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DEPARTMENT OF STATE

Washington, D.C. 20520

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4/3/70

TO: J - Mr. Johnson
THROUGH: S/S
FROM: O - William B. Macomber, Jr.
SUBJECT: Political Program Designed to Inhibit
Kidnapping - ACTION MEMORANDUM

DISCUSSION:

This paper addresses the question of how we can reduce the political benefits that politically-motivated kidnapers believe they derive from kidnapping U.S. officials abroad. It supplements the technical program we envisage for making such kidnappings more difficult. An analysis of the political motivations of these kidnapers and a catalog of their likely and unlikely targets are contained in the paper submitted to you earlier on the basic policy.

If we are correct in our analysis of the political motivations of these dissident groups, then some aspects of our experience with hijacking are pertinent. There are indications that Cuba is experiencing political embarrassment as a result of hijacking, for hijacking as an undesirable event is associated in the minds of many Latin Americans as Cuban-inspired. Since some of the hijackers belong to left-extremist groups (as do the kidnapers), there is some reason to believe that their activities are an embarrassment to the Communist cause and therefore the USSR as well. According to a secret intelligence report, the USSR is polling local Communist parties as to whether they think hijacking is detrimental to the Communist cause.

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Group 1

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and declassification.~~

ARA/LA : RA Hurwicz ; ARA/MGT : FL [signature]

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This experience and the fact that the USSR has undertaken a program to expand its representation in the hemisphere and to appear respectable suggest that kidnapping, if properly publicized, could also cause the USSR and Cuba to consider it a net political handicap for their cause. The Soviets may therefore seek to discourage the left-extremist groups in the hemisphere from kidnapping just as we have reason to believe that the Soviets have, for the same reasons, influenced the Cubans to soft pedal their subversive activities. Through an orchestrated diplomatic and propaganda effort, we may raise the political costs of kidnapping. We see no serious disadvantages to this proposed course of action and some possibility of diminishing the frequency of kidnappings, although we recognize that many leftist groups in Latin America are nationalist and not subject to control by either Cuba or the Soviet Union.

Whether or not we are able to influence Cuba and the Soviet Union to exercise a restraining influence on potential kidnappers, we believe that a program should be undertaken to deprive the kidnappers of the public sympathy and support for their political aims which they seek to foster by their actions. This program would include an appeal to (1) the widespread belief in the sanctity of human life and repugnance at the use of terror to achieve political aims, and (2) the accepted principle that the inviolability of diplomats is essential to international peace and order.

We should take advantage of available international forums in order, in the short run, to mobilize opinion against kidnapping and, in the longer run, to develop legal means to deter it. Initially, we could sponsor or support resolutions in the OAS and/or UN condemning politically-motivated kidnapping and directing appropriate bodies to draft international conventions to deal with the problem.

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A more expeditious channel would be the OAS, either through the Permanent Council or the Meeting of Consultation of Foreign Ministers (represented by Special Delegates); an ad hoc committee could be directed by either of those bodies to draft a convention. (While the Inter-American Juridical Committee would in theory be the appropriate organ to prepare a convention, we do not believe that it could, as presently constituted, give the problem the attention it deserves.)

We have in mind two general concepts for a convention directed at politically-motivated kidnapping of diplomatic and consular officials.

One would be to establish kidnapping of diplomatic personnel as an international crime to be prosecuted by any state, drawing on "piracy" and "war crimes" as general precedents. (In 1937 following a series of political assassinations, the League of Nations drafted a convention requiring that acts of terrorism be made extraditable criminal offenses in each contracting state, but this convention never entered into force.)

The second concept would be to establish that kidnapping of diplomatic and consular officers is not to be exempt from extradition as a political crime and that the kidnappers would not be granted political asylum. (Press reports indicate that the Argentine Government intends to propose that the OAS adopt an agreement declaring that persons would not be granted asylum by any member state.) Such a convention might not be effective, however. States like Cuba would withhold their cooperation, and other states like the UK might be unwilling to compromise the principle of political asylum. Nevertheless, the concept should be explored.

There might be a better prospect of success if the convention were limited to kidnapping which resulted in torture, injury or loss of life. This last approach also would be consistent with current U. S. policy toward kidnapping, giving priority to the protection of the life of the kidnapped person.

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There already exists a basic and relevant international agreement -- the Vienna Convention on Diplomatic Relations, Article 29 of which provides that "The person of a diplomatic agent shall be inviolable. He should not be liable to any form of arrest or detention. The receiving State shall treat him with due respect and shall take all appropriate steps to prevent any attack on his person, freedom, or dignity." The U. S. complies fully with this article as a matter of customary international law, but, although the Senate gave its advice and consent to the Convention in 1965, we have not deposited our ratification because necessary complementing legislation has not yet been adopted. We should take immediate steps to make known to Congress the urgency of passing complementing legislation so that we can deposit our ratification. Once this is done we will be able to argue that the kidnapping conventions we envisage are a logical and necessary outgrowth of the obligations assumed by states in the Vienna Convention. Unless this is done, we could be embarrassed in our efforts to develop new conventions, particularly in the UN, by charges from states unfriendly to the exercise that we are acting hypocritically and politically since we have not ratified the basic document in the field.

Other actions we could take to implement this policy are: (1) insinuations in conversations by U. S. diplomatic officers that the Cubans (and Russians) are behind the kidnappings; (2) planted articles in the press throughout Latin America with same theme.

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RECOMMENDATIONS:

That we seek to mobilize worldwide sentiment by the following actions:

(1) Issue public statements at appropriate levels of this Government deploring kidnapping of diplomatic and consular officers as inhumanitarian and inconsistent with international peace and order.

Approve _____

Disapprove _____

(2) Use other media in the Western Hemisphere and elsewhere to arouse repugnance against kidnapping of diplomatic and consular officers and criticism of its use as a political weapon.

Approve _____

Disapprove _____

(3) Propose or cause to be proposed an OAS resolution condemning kidnapping of diplomatic and consular officers for political purposes, as an immediate step to deal with a problem which has developed in this hemisphere, and submit to an OAS committee for prompt study further action that might be taken through the OAS.

Approve _____

Disapprove _____

(4) Depending upon the outcome of OAS action, consult with other nations about introducing a resolution in the next UN General Assembly, which starts in September, or other UN action.

Approve _____

Disapprove _____

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(5) Develop international conventions which would establish kidnapping of foreign diplomatic and consular officials and members of their families as a crime in international law, possibly establish penalties for persons who harm, torture, or kill such persons, and deny the perpetrators of one or more of these crimes political asylum in third countries.

Approve _____

Disapprove _____

(6) That L and H take steps to make known to Congress the need, in the context of our efforts to protect our diplomatic personnel, to proceed rapidly with complementing legislation that will permit us to deposit our ratification of the Vienna Convention on Diplomatic Relations.

Approve _____

Disapprove _____

(7) In conversations and planted articles show close association between the Soviets, Cubans, and far left kidnapper groups (e.g., in AALAPSO and LASO), noting also Castro's welcoming remarks to Brazilians released for Ambassador Elbrick.

Approve _____

Disapprove _____

Concurrences:

- L/UNA - Mr. Reis (draft) *file*
- EUR/SOV - Mr. Dubs (draft) *file*
- L/OSCA - Mr. Malmborg (draft) *file*
- IO - Mr. Greene (draft) *file*
- H - Mr. Leahy (in substance for Vienna Convention aspects) *file*

ARA/LA:RAHurwitch:ARA/MGT:FLChapin:
L/ARA:MFeldman:WLieblich:dlc:4/3/70
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