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LOJ 7/31/2005

File Folder JGR/GENOCIDE CONVENTION (3 OF 3)

FOIA

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ID	Doc Type	Document Description	No of Pages	Doc Date	Restrictions
1947	MEMO	NICHOLAS PLATT TO ROBERT MCFARLANE, RE GENOCIDE CONVENTION R 6/22/2006 DOCUMENT PENDING REVIEW IN ACCORDANCE WITH E.O. 13233	2	5/18/1985	B1

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Genocide file

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

September 6, 1984

REMARKS OF THE PRESIDENT
TO THE B'NAI B'RITH
INTERNATIONAL CONVENTION

Sheraton Ballroom
Sheraton Washington Hotel

11:33 A.M. EDT

THE PRESIDENT: Thank you, Max Fisher, if I'd be really smart, I'd just sit down and leave your introduction do it and I wouldn't speak. I thank you very much, as a long-time friend.

And I thank all of you. It's a deep honor for me to speak to you, the members of one of the oldest and largest Jewish organizations in America. For more than 140 years, B'nai B'rith has sponsored religious, cultural and civic programs, conducted studies of vital issues, combatted bigotry and worked tirelessly to advance the cause of tolerance and humanity. And because of your efforts, today our country has a bigger heart, a deeper sense of the generosity of spirit that must always define America. And on behalf of all Americans, I thank you. (Applause.)

Four years ago, as a private citizen, I argued that the strength and well-being of the United States and Israel are bound inextricably together. "No policy," I asserted, "no matter how heartfelt, no matter how deeply rooted in the humanitarian vision we share can succeed if the United States of America continues its descent into economic impotence and despair."

Well, today, as President, I come before you to report on the progress that we've made together during these past four years. Once again, I want to talk about American policy toward Israel -- today's new policy of deepened friendship and strengthened support. But first, permit me to share with you my view of how working together the American people have replaced our own nation's descent into impotence and despair with the rebirth of freedom, prosperity and hope.

MORE

Four years ago, we saw the first years of back-to-back double-digit inflation since World War I. The prime interest rate was rising sharply. And in December, 1980, it reached a point not seen since the Civil War. In just four years, taxes roughly doubled, and average monthly mortgage payments more than doubled, and the real after-tax income of the average American actually began to decline. It all added up to the worst economic crisis our country had faced since the great depression.

In foreign affairs, we had lost the respect of friend and foe alike. And our willpower had grown weak and soft, undermining commitments to allies like Israel. Our leaders seemed to have lost faith in the American people and in America's future; they spoke of a national "malaise." On television, we saw the Stars and Stripes being burned in foreign capitals. And from Afghanistan to Grenada, the Soviets were on the march. Seldom in all its proud history had the United States of America reached such a pathetic state of apparent impotence.

Well, today, just four years later -- we're seeing not humiliation, but well-justified pride -- pride in our country, our accomplishments, and ourselves. On the economic front, from New York harbor to San Diego Bay, a vast and vigorous economic expansion is taking place. Inflation has plummeted to just 4 percent, and the prime interest rate has fallen by almost 9 points.

Productivity is up, consumer spending is up, housing starts are up, and take-home pay is up. Our tax rate reductions have restored incentives to the American people; and when tax indexing goes into effect this January, they'll get more help in the form of long-overdue protection against the unfairness of bracket creep. (Applause.)

The best news of all -- during the past 19 months, six and a half million men and women have found jobs that we've created. On an average, each month, more jobs than all the Common Market countries combined created in the last ten years. Europe is calling our success the American miracle.

Well, as we've worked to promote economic growth, we've made certain that the safety net for the truly needy has remained in place. Indeed, after correcting for inflation, under our administration, average food stamp payments, medicare payments, medicaid payments, have all risen. We can and are promoting economic vitality while showing the disadvantaged genuine compassion.

On civil rights, we have enforced the law with new determination. The Justice Department, since we took office, has filed more criminal charges on civil rights violations, brought more violators to trial, and achieved more civil rights convictions than ever before. So, let no one doubt our commitment. As President, I will enforce civil rights to the fullest extent of the law. (Applause.)

Yet, at the same time, we remain unalterably opposed to an idea that would undermine the very concept of equality itself --- discriminatory quotas. Ours is a nation based on the sacredness of the individual, a Nation where all women and men must be judged on their own merit, imagination and effort -- not on what they are, but on what they do. Now, you know, I can remember a time -- I'm old enough to remember a time -- when America did have quotas, and they were used in attempt to make discrimination legitimate and permanent, keeping Jews and other targets of bigotry out of colleges, medical schools and jobs. And I can't state it too forcefully: this type of thing must never happen again. (Applause.)

To combat crime, our administration has increased the law enforcement budget by more than twenty percent, established 12 regional drug task forces around the country, and hired more than 1,900 new investigators and prosecutors. We've also reasserted some very basic values -- values that say there is such a thing as right and wrong; that the innocent victim is entitled to as much protection under the law as the accused; that individual actions do matters, and, that yes, for hardened criminals preying on our society, punishment must be certain and swift.

And now that we're getting back to these fundamentals of our Judeo-Christian tradition, the will of the people is at last being done. In 1982, reported crime dropped 3 percent -- the first decline since 1977. And last year, reported crime dropped 7 percent -- and this is the first time the serious crime index has ever shown a drop for the second year in a row, and the sharpest decline in crime statistics since 1960.

