem, the options which are available at this point, and the advantages and disadvantages thereof as we see them.

My view is that the preferred course of action would be to eliminate as a matter of principle any differential treatment for the People's Republic of China under the Coordinating Committee (COCOM) strategic trade control arrangements and to manage our negotiations during the remainder of the current COCOM List Review accordingly. My reasons are threefold:

- 1) I believe ultimately any form of discrimination in COCOM against the People's Republic of China will be politically unacceptable to Japan.
- 2) China cannot effectively be prevented from obtaining the so-called China differential items directly or indirectly through Eastern Europe or the non-COCOM European countries.
- 3) Finally, for us to insist on discrimination against the People's Republic of China in COCOM is now inconsistent with our own equal treatment of the People's Republic of China and the USSR.

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-2-

Under these circumstances, we would have more to gain in our relations with Japan by removing the China differential issue from the COCOM negotiation than we would be likely to forfeit in slightly diminished trade controls toward the People's Republic of China.


William P. Rogers

Attachment:

Eliot-Kissinger Memorandum.

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DEPARTMENT OF STATE

Washington, D.C. 20520

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March 20, 1972

MEMORANDUM FOR MR. HENRY A. KISSINGER
THE WHITE HOUSESubject: Differential Treatment of the PRC
in COCOM List Review Negotiations

The Government of Japan has repeatedly urged that we accept the elimination of the discriminatory China COCOM differential which results in stricter application of COCOM controls on some 45 items against the People's Republic of China than against the USSR or Eastern Europe. We have indicated general agreement with the Japanese viewpoint, but have urged that the problem be worked out during the COCOM List Review, now underway in Paris, on an item-by-item basis.

The so-called China differential dates from the last COCOM List Review in 1968/69. It was based on the assumption that the PRC was more likely to use COCOM-listed equipment for military purposes than for civilian purposes since the civilian economy of China is less developed than that of the USSR or Eastern Europe. The device of retaining embargoed items for control to the PRC while liberalizing their treatment to the Soviet Union and Eastern Europe made it possible to liberalize trade with Eastern Europe without making premature decisions on the treatment of China. Since Japan was sensitive about this approach in 1968/69, it was necessary to work out an indirect formula to avoid

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an overt difference in the list. This was accomplished through a formula that did not mention China but provided for automatic COCOM clearance at the end of an 18-day waiting period for certain items to areas "capable of producing similar items or having easy access to such items" -- the areas understood to be the USSR and Eastern Europe except Albania. The Japanese felt so strongly on the differential issue that they reserved on and never accepted proposed differential treatment for about twelve items in the 1968/69 COCOM review.

There were approximately 45 China differential items to be dealt with at the beginning of the present COCOM List Review. In the first round of the List Review, agreement was reached on the disposition of 15 of these. It has been our hope that in the second round, now in progress, we might be able to reduce the number of differential items to the point where there would be only a few left on which we could achieve our purpose through a "disguised differential" that would establish end-use conditions the Chinese would be unlikely to meet. The conditions we have proposed are: 1) the exporting government's determination by inspection that the item cannot reasonably be used for strategic purposes, and 2) assurances of peaceful use in writing by competent authorities of the importing country.

If the Japanese can accept this formula on a number of items we believe the COCOM negotiation can succeed. On this basis, we see our way clear to resolving almost all of the 15 differential items remaining in the second round of the COCOM negotiation.

There are only two items on which there are serious interdepartmental differences: helium separation equipment and containers for transportation of liquified gases (nitrogen, oxygen, and argon only) both of which are proposed for deletion by

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other COCOM members. State, Commerce and NASA recommend deletion of these items from the COCOM list while Defense recommends retention for embargo to China alone. We are told that Secretary Laird would appeal an overriding decision by State to delete these items. A description and discussion of these items is attached.

In this Department's view, an attempt by the U.S. to insist on retaining these two items when the justification is very weak would risk pushing the Japanese back to an intransigent position at a point in the COCOM negotiations when the prospects for a satisfactory outcome seem promising.

For this reason, we believe it is timely to face the major point of principle on the China differential issue which the Japanese have repeatedly urged -- namely, whether it is in our interest to maintain the China differential at all. Since the COCOM negotiation is complex and tightly scheduled in terms of discussions of items, we should be prepared in advance with enough flexibility to deal with the differential issue promptly if it turns out that a collision with the Japanese is imminent. Moreover, if we can resolve the differential issue to the satisfaction of the Japanese and without damage to our own objectives in COCOM, it may benefit our efforts on some of the major non-differential questions in COCOM.

It is clear that none of the executive departments proposes retention in principle of the present China differential. The alternatives at this stage as we see them are as follows:

1. Continue to deal with the China differential as we have been on an item-by-item basis with a view to arriving at a small number of hard-core items that are treated under "disguised differential" conditions.

Under this option there are two sub-options:

- a. Delete the two items at issue.
 - b. Insist on retaining differential control of the two items.
2. Adopt as a principle the termination of differential treatment for the PRC as the basis for development of U.S. negotiating positions.

This option would assume the deletion of the two items at issue.

The advantages and disadvantages of each of these options may be briefly summarized as follows:

1. Continue to deal with the China differential as we have been on an item-by-item basis with a view to arriving at a small number of hard-core items that are treated under "disguised differential" conditions.

Advantages

1. The "disguised differential" is an effective means of accomplishing indirectly what was accomplished more directly through the "easy access" China differential notes.
2. It is important to continue tighter control over certain items for the PRC than for Eastern Europe and the USSR because of the less advanced character of Chinese industrial development and the relatively greater probability of military use.
3. Preserving the principle of less favorable treatment for the PRC is necessary to protect our future position in COCOM when there may be

pressures for further reducing controls for the USSR and Eastern Europe to an extent that would be unacceptable in the case of the PRC.

4. The "disguised differential" formula has advantage in itself in prescribing conditions for exceptions to Eastern Europe and the USSR, and would also permit exceptions for the PRC at such time as it is prepared to meet the conditions.

Disadvantages

1. The "disguised differential" still represents a differential in fact, and as such is inconsistent with U.S. policy on U.S. export controls of treating the USSR and the PRC equally.
2. It is likely that the Japanese in the end will reject the formula.
3. The PRC cannot be prevented from obtaining China differential items either from Eastern Europe or from the major non-COCOM European neutral countries.
4. Since the indirect differential is likely to apply to a small number of items, it operates in effect as a negotiating device that favors the Western Europeans' efforts to relax controls toward the Warsaw Pact countries.

Sub-options

- 1.a. Delete the two items at issue.
- 1.b. Insist on retaining differential control of the two items.

The considerations on these sub-options are detailed in the attachment but may be summarized here as advantages and disadvantages of deletion.

Advantages

1. Neither item qualifies under established COCOM standards for embargo to the USSR and Eastern Europe -- i.e. those areas have indigenous production and the items have civil as well as military uses.
2. Both items are obtainable by the PRC from the USSR and Eastern European area.
3. Deletion would eliminate two items where the China differential discrimination would be the most overt.

Disadvantages

1. While the items may be available in the European communist countries and may be used for a variety of civil purposes, their availability in the PRC is not adequate and their use there is most likely to be military and strategic. Both helium and the special containers have their most significant use in missiles and rockets.
2. There is not such extensive commerce between the Warsaw Pact countries and the PRC as to justify the assumption that such specialized items as these would be made easily available. There would be time and cost factors involved that would affect free availability in Western non-COCOM countries.
3. Since alternative "disguised differential" or other disposition of most China differential items seems likely, the retention of control in these two cases might well be acceptable to Japan and the other COCOM countries affected.

2. Adopt as a principle the termination of differential treatment for the PRC as the basis for development of U.S. negotiating positions.

Advantages

1. This would enable us to agree with the Japanese on an issue that is obviously very important to Japan.
2. It would be consistent with our own equal treatment of the PRC and the USSR on U.S. export controls.
3. Since there are so few differential items likely to remain, it is not credible either that they could be denied to the PRC via Eastern European or Western non-COCOM countries, or that their denial could have a significant impact on Chinese military capability.

Disadvantages

1. It would limit our flexibility to agree to warranted relaxation for the USSR and Eastern Europe and might aggravate our COCOM negotiating problems with the European members.
2. Our own actions in reducing U.S. controls recognized that the COCOM strategic controls were a separate issue. Moreover, while the pattern of U.S. regulations on trade with the PRC and the USSR is essentially the same, there will continue to be a differential in practice. The treatment of individual U.S. export licensing cases will differ and will be based on different circumstances in the two countries.

CONFIDENTIAL

8.

3. Since we believe that there is a genuine basis for differential control because of the greater likelihood of diversion to military uses in the PRC, we should not abandon the principle that differential treatment, in one form or another, is required in certain cases.

The Secretary will send the President separately his recommendation on this matter.



Theodore L. Eliot, Jr.
Executive Secretary

Attachment:

Defense Appeal on Two COCOM Cryogenic Items.

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Defense Appeal on Two COCOM Cryogenic Items

Defense has appealed the State proposal supported by Commerce and NASA for deletion of the following two items from the COCOM list:

IL-1110 - Gas Liquifying Equipment

Sub-item at issue - ((d) (1) only)

"(d) (1) Equipment for the separation of helium from natural gases, and

(d) (2) Equipment for the production of liquid helium except equipment which has a capacity of no more than 20 liters per hour."

COCOM Proposals -

U.K. -Delete both (d) (1) and (d) (2):
all in favor on (d) (1) except
U.S.

Germany -Raise (d) (2) to 50 liters per
hour for piston expansion equip-
ment: State, Commerce, NASA
position supports.

IL-1145 - Containers for the storage or
transportation of Liquified Gases

Sub-item at issue -

"(c) (2) (ii) Mobile equipment having a capacity exceeding 1200 gallons (4,542 Liters) and an evaporation loss rate of less than 1.5% per day as determined at an ambient temperature of 75°F (24°C) and without exposure to direct sunlight."

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(This item is embargoed only for China and applies to specially designed containers only for liquid nitrogen, oxygen and argon.)

COCOM Proposals -

Japan -Delete this sub-item and the China differential "easy access" Notes 1 and 2.

U.K. -Reduce the whole item to:

"Containers, jacketed only, specially designed for the storage and transportation of liquid fluorine."

