

Original rtd to ARA 12/13

RAA Hurwitch
S/S 7219447
~~SEC COM~~ Misc.



~~NO DIS~~
DEPARTMENT OF STATE
Washington, D.C. 20520

December 12, 1972

cc: U
M-Liam

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HOS
3/10/79
S/S
Falm

TO: The Secretary

Subject: Hijacking Agreement with Cuba

12/12/72
See 7310838
for downgrading
instructions
details
(R)

Attached for your information is a report from the Swiss on their December 9 meeting with the Cuban negotiators. Also attached is a memorandum of last night's meeting with the Canadian Embassy officials.

The Cuban preliminary reaction to the possibility of returning guilty parties is interesting in that they inquired about procedures rather than reject the option. This reaction provides us with an opportunity to probe Cuban interest in activating the 1904 extradition treaty. This opportunity could be explored when Ambassador Masnata next meets with the Cuban negotiators by instructing him now to do so, or it could wait until after his report of the full Cuban reaction to our proposal at the next meeting. In light of the Canadian and Mexican forward movement, I think we should place Ambassador Masnata in the position to probe the Cuban position on the extradition treaty at the next meeting as well as to clarify some of the other (minor) points the Cuban negotiators made.

Recommendation

That Ambassador Masnata be instructed ~~now~~ to ~~probe~~ at the next meeting the Cuban position on ~~reactivating the extradition treaty~~ as well as clear up some of the minor questions the Cuban negotiators have raised.

Lang, it
that one
procedures
might, be
considered
would be
extrapolation under
the 1904 Treaty

Approve W

Disapprove _____

Attachments

Report from Swiss
Memo on meeting with
Canadians

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ARA - Robert A. Hurwitch

ARA Robert A. Hurwitch

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June 22, 2004

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Message from the Swiss Embassy in Havana

The second meeting between the Embassy of Switzerland in Havana and the Cuban authorities, in connection with the negotiations for an agreement on hijacking, took place on Saturday, December 9, 1972, at 11:45 a.m.

The Ambassador of Switzerland handed over to Vice Minister Anillo the original text of the American draft, as he received it from Secretary of State William P. Rogers, as well as the SD's non-official Spanish translation together with a Verbal Note of the Embassy.

On this occasion, Ambassador Masnata underlined the fact that the American draft is based on the Cuban proposal of November 25, 1972, and that the modifications proposed by the U.S. authorities have been made exclusively for legal reasons.

Ambassador Masnata explained the reasons why the U.S. Government wishes to conclude an "Executive Agreement" (Memorandum of Understanding) instead of an agreement which would be subject to the Senate approval.

The Ambassador mentioned that the distinction made between hijacking of an aircraft and hijacking of a vessel was based upon the same distinction made by the U.S. internal legislation. Ambassador Masnata also drew the attention of the Cuban authorities to the alternative solution of

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returning the hijackers to the first country or trying them in the second.

Vice Minister Anillo and Mrs. Olga Miranda showed particular interest in the following questions:

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1. The difference in the penalties depending on whether air or sea piracy is involved, and the fact that no minimum penalty has been provided for sea piracy.

2. They asked for details about procedure in the case of return of the guilty parties.

3. They were bothered for a moment by the wording "in the case of air piracy" and "and in other cases" used with reference to penalties in the first sentence of Article One. I had the impression that Anillo was a little concerned by the fact that boats were not explicitly referred to.

4. In Article Three, they also were bothered by the addition of common crimes but they seemed able to swallow it after my explanations.

5. Finally, they dwelt on what they called in Spanish the valor (status, weight, force, importance) of the agreement, asking in particular if the hijacking agreement would have the same valor as the 1965 Memorandum on refugees. We ended with the understanding that it was less a matter of a

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By WMD

gradation in juridical force between one agreement and another than it was a question of form. Our interlocutors wanted to know if the hijacking agreement would take the same form as the 1965 Memorandum. In order not to prejudice the decision of the State Department, and in accordance with my conversations with Mr. Hurwitch, I replied that for the moment the question was still open and the two parties would have to reach an understanding on this subject. I asked Anillo if he had a suggestion to make and he quickly replied in the negative. UNQUOTE

The Cuban authorities will propose the date of a third meeting upon completion of their study of the American counterproposals.

December 11, 1972