In the Armed Forces, our troops have newer and better equipment, and their morale has soared as we begun to give them the pay, the training and the respect they've always deserved. And in foreign affairs, our country is being respected again throughout the world as a leader for peace and freedom. We've strengthened our relations with Asian allies like Korea and Japan, deepened our friendship with China. In Europe, we and our NATO allies went through months of Soviet attempts to divide us and emerged more firmly united than ever. And in Central America, we're supporting the free nations of the region against the threat posed to them by the Sandinista regime in Nicaragua. In July of 1983, it was my privilege to meet a brave refugee from Nicaragua, Isaac Stavisky. He told me about the 50 Jewish families who had emigrated to Nicaragua from Eastern Europe since the 1920's, and about the tragedy that befell them. But let me read you Isaac's own words:

MORE

Nicaraguan Jews never encountered anti-Semitism until the Sandinistas started their revolution. Graffiti by Sandinistas was widespread, with attacks on Jews and their religion. One was, "Death to the Jewish pigs." In 1978, the Sandinistas sent a strong message to the entire community when the synagogue was attacked by five Sandinistas wearing face handkerchiefs. They set the building on fire by throwing gasoline in the main entrance doors, shouting P.L.O. victory slogans and anti-Jewish defamatory language. Once the Sandinistas came to power, they moved swiftly against Jews. Jewish-owned properties were among the first to be confiscated and Jews were forced into exile.

Permit me to add that on the first anniversary of the Sandinista revolution, Yasser Arafat visited Nicaragua and spoke these words, "What the Nicaraguan people did in Nicaragua will be done by the Palestinians."

Well, today, some in our national life would have America take a position of weakness in Central America, or, through callous indifference, withdraw from that region altogether. These politicians would give free reign to Marxist-Leninists who would persecute Central American Catholics and Jews, leaving them defenseless against Sandinista intolerance.

We stand four-square on the side of human liberty. And I pledge to you that we will maintain that stand as long as I am in this office. (Applause.)

Anyone who has contemplated the horror inflicted on Jews during World War II, the deaths of millions in Cambodia or the travail of the Mesquito Indians in Nicaragua must understand that if free men and women remain silent in the face of oppression, we risk the destruction of entire peoples. (Applause.) I know that B'nai B'rith has been among the most concerned of the groups advocating American support for the Genocide Convention. With a cautious view, in part due to the human rights abuses performed by some nations that have already ratified the documents, our administration has conducted a long and exhaustive study of the Convention. And yesterday, as a result of that review, we announced that we will vigorously support, consistent with the United States Constitution, the ratification of the Genocide Convention. (Applause.) And I want you to know that we intend to use the Convention in our efforts to expand human freedom and fight human rights abuses around the world. (Applause.) Like you, I say in a forthright voice, "Never again!" (Applause.)

MORE

Now there's one final aspect of our national renewal that I must mention: the return that millions of Americans are making to faith -- faith as a source of strength, comfort and meaning.

This new spiritual awareness extends to people of all religions and all beliefs. Irving Kristol has written, "the quest for a religious identity is, in the postwar world, a general phenomenon, experienced by Jews, Christians, and Muslims alike. It does not seem, moreover, to be a passing phenomenon, but rather derives from an authentic crisis -- a moral and spiritual crisis as well as a crisis in Western, liberal-secular thought."

In our country, Kristol asserts, "Ever since the Holocaust and the emergence of the state of Israel, American Jews have been reaching toward a more explicit and meaningful Jewish identity." And according to Rabbi Seymour Siegel of the Jewish Theological Seminary, this trend among American Jews is illustrated by a growing interest in Jewish history and the Hebrew language, and by the rise of -- and I hope I get this right -- Baal Heshuva movement -- a powerful movement of Jews, young and old, Orthodox, Conservative and Reformed, returning to the ancient ways of the faith.

As Americans of different religions find new meaningfulness in their beliefs, we do so together -- returning together to the bedrock values of family, hard work, and faith in the same loving and almighty God.

And as we welcome this rebirth of faith, we must even more fervently attack ugly intolerance. We have no place for haters in America. (Applause.)

Well, let me -- let me speak plainly. The United States of America is, and must remain, a nation of openness to people of all beliefs. Our very unity has been strengthened by this pluralism. That's how we began. This is how we must always be. The ideals of our country leave no room whatsoever for intolerance, anti-Semitism, or bigotry of any kind -- none. The unique thing about America is a wall in our Constitution, separating Church and State. It guarantees there will never be a state religion in this land, but at the same time it makes sure that every single American is free to choose and practice his or her religious beliefs or to choose no religion at all. Their rights shall not be questioned or violated by the state.

And during the dark days of World War II, legend has it an event took place that I believe is a timeless symbol of regard for our fellow men that true tolerance and brotherhood demand. Soon after the Nazis invaded Denmark in 1940, they published an edict that all Jews identify themselves by wearing an armband showing the Star of David. Well, the next day, the Christian King of Denmark appeared in public. He was wearing a Star of David. (Applause.) He was -- I have been told -- (Applause.) I was told, on my one visit to Denmark there, that after he had done that, every citizen of Denmark, from then on, appeared in the streets wearing the Star of David.

We in America have learned the lesson of the Holocaust, and we shall never allow it to be forgotten. Oppression will never extinguish the instinct of good people to do the right thing.

In America, Jew, Christian, Muslim, believers of all kinds, and non-believers, too -- as George Washington wrote to a Jewish congregation in Rhode Island -- each "shall sit in safety under his own vine and fig-tree, and there shall be none to make him afraid." (Applause.)