The considerations involved in each of these cases are as follows:

IL-1110 - Gas Liquifying Equipment

- 1) Helium is included neither in the COCOM list nor in the U.S. strategic list, and is widely available.
- 2) The U.S. provided a helium separation plant to the USSR under lend-lease in 1946. The British estimate, which we do not question, is that the Soviets began separating helium from natural gas in 1934 and liquifying it in 1935. Czechoslovakia manufactures separation and liquifaction equipment based on a copied U.S. process.
- 3) With respect to China the CIA says "China has made inquiries in the free world about purchasing helium separation/liquifaction equipment, and CIA believes that the PRC has acquired limited quantities of this equipment. CIA also believes that one helium separation/liquifaction facility is located in Szechwan." Since Czechoslovakia continues to trade with the PRC it is reasonable to assume that such equipment might be

obtained from that source or indeed from the USSR which continues to trade with the PRC on a limited scale.

- 4) The PRC has sufficient stores of natural gas to make the extraction of helium and its liquifaction economically feasible.
- 5) Liquid helium is used in the U.S. for purging and pressurizing liquid hydrogen fuel missiles; the Chinese employ oxygen rather than hydrogen for their missiles. Additionally, the use of helium for simulating space environments would not be involved since the PRC does not have a space program. Other uses of helium for such applications as creating high vacuums for advanced semi-conductor production would not seem likely to strain their own production capabilities.
- 6) The heart of the disagreement by Defense is their view that we cannot be certain from the evidence available that the PRC has "adequate" quantities and regular sources of helium for their strategic needs.
- 7) The retention of embargo to the PRC would either create a new China differential item (which is politically unacceptable to the Japanese) or require us to justify the continued embargo to the Communist area as a whole in the absence of a supportable case for retaining the embargo for the USSR and Eastern Europe.

IL-1145 - Containers for transportation of
Liquified Gases

- 1) Cryogenic containers for liquid oxygen do not involve the more advanced technology necessary for handling liquid hydrogen. The DIA says "The Chinese have a missile that is believed to use liquid oxygen,

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4.

indicating the probable existence of liquid oxygen storage containers. However, nothing is known of the level of the technology in this area. It is suspected that this is about the same as the Soviet technology of 1960, i.e. with loss rates of 5 to 10% per day." It is reasonable to assume, however, that China might have access to trucks manufactured in Czechoslovakia or the USSR.

- 2) The PRC would also have alternatives to the use of the embargoed trucks in question: a) use of trucks under 1,200 gallons which are not embargoed; b) mounting stationary tanks (not embargoed) on flatbed trucks or trailers; c) locating small liquid oxygen plants (up to 50 tons per day, not embargoed) near missile sites to reduce to an acceptable level the evaporation loss rate involved in longer range trucking.
- 3) Defense considers that the Chinese supply of trucks appears inadequate to fuel an expanded number of missiles, and that there is not evidence of Chinese ability to manufacture trucks for transporting liquid oxygen at low loss rates.
- 4) To follow the Defense proposal would require the U.S. to insist on the continuation of a China differential item on grounds which are weak in logical terms, however imperfect our direct knowledge of Chinese production capabilities may be.

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3973
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THE SECRETARY OF DEFENSE
WASHINGTON, D. C. 20301

9 MAY 1972

MEMORANDUM FOR THE PRESIDENT

SUBJECT: Differential Treatment of the PRC in COCOM List Review
Negotiations

In a separate memorandum the Department of State has proposed to you that the US eliminate as a matter of principle any differential treatment for the People's Republic of China under the Coordinating Committee (COCOM) strategic trade control arrangements and that we manage our negotiations during the current COCOM List Review accordingly.

I cannot concur in this proposal nor in the reasoning on which it is based. All COCOM member countries recognize the validity of and need for continuance on strategic grounds of such a differential, although the Japanese, for diplomatic and domestic political reasons, find living with this arrangement difficult. These Japanese sensitivities were catered to in the last COCOM List Review by disguising the differential. This was achieved by devising certain key words to identify items releasable to the USSR but not the PRC. Supposed to be kept secret, this formula nevertheless has become known and the Japanese claim they cannot any longer accept it.

One solution would be to eliminate all such identifications and achieve a differential by approving exports to the USSR and Eastern Europe as exceptions on a case-by-case basis. What blocks this solution is the adamant position of the UK against any apparent "roll back" of embargo levels.

Whatever may be the ultimate case, the Japanese are today accepting forms of discrimination in COCOM against the PRC, and it is by no means yet clear that they will not accept a continued China differential. In any event, the essential requirement of an effective system of security trade controls is that it take account of difference between countries as well as commodities -- in short, that it be as discriminating as possible.

MAY 1972
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GROUP 4
Downgraded at 3 year intervals;
Declassified after 12 years.

CONFIDENTIAL

2216

Sec Def Cont Nr. X-~~-----~~

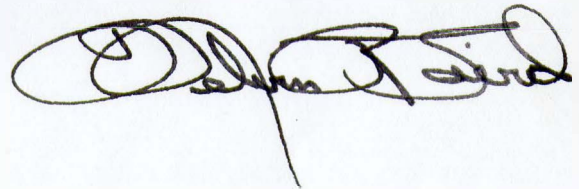
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2

As to the question of whether China can be effectively prevented from obtaining strategic items, the differential does have this effect since it duly considers (1) the limitations of PRC capabilities, (2) the non-availability of differential items in non-COCOM countries and (3) the restrictions which the USSR and the Eastern European communist countries place upon this type of trade with the PRC.

To continue the differential would be consistent with our present policies. Nominally, we now give "equal treatment" to the PRC and the USSR in strategic trade matters, but such treatment still affords us ample opportunity to consider on a case-by-case basis the differences in capabilities between these two countries, the degree to which we have assurances as to peaceful end-use of embargoed commodities and the consequent strategic impact of approving an export to one or the other. In contrast, the elimination of the differential in COCOM would not only remove the end-use and end-user requirements for such shipments but also remove the commodities themselves from COCOM control. By way of illustration, a number of advanced computers now specifically embargoed to the PRC but not to Eastern Europe would automatically be released.

On the basis of the above considerations, I strongly recommend that you support continued differential treatment for the PRC in COCOM and the management of our negotiations during the remainder of the List Review accordingly.

A handwritten signature in dark ink, appearing to be "John F. Kennedy", written in a cursive style.

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NSC CORRESPONDENCE PROFILE

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DOC SOURCE/CLASS/DESCRIPTION

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 TS _____ SENSITIVE _____

SUBJECT: Differential treatment of the PRC in NCOCOM list review negotiations

REFERENCE: S/S 7204390 OTHER _____ NOT XEROXED _____

APP'TS: PRES _____ HAK _____ TALKER _____ MEMCON _____ DATE REQ. _____

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INTERNAL ROUTING AND DISTRIBUTION			ACTION REQUIRED	
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STAFF SECRETARY				MEMO FOR PRES. _____
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LATIN AMERICA				JOINT MEMO _____
UNITED NATIONS				REFER TO STATE _____
ECONOMIC				ANY ACTION NECESSARY _____
SCIENTIFIC				CONCURRENCE _____
LR PLANNING				DUE DATE: <u>3/27</u>
PROGRAM ANALYSIS				COMMENTS: (Including Special Instructions)
NSC PLANNING				
CONGRESSIONAL				

INTERNAL/INTERIM ROUTING

DATE	FROM	TO	S	ACTION REQUIRED	CY TO
5/11				Forward by 3973	
5/11				Pres for decision / Dep res to agency (5/15)	
5/15	Howe	Wardle		Further action	
5/15				Pres for decision / Dep res to agency (5/15)	
JUN 09 1972				Pres P Decision	
6/12				Dep approved re com	
6/15				Memo Sg'd by HAK/PMF	

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I sent the rest of this package to you
yesterday for dispatch. Please file
this page with it.

Kathy

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SECRET/NODIS/HOMER

June 9, 1972

MEMORANDUM FOR: GENERAL HAIG
FROM: JON HOWE
SUBJECT: China Trade NSDM



Attached at Tab A is the joint NSDM and CIEPDM which HAK recently signed and asked that you "get out ASAP" (copy of full memo at Tab B). It was learned late today that the CIEP concurs providing certain changes are made in the due dates for two reports requested by the NSDM/CIEPDM. Although there is a remote possibility that HAK wanted to have a rapid response, it is more likely that he simply overlooked the need to change the date. The memo was submitted on May 10, 1972 and it requests certain memoranda be submitted to the President by June 10 (obviously OBE at this point) and on June 16. CIEP has suggested slipping these dates to June 23 and July 3 respectively. I concur.

If you agree, these changes will be made and the instruction gotten out to the bureaucracy immediately. Presumably HAK has considered all aspects of this instruction including the fact that the Chinese would shortly in Paris be given a long memoranda concerning the subject of trade. The implementing cable apparently is already in the clearance process although the Chinese Ambassador in Paris has not yet returned. Presumably HAK does not want to "save" this "news", but I thought you would want to consider again this aspect.

Attachments

SECRET/NODIS/HOMER

THE WHITE HOUSE

WASHINGTON

SECRET/NODIS/HOMER

8
June 10, 1972

National Security Decision Memorandum 170

Council on International Economic Policy Decision Memorandum 7

TO: The Secretary of State
 The Secretary of Treasury
 The Secretary of Defense
 The Secretary of Agriculture
 The Secretary of Commerce
 The Director of Central Intelligence

SUBJECT: US-PRC Trade

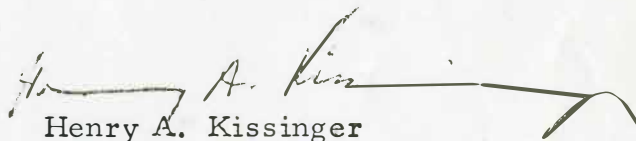
The President has reviewed the memorandum submitted by the Department of State, with the Department of Commerce, on April 24 and the response to NSSM 149 submitted by the Ad Hoc Group on March 24 on the above subject. Based on these, he has approved the recommendations for actions over the next three months contained in the April 24 memorandum for proceeding to implement the statement on trade in the Shanghai communique with the following modifications:

- The memorandum for Ambassador Huang should indicate that we recognize the PRC's interest in MFN but view this as a subject for later discussion.
- The matter of alleged PRC failure to repay Export-Import Bank debt should not be raised with the PRC at this time. An interagency committee chaired by Treasury should examine this question and its effect on PRC eligibility for Export-Import Bank financing, and submit a report to the President by July 3.
- The memorandum for Ambassador Huang should place greater stress on the necessity of beginning discussions in the near future on the settlement of the claims issue.
- References to the cotton textile issue and to US anti-dumping regulations and US prohibitions on imports of "certain endangered animal species" should be removed from the memorandum

for Ambassador Huang. These matters should be dealt with in separate memoranda to be presented to Ambassador Huang within the next several weeks. In his oral presentation, Ambassador Watson should indicate that we intend to provide the PRC with such memoranda shortly. Memoranda on these subjects together with recommendations as to the timing of their presentation should be submitted to the President by June 23.

