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O 141654Z MAR 73  
FM COL GUAY

TO GEN SCOWCROFT

~~TOP SECRET~~ SENSITIVE EXCLUSIVE EYES ONLY

YOUR MESSAGES WHP 471 AND 472 WERE DELIVERED TO CUSTOMER'S NUMBER TWO MAN AT 1700 PARIS TIME. HE THEN HANDED OVER THE FOLLOWING THREE MESSAGES:  
MESSAGE ONE:

REVIEWING THE IMPLEMENTATION OF THE PROVISIONS OF THE AGREEMENT AND OF THE PROTOCOL ON THE RETURN OF CAPTURED MILITARY PERSONNEL AND FOREIGN CIVILIANS AND CAPTURED AND DETAINED VIETNAMESE CIVILIAN PERSONNEL, THE DRVN SIDE DEEMS IT NECESSARY TO CALL TO THE ATTENTION OF THE US SIDE THE FOLLOWING SITUATION:

1) ON THEIR PART, THE DRVN SIDE AND THE PRGRSVN SIDE HAVE SCRUPULOUSLY CARRIED OUT THE RETURN OF CAPTURED US MILITARY PERSONNEL AND FOREIGN CIVILIANS AT THE RATE AND THE TIME AGREED UPON.

A) THE DRVN SIDE HAS RETURNED IN PHASE 1, FEBRUARY 12, 1973, 116 MEMBERS OF US MILITARY PERSONNEL INCLUDING ONE MAN RETURNED IN ADDITION TO THE PLANNED LIST; IN PHASE 2, MARCH 4, 1973, 106 MEMBERS OF US MILITARY PERSONNEL AND 2 MEMBERS OF THAI MILITARY PERSONNEL. BESIDES, AS A GESTURE OF GOOD WILL, ON FEBRUARY 13, 1973 THE DRVN RETURNED TO THE US GOVERNMENT 20 MEMBERS OF US MILITARY PERSONNEL EARLIER THAN HAD BEEN PLANNED. IN ALL, THE DRVN SIDE RETURNED TO US SIDE 244 MEMBERS OF US MILITARY PERSONNEL, THAT IS MORE THAN A HALF OF US MILITARY PERSONNEL CAPTURED AND DETAINED IN NORTH VIET NAM, EXCEEDING THE PROPORTION THAT HAD BEEN AGREED UPON.

B) THE PRGRSVN SIDE HAS ALSO RETURNED IN PHASE 1, FEBRUARY 12 AND 13, 1973, 27 MEMBERS OF US MILITARY PERSONNEL AND ONE MEMBER OF CANADIAN MILITARY PERSONNEL, AND PHASE 2, MARCH 5, 1973, 28 MEMBERS OF US MILITARY PERSONNEL AND 8 MEMBERS OF CIVILIAN PERSONNEL OF THE UNITED STATES AND OF OTHER FOREIGN COUNTRIES. AT THE SAME TIME, IN PHASE 1, FROM FEBRUARY 12 TO 20, 1973 THE PRGRSVN SIDE HAS RETURNED TO DRVN SIDE 1037 MEMBERS OF CAPTURED VIETNAMESE MILITARY PERSONNEL AND IS NOW PROCEEDING WITH THE RETURN OF 1250 OTHER MEMBERS OF CAPTURED VIETNAMESE PERSONNEL IN PHASE 2.

\*\*\*\*\* WHSR COMMENT \*\*\*\*\*

HAK, SCOWCROFT, LORD, HOWE

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NSC 9/23/93 F9301194

By M/KO NARA, Date 9/30/93

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THE CENTRAL FOUR-PARTY JOINT MILITARY COMMISSION AND THE ICCES, AFTER VISITING THE DETENTION PLACES OF THE DRVN SIDE AND THE PRGRSVN SIDE, HAVE ACKNOWLEDGED THAT THE DRVN SIDE AND THE PRGRSVN SIDE HAD FULLY IMPLEMENTED THE PROVISIONS REGARDING THE TREATMENT OF CAPTURED PERSONS DURING THEIR DETENTION, AND THE COMMUNICATION TO THEM OF THE FULL TEXT OF THE PROTOCOL.

2) ON THE OTHER HAND, THE US AND RVN SIDE HAVE NOT STRICTLY IMPLEMENTED THE AGREEMENT AND THE PROTOCOL ON THE RETURN OF CAPTURED PERSONS.