A renewal of faith and confidence, a resurgent economy, a rebirth of strength and purposefulness in our foreign relations -- yes, we Americans have made a new beginning, just as 4 years ago I said that we must. And this new beginning is good, not only for us, but for our allies. And now, it is to our relations with Israel that I would like to turn.

The first step in understanding American-Israeli relations is to recognize our common values, aspirations, and interests. This has fundamental consequences for our diplomacy in an environment of widespread hostility to Israel. Nowhere does this hostility appear more clearly than in that international institution that should be a citadel of goodwill, but that all too often becomes a platform for propaganda -- the United Nations. From the 1970's on, the United Nations has too often allowed itself to become a forum for the defamation of Israel.

In 1975, for example, the United Nations Third Committee proposed an anti-Semitic resolution that condemned Israel as racist. The American delegate, Leonard Garment, objected forcefully, arguing that the resolution used the word racist, not as a term for "a very real and concrete set of injustices, but merely an epithet to be flung at whoever happens to be one's adversary." Those were his words.

Nevertheless, the resolution passed, by 70 votes to 29, with 27 abstentions. The resolution then went to the United Nations General Assembly which ratified it by a vote of 72 to 35. The words that our Ambassador to the United Nations, Daniel Patrick Moynihan, spoke at that moment of shame were forthright and courageous. "The United States rises to declare before the world that it does not acknowledge, it will not abide by, and it will never acquiesce in this infamous act." (Applause.)

Well, sadly, in the years thereafter, the United States did not always give Israel such steadfast support. American policy toward Israel was often weak and muddled. It reached a low point on March 1, 1980. That day, the American delegate to the United Nations actually voted in favor of a resolution that repeatedly condemned Israel. Some 48 hours later, President Carter disavowed the vote, and announced to the press that it had all been a mistake -- a bad mistake. And it certainly had.

Well, since taking office our administration has used every effort to reaffirm before the world our unwavering support for the State of Israel. And in the United Nations, our stand has been made unmistakable by our Ambassador and your good friend, Jeane Kirkpatrick. (Applause.) Just three weeks ago at the United Nations Population Conference in Mexico City, we joined Israel in opposing and voting against a resolution that attacked the State of Israel. And let me make it plain to the friends and enemies of Israel alike, that what Max Fisher just told you is absolutely true and still the policy of this government, and that if ever expelled, yes, Max, and all of you, we walk out together with Israel. (Applause.)

In concrete terms, our administration has strengthened the American-Israeli alliance in three crucial ways.

First, we have upgraded and formalized our strategic cooperation. For the first time in history, under our administration, the United States and Israel have agreed on a formal strategic relationship, the American-Israeli Joint Political-Military Group has already begun regular meetings. Together, we're developing plans for joint efforts to counter the Soviet threat to our mutual interests in the Middle East.

Recently, we renewed an American-Israeli Memorandum of Agreement that provides for cooperation in military research and development, procurement and logistics. Under the terms of the agreement, the United States has already purchased Israeli-manufactured radios, remotely-piloted vehicles, anti-tank weapons and components for sophisticated aircraft. We, in turn, are making available the latest technology for the development of the Israeli-designed LAVI fighter aircraft -- (applause) -- and for a new class of missile attack boat, the SAAR 5. (Applause.)

Second, we've markedly increased our economic assistance to Israel. From 1981 to 1984, we provided Israel with aid amounting to nearly \$9.5 billion, more than has been provided by any previous administration over a comparable time. Just as important, we have restructured the form of our assistance. Indeed, in 1985, our entire \$2.6 billion in aid to Israel will take the form not of loans, but of grants. (Applause.)

And, third, we have begun formal negotiations with Israel for a free trade area agreement. When signed and ratified, this agreement will allow the duty-free entry of Israeli products into the United States, and will at the same time completely open the Israeli market to American goods. (Applause.) Over the past five years, our trade with Israel has been growing at an average annual rate of some 10 percent. This free trade agreement will enable that vital economic partnership to grow even more quickly in years to come.

MORE

These measures have made our relations with Israel closer, and our friendship stronger, than at any time in the history of our two nations. Indeed, Prime Minister Shamir recently described American-Israeli relations as having never been better. (Applause.) And that warm relationship is crucial as we strive together for peace in the Middle East. So let me outline our work in this regard.

America's peace efforts still stand on the foundation of the Camp David Accords. Those accords, which established peaceful relations between Israel and Egypt, led to the return of the Sinai to Egypt by Israel in April of 1982 -- and the United States was proud to play a central role in achieving this step of the Camp David process. Then on September 1st of 1982, I set forth a set of fair and balanced positions on the key issues -- issues which the negotiating parties must deal with to achieve a lasting peace. The positions I outlined included our firm opposition to the formation of any independent Palestinian state. Today, those positions remain fully valid, and they represent the foundation of our continuing labors.

And let me assure you, we will never attempt to impose a solution on Israel, nor will we -- (applause) -- now will we ever weaken in our opposition to terrorism by the P.L.O. or by anybody else. (Applause.) As I said when I addressed you in 1980, terrorists are not guerillas, or commandos, or freedom fighters or anything else. They're terrorists, and should be identified as such. (Applause.) We will go on working with all our hearts to help the people of the Middle East achieve a just and lasting settlement -- a settlement that agrees, in the words of my statement of September 1982, that Israel "has a right to exist in peace behind secure and defensible borders, and it has a right to expect its neighbors to recognize this." (Applause.)

When I spoke to you 4 years ago, peace was eluding the Middle East. It still does. But now we and the state of Israel have far greater cause for hope.

Today, the United States is rebuilding its defenses, and that is restoring confidence in our leadership and making the parties more willing to take risks for peace.