- No mention should be made to the PRC at this time of possible US changes in transportation regulations. The Department of State, in cooperation with other appropriate agencies, should submit to the President as soon as possible documents necessary to revise US regulations regarding reciprocal visits by ships and aircraft. A draft statement announcing such decisions as well as a statement indicating that eventual establishment of scheduled air services would be subject to US-PRC inter-Governmental discussions should also be submitted.

As to recommendations for longer term steps, the President has deferred his decision and requests that they be resubmitted with proposed memoranda, where appropriate, and specific recommendations as to timing.


Henry A. Kissinger


Peter M. Flanigan

NIXON PRESIDENTIAL MATERIALS PROJECT
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1. TYPE OF DOCUMENT: MEMO for RECIPIENTS of NSDM 170/CIEPDM 7

2. SUBJECT: CHANGE OF DATE

3. DATE: JUNE 14, 1972

4. CLASSIFICATION: SECRET/NODIS/HOM

<u>ADDRESSEE</u>	<u>NO. OF COPIES</u>	<u>RECIPIENT</u>	<u>TIME</u>	<u>DATE</u>
The Vice President ✓	1	<i>Deborah Sutton</i>	9:53	6/15/72
The Sec. of State ✓	1			
The Sec. of DOD ✓	1			
The Under Sec. of State ✓	1			
Deputy Sec. of DOD ✓	1			
Director, CIA ✓	1			
The Sec. of Treasury ✓	1			
The Sec. of Agriculture ✓	1			
The Sec. of Commerce ✓	1			
Mr. Flanigan ✓	1	<i>Peggy Hartley</i>	10:00	6/15/72
Gen. Haig	1			
Mr. Kennedy	1			
Mr. Holdridge	1			
Mr. Hormats	1			

2. Product Lists and Approval of Export Licenses

Advise the Chinese that we will consider favorably license applications for a broad range of products clearly intended for peaceful end uses. In this connection, present the P.R.C. with a list of U.S. export products, including aircraft, and a list of Chinese export products that appear to offer the best potential in U.S.-P.R.C. trade. The U.S. export list would be developed on the basis of those products the P.R.C. is now importing from other economically advanced countries, in which we are generally competitive and which we are prepared to license for export to China. The list of Chinese exports would be based on what the Chinese are now successfully exporting to economically advanced countries and for which there is a market in the United States. The list of U.S. exports is attached. (The import list is now being prepared by Commerce.) Invite the Chinese to comment on these lists and to suggest additional items. Offer to provide commercial information (economic data, market information, trade regulations, etc.) and ask whether they would be willing to provide similar information in return (Option 27, pp. 25-26, 36 in NSSM-149).

3. Amend Transportation Order T-2

a. Department of Commerce believes that, providing it is appropriate, given the context of our over-all strategy relative to China, we should amend T-2 to allow reciprocal port visits by U.S. and P.R.C. vessels, thus effectively according China the same treatment we presently grant the U.S.S.R., and advise the Chinese of this change (Option 20, pp. 38-39 in NSSM-149). State Department believes that this action should be taken now. N.B.: Requires Presidential action.

4. Presentation of a Memorandum Outlining "Possible Topics for Future Discussion", as Follows:

a. Settlement of Private Claims. The Memorandum should note that Foreign Minister Chi P'eng-fei agreed in an informal discussion with Secretary Rogers that the problem of private claims is one that can be discussed

SECRET/NODIS/HOMER

MEMORANDUM

HAVB
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How to
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ACTION
May 10, 1972

NATIONAL SECURITY COUNCIL
SECRET/NODIS/HOMER

MEMORANDUM FOR: HENRY A. KISSINGER

FROM: JOHN HOLDRIDGE *JHO*
ROBERT HORMATS *RH*

Al - Get out
ASAP

SUBJECT: *Rush* Implementation of NSSM 149 - China Trade

As you requested at the March 31 SRG meeting, State and Commerce have prepared recommendations for an "Action Program" for implementing NSSM 149 on trade with the PRC. Also attached are proposed negotiating instructions to be sent to Ambassador Watson and a draft memorandum to be given to Ambassador Huang. (Attachments are at Tabs B, C, D respectively.)

The major problem with this paper is that on balance the tone of our presentation to the Chinese is negative. Although the paper recommends a number of means of facilitating trade, it also calls for our informing the PRC--primarily in the memorandum for Ambassador Huang--of the myriad of regulations and laws with which they will have to comply in order to trade with us. While we agree that certain of our restrictions and legal constraints should be brought to the attention of the PRC at this time, we should not overwhelm them. The question of settlement of private claims should certainly receive high priority, and it is also advisable to inform the Chinese in the near future of our textile problem; however, it is not necessary at this time to raise the question of debts allegedly owed by China to the Ex-Im Bank, our restrictions on the prohibition of endangered animal species, antidumping regulations, etc.

The paper's recommendations are divided into: I. Actions--both unilateral and with respect to the PRC--which we should take within the next three months; II. Actions which should be taken three-six months from now; III. Actions which should be taken six-twelve months from now; IV. Those actions which can be taken at any time.

I. a. Actions which should be taken with respect to the PRC within the next three months:

- Notify the PRC that we are in the process of forming a private Sino-American Trade Council (SATC) which will act as a central clearing house for information and research on PRC trading practices for U. S. businessmen.
- Advise the PRC of the range of products which we will consider favorably for export license applications. Prepare a list of goods which China

SECRET/NODIS/HOMER

might export to the U. S. Invite the Chinese to comment on these lists and suggest additional items. Offer to provide trade information to the PRC and ask whether the PRC would also be willing to provide information to us.

-- Amend transportation order T-2 to allow reciprocal port visits by U. S. and PRC vessels, thus according China the same treatment presently accorded the USSR. (This requires Presidential action.)

-- Present the PRC a memorandum outlining possible topics for future discussion including:

- the settlement of private claims, which is becoming increasingly important now that direct trade is increasing,
- scheduled air services between China and the U. S. ,
- U. S. import restrictions on textiles,
- explanation of U. S. restrictions and criteria for determining market disruption and dumping, and the procedures for handling these problems, and offer to provide a more detailed explanation,
- industrial property protection issues.

Within this category there are two issues on which State and Commerce differ:

Most-favored-nation treatment for PRC

The PRC (Foreign Minister Chi) raised this matter in Peking. State wishes to take cognizance of the PRC interests in MFN and offer to negotiate a bilateral agreement which would lead to seeking legislation to grant MFN status to the PRC. Pros: Responsive to PRC inquiries on MFN, positive element in developing trade relations, positive incentive for PRC to settle private claims issue. Cons: Might make us appear to be over anxious, legislative reception is uncertain, and we have not moved this far with the Russians who have been more insistent on this and are a more important trading partner.

Commerce recommends that we make no mention of MFN in the memorandum to be given to Ambassador Huang but instruct our Ambassador to reply, if asked, that MFN should be a subject for later discussions after major initial issues, such as claims, are resolved. Pros: Avoids appearance of over eagerness, holds a major sweetener in reserve. Cons: Not responsive to PRC inquiry, and would leave the memorandum to Huang largely negative in tone.

We believe neither option to be satisfactory. It is premature to begin negotiations on MFN with the PRC without doing so with the Soviets. We do not even have MFN with Romania, and it appears that Congress is reluctant to move on our request for that. On the other hand, to say nothing would make it appear as if we were ignoring Foreign Minister Chi's inquiry. We recommend, therefore, that you approve including in the memorandum to the PRC that we view MFN as a subject for later discussions. (We believe that we should not portray settlement of the claims issue as a quid for which we owe China a quo such as MFN. The settlement of the claims problem should be portrayed as being of mutual benefit, as it is.)

Settlement of Export-Import Bank debt

The Ex-Im Bank asserts certain claims against the PRC deriving from shipments of U.S. goods to China before the PRC was established in October 1949. It holds that until payments are made it cannot finance trade with the PRC. Commerce recommends that, if a policy determination is made that the debts presently ascribed by the Ex-Im Bank to the PRC are proper claims against the PRC, this issue should be inscribed in the memorandum to be passed to Ambassador Huang as one of the subjects for future discussion. Pros: Would permit early resolution of issues and determination whether Ex-Im Bank financing would be available for U.S. - PRC trade. Cons: Raises an issue which is of no current interest to the PRC since it does not seek foreign financing at present, and could introduce as contentious issues other USG claims and PRC counter claims.

State recommends that this matter not be raised now, but that the effect of the alleged PRC failure to repay Ex-Im debt on PRC eligibility for Ex-Im Bank financing be considered by the National Advisory Council (NAC).

Pros: Would result in a coordinated interagency determination on whether or not the PRC is eligible for Ex-Im financing, and permits a considered position on the total USG claims against the PRC. Cons: Runs the risk of bringing a wide variety of agencies into the decision-making process on what could be a sensitive matter important to our economic relations with the PRC.

We recommend that we not raise this matter with the PRC at this time, since they have not asked us for Ex-Im credits, but study the matter. However, the NAC, although usually the forum for studying financial issues of this type, is too large for this task and the fact of the study would quickly leak. Accordingly, the best means of handling this would be to ask the Treasury to chair an interagency committee to review the problem.

I.

I.b. Actions which the USG should take unilaterally at this time:

- Encourage U. S. businessmen to invite their Chinese counterparts to the U. S.
- Begin a review in the National Advisory Council (NAC) of alleged Chinese delinquencies relative to the Ex-Im Bank.
- Begin referring all businessmen wishing information on PRC trade to the appropriate office in the Department of Commerce.
- Instruct the American Consulate General in Hong Kong to expand cooperation with the American Chamber of Commerce.

