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US Policy Toward Libya

This paper integrates the work of numerous papers prepared by an interagency group over the course of the last month. It examines the current status of Libyan activities, US security policy options for dealing with those Libyan policies, and US economic policy options. At tabs are a detailed discussion of steps that have been taken by this Administration in its Libya policy to date (Tab A); a public affairs program consistent with the options presented earlier (Tab B); a proposed chronology of consultations and public statements (Tab C), and a discussion of the legal ramifications of Option 2 (Tab D).

As the reader moves through this paper, there will be several options. In order that the decisions made throughout the paper are mutually consistent and supportive (e.g., a vigorous security effort may be inconsistent with a status quo economic policy), a summary decision chart is presented at the conclusion of the paper.

Recent Libyan Activity

The National Security Council reviewed US policy toward Libya last in June. Since then, there have been changes in Libya's policies. Some changes appear to be largely tactical, others exacerbate previous trends in Libyan policy. The general thrust of Libyan policy remains essentially unchanged, but their activities have increased. Among the recent events are:

o Three Power Pact: Libya entered into an alliance with the PDRY and Ethiopia in August with the goal of overthrowing the governments of Egypt, Sudan, and Somalia. A second goal is the unification of North and South Yemen, ultimately to bring pressure to bear on Saudi Arabia. Sudan has since reported stepped-up subversion, including aerial bombings and infiltration. The Somali Salvation Front, headquartered in Ethiopia, has been substantially strengthened by recent large Libyan financial contributions. The training of Ethiopian troops in Libya may also mean a more orchestrated regional threat from Soviet client states. The pact requires very careful attention, although to date the most troublesome parts of the agreement have not yet materialized.

o Assassinations: Although the Libyans do not appear to have been directly involved in the assassination of Anwar Sadat, Qadhafi has indirectly called for a similar fate for Mubarak

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and Nimieri. Libyan attempts to organize assassinations of both men have been reported. Qadhafi has apparently also ordered the assassination of American officials, from US diplomats in Europe to high level US officials traveling abroad.

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o Western Sahara: Libya backed the call for a referendum in the Western Sahara and appeared to be seeking a rapprochement with Morocco. There is evidence that Libya reduced supplies to the Polisario. Morocco believes, however, that the Libyans were behind the recent resumption of fighting and the introduction of major weapons (SA-6s, armored vehicles).

o Chad: Libya is in the process of withdrawing its troops from Chad. Whether the withdrawal involves Libyan forces throughout the country, or is only a pull-back to the Aouzo corridor, where Libya has had a military presence since the early 1970s, is unclear. Libya was in many ways forced into the withdrawal by French support of President Goukouni, who called for the Libyans to leave. Had they not, and had they blocked the creation of an OAU peacekeeping force, the OAU summit in Tripoli next June would have been boycotted by many nations and Qadhafi's election to the OAU presidency clouded. The Libyan withdrawal is being done in a way that, according to the French, "takes everything with them" to create disorder in their wake. There are also reports that the Libyans are transferring some of their equipment to their client Acyl Achmet. If true, such arms transfers would considerably enhance the prospects of their prime supporter in subsequent Chadian power struggles.

US Objectives

In the broadest sense, US objectives are: to end Libyan support for international terrorism, to inhibit Libya from undermining friendly governments in Africa and the Middle East, and to influence Libya to stop assassination efforts against US officials and Libyan nationals in third countries.

In furtherance of these broad generalized objectives we have sought to get the Libyans out of Chad, to limit access to military equipment and other items which serve military or terrorist purposes, and to strengthen countries in the region to deal with the Libyan threat.

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Political and Economic Measures

There is no clear-cut division between the political, economic, and military measures available to deal with Qadhafi. Steps already taken to increase military assistance to threatened regional friends indicate a political resolve on our part and carry a political message to Qadhafi, in addition to the practical effect that they have in increasing the capabilities of the states involved. We are examining further political steps such as organizing opposition to the OAU summit in Libya, the establishment of Radio Free Libya, further controls on travel by Libyans, travel by US citizens to Libya, etc. We are offering logistical and financial support to the OAU Peacekeeping Force for Chad. If Libyan withdrawal from Chad is incomplete, we will examine further steps in Chad.

At issue here is whether economic measures should be considered for the political message that they, too, can convey. Economic sanctions by one country generally have been ineffective in changing the behavior of the target country. Nevertheless, economic measures do convey a political signal. They also tend to involve less risk of escalation, reprisal, and irreversibility.

The basic facts that recommend serious consideration of the use of economic measures to send a strong signal to Qadhafi are:

- o Our efforts to convince other nations to restrict military relevant commercial transactions with Libya have met with mixed success, because of the importance of the Libyan market for their defense industries and perhaps because of our own continued dealings with Libya.
- o In 1980 the United States purchased 40% of Libya's oil exports, paying Libya \$10 billion in annual revenues. At the current rate, US oil imports from Libya would run about \$2.6 billion a year based on sales of August-October 1981. Libya's total annual sales at this rate would be \$9.2 billion. Under current oil market conditions, Libyan oil revenues have declined considerably; this has put Libya in a tight cash-flow position for the near-term and led it to borrow in international capital markets. Libya still has reserves totalling \$16 billion.
- o Libya uses its oil revenue for campaigns of terrorism, including assassination plots against

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our own public officials, subversion of its neighbors, and external aggression.