Today, the United States has re-energized its vast and productive economy, and that will help to make Israel more prosperous.

And today, the United States has stopped wringing its hands apologetically and once again begun to play its rightful role in the world -- with faith, confidence and courage. And that means Israel can depend on us. (Applause.)

We who are friends of Israel may differ over tactics. But our goal remains always unchanged -- permanent security for the people of that brave state. In this great enterprise, the United States and Israel stand forever united.

And as we approach the Jewish holiday of Rosh Hashanah, let us pray that the new year will be a Shanah Tovah Umetukah -- (applause) -- a good and sweet year for both America and Israel.

For make no mistake -- in a world where so many are hostile to freedom, where millions live in poverty and oppression, those few nations who share the light of liberty must stand together. If we do not, we take the awful chance that the darkness will overwhelm us one by one. But standing together, we can pierce the darkness and shed our light over all the earth.

Thank you. God bless you all. (Applause.)

END

12:00 P.M. EDT

THE WHITE HOUSE

WASHINGTON

October 10, 1984

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Continued Support for Ratification
of the Genocide Convention

R. Walter Bachman, President of the Hennepin County Bar Association, has written the President on behalf of the Association to urge his continued support for ratification of the Genocide Convention. Bachman enclosed a resolution adopted by the Association calling upon the Senate to ratify the Convention.

On September 5, the Administration announced support for ratification of the Convention, with rather uncontroversial reservations and declarations. The President personally committed himself to the Convention in his address the next day before the B'nai B'rith International Convention. I recommend a brief reply to Bachman, quoting the President's remarks. A draft is attached.

Attachment

THE WHITE HOUSE

WASHINGTON

October 10, 1984

Dear Mr. Bachman:

Thank you for your letter of September 25, 1984 to the President. In that letter you urged the President to continue to support ratification of the Genocide Convention. You also enclosed a resolution adopted by the Hennepin County Bar Association, urging the Senate to give its advice and consent to ratification of the Convention.

As you doubtless know, the Administration announced its support for ratification on September 5, 1984. On September 6, the President discussed the Convention:

With a cautious view, in part due to the human rights abuses performed by some nations that have already ratified the documents, our Administration has conducted a long and exhaustive study of the Convention. And yesterday, as a result of that review, we announced that we will vigorously support, consistent with the United States Constitution, the ratification of the Genocide Convention. And I want you to know that we intend to use the Convention in our efforts to expand human freedom and fight human rights abuses around the world.

Thank you for sharing with us the views of the Hennepin County Bar Association on this important matter. Like you, we look forward to ratification of the Convention.

Sincerely,

Orig. signed by FFF

Fred F. Fielding
Counsel to the President

R. Walter Bachman, Esquire
Hennepin County Bar Association
430 Marquette Avenue
Powers Building, Suite 402
Minneapolis, Minnesota 55401

FFF:JGR:aea 10/10/84

bcc: FFFielding/JGRoberts/Subj/Chron

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMING

Date Correspondence

Received (YY/MM/DD) 1/1

Name of Correspondent: R. Walter Backman

☐ MI Mail Report

User Codes: (A) (B) (C)

Subject: Major continued support for

Notification of the Residual Convention

ROUTE TO:

ACTION

DISPOSITION

Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Completion Date YY/MM/DD
W Halland		ORIGINATOR	84/10/03		1/1
WAT18		Referral Note:	84/10/04	5	84/10/14
		Referral Note:			
		Referral Note:			
		Referral Note:			
		Referral Note:			
		Referral Note:			

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C - Comment/Recommendation
D - Draft Response
F - Furnish Fact Sheet
to be used as Enclosure

I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply

DISPOSITION CODES:

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B - Non-Special Referral
C - Completed
S - Suspended

FOR OUTGOING CORRESPONDENCE:

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Hennepin County Bar Association

Powers Building, Suite 402, 430 Marquette Avenue, Minneapolis, Minnesota 55401 Phone 612-340-0022

R. Patrick Maxwell
Executive Director

Nancy K. Klossner
Assistant Executive Director

September 25, 1984

President Ronald Reagan
White House
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Dear Mr. President:

The Governing Council of the 5,000 member Hennepin County Bar Association urges your continued support for ratification of the Genocide Convention. I am enclosing a copy of the resolution of the Governing Council, adopted on September 18, 1984.

As you know, The Genocide Convention was the first human rights treaty prepared under United Nations auspices. It was promulgated in 1948. The Convention reaffirmed the principles of the Nuremberg Charter which had recognized crimes against humanity as a violation against international law. The Genocide Convention has been ratified by over 90 countries representing three quarters of the world's population.

The world has rallied to the Genocide Convention. One nation has not: the United States of America. Inexplicably, the United States, having signed the Convention in 1948, has not ratified it. At least six presidents have asked the U.S. Senate to give its consent to ratification. Senate Committees have recommended consent on four occasions (1970, 1971, 1973 and 1976). Senate floor debate on a ratification resolution began in 1973-74, but was effectively blocked by a filibuster.

Whatever the reasons which have caused the Convention to lie on the Senate shelf for nearly 36 years, they are wholly unwarranted and unjustified. There are no significant Constitutional issues. There is no partisan, political or ideological difference among us that can explain or justify our failure to ratify. The Convention does not involve issues of national security.

The Convention does involve the most basic human right, the right to life. Ratification of the Convention will finally put our country on record as upholding the rule of law and rejecting the crime of genocide.