II. Near-term actions (three to six months from now)

- Announce the formation of the Sino-American Trade Council (SATC). As one of its first activities it would contact the Chinese Council for the Promotion of International Trade regarding the possibility of our sending a vanguard trade delegation to China. The SATC would work in close cooperation with the Department of Commerce.
- Initiate discussions of topics listed in the memorandum to Ambassador Huang.
- Give the Chinese a selective list of trade fairs in the U. S. and encourage their attendance.
- Encourage the SATC to organize a trade exhibit in China.
- Invite PRC to hold a trade exhibit in the U. S.

III. Intermediate term actions (six to twelve months from now)

- Provide Commerce and Agriculture assistance to collective exhibitions by U. S. firms in China.
- Seek through Paris to arrange for contact between the U. S. Commodity and Credit Corporation and the PRC national cereals, oils, and foodstuffs import and export corporation to explore the possibility of grain sales.

IV. Actions which can be done at any time:

- Explain to the PRC that adequate end-use information is required for all valid export license cases by the Department of Commerce.

-- Ask the PRC through Paris for details and procedural information on Chinese trademark laws.

-- Use the American Consulate General in Hong Kong to encourage specialized banking contacts to facilitate trade with the PRC. (Treasury representatives would act as liaison in this.)

COMMENTS:

The first issue which must be decided is whether another SRG meeting is necessary. We do not believe it is. The paper presents only two contentious issues to be decided, and we recommend that you make those decisions so that we can promptly begin our trade contacts with the Chinese in Paris.

We also believe that the memorandum to Ambassador Huang should be modified to effect the following changes:

-- Indicate that we recognize the PRC's interest in MFN but view this as a subject for later discussion.

-- Place greater stress on the necessity of beginning discussions in the near future on the settlement of claims.

-- Delete reference to alleged PRC failure to repay Export-Import Bank debt.

-- Remove reference to U. S. prohibitions on "certain endangered animal species".

-- Remove reference to U. S. antidumping regulations.

-- Remove for the time being reference to the cotton textile issue, but present it to the Chinese in a separate memorandum within the next several weeks. (Ambassador Watson should indicate orally that we will do this soon.)

-- Approve the general scenario submitted by State Department, but ask that no mention be made to the PRC of U. S. changes in transportation regulations at this time. Request that appropriate documents be submitted to the President so that he may, at the time of his choosing, make the appropriate determinations regarding travel and reciprocal ship visits. (It would be especially inappropriate to move on this now, when the question of PRC shipping to North Vietnam is so controversial.)

Attached is a memorandum from you and Flanigan to the appropriate agencies informing them of the decisions which have been taken and how they should proceed. (Attached at Tab A.)

SECRET/NODIS/HOMER

RECOMMENDATION:

That you sign the joint NSDM at Tab A.

Concurrence: Col. Richard T. Kennedy

SECRET/NODIS/HOMER



DEPARTMENT OF STATE

Washington, D.C. 20520

April 24, 1972

SECRET/NODIS/HOMER

MEMORANDUM FOR MR. HENRY A. KISSINGER
THE WHITE HOUSE

Subject: Implementation of NSSM-149,
China Trade

As requested at our March 31 Senior Review Group meeting I attach State and Commerce recommendations for implementation of NSSM-149 on trade with the People's Republic of China. Also attached are proposed negotiating instructions to be sent to Ambassador Watson, if these recommendations are approved.

A decision is required on whether the issue of Most Favored Nation status should be raised at U.S. initiative. State favors inclusion of such a discussion and Commerce opposes. The alternative positions are presented as options on pages 3-4. The instructions to our Ambassador and the Memorandum to be delivered to Ambassador Huang will have to be brought into conformity with whatever decision is reached on this point.

A decision is also required on whether questions involving Eximbank financing should be raised in the Memorandum to be delivered to Ambassador Huang. Commerce holds that if the PRC is to be held legally responsible for certain debts to Eximbank this item should be included because until the issue is settled Eximbank financing would not be available to the PRC. Even if we decide to hold the PRC legally responsible for these debts to Eximbank, State opposes inclusion of this item in the Memorandum on the grounds that a) we should not raise any public USG claims as contentious issues at this stage and b) the PRC is not currently interested in obtaining Eximbank or other foreign financing. The Memorandum to be delivered to Ambassador Huang will have to reflect whatever decision is reached on this point.

Port Security regulations and Transportation Order T-2 must be amended before Ambassador Watson can be authorized to inform Ambassador Huang (as is recommended) that U.S. flag carriers are authorized to enter China and PRC carriers are authorized to enter the U.S.

SECRET/NODIS/HOMER

We continue to endorse the recommendation made in both NSSM-149 and U/SM-91 that Transportation Order T-2 be amended to permit U.S. flag ships and aircraft to visit the PRC.

As NSSM-149 pointed out, however, if the U.S. scheduled airlines with authority to serve the PRC (Pan American, TWA and Northwest) are not restrained from approaching the PRC individually as soon as T-2 is amended, the PRC would be in a position to play off one U.S. airline against another in a way that would be contrary to over-all U.S. interests.

To minimize this possibility, we recommend that if and when T-2 is amended, such action be accompanied by a public statement to the effect that the eventual establishment of scheduled services would be subject to US-PRC intergovernmental discussions. We also urge that the Department of State be given advance notice of the T-2 amendment so that we can immediately instruct the scheduled airlines not to approach the PRC about establishing scheduled services until authorized to do so. (The foregoing recommendations would be consistent with Option 29 of NSSM-149.)

Copies of this memorandum are being sent to the CIEP and to the other members who were present at the March 31 Senior Review Group meeting, as well as to the Department of Agriculture.


Winthrop G. Brown
Chairman, Interdepartmental Group

Enclosures:

1. Recommendations
2. Proposed Telegram to Ambassador Watson
3. Proposed Memorandum and Annexes

SECRET/NODIS/HOMER

Recommendations for Implementing NSSM-149

This paper sets forth joint State and Commerce Department recommendations concerning the sequence, timing, and implementation of the steps outlined in NSSM-149: U.S.-P.R.C. Trade.

What Has Already Been Done

In response to our inquiry, the Chinese have indicated they prefer that Americans wishing to travel to China apply for visas at the Embassy of the People's Republic of China in Ottawa. Under unusual circumstances, they are prepared to process visa applications at any of their other embassies as well.

The Chinese have informed us that they issued invitations to 30 U.S. firms to attend the Chinese Export Commodities (Canton) Fair (April 15-May 15).

RECOMMENDATIONS

I. What Should We Do Now (Within the Next 3 Months)

To develop U.S.-P.R.C. relations in a manner that best serves U.S. interests, we should present to the Chinese as soon as possible a well defined set of proposals and notifications of action which the United States is taking to implement the trade sections of the Shanghai Communique. This will focus their attention on what we consider the most appropriate issues.

1. Proposed Formation of a Sino-American Trade Council

Notify the P.R.C. that the United States is in the process of forming a prestigious, private Sino-American Trade Council (SATC) which will act as a central clearing house for information and research on P.R.C. trading practices for U.S. businessmen. Commerce, in consultation with State, will be responsible for selecting the group of firms that will initially comprise the SATC and furnish them with all appropriate services to ensure its successful development. (Options 6-7, pp. 24-26 in NSSM-149).

SECRET /NODIS/HOMER

between us. This would make the Chinese agreement to discuss the issue a matter of formal record (Option 19, pp. 59-61 in NSSM-149).

b. Scheduled Air Service Between China and the United States. The Memorandum should note the necessity of hearings by the Civil Aeronautics Board to determine which U.S. airline(s) would be given the route(s) (Options 28, 29; pp. 41-42 in NSSM-149).

c. U.S. Import Restrictions on textiles and other goods. The Memorandum should present concise explanations of U.S. import restrictions, clarify the criteria for determining market disruption and dumping, and explain the procedures for handling these problems. The Memorandum should also offer to provide more detailed explanations if desired (Options 22-25, pp. 64-69 in NSSM-149).

d. 1) Most Favored Nation Tariff Treatment for Chinese Goods and Settlement of Export-Import Bank Debt.

State and Commerce have differing views on these questions which are presented below. The P.R.C. raised this matter at a high level in Peking and State wishes to take cognizance of their interest. The instructions to our Ambassador and the Memorandum to be left with Ambassador Huang will have to be changed according to the determination made.

OPTION 1. (RECOMMENDED BY STATE)

The Memorandum should take cognizance of P.R.C. interest in MFN and offer to negotiate a bilateral agreement which would lead to seeking legislation to grant MFN status to the P.R.C.

Advantages:

-- Would be responsive to P.R.C. inquiries on MFN in Peking during the Presidential visit.

-- Would offer positive element in developing trade relations.

-- Would provide incentive for P.R.C. to settle private claims issue.

Disadvantages:

- Might make U.S. side appear to be overanxious.
- Might be premature in view of long time required to get necessary legislation.

OPTION 2. (RECOMMENDED BY COMMERCE)

Make no mention of MFN in the Memorandum passed to Ambassador Huang, but instruct our Ambassador to reply, if asked, that MFN should be a subject for later discussions after major initial issues, such as claims, are resolved.

Advantages:

- Would avoid making us appear overeager.
- Would keep our reserve on a negotiable issue.

Disadvantages:

- Would miss opportunity to tie Paris talks into discussions in Peking.
- Would allow the Chinese to raise the issue in a framework of their choosing.
- Would leave the Memorandum passed to Ambassador Huang largely negative in tone.

d. 2) Settlement of Export-Import Bank Debt

The Export-Import Bank asserts certain claims against the P.R.C. deriving from shipments of U.S. goods to China before the P.R.C. was established in October, 1949. It holds that until periodic payments are made under these claims it cannot finance trade with the P.R.C. State and Commerce have differing views on whether this issue is pertinent. These views are represented in the two options below. The instructions to our Ambassador and the Memorandum to be left with Ambassador Huang will have to be changed according to the determination made.

OPTION 3. (RECOMMENDED BY COMMERCE)

If a policy determination is made that the debts presently ascribed by the Export-Import Bank to the P.R.C. are properly lodged against the P.R.C., inscribe this issue in the Memorandum to be passed to Ambassador Huang as one of the subjects for future discussion.

Advantage:

-- Would permit early determination on whether EXIMBANK financing would be available to finance US-PRC trade.

Disadvantages:

-- Would raise an issue of no current interest to the P.R.C. since it does not seek foreign financing at present.

-- Could introduce as contentious issues other USG claims and P.R.C. counterclaims.