A) THE US AND RVN SIDE HAS DELIBERATELY ACTED CONTRARILY TO THE AGREEMENT BETWEEN THE PARTIES IN THE CENTRAL FPJMC THAT ON FOURTH OF THE TOTAL NUMBER OF CAPTURED AND DETAINED PERSONS SHOULD BE RETURNED AT EACH PHASE, THUS PROVOKING DELAY IN THE PHASE 2 RETURN OF CAPTURED AND DETAINED VIETNAMESE MILITARY PERSONNEL.

B) ONE MONTH AND A HALF HAVE ELAPSED SINCE THE SIGNING OF THE AGREEMENT, YET, NOT A SINGLE MEMBER OF CAPTURED AND DETAINED VIETNAMESE CIVILIAN PERSONNEL HAS BEEN RETURNED BY THE RVN SIDE TO THE PRGRSVN SIDE.

AS MENTIONED IN THE DRVN MESSAGE OF MARCH 2, 1973, THE RVN SIDE HAS PUT FORTH A LIST OF CAPTURED AND DETAINED CIVILIAN PERSONNEL OF THE PRGRSVN WHICH COMPRISED ON 5081 PERSONS, WHILE IN REALITY IT IS DETAINING PRGRSVN CIVILIAN PERSONNEL TALLING TENS OF THOUSANDS. IT ALSO FABRICATED A NUMBER FAR EXCEEDING REALITY OF ITS CIVILIAN PERSONNEL CAPTURED AND DETAINED BY THE PRGRSVN, IN ORDER TO HAVE A PRETEXT TO DELAY THE RETURN OF CAPTURED AND DETAINED PRGRSVN CIVILIAN PERSONNEL.

THUS, THE US SIDE HAS NOT CORRECTLY IMPLEMENTED THE DRVN-US UNDERSTANDING REGARDING THE RETURN OF CAPTURED AND DETAINED VIETNAMESE CIVILIAN PERSONNEL, AND HAS NOT CORRECTLY CARRIED OUT DR KISSINGER'S PROMISE ON FEBRUARY 11, 1973 IN HANOI.

C) THE RVN SIDE HAS EVEN ACTED CONTRARILY TO ARTICLE 8 OF THE PROTOCOL WHICH STIPULATES THAT ALL DETAINED PERSONS MUST BE ACCORDED HUMANE TREATMENT, IN ACCORDANCE WITH INTERNATIONAL USAGE; IT IS EVEN ENGAGED IN LIQUIDATION MANY CAPTURED AND DETAINED VIETNAMESE MILITARY AND CIVILIAN PERSONNEL.

THE RVN SIDE HAS NOT IMPLEMENTED ARTICLE 13 OF THE PROTOCOL PROVIDING FOR MAKING PUBLIC AND COMMUNICATING TO THE CAPTURED PERSONS THE FULL TEXT OF THE PROTOCOL ON THE RETURN OF CAPTURED AND DETAINED PERSONS, AND HAS CREATED MANY DIFFICULTIES TO THE IMPLEMENTATION OF ARTICLES 9 AND 11 OF THE PROTOCOL RELATING TO THE INSPECTION OF DETENTION PLACES.

3) THE DRVN SIDE STRESSES THAT THE US-RVN SIDE MUST BEAR FULL RESPONSIBILITY FOR THE SERIOUS SITUATION DESCRIBED ABOVE. THE DRVN SIDE DEMANDS THAT THE US AND RVN SIDE:

A) COMPLETE THE PHASES OF THE RETURN OF CAPTURED AND DETAINED AT THE RATE AND TIME AGREED UPON;

B) RETURN VIETNAMESE CIVILIAN PERSONNEL CAPTURED AND DETAINED IN SOUTH VIETNAM IN KEEPING WITH DRVN-US UNDERSTANDINGS,

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IN THE FIRST PLACE, RETURN THE 5000 MEMBERS OF VIETNAMESE CIVILIAN PERSONNEL MENTIONED IN DR. KISSINGER'S STATEMENT OF FEBRUARY 11, 1973.

C) IMMEDIATELY STOP THE KILLING OF CAPTURED AND DETAINED VIETNAMESE MILITARY AND CIVILIAN PERSONNEL; IMMEDIATELY IMPROVE THEIR LIVING CONDITIONS DURING THEIR DETENTION AS STIPULATED IN ARTICLE 8 OF THE PROTOCOL; TO MAKE PUBLIC AND COMMUNICATE TO ALL CAPTURED AND DETAINED VIETNAMESE MILITARY AND CIVILIAN PERSONNEL THE FULL TEXT OF THE AGREEMENT AND OF THE PROTOCOL ON THE RETURN OF CAPTURED AND DETAINED PERSONS OF THE PARTIES.