Yours truly,



R. Walter Bachman
President

RWB /jmo

Enclosure

R. Walter Bachman
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Allen I. Saeks
Past President
1200 National City Bank Bldg
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339-1200

Hennepin County Bar Association

Powers Building, Suite 402, 430 Marquette Avenue, Minneapolis, Minnesota 55401 Phone 612-340-0022

R. Patrick Maxwell
Executive Director

Nancy K. Klossner
Assistant Executive Director

RESOLUTION
of the
GOVERNING COUNCIL
of the
HENNEPIN COUNTY BAR ASSOCIATION
Adopted September 18, 1984

RESOLVED that the Governing Council of the Hennepin County Bar Association hereby urges the United States Senate to give its advice and consent to the ratification of the Genocide Convention; and

BE IT FURTHER RESOLVED that a copy of this Resolution be transmitted to the President of the United States, to the Senate of the United States and its Foreign Relations Committee, the Assistant Secretary of State for Human Rights and Humanitarian Affairs, the Senators from Minnesota, and the American Bar Association.

R. Walter Bachman
President
4200 IDS Center
Minneapolis, MN 55402
371-3211

John B. Gordon
President-Elect
2300 Multifoods Tower
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371-5300

Robert H. Rydland
Treasurer
720 Northstar Center
Minneapolis, MN 55402
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Elizabeth W. Norton
Secretary
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Minneapolis, MN 55402
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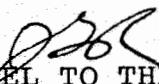
Allen I. Saeks
Past President
1200 National City Bank Bldg
Minneapolis, MN 55402
339-1200

THE WHITE HOUSE

WASHINGTON

February 28, 1985

MEMORANDUM FOR RALPH W. TARR
ACTING ASSISTANT ATTORNEY GENERAL
OFFICE OF LEGAL COUNSEL
U.S. DEPARTMENT OF JUSTICE

FROM: JOHN G. ROBERTS 
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Testimony Before the Committee on Foreign
Relations Regarding Genocide Convention

Counsel's Office has reviewed the above-referenced
testimony, and finds no objection to it from a legal
perspective.

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence
Received (YY/MM/DD) 1/1/Name of Correspondent: Ralph San☐ MI Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject: Testimony of Ralph San before
the Committee on Foreign Relations re:
Genocide Convention

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
<u>CUTROLL</u>	ORIGINATOR	<u>85102127</u>			<u>1/1</u>
	Referral Note:				
<u>CUAT 18</u>	<u>R</u>	<u>85102127</u>		<u>S</u>	<u>85103104</u>
	Referral Note:				
		<u>1/1</u>			<u>1/1</u>
	Referral Note:				
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	Referral Note:				
		<u>1/1</u>			<u>1/1</u>
	Referral Note:				
		<u>1/1</u>			<u>1/1</u>
	Referral Note:				

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DRAFT

STATEMENT

OF

RALPH W. TARR
ACTING ASSISTANT ATTORNEY GENERAL
OFFICE OF LEGAL COUNSEL

BEFORE

THE

COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE

CONCERNING

EXECUTIVE O, 81ST CONGRESS, 1ST SESSION
THE CONVENTION ON THE PREVENTION AND PUNISHMENT OF
THE CRIME OF GENOCIDE

ON

MARCH 5, 1985

Mr. Chairman and Members of the Committee:

Thank you for affording me the opportunity to appear before you today on behalf of the Department of Justice. As you know, on September 5, 1984, President Reagan asked the Senate to give its advice and consent to the ratification of the Convention on the Prevention and Punishment of the Crime of Genocide, known popularly as the Genocide Convention. Although the Department of State has been the primary agency working for United States' adoption of the Convention since its signing, both in past Administrations and in this Administration, the Department of Justice has reviewed the Convention carefully with regard to both its constitutional and its criminal law aspects.

Shortly before President Reagan announced his support for ratification of the Genocide Convention last September, Attorney General William French Smith expressed to the President his legal opinion that there are currently no domestic legal obstacles to ratification of the Convention. Accordingly, on September 12, 1984, then-Assistant Attorney General Theodore B. Olson, who at that time was in charge of the Office of Legal Counsel, reaffirmed the Attorney General's opinion before this Committee. In his testimony, Mr. Olson expressed the view that no domestic legal obstacles currently exist to the ratification of the Convention. By so saying,

Mr. Olson merely reaffirmed the long-standing historical position of the Department of Justice, first stated to members of this Committee in June 1949 by then-Solicitor General Philip B. Perlman, 1/ and reiterated in April 1970 by then-Assistant Attorney General for the Office of Legal Counsel William H. Rehnquist. 2/

I appear before you today to confirm that the position of the Department of Justice, which Mr. Olson expressed to this Committee only five months ago, remains unchanged. As you are well aware, this Committee has now favorably reported on this Convention five times, in 1970, 1971, 1973, 1976, and 1984. Since 1976, the American Bar Association has similarly urged that the United States ratify the Convention. These actions confirm our view that no domestic legal obstacles currently exist to ratification of the Convention, a view that I believe is fully shared by the other witnesses appearing before you today in support of this treaty.

1/ See Statement of Philip B. Perlman, Solicitor General of the United States, Hearings Before a Subcomm. of the Senate Comm. on Foreign Relations on Exec. O, 81st Cong., 2d Sess. at 22-53 (January 23, 1950).

2/ See Statement of William H. Rehnquist, Assistant Attorney General, Office of Legal Counsel, Department of Justice, Hearings Before a Subcomm. of the Senate Comm. on Foreign Relations on Exec. O, 91st Cong., 2d Sess. at 147 (April 27, 1970).