- o Libya also uses its oil revenue to purchase vast quantities of advanced Soviet weapons with deliveries running \$1 billion in 1981 and estimated at \$2.3 billion this year. Libya is the largest recipient of Soviet weapons and accounts for one fifth of Soviet arms exports to the Third World.
- o We cannot discount the possibility that the excessive quantities of Soviet armaments deployed in Libya are "pre-positioned" there to serve future Soviet purposes directed against western interests in the Mediterranean, the Persian Gulf, and in Africa.
- o This places the United States in the embarrassing position of indirectly funding a substantial array of Libyan (and potentially Soviet) activity that is directly anti-thetical to our national interest and to the interests of the industrial democracies, more generally.

By enacting an oil embargo or broader economic measures directed against Libya, the United States would be able to make a powerful statement -- to Qadhafi, to regional friends, and to the rest of the world -- that we would not conduct "business as usual" with an international outlaw.

There is disagreement as to whether economic steps by the US would affect Qadhafi's behavior. The two positions are:

- o The necessary impact would have to be on Qadhafi's capabilities, rather than on his intentions. We have less economic leverage over Libya now than we did in 1980 -- when we took 40% of Libyan exports and paid them \$10 billion -- and it is highly unlikely that this pattern will be repeated in the near-term. To affect his capabilities, however, an economic boycott would have to have the cooperation of our allies to have a sufficient impact. Because they differ with us on the advisability of using economic sanctions, the cooperation of our allies in this matter is not likely to be forthcoming. Even if it were, Qadhafi would always be able to find other customers for his oil, merely by manipulating its price, and the Soviets and Eastern Bloc countries would be only too willing to come to his aid, for mutual benefit.

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o Unilateral US economic action, in the service of our political objectives, could be effective in altering Libyan behavior by demonstrating to regional states, the Soviets, Libyans, and our own people the seriousness with which we view Libya's lawless and aggressive behavior. This action would be viewed in the context of the other measures we have taken to isolate Qadhafi and to call attention to the danger to international order posed by Qadhafi's support of terrorism and other aggressive actions. The willingness of the United States to put foreign policy goals ahead of its commercial interests would dramatize the threat we believe Qadhafi poses. It would also demonstrate US leadership and determination in meeting it. Not until we deny our own monies to Qadhafi's fund for terrorism and arms will we be free of charges of hypocrisy. Then we can begin to serve as a model for other states that we are asking to incur financial loss by limiting interaction with Libya -- particularly in the nuclear and arms supply areas. Thus, while the US action would be unilateral, it would exert a certain moral suasion upon our allies.

Economic effects of US actions would vary with time and with the state of world oil markets. Over the near-term, the impact of unilateral US actions would (for the reasons noted above) be minimal. However, over the medium-term, the withdrawal of US personnel in particular could impose some dislocations in Libyan oil production and the Libyan economy. These medium-term effects referred to above would have the particular advantage, from our point of view, of putting a crimp in Qadhafi's ability to support subversion of his neighbors, just at the time when these efforts seem to have been gaining in momentum. Such problems would not likely be lasting, as Libya restructured its market for oil and its source of technology over the long-term.

Additional arguments against economic sanctions include:

- o The Administration would be asking one part of the private sector to bear the costs of sending foreign policy "signals". Taking such steps may be interpreted as being contrary to Administration economic policies.
- o Possible consequences of economic sanctions would be confiscation of US-owned assets, some insurance claims against OPIC, and court suits.
- o Sanctions tend to persist long past their limited usefulness because reversing them would convey the wrong political message.

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Economic Options

The economic options are intended to be carried out in a phased program. Option 1 can be put into effect immediately, while the subsequent ones will be implemented at the appropriate times, for example, at 30-60 day intervals. Timing will be dependent in particular on the need to allow sufficient time for the OAU-sponsored Peacekeeping Operation (PKO) to be put in place in Chad. Timing may also be affected by other, unforeseen circumstances, such as Libyan provocations that may occur. Consultations with our allies on our plans for dealing with the Libyan threat would begin immediately.

There may be legal difficulties in implementing each of the following options.

Option 1: Pressure on Producing and Oil Buying Companies

We should encourage the US oil companies in Libya voluntarily to dispose of their equity in Libyan production as Exxon is now doing. This would have the advantage, if several or most US companies complied, of getting more and more of our people out of Libya, and reducing the "hostage" threat. Libya would lose the benefit of the technical skills, though they could be replaced. In any case, the political message and demonstration effect of voluntary action by US companies would be positive. The likelihood that companies would comply is difficult to gauge.