D) TO ALLOW RED CROSS SOCIETIES OF THE COUNTRIES TO BE AGREED UPON AND THE JOINT MILITARY TEAMS TO INSPECT THE DETENTION PLACES AS STIPULATED IN ARTICLE 9 AND 11 OF THE PROTOCOL ON THE RETURN OF CAPTURED MILITARY PERSONNEL AND FOREIGN CIVILIANS, AND CAPTURED AND DETAINED VIETNAMESE CIVILIAN PERSONNEL.  
UNQUOTE.

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 FM COLONEL GUAY

TO GENERAL SCOWCROFT  
 FOR DR. KISSINGER  
 FROM AMB. SULLIVAN

~~SECRET~~/SENSITIVE/EXCLUSIVELY EYES ONLY

MARCH 7, 1973

1. PURSUANT TO YOUR INSTRUCTIONS, I CALLED ON THACH AT CHOISY-LE-ROI LATE EVENING MARCH 6. IN ORDER TO MAKE DEMARCHE SOMEWHAT LESS STARK, I SWADDLED IT IN THREE OTHER ITEMS. FIRST, I TOLD THEM OF 7000 POW RELEASE. SECOND, I INFORMED THEM OF VIEN, DO AND HUY AS NEGOTIATORS. THIRD, I RAISED QUESTION OF OBLIGATORY RETURN OF CIVILIAN DETAINEES TO PRG, A SUBJECT WHICH GVN HAS RAISED WITH US. MY PURPOSE IN DOING THIS WAS TO GIVE THE IMPRESSION WE WERE WORKING SCRUPULOUSLY WITH GVN TOWARDS IMPECCABLE OBSERVANCE OF THE AGREEMENT TNE PROTOCOLS.

\*\*\*\*\* \*WHSR COMMENT\*\*\*\*\*

HAK, SCOWCROFT, LORD, HOWE

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By WKC NARA, Date 9/30/93

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N 012340Z  
FM: COLONEL GUAY  
TO: GENERAL SCOWCROFT

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MAR 1, 1973

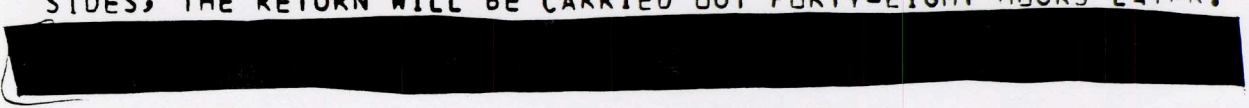
CUSTOMER FURNISHED FOLLOWING MESSAGE:

THE DEMOCRATIC REPUBLIC OF VIET NAM SIDE HAS RECEIVED THE US MESSAGE OF FEBRUARY 27, 1973.

THE EMERGENCY SITUATION CREATED RECENTLY BY REPEATED SERIOUS PROVOCATIONS BY THE SAI GON ADMINISTRATION IN HUE AND DA LAT HAS BEEN THE CAUSE OF THE DELAY IN THE RETURN OF CAPTURED U.S. MILITARY PERSONNEL. THE DEMOCRATIC REPUBLIC OF VIET NAM AND THE PROVISIONAL REVOLUTIONARY GOVERNMENT OF THE REPUBLIC OF SOUTH VIET NAM CAN CONTINUE THE RETURN OF CAPTURED US PERSONNEL ONLY IF THIS EMERGENCY SITUATION IS IMMEDIATELY BROUGHT TO AN END AND SAFETY IS ENSURED TO THEIR PERSONNEL WHEN THEY ARE CARRYING OUT THEIR DUTY. IT MUST ALSO BE MENTIONED THAT THE DEPUTY CHIEF OF THE DRVN DELEGATION TO THE CENTRAL JOINT MILITARY COMMISSION WHO HAD GONE BACK TO HA NOI TO GET THE LIST OF US MILITARY PERSONNEL IN THE SECOND GROUP TO BE RELEASED ASKED THE US SIDE TO SEND A PLANE TO HA NOI TO TAKE HIM TO SAI GON. BUT THE US SIDE CAUSED A DELAY, AND FINALLY ON FEBRUARY 27, 1973 THE DEPUTY CHIEF OF THE DRVN DELEGATION HAD TO USE AN ICCS PLANE TO GO TO SAI GON. THUS, THE DELAY IN RECENT DAYS IN THE RETURN OF CAPTURED US MILITARY PERSONNEL HAS BEEN CAUSED BY THE US SIDE AND THE SAI GON ADMINISTRATION ALONE.