OPTION 4. (RECOMMENDED BY STATE)

That the issue of USG claims not be raised at this time, nor in this Memorandum, but that the effect of these alleged delinquencies on P.R.C. eligibility for Eximbank financing be considered by the National Advisory Council for International Monetary and Financial Policies (NAC).

Advantages:

-- Would result in a coordinated interagency determination on whether or not the P.R.C. is eligible for Eximbank programs.

-- Would permit a considered position on the total USG claims against the P.R.C.

Disadvantage:

-- None.

e. Industrial Property Protection (Patents, Trademarks and Copyrights) should be mentioned as an issue of great importance to the United States and a statement of our practice in following international conventions regarding these matters provided (Option 33, pp. 45-46 in NSSM-149).

ACTIONS THAT SHOULD BE TAKEN UNILATERALLY BY THE USG AT THIS TIME

5. Encourage U.S. Businessmen to Invite Their Chinese Counterparts to the United States

United States businessmen, especially those attending the Canton Trade Fairs, should be encouraged to invite Chinese businessmen to the United States (Option 12, pp. 28-29 in NSSM-149).

6. Alleged Chinese Delinquencies Relative to the Export-Import Bank should be reviewed by the National Advisory Council for International Monetary and Financial Policies as expeditiously as possible (Option 32, p. 63 in NSSM-149).

7. All Businessmen Wishing Information on the P.R.C. Market and Foreign Trade Practices Should be Referred to the Office of International Commercial Relations, Bureau of International Commerce, Department of Commerce (Option 5, pp. 23-24 in NSSM-149).

8. The American Consulate General Should be Instructed to Expand Cooperation with the American Chamber of Commerce in Hong Kong (Option 4, p. 23 in NSSM-149).

II. The Near Term (3-6 Months from Now)

1. Announce the Formation of a Prestigious, Private "Sino-American Trade Council" (SATC) referred to in I. 1 above. The Council will act as a central clearing house for information and research on P.R.C. trading practices for American businessmen. The SATC should, as one of its first activities, contact the Chinese Council for the Promotion of International Trade regarding the possibility of sending a vanguard trade delegation to China (possibly accompanied by one or more U.S. Government representatives) to visit the P.R.C.'s foreign trade corporations, research institutes, marketing agencies and trade fair authorities. The SATC would work in close cooperation with the Department of Commerce (Options 6-7, pp. 24-26 in NSSM-149).
2. Initiate Discussion of Topics Listed in the Memorandum
3. Give the Chinese a Highly Selective List of Trade Fairs in the United States and Encourage Their Attendance. Offer to facilitate P.R.C. attendance by issuing visas, acting as a liaison with fair authorities, etc. (Option 14, pp. 30-31 in NSSM-149).
4. Encourage the Sino-American Trade Council (SATC) to Organize a Comprehensive Solo Exhibit in Peking and Other Chinese Cities. The Commerce Department would provide whatever assistance is appropriate at that time (Option 10, p. 27 in NSSM-149).
5. Invite the P.R.C. to Hold a Comprehensive Solo Exhibit in the United States. The Chinese are participating in the Canadian National Exhibition (Toronto, August 16-September 4, 1972) with a comprehensive, solo exhibit. We should propose that they bring this exhibit to the United States (Option 13, p. 29 in NSSM-149).

III. Intermediate Term (6-12 Months from Now)

1. Provide Commerce and Agriculture Department assistance to collective exhibitions by U.S. firms of a single or multiple product line in Peking or another Chinese city (Option 11, p. 27 in NSSM-149).

2. Seek through Paris to arrange for contact between U.S. Commodity Credit Corporation and P.R.C. Ceroil (China National Cereals, Oils and Foodstuffs Import and Export Corporation) representatives. If prospects appear worth following up, encourage representatives of U.S. grain export firms and Western Wheat Association to apply for visas to visit the P.R.C. to explore wheat trade possibilities with Ceroil officials. Those labor unions on the west coast that would be involved in such grain shipments are favorably disposed toward exporting grain to the People's Republic of China (Option 26, p. 35 in NSSM-149).

IV. Can Be Done At Any Time

1. Explain to the P.R.C. (preferably at the earliest opportunity) that adequate end-use information is required for all validated export license cases. Emphasize to U.S. exporters the great importance which full product end-use information will have in licensing decisions for the P.R.C. (Option 18, p. 44 in NSSM-149).

2. Ask the P.R.C. through Paris for details and procedural information on Chinese trade-mark law. Upon confirmation that the P.R.C. law reads as we believe it to, inform the P.R.C. that its nationals may receive trademark protection in the United States and request reciprocal treatment for U.S. citizens in the P.R.C. Ask the P.R.C. for information on the protection available for foreigners' inventions and technology under its laws and regulations, including details on any patent and/or inventor's certificate system that the P.R.C. has in force (Option 33, p. 45-46 in NSSM-149).

3. Use the American Consulate General in Hong Kong to encourage specialized banking contact. The Treasury representative could act as a liaison between American bankers and their P.R.C. counterparts (Option 9, p. 32 in NSSM-149).

SUGGESTED TELEGRAM IMPLEMENTING NSSM-149

SECRET

ACTION {ROUTINE} PARIS

NODIS/HOMER

FOR AMBASSADOR ONLY FROM THE SECRETARY

SUBJ: US-PRC TRADE

1. WE BELIEVE THAT YOU SHOULD TAKE ADVANTAGE OF THE RETURN OF AMBASSADOR HUANG FROM PEKING TO INFORM THE PRC OF A NUMBER OF CONCRETE ACTIONS THE US HAS TAKEN OR IS TAKING TO IMPLEMENT THE TRADE SECTIONS OF THE SHANGHAI COMMUNIQUE.
2. WE HAVE PREPARED A LIST OF IMPORTS AND EXPORTS THAT APPEAR TO OFFER THE GREATEST POTENTIAL FOR US-PRC TRADE. LIST FOLLOWS IN SEPTTEL. YOU SHOULD INDICATE TO THE CHINESE THAT THIS LIST IS MERELY PRELIMINARY. WE WOULD WELCOME THEIR COMMENT ON IT AND CLARIFICATION FROM THEM OF WHAT THEY WOULD LIKE TO BUY AND SELL. WE FOR OUR PART ARE PREPARED TO PROVIDE THEM WITH WHATEVER COMMERCIAL INFORMATION THEY WOULD LIKE--INCLUDING ECONOMIC DATA, MARKET INFORMATION, TRADE REGULATIONS, ETC. WE HOPE THAT THEY WILL BE ABLE TO PROVIDE US WITH SIMILAR INFORMATION IN RETURN.

SECRET

3. YOU SHOULD INFORM AMBASSADOR HUANG THAT WE WILL CONSIDER FAVORABLY EXPORT LICENSE APPLICATIONS FOR A BROAD RANGE OF COMMODITIES INTENDED FOR PEACEFUL END USES.

4. YOU SHOULD INFORM AMBASSADOR HUANG THAT THE PRESIDENT HAS TAKEN ACTION TO REMOVE THE SPECIAL LICENSING REQUIREMENT FOR US AIRCRAFT AND VESSELS VISITING THE PRC. AT THE SAME TIME, US PORT SECURITY REGULATIONS HAVE BEEN AMENDED TO PERMIT CHINESE VESSELS TO VISIT US PORTS ON THE SAME BASIS AS THOSE FROM THE USSR, THAT IS AFTER MAKING A REQUEST 14 DAYS IN ADVANCE. SHOULD PRC-REGISTERED AIRCRAFT DESIRE TO FLY TO OR OVER US TERRITORY THEY SHOULD INFORM THE US GOVERNMENT AS FAR IN ADVANCE AS POSSIBLE OF THE DETAILS OF THE FLIGHT. ADVANCE NOTIFICATION AND A SPECIAL PERMIT ARE REQUIRED OF ALL AIRCRAFT REGISTERED IN A STATE WHICH IS NOT A MEMBER OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION {ICAO}. OUR UNDERSTANDING IS THAT THE PRC DOES NOT CONSIDER ITSELF A MEMBER OF ICAO.

5. YOU SHOULD INFORM AMBASSADOR HUANG THAT WE ARE ABOUT TO ENCOURAGE THE FORMATION OF A COUNCIL OF PROMINENT BUSINESSMEN AND MANUFACTURERS DEDICATED TO THE PROMOTION OF US-PRC TRADE. THE COUNCIL WILL BE IN TOUCH WITH THE CHINA COUNCIL FOR THE PROMOTION OF INTERNATIONAL TRADE {CCPIT} AND MAY WISH TO SPONSOR A VANGUARD TRADE DELEGATION OF PROMINENT US BUSINESSMEN AND ONE OR MORE US GOVERNMENT REPRESENTATIVES

TO VISIT CHINESE FOREIGN TRADE CORPORATIONS, RESEARCH INSTITUTES, MARKETING AGENCIES AND TRADE FAIR AUTHORITIES IN THE PRC. WE WILL INFORM AMBASSADOR HUANG WHEN THE COUNCIL HAS BEEN FORMED AND WILL REQUEST HIS ASSISTANCE IN FACILITATING CONTACT BETWEEN IT AND THE CCPIT.

6. WE HAVE PREPARED A MEMORANDUM SETTING FORTH POSSIBLE FUTURE TOPICS FOR DISCUSSION IN PARIS BETWEEN YOU AND AMBASSADOR HUANG OR YOUR REPRESENTATIVES. YOU SHOULD LEAVE THE MEMORANDUM, WHICH FOLLOWS SEPTEL, WITH HUANG, INDICATING THAT THESE ARE TOPICS WE BELIEVE IT DESIRABLE TO DISCUSS LATER AT TIMES TO BE MUTUALLY AGREED. WE WOULD WELCOME HIS COMMENTS AND THE PROPOSAL OF ADDITIONAL TOPICS BY THE CHINESE SIDE AFTER HE HAS HAD AN OPPORTUNITY TO STUDY IT.

7. {THIS PARAGRAPH IS TO BE USED ONLY IF THE SUBJECT OF MFN IS DROPPED FROM THE MEMORANDUM TO BE LEFT WITH AMBASSADOR HUANG.} {RECOMMENDED BY COMMERCE, OPPOSED BY STATE}

IF AMBASSADOR HUANG ASKS ABOUT MOST FAVORED NATION {MFN} STATUS FOR THE PRC, YOU SHOULD REPLY THAT MFN SHOULD BE A SUBJECT FOR LATER DISCUSSIONS AFTER MAJOR INITIAL ISSUES, SUCH AS PRIVATE CLAIMS, ARE RESOLVED.