At the same time, we should ask US companies which purchase Libyan oil to shift to other suppliers such as Nigeria, advising US oil companies that the US government will no longer accept Libyan crude for the SPR. Informal USG efforts of this type would add to the pressures which have already reduced purchases of Libyan crude; once these companies have signed contracts with other suppliers, Libya will have difficulty winning them back. Encouraging shifts to other suppliers could further reduce Libya's exports; it would not provide a clear target for Libyan retaliation against US personnel and assets nor a clear provocation engendering sympathy for Qadhafi, and it would offer some possibility of obtaining cooperation from foreign oil companies without straining relations with our allies. Company cooperation is uncertain, of course, and a reduction in Libyan prices or some tightening of the oil market would discourage compliance. There is a significant difference between this option and the forthcoming ones.

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Option 2: Withdraw US Business Personnel from Libya

There are no simple and dependable means of ensuring the withdrawal of all US business personnel from Libya.

This option includes several legal steps designed to bring about the withdrawal of US business personnel. These steps might be taken individually or in conjunction with other options discussed in this paper. Several of those options involve novel uses of statutory and regulatory authorities. Their implementation would require further legal and factual analysis by the agencies concerned. The options are described at Tab D. They include:

- o Impose administrative and/or criminal penalties on persons employed by United African Airlines,
- o Impose restrictions on use of US passports for travel to Libya, and
- o Seek to compel or promote the withdrawal of US business personnel from Libya as a prerequisite to additional economic measures under IEEPA or the Export Administration Act.

Consequences of Regulatory Action. The oil companies have received repeated appeals from State Department officials to withdraw their personnel from Libya. Yet another, higher level appeal would precede any legal declaration or action under the Export Administration Act by several weeks to permit further "quiet withdrawal." Exxon is now withdrawing totally, Mobil is reported to be taking similar action, but the other companies have not yet followed suit. Only 71 of Exxon's 1920 person work force are US citizens, however, and most of the 429 other foreign workers and the 1400 Libyans will remain behind. One company, Occidental, is very unlikely to withdraw personnel unless required to by some US Government mandatory action.

Some oil companies still operating in Libya may prefer explicit US Government regulatory action limiting their operations as opposed to unofficial pressure for a "voluntary withdrawal." Such official action would place them in a better position with their stockholders and insurers, and would facilitate later re-entry into Libya. On the negative side, however, Libya may respond to official US action by harrassing those who wish to leave; nationalizing US oil company assets there; or by other negative actions aimed specifically at the United States.

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Although we cannot rule out the possibility that US action to reduce the presence of US employees alone would create a hostage situation, it is much more likely that Qadhafi will not take the sort of action that would scare off other westerners and threaten him with US military action. In any case, we should give prior warning and explanation of US action regarding our citizens to selected allies and friends.

The oil companies have an investment in Libya with an estimated replacement value of \$2.5 billion. Current book value is substantially lower, possibly less than \$200 million. (Nationalized assets can be written off against taxes by the companies at a rate of 46%.) Furthermore, the companies would likely be foregoing substantial future earnings if forced to leave Libya. We could come under pressure from the companies and the Congress to obtain compensation from Libya for any nationalized property at its fair market value.

The most prominent arguments in favor of this step are that it would prepare the way for stronger measures -- both economic and military -- if we should decide to undertake them at a later date and it would substantially reduce the potential hostage problem. We should accept for planning purposes that it will probably not be possible to eliminate all potential hostages.

Option 3: A Unilateral US Oil Embargo

An oil embargo could be accomplished through the application of Section 232(b) of the Trade Expansion Act of 1962, as amended, on the ground that US dependence on Libyan oil constitutes a circumstance that threatens to impair national security. Alternatively, IEEPA could be used, but because of its broad scope, this would raise serious concerns among our allies and other oil producers.

The advantages of imposing a unilateral oil embargo are that: it would be an action totally within our control; it would make a strong political statement that would receive wide publicity; we would not have to expend precious capital and risk straining the western alliance by trying to achieve allied cooperation. This time of relatively weak oil markets may be especially appropriate for US companies to switch suppliers.

Disadvantages are that: such action would undermine the credibility of the position we have taken with oil producers that oil should not be used as an instrument of foreign policy; Qadhafi could exploit the economic ineffectiveness of a US-only

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oil embargo for his own propaganda purposes (e.g., he might attempt to characterize the US as impotent, although we could reduce his ability to do so by emphasizing that the purpose of our embargo is to disassociate the US from Libyan activities, not necessarily to injure the Libyan economy); one portion of the US economy would feel itself bearing an undue share of the cost of supporting our policy against Libya; a US-Libyan "confrontation" of this sort may redound to Qadhafi's advantage by drawing further attention to him; and US action against Libya may move Qadhafi even closer to the Soviets. Most of our Allies might deride the US for hurting itself economically without making much of an impact on Libya, and would fill the economic void themselves.