The Committee has also asked the Department of Justice to address two other issues relating to the Convention: the nature of the intent required by the Convention and the manner of its proof, and the nature of the implementing legislation the Department believes is necessary to fulfill the United States' obligations under Article V of the Convention. In our view, the first issue raises no novel legal questions. Article II of the Convention defines "genocide" as the commission of one of the acts enumerated in that article with a specific "intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such." Article V of the Convention further contemplates that the Congress will pass implementing legislation that will make such acts federal crimes under United States law. Once that legislation is enacted, we envision that in particular cases, federal prosecutors would prove the intent underlying the federal crime of genocide in precisely the same manner as they would prove criminal intent under other federal criminal statutes, relying upon defendants' statements, actions, or both, in order to establish such criminal intent.

With regard to the second issue, I have been authorized to say that the Criminal Division of the Department of Justice, together with other interested agencies and components of the Department, has prepared a draft of the implementing legislation contemplated by Article V of the Convention. That draft legislation closely resembles the draft legislation to implement

the Genocide Convention that was prepared during the 94th Congress and was reviewed by this Committee in 1976, with some modifications designed to reflect the Department's current extradition and law enforcement policies. The Department has transmitted that draft implementing legislation to the Office of Management and Budget, where it is currently undergoing the interagency clearance process. Because the decisionmaking process regarding the implementing legislation has not yet been completed, I am not in a position to comment on the particulars of the legislation at this time.

The Administration intends to transmit a finished version of the Administration's proposed implementing legislation to the Committee on the Judiciary, as well as to this Committee, as soon as it has completed the interagency process. Because the Congress will have full opportunity to report independently on the implementing legislation at that time, and because the President has declared that he will not ratify the Convention until such legislation has been enacted, we urge that this Committee not defer its decision whether to report favorably on the question of advice and consent to the ratification of the Convention itself.

I am now at your service to answer any other questions that you may have.



S/S 8514859
United States Department of State

Washington, D.C. 20520

May 18, 1985

John Robert
From:
Robert
Pearson
NSC

~~CONFIDENTIAL~~

MEMORANDUM TO ROBERT C. MCFARLANE
THE WHITE HOUSE

SUBJECT: Genocide Convention

The Senate Foreign Relations Committee is likely to complete its action on the Genocide Convention at a markup session scheduled for Tuesday, May 21. The Administration to date is on record as advocating Senate approval of the Convention with only one reservation, three understandings and one declaration, but now needs to reexamine its position. Chairman Lugar has indicated that unless eight conditions which he and Senator Helms support are adopted by the Committee, he sees little chance for Senate approval of the Convention, and he personally would not be prepared to request floor time for it or support it if it reached the floor. In light of this position, we and the Justice Department have worked with Committee staff on modifications to minimize what we saw as potential downsides to several of the original Lugar/Helms conditions. The results of these discussions with Committee staff alleviated several of our original concerns. We plan to indicate Administration acceptance of the revised Lugar/Helms conditions in advance of the May 21 session, as the best possibility of securing prompt Senate approval of the Convention. The text of the revised provisions is at Tab 1. Our letter to Chairman Lugar is at Tab 2.

The eight conditions as revised include two reservations limiting the obligations the U.S. would assume under the Convention, five understandings clarifying the Convention's terms and one declaration stating the domestic processes to be followed in ratifying the Convention. Of the two reservations, one reserves completely to the World Court's jurisdiction over the U.S. under the Convention, a position the Administration has previously supported. The other reservation would restrict the scope of the U.S. acceptance of the Convention by reference to its compatibility with the U.S. Constitution, as determined by the U.S.

Three of the Lugar/Helms understandings now restate with some changes provisions previously endorsed by the Administration. (Two clarify the meaning of genocide; one is intended to restate U.S. extradition practice and addresses the right of the U.S. to try its own nationals in the U.S.). Two other understandings represent new clarifications which appear consistent with the

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BY LOS NARA, DATE 6/22/06

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meaning of the Convention (one states that acts in warfare committed without the requisite intent are not genocide; another provides that the U.S. may choose to participate in an international penal tribunal, should one ever be established, only by treaty). The Lugar/Helms declaration, that the U.S. will not ratify the Convention until after implementing legislation has been passed, is similar to one previously endorsed by the Administration.

We recognize that accepting a large number of conditions may detract from the benefits of U.S. adherence to the Convention and that other states may object to one or more of these conditions and not consider us a party to the Convention. Thus, in discussions with Committee staff, both the State and Justice Departments focussed on improving the language of several of the Lugar/Helms understandings so that they would clarify rather than modify the terms of the Convention and thus be less likely to draw objections. We also sought to have the constitutional reservation expressed as an understanding to lessen its potentially harmful effect as a precedent should other states seek to attach a similar provision to limit their obligations to the U.S. under other agreements and to reflect our view that the Convention is consistent with the Constitution. Although the condition remains as a reservation, we will seek to ameliorate these problems by asking the Committee to eliminate the self-judging element ("as determined by the United States") which is unnecessary in this context.