SECRET

ACTION: PARIS

NODIS/HOMER

SUBJ: COMMODITIES FOR EXPORT TO THE PRC

THE FOLLOWING GENERAL CATEGORIES OF COMMODITIES MADE OR GROWN IN THE UNITED STATES APPEAR TO OFFER THE BEST POTENTIAL FOR EXPORT TO THE PRC, SUBJECT TO FULL INFORMATION ON END USE FOR THOSE COMMODITIES REQUIRING VALIDATED LICENSES.

WHEAT AND GRAINS

RUBBER AND RUBBER PRODUCTS, NATURAL AND SYNTHETIC

SYNTHETIC TEXTILES

MOST METALS AND SEMIFABRICATED METAL PRODUCTS

FERTILIZERS

MOST CHEMICALS

PHARMACEUTICAL AND MEDICINAL PRODUCTS

MINING MACHINERY

MOST PETROLEUM EXPLORATION, DRILLING, AND PRODUCTION

EQUIPMENT FOR SHALLOW TO MEDIUM DEPTHS

TEXTILE MACHINERY

FOOD INDUSTRY MACHINERY, AND OTHER MACHINES TO MANUFACTURE

A WIDE RANGE OF CONSUMER GOODS

SECRET

ROLLING MILLS, MANY TYPES

REFRIGERATION AND AIR CONDITIONING EQUIPMENT

PLASTICS MANUFACTURING AND FABRICATING EQUIPMENT

MOST INDUSTRIAL PROCESS CONTROL EQUIPMENT

MANY TYPES OF MACHINE TOOLS

AGRICULTURAL MACHINERY

ENGINES, GASOLINE AND DIESEL, MOST TYPES

TELEVISION AND RADIO EQUIPMENT, HOME AND STUDIO TYPES

ELECTRONIC COMPONENTS, MANY TYPES

ELECTRONIC TEST EQUIPMENT, MANY TYPES

OFFICE EQUIPMENT AND MACHINES

SOME ELECTRONIC COMPUTERS

ELECTRIC GENERATION AND TRANSMISSION EQUIPMENT

EARTH MOVING AND CONSTRUCTION EQUIPMENT

AUTOMOTIVE EQUIPMENT, INCLUDING MOST TRUCKS, CARS, BUSES, ETC.

RAILWAY EQUIPMENT, FIXED AND ROLLING

CIVIL AIRCRAFT, INCLUDING AVIONICS AND FLIGHT CONTROL

EQUIPMENT ESSENTIAL TO SAFETY

GROUND AVIATION ELECTRONIC EQUIPMENT NEEDED FOR SAFETY,

SEVERAL TYPES

LABORATORY INSTRUMENTS, MANY TYPES

PHYSICAL PROPERTIES TESTING EQUIPMENT, MANY TYPES

CAMERAS, PROJECTORS AND OPTICAL EQUIPMENT OF MOST COMMERCIAL
TYPES

TECHNOLOGY FOR MANUFACTURING A WIDE VARIETY OF CONSUMER
GOODS AND COMMON INDUSTRIAL PRODUCTS

D

SUGGESTED TELEGRAM IMPLEMENTING NSSM-149

SECRET

ACTION: PARIS

NODIS/HOMER

FOR AMBASSADOR ONLY FROM THE SECRETARY

SUBJ: US-PRC TRADE -- MEMORANDUM TO BE LEFT WITH
AMBASSADOR HUANG

REF: STATE

A. THE UNITED STATES NOTES THAT THERE ARE A NUMBER OF HIGHLY TECHNICAL AND SPECIALIZED SUBJECTS RELATING TO THE FACILITATION OF TRADE BETWEEN THE UNITED STATES AND THE PEOPLE'S REPUBLIC OF CHINA WHICH COULD BE THE TOPIC OF DISCUSSION IN PARIS AT TIMES TO BE DETERMINED BY MUTUAL AGREEMENT.

WE WOULD WELCOME AN OPPORTUNITY FOR DISCUSSION AT A LATER DATE OF THE FOLLOWING SUBJECTS IN PARTICULAR:

1. SETTLEMENT OF PRIVATE CLAIMS BETWEEN THE TWO COUNTRIES.

WE RECALL THAT SECRETARY OF STATE ROGERS RAISED THIS ISSUE IN INFORMAL CONVERSATION WITH MINISTER OF FOREIGN AFFAIRS CHI P'ENG-FEI IN PEKING AND THAT THE MINISTER INDICATED THAT THIS WAS A MATTER WHICH COULD BE DISCUSSED BY THE TWO SIDES. WE REMAIN CONCERNED THAT PRIVATE CLAIMANTS MAY ATTEMPT TO ATTACH CHINESE COMMERCIAL

SECRET

PROPERTY OR SHIPS WHICH COME WITHIN THE JURISDICTION OF U.S. COURTS BY BRINGING LAWSUITS AS TRADE DEVELOPS BETWEEN OUR TWO COUNTRIES. WE WOULD BE UNABLE TO PREVENT SUCH SUITS DESPITE THE ADVERSE IMPACT THAT THEY WOULD HAVE ON THE PROGRESSIVE DEVELOPMENT OF MUTUALLY BENEFICIAL TRADE BETWEEN THE US AND CHINA. IN THESE CIRCUMSTANCES WE BELIEVE THAT OUR TWO COUNTRIES SHOULD NEGOTIATE AN EQUITABLE SETTLEMENT OF PRIVATE CLAIMS BEFORE TRADE REACHES DIMENSIONS WHICH MIGHT PROMPT A CLAIMANT TO INITIATE A COURT SUIT. SUCH A SETTLEMENT WOULD SIGNIFICANTLY FACILITATE THE LONG-TERM GROWTH OF TRADE BETWEEN OUR TWO COUNTRIES.

2. SCHEDULED AIR SERVICE BETWEEN THE TWO COUNTRIES.

ONE OBVIOUS WAY OF FACILITATING TRADE WOULD BE TO INAUGURATE SCHEDULED AIR SERVICE BETWEEN THE UNITED STATES AND THE PEOPLE'S REPUBLIC OF CHINA. ACTION BY THE U.S. CIVIL AVIATION BOARD WOULD BE NECESSARY TO DETERMINE WHICH U.S. AIRLINE WOULD BE AUTHORIZED TO SERVE AIR ROUTES WHICH MIGHT BE ESTABLISHED BY MUTUAL AGREEMENT BETWEEN OUR TWO COUNTRIES. WE WOULD WELCOME AN EXPRESSION OF THE CHINESE VIEW ON INAUGURATION OF RECIPROCAL SCHEDULED AIR SERVICE.

3. N.B. STATE RECOMMENDS INCLUSION OF FOLLOWING PARAGRAPH {"A"}. COMMERCE OPPOSES THIS TEXT AND PROPOSES SUBSTITUTION OF ANOTHER PARAGRAPH {"B"}, WHICH STATE OPPOSES. THE REASONS FOR THESE POSITIONS ARE GIVEN IN THE TRANSMITTING MEMORANDUM.

SECRET

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{ "A" } "IN THE TALKS IN PEKING THE CHINESE SIDE RAISED THE ISSUE OF MOST FAVORED NATION STATUS AND THE EFFECT THAT THE LACK OF IT WOULD HAVE ON THE DEVELOPMENT OF TRADE RELATIONS BETWEEN OUR TWO COUNTRIES. THE US SIDE NOTED THAT SUCH STATUS IS CUSTOMARILY CONFERRED AFTER NEGOTIATION OF A BILATERAL AGREEMENT AND THAT SPECIAL LEGISLATION MUST BE SOUGHT FROM THE U.S. CONGRESS IN ORDER TO CONFER MOST FAVORED NATION STATUS UPON SOCIALIST STATES. AT PRESENT ONLY POLAND AND YUGOSLAVIA HAVE SUCH STATUS AMONG EASTERN EUROPEAN STATES, AND LEGISLATION IS PENDING IN CONGRESS TO GRANT MOST FAVORED NATION STATUS TO ROMANIA. WE WOULD BE PREPARED TO ENTER NEGOTIATIONS ON MFN WITH THE PEOPLE'S REPUBLIC OF CHINA AT A MUTUALLY CONVENIENT TIME."

{COMMERCE RECOMMENDS INCLUSION OF THE FOLLOWING TEXT;
STATE OPPOSES--SEE ABOVE.}

{ "B" } "SETTLEMENT OF EXPORT-IMPORT BANK CLAIMS AGAINST THE PRC.

"ONE WAY OF FACILITATING TRADE WOULD BE THROUGH UTILIZATION OF FINANCING UNDER FAVORABLE TERMS EXTENDED BY THE EXPORT-IMPORT BANK. EXPORT-IMPORT BANK CANNOT EXTEND SUCH CREDIT AT PRESENT BECAUSE IT DOES NOT HAVE LEGAL AUTHORITY TO DO SO. THERE IS ALSO THE PROBLEM OF OUTSTANDING BALANCES ON FOUR CATEGORIES OF EXPORT-IMPORT BANK FINANCING PROVIDED CHINA BEFORE THE FOUNDING OF THE PRC: CARGO VESSELS; GENERATING EQUIPMENT AND ENGINEERING SERVICES; RAILWAY REPAIR

MATERIALS, AND EQUIPMENT FOR COAL MINING. WE BELIEVE THAT THE PRC HAS ENJOYED THE USE OF THESE ITEMS. WE WOULD BE WILLING TO SEEK LEGISLATION ENABLING THE EXPORT-IMPORT BANK TO EXTEND FINANCING TO TRADE BETWEEN OUR COUNTRIES PROVIDED A SATISFACTORY SETTLEMENT ON THESE OUTSTANDING BALANCES IS ACHIEVED."

4. THE PROBLEM OF INDUSTRIAL PROTECTION.

WE NOTE THAT THE PEOPLE'S REPUBLIC OF CHINA, UNLIKE THE USSR AND SOME OTHER SOCIALIST STATES, IS NOT A SIGNATORY OF INTERNATIONAL CONVENTION FOR THE PROTECTION OF INDUSTRIAL PROPERTY {PARIS UNION}. NEVERTHELESS, WE ARE PREPARED TO FACILITATE CHINESE REGISTRATION OF TRADEMARKS AND PATENTS IN ACCORDANCE WITH OUR LAWS AND REGULATIONS. WE WOULD WELCOME RECIPROCAL TREATMENT FOR OUR CITIZENS BY THE PEOPLE'S REPUBLIC OF CHINA.