From a policy standpoint, the Trade Expansion Act would clearly be the preferable legal basis for an oil import ban. The alternative of invoking IEEPA raises the spectre of a broader embargo extending to US subsidiaries overseas, and would unnecessarily concern allied governments and investors. IEEPA would make sense as a basis for restricting Libyan oil imports only as part of an overall prohibition of transactions with Libya.

Following Options 1 and 2, this action can be conceived as one in a series of graduated steps against Qadhafi.

Option 4: An Embargo of US Exports on Foreign Policy Grounds

The US would, under the foreign policy provisions of the Export Administration Act, prohibit to the maximum extent allowed by the Act, US exports to Libya. Most US direct sales to Libya are of machinery and transportation equipment about half of which is related to oil production. Though this option would not damage Libya to any great extent, US exports to Libya run about \$500 million a year and it would be a symbol of our willingness to cut all ties.

The commercial cost to the US may be greater than the \$500 million a year in exports foregone. Other countries might perceive the US as an unreliable supplier of goods and services and may shift to more reliable European and Japanese suppliers, as they have tended to do following our imposition of controls on sales to Iraq and Syria.

The political cost lies in our practice of limiting re-export by Europeans (and others) of goods or components of US

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origin. Europeans resent what they see as extraterritorial intrusion in their commercial transactions. We could expect little Allied support. At the beginning, to avoid creating a US/European problem, we would have to avoid enforcing controls on third countries, though in time we could not avoid this.

Military and Security Measures

Options 5 and 6 below consider additional funding for assistance to regional states. No decisions on those options are required now. A decision document on assistance enhancement is being prepared separately.

Option 5: Enhanced US Security Assistance

Although US security assistance to regional states is already higher in real growth than it was in FY 81, the recent attention to the Libyan threat has led almost every regional state which participates in US security assistance to design necessary programs which greatly exceed planned funds in FY 82 and FY 83. Egypt has virtually committed all of its FY 82 FMS financing. We will be unable to expand or accelerate deliveries after June without additional funds or guaranty authority. The Sudan's follow-on air defense procurements (F-5s, ground based weapons) will have to be stretched out unless more financing is allocated. Morocco is unable to replace its combat losses and is having difficulty funding the US loan of equipment to counter the SA-6s. A similar pattern exists throughout the region.

To increase funding we could re-open or amend the FY 83 assistance budget for this area. Although some direct credit (repayment of which could be forgiven) might be necessary, most additional financing would be FMS guaranties and would not increase the FY 82 or FY 83 budgets. The arguments against such a step are a) that it will raise the hopes of the regional states, only to have them dashed when Congress refuses the requested program levels, b) that other areas, such as the Caribbean, are equally in need, c) that security would be more greatly enhanced by non-equipment intensive solutions such as IMET training in anti-subversion tactics, ESF and development assistance.

Option 6: Increased Economic Assistance

Given the size of Libya's population, despite even the most bristling of military arsenals, Qadhafi can never expect to occupy a country for an extended period against its will, e.g.,

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Chad. He must then feed on subversion and/or ally with contending power factions. His ability to affect events in many of the countries is directly proportional to their stability -- political, economic, or religious. To the extent that we do not succeed in unseating Qadhafi quickly and must contend with him for another five or ten years, we must consider efforts to support longer-term stability in neighboring countries passing through the inherently destabilizing modernization process. Providing increased economic assistance (ESF, PL-480, development assistance, Exim loans, etc.) offers a clear way to support economic stability and limit the base for subversion and revolution in strategic countries like Sudan and Egypt and other neighboring states like Chad and Niger. It mobilizes popular support for pro-Western governments and provides a population base with a stake in defending the country and opposing Qadhafi. Economic assistance is also an area in which we may find our allies more amenable to our anti-Libyan policies, and more willing to assist/support us.

Option 7: Increased US Military Presence

In August the US Navy returned to the Gulf of Sidra in an exercise that gained worldwide attention. Now the US is engaged in the largest military exercise it has ever conducted in the Middle East, Bright Star 82. Three issues that have been raised in this review are: Should we continue this pace of operations? Should we shift the focus to nations most directly threatened by Libya? Should we increase the pace of exercises by decreasing our reliance upon major movements of equipment?

US military presence in the area may be reassuring to governments that feel threatened by Libya. It may also deter further Libyan adventurism by implying that the US will use its own forces in reaction to Libyan aggression. Conversely, a large US military presence in the region might be destabilizing. It might provide Libya with a propaganda target, allowing them to charge that the US is bent on military domination of the area, permitting them to whip up nationalist feelings by charging that the regional states are US puppets. Moreover, there is no clear evidence that US force presence has to date deterred Libya from terrorism and subversion. It could increase the chances of Libya granting the Soviet military access.

