

April 6, 1972

TOP SECRET

MEMORANDUM FOR

Mr. Theodore L. Eliot, Jr.  
Executive Secretary  
Department of State

Brigadier General Robert E. Pursley  
Military Assistant to the Secretary  
Department of Defense

Mr. Robert E. Hepworth  
Chief, Executive Staff  
Office of Deputy Director for Intelligence  
Central Intelligence Agency

SUBJECT: NSDM 163

I attach a copy of NSDM 163 for your principal. This document should be handled on an EYES ONLY basis, with distribution limited to those with a demonstrated need-to-know.



Jeanne W. Davis  
Staff Secretary

Attachment

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DECLASSIFIED

E.O. 12958, as amended, Sect 3.5

*NSC/Soubers to Smith 09/06/2002*  
By *LS* Date *02/14/07*

NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20506

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April 6, 1972

National Security Decision Memorandum 163

TO: The Secretary of State  
The Secretary of Defense

SUBJECT: Statement of Policy Relative to U.S. Action in  
the Event of Unprovoked Communist Attack Against  
U.S. Aircraft or Vessels Outside of Communist  
Territory

The President has reviewed the report of the Departments of State and Defense concerning the revision of NSC 5604, and has decided upon the following general statement of U.S. policy in the event of unprovoked Communist attack on U.S. forces outside Communist territory.

1. Subject to paragraph 2 below, in the event of unprovoked Communist armed attack against U.S. military aircraft or vessels outside Communist territory, those U.S. forces attacked or available to repulse the attack may take all necessary defensive measures against the Communist attacking force. If indispensable to self-defense and if feasible, U.S. aircraft or vessels under attack may undertake immediate pursuit of the attacking Communist aircraft or vessels into hostile territorial waters or airspace.

2. The authority under paragraph 1 is subject to the following restrictions:

a. Immediate pursuit into hostile territorial waters or airspace must be continuous and uninterrupted and is authorized only until the hostile aircraft or vessels no longer pose an immediate threat to U.S. forces. Immediate pursuit shall not include prolonged pursuit deep into hostile airspace.

b. Commanders shall not be authorized deliberately and systematically to organize a pursuing force.

c. The authority to conduct immediate pursuit shall apply only to sporadic, isolated, small-scale incidents.

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3. In authorizing immediate pursuit into hostile territorial waters or airspace, forces engaged in immediate pursuit shall be alert to the obvious dangers and risks inherent therein and particularly to the risk of responding in a way which could unnecessarily enlarge a local incident.

4. Should a pattern of unprovoked Communist attack develop, or should NATO or any host country attempt to impose restrictions in conflict with the foregoing, this policy shall be reviewed by the NSC as a matter of urgency.

5. In addition to the action authorized herein, and as constitutionally authorized and specifically approved by the President, appropriate commanders can be authorized to take such additional action as may be necessary and appropriate.

6. Except as noted in the succeeding paragraph, all rules of engagement promulgated by the Joint Chiefs of Staff in implementation of the foregoing will be subject to the approval of the Secretaries of State and Defense. Any case in which the Secretaries of State and Defense do not agree will be referred to the President for decision.

7. The application of this policy statement to Rules of Engagement for reconnaissance and intelligence missions will be determined by the committee designated by the President to review these sensitive activities. Procedures for review and approval of Rules of Engagement for such missions will be as prescribed by that committee.

8. NSC 5604 is hereby rescinded.



Henry A. Kissinger

cc: Director of Central Intelligence