B. THE UNITED STATES ALSO WISHES TO INFORM THE PEOPLE'S REPUBLIC OF CHINA OF LONG-STANDING RESTRICTIONS IMPOSED BY LEGISLATION OR INTERNATIONAL AGREEMENT UPON CERTAIN KINDS OF IMPORTS INTO THE UNITED STATES. THEY ARE DESCRIBED IN THE ATTACHED ANNEX TO THIS MEMORANDUM. SHOULD THE CHINESE SIDE SO DESIRE, WE WOULD BE PLEASED TO EXPLAIN THESE IN DETAIL.

SUGGESTED TELEGRAM IMPLEMENTING NSSM-149

SECRET

ACTION: AMEMBASSY PARIS

STATE

NODIS/HOMER

FOR AMBASSADOR ONLY FROM THE SECRETARY

SUBJ: US-PRC TRADE -- MEMORANDUM TO BE LEFT WITH AMBASSADOR
HUANG - ANNEX

REF: STATE

1. RESTRICTIONS ON THE IMPORTATION OF COTTON TEXTILES.
THE UNITED STATES REGULATES IMPORTS OF COTTON TEXTILES
IN ACCORDANCE WITH THE PROVISIONS OF THE LONG-TERM ARRANGE-
MENT REGARDING INTERNATIONAL TRADE IN COTTON TEXTILES {LTA},
SIGNED AT GENEVA ON FEBRUARY 9, 1962 AND EXTENDED TO
SEPTEMBER 30, 1973.

THE LTA IS A MULTILATERAL ARRANGEMENT IN WHICH 30 OF
THE WORLD'S LEADING COTTON TEXTILE IMPORTING AND EXPORTING
COUNTRIES PARTICIPATE. NEGOTIATED UNDER THE AUSPICES OF
THE GENERAL AGREEMENT ON TARIFFS AND TRADE {GATT}, IT ALLOWS
THE UNITED STATES AND OTHER IMPORTING COUNTRIES TO LIMIT
COTTON TEXTILE IMPORTS IN ORDER TO PREVENT DISRUPTION OF
THEIR DOMESTIC MARKETS, AND ALSO ASSURES EXPORTING COUNTRIES
OF THE OPPORTUNITY FOR ORDERLY GROWTH IN THEIR COTTON
TEXTILE EXPORTS. IN ITS ADMINISTRATION OF THIS ARRANGE-
MENT, THE US DEFINES AS COTTON TEXTILES THOSE ITEMS IN WHICH
COTTON IS THE CHIEF FIBER BY VALUE. THESE TEXTILES ARE

SECRET

CLASSIFIED INTO 64 CATEGORIES.

ARTICLE 3 OF THE LTA AUTHORIZES PARTICIPATING COUNTRIES WHICH ARE COTTON TEXTILE IMPORTERS TO REQUEST CONSTRAINTS ON EXPORTS OF PRODUCTS FROM PARTICIPATING SUPPLIER COUNTRIES; AND ARTICLE 6 {C} ENVISAGES A SIMILAR ACTION AGAINST NON-PARTICIPANTS IN ORDER TO ASSURE EQUITY FOR PARTICIPATING SUPPLIER COUNTRIES. IN OTHER WORDS, THE LTA ENVISAGES, AND THE EFFECTIVE MAINTENANCE OF THE PROGRAM REQUIRES, THAT IMPORTS FROM NON-PARTICIPANTS BE SUBJECT TO LIMITATIONS SO AS TO PREVENT DISCRIMINATION AGAINST PARTICIPANT SUPPLIERS.

UNDER THE TERMS OF THE LTA, THE US HAS MOVED TO REGULATE IMPORTS OF COTTON TEXTILES INTO THE US MARKET. UNDER ARTICLE 4 THERE ARE CURRENTLY IN EFFECT 30 BILATERAL GOVERNMENT TO GOVERNMENT AGREEMENTS. IN ADDITION, 10 ARTICLE 3 ACTIONS ARE OUTSTANDING WITH REGARD TO IMPORTS OF COTTON TEXTILES FROM EIGHT OTHER SUPPLYING COUNTRIES. THESE ACTIONS HAVE BEEN TAKEN IN ORDER TO PREVENT DISRUPTION OF THE US TEXTILE MARKET BY IMPORTS OF COTTON TEXTILES FROM FOREIGN SUPPLIERS.

IN DETERMINING WHETHER THE MARKET IS DISRUPTED OR THREATENED WITH DISRUPTION TOTAL IMPORTS FROM ALL COUNTRIES MUST BE TAKEN INTO ACCOUNT; AND WE MUST DEAL WITH HISTORIC SUPPLIERS WHO ASK WHY THEIR EXPORTS SHOULD BE CONTROLLED WHILE NEWCOMERS ARE PERMITTED TO GAIN A FOOTHOLD IN THE US.

UNDER EXISTING POLICY THE US MAY BE REQUIRED, OUT OF CONSIDERATION OF EQUITY FOR ITS TRADITIONAL SUPPLIERS, TO LIMIT ITS IMPORTS OF COTTON TEXTILES FROM THE PEOPLE'S REPUBLIC OF CHINA IN ORDER TO AVOID THE THREAT OF DISRUPTION OF ITS DOMESTIC MARKET, AND TO PERMIT THE ORDERLY DEVELOPMENT OF BILATERAL TRADE ON A MUTUALLY BENEFICIAL BASIS.

2. RESTRICTIONS ON IMPORTATION OF CERTAIN KINDS OF MEAT.

SEVERAL ACTS OF CONGRESS REQUIRE THE U. S. SECRETARY OF AGRICULTURE TO ASSUME THE RESPONSIBILITY FOR PROTECTING THE UNITED STATES AGAINST DISEASES OF FOREIGN ORIGIN.

THE ACT OF JUNE 17, 1930, CONTAINS AN ABSOLUTE PROHIBITION AGAINST THE IMPORTATION INTO THE UNITED STATES OF DOMESTIC RUMINANTS OR SWINE AND FRESH, CHILLED, OR FROZEN MEAT OF ALL RUMINANTS OR SWINE FROM COUNTRIES DECLARED TO BE INFECTED WITH FOOT-AND-MOUTH DISEASE OR RINDERPEST. ONCE SUCH DECLARATION IS MADE, NO GOVERNMENTAL AGENCY HAS ANY DISCRETIONARY AUTHORITY AND THE PROHIBITION IS ABSOLUTE. BOTH FOOT-AND-MOUTH DISEASE AND RINDERPEST ARE BELIEVED TO EXIST IN THE PEOPLE'S REPUBLIC OF CHINA.

IN ADDITION TO THE PROHIBITORY STATUTE, THERE ARE A NUMBER OF OTHER ACTS OF CONGRESS WHICH PROVIDE THE SECRETARY OF AGRICULTURE WITH THE AUTHORITY AND RESPONSIBILITY FOR ESTABLISHING RESTRICTIONS APPLICABLE TO THE IMPORTATION OF ANIMALS OR ANIMAL PRODUCTS THAT MIGHT TRANSMIT DISEASES OF

LIVESTOCK AND POULTRY. THE DEPARTMENT'S CURRENT IMPORT RESTRICTIONS ARE APPLICABLE TO CATTLE, SHEEP, GOATS, OTHER RUMINANTS, SWINE {INCLUDING DOMESTIC HOGS AND ALL VARIETIES OF WILD HOGS}, HORSES {INCLUDING MULES, BURROS, ZEBRAS}, DOGS TO BE USED AROUND LIVESTOCK, AND POULTRY {CHICKENS, DUCKS, GEESE, SWANS, TURKEYS, PIGEONS, DOVES, PHEASANTS, GROUSE, PARTRIDGES, QUAIL, GUINEA FOWL, PEAFOWL, AND HATCHING EGGS FROM THESE BIRDS}. RECENTLY PSITTACINE BIRDS AND GREATER AND LESSER HILL MYNAH BIRDS HAVE BEEN ADDED TO THE RESTRICTED LIST BECAUSE OF NEWCASTLE DISEASE.

OTHER ANIMAL PRODUCTS ARE POTENTIALLY ELIGIBLE BUT ALL ARE REQUIRED TO BE CONSIGNED TO SPECIFICALLY APPROVED ESTABLISHMENTS FOR FURTHER TREATMENT OR PROCESSING. MEAT PRODUCTS, FULLY COOKED BY A COMMERCIAL METHOD AND PROPERLY CANNED MAY BE PERMITTED ENTRY INSOFAR AS ANIMAL HEALTH IS CONCERNED; HOWEVER, SUCH PRODUCTS ARE SUBJECT TO GOVERNMENT MEAT INSPECTION REQUIREMENTS.

THE MEAT AND POULTRY INSPECTION PROGRAM OF THE U. S. DEPARTMENT OF AGRICULTURE ADMINISTERS LAWS AND REGULATIONS GOVERNING INSPECTION REQUIREMENTS FOR ALL FORMS OF RED MEAT AND POULTRY PRODUCTS INCLUDING CANNED PRODUCTS BUT EXCLUDING MEAT OF RABBITS, GAME BIRDS AND WILD ANIMALS. TO MEET THESE REQUIREMENTS A FOREIGN MEAT EXPORTING COUNTRY MUST:

1} APPLY, THROUGH DIPLOMATIC CHANNELS, FOR OFFICIAL RECOGNITION OF THEIR SYSTEM OF EXPORT MEAT INSPECTION

2} PROVIDE, AT THE TIME OF APPLICATION, COPIES OF LAWS AND REGULATIONS WHICH WILL GOVERN ACTIVITIES IN THE PLANTS HANDLING PRODUCT FOR EXPORT

3} AFTER IT HAS BEEN DETERMINED THAT THE APPLICABLE LAWS AND REGULATIONS CORRESPOND TO U. S. STANDARDS, INVITE A TEAM OF U. S. DEPARTMENT OF AGRICULTURE EXPERTS TO PERFORM ON-SITE INSPECTION OF THE SYSTEM IN OPERATION.