In sum, although we cannot preclude the possibility of filibuster and additional amendments on the Senate floor, we believe that the Administration should accept the eight Lugar/Helms conditions in essentially their current form as the only realistic prospect of getting the Convention to the Senate floor and favorably considered during this session. We will be sending the attached letter to Chairman Lugar before the Tuesday markup to inform the Committee of the Administration's position.

for Kenneth M. Quinn
Nicholas Platt
Executive Secretary

~~CONFIDENTIAL~~

CY L. KASSERBAUM, KANSAS
Y BOSCHWITZ, MINNESOTA
Y PRESSLER, SOUTH DAKOTA
K H. MURKOWSKI, ALASKA
L E. TRIBLE, JR., VIRGINIA
EL J. EVANS, WASHINGTON

PAUL E. SARBANES, MARYLAND
EDWARD ZORINSKY, NEBRASKA
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JEFFREY T. BERGNER, STAFF DIRECTOR
GERYLD S. CHRISTIANSON, MINORITY STAFF DIRECTOR

United States Senate

COMMITTEE ON FOREIGN RELATIONS

WASHINGTON, DC 20510

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May 7, 1985

The Honorable George P. Shultz
Secretary of State
Washington, D.C. 20520

Dear Mr. Secretary:

On Thursday, May 16th, the Committee on Foreign Relations will again consider the Genocide Convention at a mark-up session. At that time I intend to offer, for myself and Senator Helms, eight provisos to the resolution of ratification. A copy of the eight is enclosed.

These eight provisos are similar to ones the Committee had before it at its last mark-up. In the interim representatives of the Departments of State and Justice worked with the Committee staff and the staffs of various members to polish the language in the original eight and to remove technical problems. Their assistance was most welcome. By all accounts quite a few problems were resolved.

The purpose of this letter is to ask you to provide the Administration's position on each of the eight. A short statement of whether the Administration objects to any will suffice. These comments will be made available to Committee members to assist them in their deliberations. A similar request has been sent to Attorney General Meese.

Thank you in advance for your help.

Sincerely,

Richard G. Lugar
Richard G. Lugar
Chairman

RGL:rmg

Enclosure

100

1985 MAY 8 - 11:47

1985 MAY - 8 AM 11:26
FAIM/IAP/WI

RECEIVED BY
DEPARTMENT OF STATE

Resolved (two-thirds of the Senators present concurring therein),
That the Senate advise and consent to the ratification of the
International Convention on the Prevention and Punishment of the Crime of
Genocide, adopted unanimously by the General Assembly of the United
Nations in Paris on December 9, 1948 (Executive O, Eighty-first Congress,
first session), Provided that--

I. The Senate's advice and consent is subject to the following
reservations:

(1) That with reference to Article IX of the Convention, before
any dispute to which the United States is a party may be
submitted to the jurisdiction of the International Court
of Justice under this article, the specific consent of the
United States is required in each case.

(2) That nothing in the Convention requires or authorizes
legislation or other action by the United States of America
prohibited by the Constitution of the United States as
determined by the United States.

II. The Senate's advice and consent is subject to the following
understandings, which shall apply to the obligations of the United States
under this Convention:

(1) That the term "intent to destroy, in whole or in part,
a national, ethnical, racial, or religious group as such"
appearing in Article II means the specific intent to destroy, in
whole or in substantial part, a national, ethnical, racial, or
religious group by the acts specified in Article II.

(2) That the term "mental harm" in Article II(b) means permanent
impairment of mental faculties through drugs, torture, or
similar techniques.

(3) That with regard to acts committed outside a state, the
pledge to grant extradition in accordance with a state's laws
and treaties in force found in Article VII extends only to acts
which could be punished under the laws of both the requesting
and the requested state and nothing in Article VI affects the
right of any state to bring to trial before its own tribunals
any of its nationals.

(4) That acts in the course of armed conflicts committed
without the specific intent required by Article II are not
sufficient to constitute genocide as defined by this Convention.

(5) That with regard to the reference to an international penal
tribunal in Article VI of the Convention, the United
States declares that it reserves the right to effect its
participation in any such tribunal by a treaty entered into
specifically for that purpose with the advice and consent of the
Senate.

III. The Senate's advice and consent is subject to the following declaration:

That the President will not deposit the instrument of ratification until after the implementing legislation referred to in Article V has been enacted.



United States Department of State

Washington, D.C. 20520

DRAFT

Dear Mr. Chairman:

Thank you for your letter of May 7 on the Genocide Convention. In that letter you asked us to provide the Administration's position on each of eight provisions in the attachment, which are proposed for inclusion in the resolution of advice and consent to ratification of the Genocide Convention, and to indicate whether we object to any of these provisions. This letter responds on behalf of the Secretary of State and the Attorney General.

The Administration, as the President indicated last September, is firmly committed to ratification of the Genocide Convention. Ratification will assist U.S. efforts to oppose the kind of gross human rights abuses that the Convention addresses. We have cooperated with the Committee in attempting to achieve this goal. As you indicate, the eight provisions were the subject of recent discussions between Committee staff, staffs of various members and representatives of the Departments of State and Justice. We appreciate the opportunity to have participated in these sessions and share your view that they were productive and resulted in the resolution of several difficulties.

We understand that, if the Foreign Relations Committee does not adopt these eight provisions, you see little prospect of success for the Convention during this Congress and that you personally would not be prepared to request floor time for the Convention or support Senate approval of it without these provisions. We have also noted your view that, if we do not take this opportunity to approve the Convention, the momentum needed to do so may never be recovered. Because of these factors, even though we have not proposed the adoption of several of these statements, we are prepared to accept your eight proposals in order to secure prompt Senate approval of the Convention.

The Honorable
Richard G. Lugar,
Chairman, Committee on Foreign Relations,
United States Senate.

We have not had previously an opportunity to comment on one element of the constitutional reservation which has been added subsequent to the staff discussions, the final phrase "as determined by the United States". There is a long history to this phrase in the context of the so-called Connally Reservation to U.S. acceptance of the World Court's compulsory jurisdiction that has sparked considerable controversy over the years. We would urge the Committee to eliminate that phrase in the proposed reservation because we consider it both unnecessary and counterproductive in the context of the Genocide Convention. Its deletion would not increase the risk of incorrect interpretations of the U.S. Constitution or the Convention, whereas its presence might invite such misinterpretation.