Three sub-options for increased US presence are:

o A Return to the Gulf of Sidra: We previously exercised in Sidra twice a year because of its unique location for MIS-

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SILEXs, but another exercise might again provoke Libya to respond. This would require careful evaluation to determine the possible need for consultation and reporting under the War Powers Resolution.

o Marine/SF/Airborne Exercises: Since Bright Star involves heavy units, it requires long-lead planning and heavy lift requirements. A stepped up pace of exercises with light units could increase the visibility of US military forces and demonstrate our resolve while at the same time reducing deployment costs. A Marine landing and a Special Forces exercise are already scheduled in 1982 for Tunisia. Additional exercises, such as landings and fly-overs, could demonstrate support for two "target states", Sudan and Somalia. Using host nation weapons to reduce lift is under consideration, but that could imply that the US will replace the host nations in combat and could feed propaganda about US intentions.

o Sudan Airfield: Al Fashir and Zalingei airfields are currently capable of supporting only limited C-130 operations. A plan to use US military engineers to improve Zalingei was proposed too late to be factored into Bright Star 82. US forces could return to the Sudan to build a C-130 field at either of these locations at an estimated cost of \$13 and \$24 million respectively. Using combat engineers in the context of the JCS exercise program would require that the activity be capable of being characterized as a DOD activity rather than as security assistance. (Note: Any upgrade of an airfield in Western Sudan would be useful in supplying Habre should the Libyans return in force and we wish to urge him to resume a combat role.)

Option 8: Increase Support of Regional Forces

Egypt has proposed a Regional Training Center in Egypt to train friendly regional states (Sudan, Somalia, Tunisia, Morocco) as well as US units. Another step to increase support of regional states would be stepped up US overhead reconnaissance, mapping, and sharing with regional forces. Finally, Defense has proposed a change in legislation that would permit greater unit exchanges with non-NATO states.

o Regional Training Center: The center would be in Egypt and the US would preposition major equipment items for training of its own forces (M-60, M-113, M109). Funding and other details would be determined by a DOD survey team that Egypt has requested. Depending on degree of sophistication desired, total project could possibly go as high as \$100 million.

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o Intelligence: Stepped up collection is proposed, including SR-71/U-2 flights, the creation of operations maps, and the sharing of the maps and Libyan troop disposition information with regional militaries. There would be increased cost to fly the missions and to make the maps. Current cost for a 5 hour mission is approximately

o Unit Exchanges: Legislation restricts the extent to which we can engage in unit exchanges with non-NATO states. DOD proposes that we seek legislation that would permit greater exchanges and that we should then proceed with small unit exchanges with army, navy, and air force units from regional states. Costs for such a program are minimal, limited primarily to transportation.

Option 9: Contingency Use of US Forces

DOD has discussed the use of US forces to assist in the defense of regional states from overt attack, in collective defense operations with regional states, or unilaterally. (Unilateral US action might come in response to a Libyan terrorist attack.) There are issues involving defensive planning.

o Assisting in Defense: We propose that DOD expand its contingency planning effort with Egypt and initiate planning with Sudan for defense of Sudan against a direct Libyan attack. Planning for US activity would be limited to combat service support of Egyptian/Sudanese combat operations in Sudan and Chad only. To carry out this policy, in addition to building a western Sudan airfield, further discussions need to take place with the Egyptian and Sudanese, in order to plan for the lift of both of their Quick Reaction Forces. We will also need to train the Egyptian fighters to operate with US aerial refueling tankers.

We do not decide in advance what specific actions we would take in a given contingency and detailed contingency planning is a military prerogative, but we do need to analyze possible responses for contingency purposes. Given that requirement, the JCS need to know whether their assumptions about the US role in a Sudan-Libya crisis are correct. They have proposed confining the conflict to the Sudan and Chad and not involving US combat personnel. This policy minimizes the likelihood of the conflict escalating into a superpower confrontation or a regional war. It also provides Libya with a sanctuary and places a large burden on the under-equipped Egyptian Air Force. An alternative would be to have the JCS plan for the introduction of ground-based air defense and close air support forces into Sudan in the event of a

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major Libyan attack. (Contingency plans already exist for US bombing of Libyan high value targets.)

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Economic and Security Policy Toward Libya
Summary Decision Sheet

| <u>Option</u> | <u>Approve</u> | <u>Disapprove</u> |
|--|----------------|-------------------|
| 1. Pressure on Producing and Oil Buying Companies | _____ | _____ |
| 2. Withdraw US Business Personnel | _____ | _____ |
| 3. Unilateral US Oil Embargo | _____ | _____ |
| 4. An Embargo of US Exports on Foreign Policy Grounds | _____ | _____ |
| 5. Enhanced US Security Assistance (Decision in principle only) | _____ | _____ |
| 6. Enhanced US Economic Assistance (Decision in principle only) | _____ | _____ |
| 7. Increased US Military Presence | | |
| a) Gulf of Sidra Exercise before next August | _____ | _____ |
| b) Additional Non-Equipment Intensive Exercises (Sudan, Somalia) | _____ | _____ |
| c) Airfield Construction W. Sudan by US Military | _____ | _____ |
| 8. Increased Support of Regional Forces | | |
| a) Regional Training Center: Begin Consultations, Survey | _____ | _____ |
| b) Greater Intelligence Collection and Sharing | _____ | _____ |
| c) Increased Unit Exchanges, Legislative Change | _____ | _____ |
| 9. Contingency Use of US Forces | | |
| a) Contingency Plans for US air defense and tacair to oppose overt Libyan attack on Sudan | _____ | _____ |
| b) More detailed discussions with Egypt and Sudan on airlifting/supporting their QRF; training Egyptians with US KC-135s | _____ | _____ |