THE DRVN SIDE ALWAYS SCRUPULOUSLY IMPLEMENTS ALL PROVISIONS OF THE AGREEMENT AND THE ANNEXED PROTOCOLS. THE DRVN SIDE WILL STRICTLY CARRY OUT THE RETURN OF ALL CAPTURED US MILITARY AND CIVISIAN PERSONNEL, AT THE SAME TIME AS THE WITHDRAWAL OF ALL US TROOPS FROM SOUTH VIET NAM WITHIN SIXTY DAYS, AS STIPULATED IN THE AGREEMENT.

THE DRVN DELEGATION TO THE CENTRAL JOINT MILITARY COMMISSION HAS BEEN INSTRUCTED TO HAD OVER IMMEDIATELY TO THE US SIDE THE LIST OF US MILITARY PERSONNEL IN THE SECOND GROUP TO BE RELEASED AND, AS HAS BEEN AGREED UPON BY THE TWO SIDES, THE RETURN WILL BE CARRIED OUT FORTY-EIGHT HOURS LATER.



\*\*\*\*\*WHSR COMMENT\*\*\*\*\*

HAK, SCOWCROFT, HOWE, LORD

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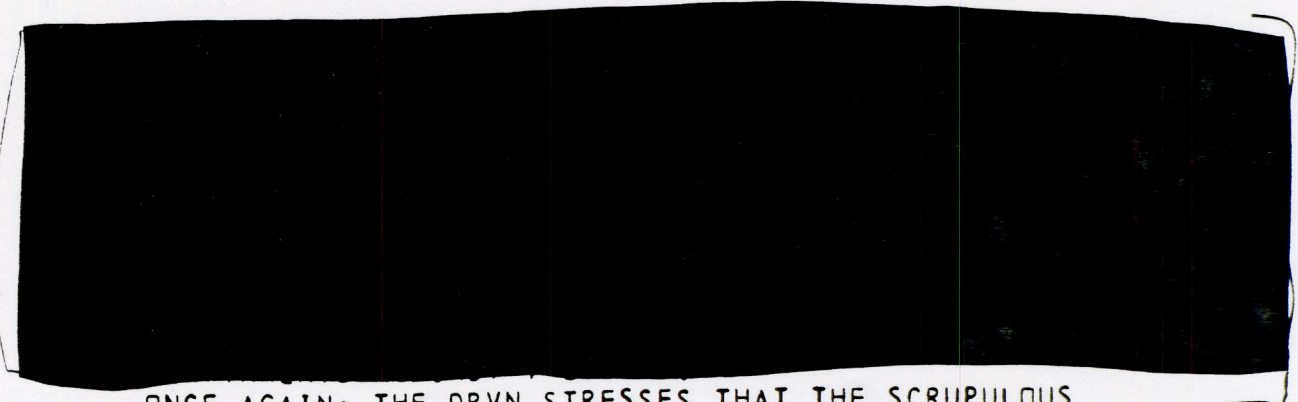
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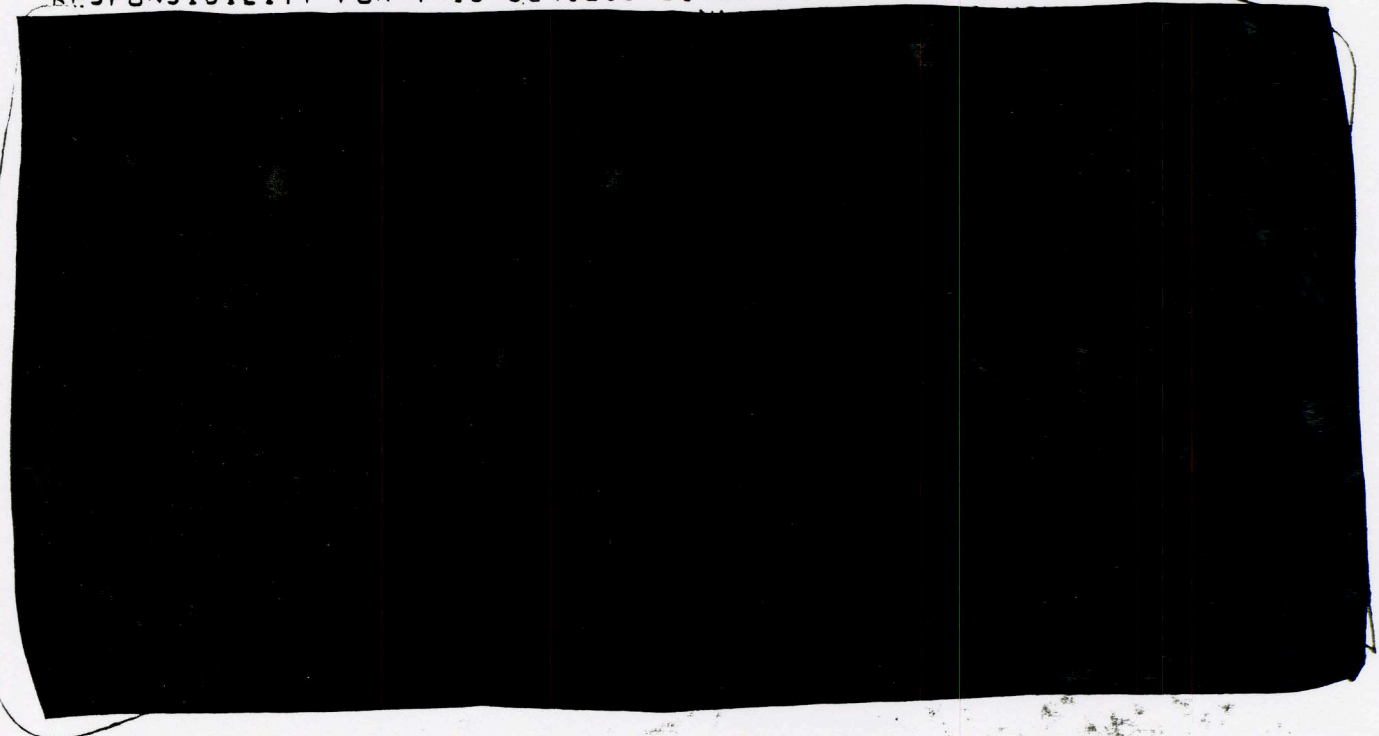
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ONCE AGAIN, THE DRVN STRESSES THAT THE SCRUPULOUS IMPLEMENTATION OF THE AGREEMENT IS THE OBLIGATION OF ALL THE SIGNATORIES AND IT IS NOT ACCEPTABLE THAT ONLY ONE SIDE STRICTLY IMPLEMENTS THE AGREEMENT WHILE THE OTHER SIDE IS FREE TO VIOLATE IT. THE DRVN SIDE HAS SCRUPULOUSLY IMPLEMENTED THE AGREEMENT BUT THE US SIDE AND THE SAI GON ADMINISTRATION HAVE VIOLATED IT CONTINUOUSLY AND SERIOUSLY, AS HAS BEEN MENTIONED IN THE DRVN MESSAGES OF FEBRUARY 24, 27 AND 28, 1973. IF THE VIOLATIONS OF THE AGREEMENT BY THE SAI GON ADMINISTRATION AND THE US SIDE ARE NOT BROUGHT TO AN END THERE WILL BE A DANGER OF THE AGREEMENT BEING WRECKED. THE US SIDE AND THE SAI GON ADMINISTRATION MUST BEAR FULL RESPONSIBILITY FOR THIS SERIOUS SITUATION.