IF AT THIS POINT THE U. S. DEPARTMENT OF AGRICULTURE'S FINDINGS ARE FAVORABLE, THE FOREIGN EXPORTING NATION CAN BE AUTHORIZED TO SHIP MEAT AND/OR POULTRY TO THE UNITED STATES. IN CONNECTION WITH THE REQUIREMENTS OF THE MEAT AND POULTRY INSPECTION PROGRAM, U. S. INSPECTORS USUALLY VISIT "APPROVED" FOREIGN PLANTS FOUR TIMES ANNUALLY.

THE MEAT IMPORT ACT OF 1964 REQUIRES THE PRESIDENT TO LIMIT IMPORTS OF FRESH, CHILLED OR FROZEN BEEF AND VEAL, MUTTON AND GOAT MEAT. THE LAW ESTABLISHES A FORMULA, BASED ON THE RELATIONSHIP BETWEEN IMPORTS AND DOMESTIC COMMERCIAL PRODUCTION, FOR PROCLAIMING A QUOTA WHEN ESTIMATED IMPORTS EXCEED TRIGGER LEVELS. WHEN MEAT IMPORTS APPROACHED THE TRIGGER LEVEL IN 1968, A VOLUNTARY MEAT EXPORT RESTRAINT PROGRAM WAS ADOPTED WITH THE MAJOR SUPPLYING COUNTRIES AGREEING TO LIMIT EXPORTS TO THE UNITED STATES TO SPECIFIC LEVELS TO AVOID THE NEED TO IMPOSE AN IMPORT QUOTA. VOLUNTARY RESTRAINTS ARE STILL IN EFFECT. PROVISIONS CAN BE MADE FOR NEW SUPPLIERS.

3. RESTRICTION ON IMPORTATION OF CERTAIN KINDS OF FURS. CURRENT U.S. TARIFF LEGISLATION PROHIBITS IMPORTATION FROM EITHER CHINA OR THE USSR OF SEVEN KINDS OF SKINS: ERMINE, FOX, KOLINSKY, MARTEN, MINK, MUSKRAT AND WEASEL, RAW OR NOT DRESSED OR DRESSED. THE PROHIBITION DOES NOT APPLY TO GARMENTS MANUFACTURED FROM SUCH SKINS.

4. PROHIBITION OF IMPORTATION OF CERTAIN ENDANGERED ANIMAL SPECIES.

THE DEPARTMENT OF INTERIOR HAS THE AUTHORITY TO PROHIBIT THE IMPORTATION OF THE SKINS OR OTHER PRODUCTS OF CERTAIN SPECIES OF ANIMALS WHICH ARE ON THE ENDANGERED SPECIES LIST FOR PURPOSES OTHER THAN PROPAGATION AND ESSENTIAL SCIENTIFIC PURPOSES. CERTAIN ANIMALS ON THE PROHIBITED LIST, SUCH AS THE DOUC LANGUR AND THE WILD YAK, ARE NATIVE TO CHINA. THE SIBERIAN TIGER MAY ALSO SOON BE LISTED AS AN ENDANGERED SPECIES.

5. ANTI-DUMPING REGULATIONS. THE ANTIDUMPING ACT OF 1921 {19 U.S.C. 160} PROVIDES A REMEDY AGAINST INJURY DUE TO UNFAIR PRICING BY FOREIGN SUPPLIERS IN THE U.S. MARKET. SALES AT LESS-THAN-FAIR VALUE {LTFV} ARE GENERALLY CONSIDERED TO OCCUR WHEN A PRODUCT IS SOLD FOR EXPORT TO THE UNITED STATES AT A PRICE {I.E., U.S. PURCHASE PRICE} LOWER THAN THE SELLER CHARGES IN HIS HOME MARKET, AFTER ADJUSTMENTS HAVE BEEN MADE FOR CIRCUMSTANCES OF SALE, DIFFERENCES IN QUANTITIES, AND DIFFERENCES IN THE MERCHANDISE COMPARED.

THE ANTIDUMPING ACT REQUIRES THE SECRETARY OF THE TREASURY TO ISSUE A DUMPING FINDING IMPOSING AN ADDITIONAL DUTY WHENEVER TWO CRITERIA ARE MET: FIRST, THAT A CLASS OR KIND OF FOREIGN MERCHANDISE IS BEING, OR IS LIKELY TO BE, SOLD IN THE UNITED STATES AT LESS-THAN-FAIR VALUE {LTFV}; AND SECOND, THAT AN INDUSTRY IN THE UNITED STATES IS BEING OR IS LIKELY TO BE INJURED, OR IS PREVENTED FROM BEING ESTABLISHED, BY REASON OF THE IMPORTATION OF SUCH MERCHANDISE INTO THE UNITED STATES. DETERMINATION OF LTFV SALES IS MADE BY THE SECRETARY OF THE TREASURY, WHILE DETERMINATION OF INJURY IS MADE BY THE TARIFF COMMISSION.

THE CRITERIA FOR DETERMINING WHETHER IMPORTED PRODUCTS ARE BEING SOLD AT LTFV IN THE U.S. MARKET ARE ESTABLISHED BY REGULATIONS PROMULGATED BY THE SECRETARY OF THE TREASURY {19CFR, PART 153}. FOR PURPOSES OF MAKING A FAIR VALUE COMPARISON WITH THE U.S. PURCHASE PRICE, FOREIGN MARKET VALUE MAY BE MEASURED IN SEVERAL WAYS. USUALLY, FOREIGN MARKET VALUE IS THE PRICE CHARGED FOR HOME CONSUMPTION IN THE EXPORTING COUNTRY. HOWEVER, IF THE QUANTITY SOLD IN THE HOME MARKET IS SO SMALL IN RELATION TO THE QUANTITY EXPORTED TO COUNTRIES OTHER THAN THE UNITED STATES AS TO BE AN INADEQUATE BASIS FOR COMPARISON WITH U.S. IMPORTS, THEN THE FOREIGN MARKET VALUE IS BASED ON THE PRICE OF SALES IN THOSE OTHER COUNTRIES. IF THESE TWO METHODS ARE

INADEQUATE, A "CONSTRUCTED VALUE" BASED ON THE COST OF PRODUCTION IS USED. IN THE CASE OF GOODS FROM COMMUNIST COUNTRIES, WHICH MAY NOT BE PRICED ON THE BASIS OF PRODUCTION COSTS, FAIR VALUE IS OFTEN BASED ON THE SALES PRICE OF SIMILAR GOODS SOLD BY OTHER COUNTRIES.

THE U.S. PURCHASE PRICE IS CALCULATED AT THE U.S. IMPORTER'S NET EX-FACTORY PURCHASE PRICE WHENEVER THE BUYER AND SELLER ARE UNRELATED. IF THE U.S. BUYER IS A SUBSIDIARY OR OTHERWISE RELATED TO THE FOREIGN SELLER, THEN THE U.S. PURCHASE PRICE IS USUALLY CALCULATED FROM THE PRICE CHARGED TO UNRELATED U.S. PURCHASERS.

IF THE SECRETARY OF THE TREASURY FINDS SALES AT LESS-THAN-FAIR VALUE AND IF THE TARIFF COMMISSION FINDS INJURY, THEN A SPECIAL DUMPING DUTY--GENERALLY EQUAL TO THE DIFFERENCE BETWEEN THE HIGHER FOREIGN MARKET VALUE AND THE LOWER U.S. PRICE PURCHASE--IS LEVIED ON THE IMPORTS IN QUESTION.

NSC CORRESPONDENCE PROFILE

DOC	RECD	LOG NBR	INITIAL ACTION OFF
MO DA	MO DA HR	3556	HOLDRIDGE

DOC SOURCE/CLASS/DESCRIPTION

TO: PRES _____ FROM: ELIOT _____ U _____ LOG IN/OUT ONLY _____
 KISSINGER _____ ROGERS, W _____ LOU _____ NO FORN _____ NODIS _____
 HAIG _____ LAIRD, M _____ C _____ EYES ONLY _____ LIMDIS _____
 S _____ CODE WORD _____ RES DATA _____
 TS _____ SENSITIVE _____

SUBJECT: Implementation of NSSM-149 - U.S. Trade with
PLC

REFERENCE: S/S _____ OTHER _____ NOT XEROXED _____

APPT'S: PRES _____ HAK _____ TALKER _____ MEMCON _____ DATE REQ. _____

SECRETARIAT DISTRIBUTION/ACTION

INTERNAL ROUTING AND DISTRIBUTION

ACTION REQUIRED

	ACTION	INFO	REC CY FOR
ADVANCE CYS TO HAK/HAIG			
STAFF SECRETARY			
FAR EAST	x		
SUB-SAHARAN AFRICA			
NR EAST/NORTH AFRICA			
EUROPE/CANADA			
LATIN AMERICA			
UNITED NATIONS			
ECONOMIC (Prime)	x		
SCIENTIFIC			
LR PLANNING			
PROGRAM ANALYSIS			
NSC PLANNING			
CONGRESSIONAL			

MEMO FOR HAK _____
 MEMO FOR PRES. _____
 REPLY FOR _____ SIGNATURE _____
 FOR DISTRIBUTION/DISPATCH _____
 MEMO _____ TO _____
 RECOMMENDATIONS _____
 JOINT MEMO _____
 REFER TO STATE _____
 ANY ACTION NECESSARY _____
 CONCURRENCE _____
 DUE DATE: (4/28)
 COMMENTS: (Including Special Instructions)

INTERNAL/INTERIM ROUTING

DATE	FROM	TO	S	ACTION REQUIRED	CY TO
5/19		HAK	x	Copy NSDM	5/26 JHA
6/10				HAK reqd NSDM	
6/10				Flanagan reqd CIEPAM	
6/10		DAVIS	S	Dispatch / Distribution	(6/10)
6/11				See D Sheet	
6/14				Davis requested memo	
6/14				Dispatched by ID	

DISPOSITION

CROSS REF WITH _____ NOTIFY _____ DATE _____
 SEE LOG _____ DISPATCH: LETTER/MEMO _____
 JOINED BY LOG _____ COPIES: (AS MARKED ABOVE) _____
 SPECIAL FILE RQMT: SA, HP, HM _____
 SPECIAL DISPOSITION COMMENTS: _____
 SUSPENSE CY ATTACHED: YES _____ NO _____

MICROFILM DATA	
DO	SM
INIT	
DATE	
ORIG	NSC
TO	PAF
	WHC
	SUBF

JUN 7 1972