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FOLLOW-UP ON EARLIER DECISIONS

On June 4, the President made the decision to implement a number of actions regarding Libya. Action is underway and continuing on all of them, as follows:

1. Assistance to Threatened States: We are providing military assistance and demonstrations of support to key countries threatened by Libya:

-- Egypt: Egypt is Qadhafi's biggest target. Bright Star 82 is a strong message to Qadhafi of American support for Egypt. Continuing high level military and economic assistance to Egypt is the single most important counter-balance to Qadhafi in the region.

-- Sudan: Qadhafi has attempted to overthrow President Nimieri. The Tripartite Agreement with Ethiopia and PDRY supports this goal. Expedited deliveries to Sudan of U.S. weapons and \$200 million in economic and military assistance for this year are an important American response.

-- Tunisia: We have increased FMS from \$15 million to \$95 million and hope to go to \$140 million for FY 83. We have formed a joint military commission with Tunisia, and will provide the weaponry and training needed to offset Libyan adventurism such as the Gafsa incident of 1980.

-- Morocco: We plan to increase FMS for Morocco from \$30 million in FY 82 to \$100 million in FY 83. We are providing Morocco with assistance to counter Polisario utilized SAM-6 missiles provided to the Polisario by Libya.

-- Niger: In response to Qadhafi's threats to Niger, we reprogrammed \$3.2 million in FY 81 FMS and have allocated \$5 million for FY 83.

-- Somalia: In response to the Tripartite Agreement threat to Somalia, we have continued FMS credits and included Somalia in the Bright Star 82 exercise.

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2. Approaches to Military Suppliers: We have approached European and other states to seek a cut-off or reduction of military sales/training cooperation with Libya. The reaction to this approach has not yet been satisfactory. The French have promised to delay some shipments in the pipeline and not to sign new contracts with Libya so long as Qadhafi remains in Chad. Despite the past close ties with Libya, Turkey is considering a program to reduce military sales to Libya and training of Libyans. Some others, while expressing general agreement with our concerns over Libyan behavior, nonetheless explained that they intend to continue sales, including lethal weaponry, because such sales give the Libyans an option to total dependence on the USSR.

3. Denial of Civil Aircraft and Parts: We have had more success in denying or hindering Libyan acquisition of U.S. aircraft and have restricted the sale to Libya of certain aircraft spare parts which were available previously under general license. This effort has been met with some understanding and cooperation from other countries and is making Libyan efforts to intervene in other African states much more costly and complicated. However, the British have strongly protested the extra-territorial aspects of our controls.

4. Preventing Libyan Acquisition of Nuclear Explosives: We have no bilateral nuclear cooperation with Libya and have had some success in limiting such cooperation on the part of our allies. We believe Qadhafi remains dedicated to acquiring nuclear explosives, and we are concerned at some indications we have seen of possible Libyan progress toward this goal. We have made a strong demarche to the Soviets and have spoken with others about our concerns over recent developments. A Subcommittee of the IG has been formed and has prepared a joint draft plan for further U.S. action.

5. Foreign Consultations: We have had extensive contacts with foreign governments about Libya. Discussions, both in Washington and abroad have been held with virtually every Western European government and with many African, Middle Eastern and other countries. These discussions have included: (a) Briefings of African states on Libyan subversion (which has led to greater awareness in Africa and to protective steps by some of the threatened states. (b) Effective allied and African cooperation on Chad which has led to the beginnings of Libyan withdrawal and the prospect of a major setback to Qadhafi.

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(c) Successful campaign to date to limit Qadhafi's being able to visit European and some African states, denying him some of the prestige he desperately wants.

We believe that we have been successful in disseminating to others our Libya policy, but acknowledge that there is disagreement among the Europeans and others about what measures should be taken to deal with Libya. The Europeans have a greater stake in commercial ties with Libya, either because of a greater dependence on oil or because of more substantial exports, and some see our policy toward Libya as likely to result in closer Libyan dependence on the Soviet Union.

6. Media Campaign: Libya has received extensive media coverage in recent months. Some of this has been stimulated by our Congressional testimony and by ICA/VOA coverage. Much of it has come from growing public and media interest in and concern over Qadhafi's aggressive policies.

7. Naval Maneuvers: On August 18-19 the Sixth Fleet conducted exercises in the South Central Mediterranean, including the Gulf of Sidra which Libya illegally claims as internal waters. On August 19, two Libyan jets attacked and were subsequently downed by two U.S. aircraft in international airspace.