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 FM COLONEL GUAY

TO GENERAL SCOWCROFT

~~TOP SECRET~~/SENSITIVE/EXCLUSIVELY EYES ONLY

MARCH 02, 1973

CUSTOMER'S NUMBER TWO CALLED AT 8:00 PM AND ASKED IF HE COULD  
 SEE ME AT 10:30. I AGREED, AND ON ARRIVAL HE SAID HE HAD TWO  
 MESSAGES, ONE VERBAL. THE FOLLOWING IS TEXT OF WRITTEN MESSAGE:  
 QUOTE:

FROM: SPECIAL ADVISOR LE DUC THO  
 TO : DR. HENRY A. KISSINGER.

ACCORDING TO THE MUTUAL UNDERSTANDING BETWEEN THE  
 DEMOCRATIC REPUBLIC OF VIET NAM AND THE UNITED STATES  
 REGARDING THE RETURN OF VIETNAMESE CIVILIAN PERSONNEL  
 CAPTURED AND DETAINED IN SOUTH VIET NAM, THE RETURN OF  
 MOST OF THESE PERSONNEL WILL BE COMPLETED WITHIN SIXTY  
 DAYS OF THE SIGNING OF THE AGREEMENT, AND THE WHOLE NUMBER  
 OF THESE PERSONNEL WILL BE RETURNED WITHIN NINETY DAYS OF  
 THE SIGNING OF THE AGREEMENT. ON FEBRUARY 11, 1973, WHEN  
 IN HA NOI, YOU ALSO STATED THAT YOU WOULD USE UNITED STATES  
 INFLUENCE TO ENSURE THAT THE REPUBLIC OF VIET NAM SIDE RETURN  
 5,000 VIETNAMESE PERSONNEL DETAINED IN SOUTH VIET NAM WITHIN  
 A SHORT PERIOD OF TIME.