We are encouraged by the Committee's efforts to complete action on the Genocide Convention and to report it favorably to the full Senate. As you know, the Genocide Convention has been under consideration in this country for some 37 years, and its adoption has been urged by six Presidents. Your efforts and those of the Committee strongly enhance the possibility that President Reagan will have the opportunity finally to ratify the Convention, thereby concretely expressing this country's vehement condemnation of those who would engage in the inhumanity of genocide. We stand ready to continue to work with the Committee to achieve this goal.

Sincerely,

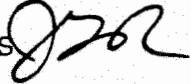
William L. Ball, III
Assistant Secretary
Legislative and Intergovernmental Affairs

THE WHITE HOUSE

WASHINGTON

September 6, 1985

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS 
SUBJECT: Request Concerning Senate Ratification
of the Genocide Convention

Joseph E. Ross, President of the Federal Bar Association, has written to ask you if the Administration will consider approaching the Senate leadership to urge floor action on the Genocide Convention. You will recall that the Convention was voted out of Committee after the Administration agreed to acquiesce in a number of reservations proposed by Senator Helms.

I discussed the matter with Pam Turner, who advised that it was highly unlikely that the controversial Convention could successfully compete for floor time with tax reform, the budget, South Africa, trade legislation, and so on. I think the best that we can do for Ross is to reiterate the President's support for ratification of the Convention, and refer the suggestion to Legislative Affairs. Drafts are attached.

Attachments

THE WHITE HOUSE

WASHINGTON

September 6, 1985

MEMORANDUM FOR PAMELA J. TURNER
DEPUTY ASSISTANT TO THE PRESIDENT
FOR LEGISLATIVE AFFAIRS

FROM: FRED F. FIELDING *Orig. signed by FFF*
COUNSEL TO THE PRESIDENT

SUBJECT: Request Concerning Senate Ratification
of the Genocide Convention

The attached letter on the Genocide Convention, together with a copy of my response, is referred to you for your review and whatever further action you consider appropriate.

Many thanks.

Attachment

FFF:JGR:aea 9/6/85
cc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

September 6, 1985

JUE
Dear Mr. Ross:

Thank you for your letter of September 3. In that letter you asked if the Administration would consider approaching the Senate leadership to urge floor action on the Genocide Convention.

As you know, the President strongly supports ratification of the Convention. He has made this clear not only in public addresses but to the Senate as well. As I am certain you are aware, the Senate faces a busy schedule this fall, with tax reform, budget matters, international relations, and trade issues dominating the agenda. I cannot accurately assess the prospects for floor action on the Convention, but I have taken the liberty of sharing your letter with our Legislative Affairs office.

You may be assured that the Administration remains committed to securing ratification of the Convention, and will do all within its power to achieve this goal.

Sincerely,

Orig. signed by FFF

Fred F. Fielding
Counsel to the President

Joseph E. Ross, Esquire
President, Federal Bar Association
1815 H Street, N.W.
Washington, D.C. 20006

FFF:JGR:aea 9/6/85
bcc: FFFielding/JGRoberts/Subj/Chron

THE WHITE HOUSE

WASHINGTON

September 6, 1985

MEMORANDUM FOR PAMELA J. TURNER
DEPUTY ASSISTANT TO THE PRESIDENT
FOR LEGISLATIVE AFFAIRS

FROM: FRED F. FIELDING
COUNSEL TO THE PRESIDENT

SUBJECT: Request Concerning Senate Ratification
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cc: FFFielding
JGRoberts
Subj
Chron

THE WHITE HOUSE

WASHINGTON

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You may be assured that the Administration remains committed to securing ratification of the Convention, and will do all within its power to achieve this goal.

Sincerely,

Fred F. Fielding
Counsel to the President

Joseph E. Ross, Esquire
President, Federal Bar Association
1815 H Street, N.W.
Washington, D.C. 20006

FFF:JGR:aea 9/6/85
bcc: FFFielding/JGRoberts/Subj/Chron

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WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

HUA30

J.R.

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☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence
Received (YY/MM/DD)

1 1

Name of Correspondent:

Joseph E. Rasmussen

☐ MI Mail Report

User Codes: (A) (B) (C)

Subject:

Request Administration to urge Senate
ratification of the Genocide Convention

ROUTE TO:

ACTION

DISPOSITION

Office/Agency (Staff Name)

Action
CodeTracking
Date
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of
Response

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ORIGINATOR

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Referral Note:

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ACTION CODES:

A - Appropriate Action
C - Comment/Recommendation
D - Draft Response
F - Furnish Fact Sheet
to be used as Enclosure

I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply

DISPOSITION CODES:

A - Answered C - Completed
B - Non-Special Referral S - Suspended

FOR OUTGOING CORRESPONDENCE:

Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

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Federal Bar Association

Office of the President

344275

September 3, 1985

Honorable Fred Fielding
Counsel to the President
The White House
Washington, D.C. 20500

Dear Fred:

Earlier this year the Association adopted a resolution urging Senate ratification of the Genocide Convention, a matter the President has also supported.

I have been asked by the leadership of our International Law Section, sponsors of the resolution, to inquire whether the Administration would consider approaching the Senate leadership to urge floor action on the Convention. Is this something that can be done?

Best regards.

Sincerely,

Joseph E. Ross
President