8. E & E: We are in frequent touch with U.S. companies which have American citizen employees in Libya. The Belgians continue to be prepared to represent our interests in Tripoli, and the Libyan Government appears to remain interested in seeing the establishment of such an arrangement. Some DOD planning has been done for a military action to rescue U.S. citizen hostages.

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A PUBLIC AFFAIRS STRATEGY FOR ACTIONS AGAINST LIBYA

An effective public affairs strategy for gaining support for whatever measures we decide to take against Qadhafi would have to (1) dramatize the message of the danger we feel Libya poses to U.S. interests and to international order; (2) anticipate fears and opposition likely to be engendered by the specific policy actions chosen to deal with Qadhafi; (3) counter these concerns with arguments designed to alleviate undue anxiety and appeal to overriding motives of morality and patriotism; and (4) expend the necessary resources and utilize sufficiently varied channels to get the message across to broad and opinion-shaping sectors of the public.

Danger Posed by Qadhafi.

We would want to get the following message across:

-- The political ideology subscribed to by Qadhafi is antithetical to U.S. and western interests and to the norms of international order subscribed to by most civilized nations.

(1) Qadhafi considers assassination and terrorism to be legitimate vehicles for accomplishing his policy objectives.

- He has supported regimes as reprehensible as that of Idi Amin.

- He operates a network of terrorist training camps in Libya; people trained in these camps are then fanned out within Africa, throughout Europe, and as far away globally as the Philippines. (Declassify this information, as necessary.)

- Groups supported include the Red Brigades (who took credit for the kidnapping and killing of Aldo Moro in Italy).

- Qadhafi planned to assassinate U.S. Ambassador to Egypt Eilts in 1977 and was deterred from attempting to do so only by strong action on our part. Within the last three months, Qadhafi has publicly threatened the life

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of President Reagan and has sent assassination teams to target several U.S. Ambassadors in Western Europe. (If proved): Even more recently, Qadhafi's agents were responsible for attempting to assassinate our Charge in Paris, Christian Chapman.

(2) Qadhafi's incursion into Chad, ostensibly to support the legitimate government there in the midst of an ongoing civil war, was followed by demands that Chad merge with Libya. When these demands were rejected and Qadhafi was asked to leave in favor of an OAU-sponsored peacekeeping force, Qadhafi tried to manipulate the situation by withdrawing precipitately, taking food and supplies with him, and depositing new armaments with pro-Libyan guerrilla forces so that they could carry on their campaign against the central government on Libya's behalf. Libya is reported to hope either that the resulting chaos in Chad will result in an invitation to the Libyans to return or that the ascendancy of pro-Libyan forces who will view the merger plan with greater favor than their predecessors will be achieved on the battlefield. (Declassify this information, as necessary.)

(3) Qadhafi's opposition to Israel and the Camp David process is well-known. In efforts to undermine constructive approaches to Middle East peace, Qadhafi has supported the most radical of the Palestine liberation groups -- those openly subscribing to the the use of terrorism to achieve their goals.

(4) Partly as a result of his regional ambitions to head a pan-Saharan Islamic State and partly in opposition to the U.S. and Camp David, Qadhafi has supported dissident groups in pro-Western Tunisia, Morocco, Somalia, the Sudan, and Egypt -- along with a score of smaller African countries.

- Qadhafi's gloating in the wake of the assassination of Anwar Sadat and his exhortations aimed at achieving the overthrow of the successor regime in Egypt were particularly obnoxious -- and give a measure of the man he is.

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(5) Within Libya, itself, Qadhafi is punishing opponents to his regime with arrest and torture, while subscribing to an anarchistic philosophy that alleges that there is no government. Instead, there are "People's Committees" that undertake actions in the name of the people in a manner that leaves the individual citizen of Libya no redress against their excesses.

- Libyans who oppose the regime are not safe even when living in exile abroad. Qadhafi has called for their liquidation as enemies of the Libyan revolution.

- Qadhafi's long reach in this regard has extended to western European countries and even to the United States, as illustrated by the widely publicized shooting incident involving a Libyan dissent graduate student living in Colorado.

-- Qadhafi and the power that he could command by virtue of Libya's small population of 3 million would pose a relatively small threat were it not for Libya's huge oil income. Under normal oil market conditions, this income amounts to \$25 billion a year. Before the discovery of oil, Libya was one of the world's poorest countries.

-- Libya has used its oil income not to help in the economic development of other poor countries, but to purchase a vast arsenal of advanced Soviet weaponry, far in excess of its own legitimate defense needs.

- Libya has already purchased over \$12 billion worth of Soviet weapons, paying the Soviets, in turn, much-needed hard cash.

- These weapons, in addition to Libyan campaigns of subversion directed against its neighbors, pose a substantial regional threat in North Africa and in the Horn of Africa -- areas crucial to the protection of the Mediterranean and the oil-rich Persian Gulf.

- We cannot be certain of Soviet motives in providing a client as reckless as Qadhafi with such advanced arms, but cannot discount the possibility that the Soviets have pre-positioned advanced weaponry in Libya to serve their own military purposes some time in the future.