BUT UP TO THE PRESENT TIME, MORE THAN A MONTH AFTER THE  
 SIGNING OF THE AGREEMENT, THE REPUBLIC OF VIET NAM SIDE HAS  
 NOT RETURNED ANY CAPTURED VIETNAMESE CIVILIAN PERSONNEL. THE  
 RVN SIDE ALSO BROUGHT FORTH A LIST OF CAPTURED AND DETAINED  
 CIVILIAN PERSONNEL OF THE PROVISIONAL REVOLUTIONARY GOVERN-  
 MENT OF THE REPUBLIC OF SOUTH VIET NAM WHICH COMPRISED ONLY  
 5,081 PERSONS, WHEN THE NUMBER OF THESE DETAINED PERSONNEL  
 TOTALLED IN REALITY TENS OF THOUSANDS. THIS IS A MOST ABSURD  
 THING. AND THUS, YOU HAVE NOT DULY CARRIED OUT THE UNDER-  
 STANDING BETWEEN THE TWO SIDES REGARDING THE RETURN OF VIET-  
 NAMESE CIVILIAN PERSONNEL CAPTURED AND DETAINED IN SOUTH VIET-  
 NAM.

THE PROVISIONAL REVOLUTIONARY GOVERNMENT OF THE REPUBLIC  
 OF SOUTH VIET NAM HAD HANDED OVER TO THE GOVERNMENT OF THE  
 REPUBLIC OF VIET NAM A LIST OF CIVILIAN PERSONNEL CAPTURED AND  
 DETAINED BY THE FORMER, BUT THE GOVERNMENT OF THE REPUBLIC

\*\*\*\*\* WHSR COMMENT \*\*\*\*\*

HAK, SCOWCROFT, LORD, HOWE

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 By ABH NARA, Date 9/15/92  
 (SA 99)



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OF SOUTH VIET NAM PRODUCED A LIST OF ITS CIVILIAN PERSONNEL WHO HAD BEEN CAPTURED AND DETAINED, THE NUMBER OF WHICH HAD BEEN FANCIFULLY EXAGGERATED. THE FACT IS THAT DURING WAR TIME, THE PROVISIONAL (SIC) OF THE REPUBLIC OF SOUTH VIET NAM HAD NO CONDITIONS FOR DETAINING FOR A LONG PERIOD CAPTURED CIVILIAN PERSONNEL OF THE REPUBLIC OF VIET NAM SIDE, THAT WAS WHY AFTER ONLY A SHORT PERIOD OF DETENTION NECESSARY FOR POLICY EXPLANATION, MOST OF THE CAPTURED PERSONS HAVE BEEN RELEASED BY THE PROVISIONAL REVOLUTIONARY GOVERNMENT OF THE REPUBLIC OF SOUTH VIET NAM. WHEN THE AGREEMENT WAS SIGNED, ONLY A VERY SMALL NUMBER OF PERSONS WERE STILL DETAINED. THE LIST OF THESE PERSONS HAS BEEN HANDED OVER BY THE PROVISIONAL REVOLUTIONARY GOVERNMENT OF THE REPUBLIC OF SOUTH VIET NAM TO THE GOVERNMENT OF THE REPUBLIC OF VIET NAM. THEREFORE THE PRETEXT USED BY THE REPUBLIC OF VIET NAM SIDE TO DELAY THE RETURN OF CAPTURED AND DETAINED VIETNAMESE CIVILIAN PERSONNEL CANNOT COVER ITS VIOLATIONS OF THE AGREEMENT.

AS I HAVE TOLD YOU ON SEVERAL OCCASIONS, THIS IS A QUESTION ABOUT WHICH WE ARE EXTREMELY CONCERNED. WE ASK THE US SIDE TO DULY CARRY OUT ITS COMMITMENT IN THE UNDERSTANDING BETWEEN THE TWO SIDES REGARDING THIS QUESTION, IN THE FIRST PLACE TO ENSURE, AS YOU HAVE STATED, THE RELEASE OF 5,000 VIETNAMESE CIVILIAN PERSONNEL CAPTURED AND DETAINED BY THE RVN SIDE.

END QUOTE:

FOLLOWING IS TEXT OF VERBAL MESSAGE:

QUOTE:

FOR ALL QUESTIONS TO BE DISCUSSED BETWEEN THE DRV AND THE U.S. THIS CHANNEL WILL BE USED. RECENTLY, IN CONNECTION WITH THE RETURN OF CAPTURED AMERICAN PERSONNEL IT WAS ONLY BECAUSE PRESIDENT NIXON GAVE INSTRUCTIONS TO THE SECRETARY OF STATE WILLIAM ROGERS TO INFORM HIMSELF DIRECTLY FROM THE MINISTER OF FOREIGN AFFAIRS THAT THE MINISTER ENTERED INTO DISCUSSIONS WITH THE SECRETARY OF STATE. END QUOTE:

COMMENT: ATMOSPHERE WAS CORDIAL. LIEU TOLD ME CUSTOMER WAS VERY TIRED AND HAD LEFT TOWN TO GET A FEW DAYS REST. THE TEA WAS GOOD. WARMEST REGARDS.

END MESSAGE

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BY WIRE VIA GUAY CHANNEL

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March 20, 1973

FROM: Brent Scowcroft *BS*

TO: Colonel Guay

Please deliver the following message to your customer, *Wednesday morning* for Le Duc

Tho from Henry A. Kissinger.

BEGIN TEXT: The U. S. side has become increasingly disturbed about the question of American prisoners held or missing in Laos. As the DRV side well knows, there is a firm and unequivocal understanding that all American prisoners in Laos will be released within 60 days of the signing of the Vietnam Agreement. The DRV side has on many occasions solemnly reaffirmed its responsibility to carry out this understanding which was one of the fundamental considerations underlying the US signature of the Vietnam Agreement. Despite this background there has been almost no progress on this issue and the deadline for release is now only a week away.

In its message of March 14, the U. S. side once again registered its strong concern and asked for an explanation from the DRV side of the statements made by the LPF representative in Vientiane which were contradictory to the understanding with the DRV side. There has been no response to this message. Indeed in the past week there has been further evidence that the DRV and its allies are not taking their obligations seriously. Further conversations between US and LPF representatives

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By *ADK* NARA, Date 9/15/92  
(SA 99)



in Vientiane have proven completely unsatisfactory. Furthermore, on the March 19 the DRV representative to/POW sub-commission informed the American representative that the Pathet Lao were responsible for the release of American prisoners and gave no assurance that this would take place by the agreed date of March 28, 1973.

The U. S. side wishes to reiterate that such an approach is totally contrary to the understanding reached by the two sides and that it expects all American prisoners in Laos to be released no later than March 28, 1973. The U. S. side holds the DRV side fully responsible for ensuring that this release takes place on schedule.

as  
In addition, the U. S. side has made clear on many occasions, the list of only nine American prisoners presented belatedly by the Pathet Lao is clearly incomplete. There continues to be no satisfactory explanation concerning the smallness of this list nor any assurances that further efforts will be forthcoming.

In view of the very short time left before the deadline for the release of American prisoners in Laos, the U. S. side expects an immediate response to this message and the firm assurance of the DRV side that it will live up to its solemn responsibilities. Failure to do so would have the most serious consequences. Certainly the U. S. side cannot be expected to complete its withdrawals from South Vietnam until this closely linked question is satisfactorily resolved. END TEXT.

~~TOP SECRET/SENSITIVE/EXCLUSIVELY EYES ONLY~~



## MEMORANDUM

## THE WHITE HOUSE

WASHINGTON

~~TOP SECRET/SENSITIVE/EYES ONLY~~

ACTION

March 14, 1973

MEMORANDUM FOR: THE PRESIDENT

FROM: HENRY A. KISSINGER *HK*

SUBJECT: Response to Continued North Vietnamese  
Infiltration and Logistics Activity in the  
South

The North Vietnamese are continuing their heavy rate of personnel infiltration and logistics movements through Southern Laos into Cambodia and South Vietnam. These actions are in clear violation of both the letter and the spirit of the January 27 Agreement. We cannot say for sure precisely what their motivation may be, but there are three likely possibilities:

- they may believe that we won't react while they still hold a large number of our POWs and thus they are free for the next three weeks to continue a major replacement and resupply operation to position themselves and keep their options open for the future;
- they may be simply testing us to see how far they can go because they have not yet made up their minds on whether to pursue their objectives politically or revert to military actions; or
- they may have decided to resume offensive action, possibly in the fall.

Whatever their motivations, their actions are a clear challenge. We have protested these actions in our private channel and demanded an explanation of them and their cessation. We have given the North Vietnamese a clear signal that they cannot continue this course with impunity, but they have not responded and we have seen no evidence of a cessation.

The issue is whether and how we should respond and if we are to do so, the timing of our response.

- On the diplomatic side, efforts through the Four-Party Joint Military Commission and the ICCS would be largely unavailing. Neither of these bodies has been able up to now to successfully

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E.O. 12356, Sect. 3.4

NSC 12/29/92 F92-1404

By *MRO*: NARA, Date 5/5/93

SA 99 (Part)

*PD*



undertake on a timely basis investigations of major violations. Attempting to follow this route or to move publicly to bring the weight of opinion to bear against the North Vietnamese, if it were to accomplish anything at all, which I doubt, would be time consuming and allow the infiltration to continue on a massive scale for many more weeks at least.

- On the military side, the North Vietnamese are exposed both in the trail area of the Laotian Panhandle and in the northern reaches of South Vietnam's MR-1. In both areas they are operating in daylight and the traffic is so heavy as to be congested. They clearly are taking advantage of the fact that all air action against them has ceased. A series of heavy strikes over a 2 or 3 day period in either of these areas would be very costly to them in both personnel and material.

The WSAG has considered a range of options and concluded that diplomatic steps should continue, including reaffirmation to the North Vietnamese of our serious intent. It concluded also that we could have no assurance that the North Vietnamese would not continue to push up against the limits of the Agreement. They will posture themselves in a way which would make massive offensive action once again a viable option for them unless they clearly understand that such a course will generate a prompt and violent response from the United States. Thus, some reaction will be important.

Of the military options, it was agreed that a strike against the trail complex in Southern Laos would have the most immediate effect with the least risk. We have the precedent our earlier B-52 attack in Laos just after the Laos ceasefire.

- Such a strike would, by its very surprise, have a devastating effect. It would dramatically inhibit the infiltration of both personnel and equipment.
- It would signify clearly that we will not tolerate continued violations and will react decisively to them. It is precisely this sort of U.S. reaction on May 8 and again in December which caused the North Vietnamese to reexamine the course on which they were then bent. If they now believe that we may not react and we fail to do so, we will encourage increasing and even more blatant violations. If we react we will demonstrate the costs which they must expect to bear if they abrogate the Agreement. It will help to make clear once again that they have a stake in keeping the Agreement.

~~TOP SECRET/SENSITIVE/EYES ONLY~~



- The argument against taking this step is that it will be seen as an evident breakdown of the ceasefire and perhaps of the Agreement itself. There will be recriminations. But in my judgment if we do not react, the Agreement may well break down precisely because we did not. The recriminations in that event will be no less severe.

If we are to undertake such an operation, the question is whether to do it before all our POWs have been released or wait until after the release has been completed.

- The argument for reacting before all the POWs are released is that this will demonstrate that you will not permit a challenge to go unanswered and that you are determined to see that the agreement is adhered to.
- The argument for waiting is that we can be sure that the POW release will not be held up because of our action. If the POWs were held back after we had conducted air strikes, there would be serious domestic reaction.
- On the other hand, if we wait until the fourth increment of POWs have been released at the end of March, the strikes would be coincident with or immediately follow President Thieu's visit. We thus would be seen as reacting to Thieu's pressure and be pictured as captive to his policies. The benefit of independent reaction would be substantially diluted.
- If we act immediately after the third prisoner release, which will be completed by the end of this week, we can minimize the risk of a hold on the remaining POWs. There will be a 2-week period prior to the final release. There will be time after the strikes to reestablish the arrangements for that final release and for our coincident final withdrawal. Meanwhile we would cease all withdrawals as additional leverage to bring about the final release. There is a risk that release of the last increment of POWs will be held up but I believe it is minimal. Each time that we have reacted decisively in the past, the North Vietnamese have pulled back. They did not hold up the second prisoner release on the grounds of our B-52 attack in Laos though the attack occurred just prior to the scheduled release.

~~TOP SECRET/SENSITIVE/EYES ONLY~~



I recommend that you approve planning now for a 2-3 day series of intensive U.S. air strikes against the trail area of Southern Laos to be conducted immediately after release of the third increment of POWs is completed on March 16. Your final decision would be given after the POW release and in light of developments between now and that date.

APPROVE

A handwritten signature, possibly "R", is written over the word "APPROVE".

DISAPPROVE

~~TOP SECRET/SENSITIVE/EYES ONLY~~