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-- Libya has widely proclaimed its intention to produce an Islamic nuclear bomb. In spite of our efforts to curtail the dissemination of nuclear technology and weapons-usable materials, Libya's oil income makes it almost impossible to prevent black market acquisition of proscribed items.

U.S. Response to this Danger.

We have already taken several steps designed to demonstrate that we will not conduct business as usual with a regime led by a person we consider to be an international outlaw. The most dramatic of these steps were the closing of the Libyan People's Bureau in the U.S. in May 1981 and the U.S. naval exercise in international waters illegally claimed by Libya in August 1981. In addition, we have taken a variety of steps designed to curtail Libya's ability to support international subversion and to reduce Libya's conventional military capabilities.

If we decide to move further and undertake economic actions like (1) a unilateral embargo of U.S. imports of oil from Libya; (2) a blanket prohibition against U.S. commercial relations with Libya; or (3) the mandatory withdrawal of U.S. citizens now residing in Libya, we can expect the following concerns to be expressed by the U.S. public:

-- First, fear that the U.S. will pay for these actions at the marketplace. In particular, there is likely to be an expectation that denial of Libyan oil -- whether by our own action or by Libyan reprisal -- will cause U.S. domestic consumers hardship. Memories of the Long gas lines of 1973 are still sharp, as is concern about the high cost of home heating fuel and its impact on the poor and elderly.

-- Second, antagonism generated by the assumption that others will profit commercially at U.S. expense. This will be especially acute if wide publicity is given to the likely continuation of lucrative business relationships between Libya and our western allies.

In order to counteract these concerns, we would want to stress the moral issue: service of the national interest rather than private gain. Our policies would be making it clear that we were not going to be doing "business as usual" with an international outlaw. No longer would U.S. dollars be used to fund international terrorism and purchase advanced Soviet weapons.

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We would also want to undertake a campaign to explain those aspects of the oil market that are especially relevant here:

-- In the current period of glut, the U.S. is only importing 3 percent of its imported oil supplies from Libya.

-- Oil of equal quality and lower prices is available from Nigeria.

-- Even if the current glut should disappear, the U.S. would be able to replace Libyan oil with that of other suppliers.

-- Our recent policies to move forward on conservation measures, the filling of our Strategic Petroleum Reserve, and the encouragement of exploration for new sources of oil through de-control of oil prices, are all measures that help provide us with a safety net in the event that supplies are discontinued from a single source.

-- Even though we have deplored the use of oil as a weapon, there is no guarantee that oil producing nations will not again seek to embargo oil to the West. By our actions we will have indicated that consuming nations have a card to play, too, and that we will no longer follow passive and reactive policies that leave the initiative with the Libyas of this world. (Although this theme would resonate well with an American audience, we may want to forego its use because, when replayed in Arab oil-producing states, it may: engender sympathy for Qadhafi; reactivate sensitivity about the possibility of the formation of a "consumer cartel"; and, in a worse-case scenario, impel consideration of a counter-boycott against the U.S.)

If we decide to undertake military steps beyond enhanced regional security assistance, we will encounter fear of escalation that could lead to:

-- direct involvement of U.S. forces in combat in an area far from home; and

-- ultimate U.S.-Soviet military confrontation on behalf of the respective client-states involved.

Again, in order to counteract these concerns we would want to focus attention on particular messages:

-- the deterrent effect of the military measures we are undertaking.

-- our resolve not to introduce U.S. combat forces into the area; and

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-- the necessity to take forceful, timely action in order to prevent harder choices from confronting us further down the road.

Channels for an Information Campaign

These would be varied. In addition to backgrounders to the press, we would want to ask key administration officials -- from the Departments of State, Energy, Commerce, and Defense -- to brief opinion-shaping groups privately and to give public addresses in the forums that would gain the greatest publicity: the Council of Foreign Relations in New York, the Chicago Council on Foreign Relations, the World Affairs Council, the Foreign Policy Association, and other similar groups -- with special emphasis on regional dispersal.

We would also want to mount a speaking campaign, coordinated by State, to reach public affairs groups at the community level. The scope of this effort and the resources we would devote to it would depend, in part, on the measures chosen to deal with Libya. Similarly dependent on the kind of measures chosen would be the kind of audience targeted at the community level. If low-level military measures are chosen to supplement economic measures, for example, we would want to address groups that are eager to support a more forceful U.S. stance in the world as well as their opposite number: groups that are fearful of the escalating consequences and ultimate social costs of such action. If only economic measures are chosen, we would want to place our emphasis on business and consumer groups.

Timing

The sequencing of the components of a public affairs campaign, and the amount of lead-time needed for each one would also be partially dependent on the measures chosen and the need for secrecy prior to their effective enactment. We could certainly begin with a campaign to outline the general threat Qadhafi presents, as indicated in the first section of this paper. Following this, we would want to tailor the subsequent stages of the information campaign to the requirements set by the measures chosen and others that we see downstream.

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TAB C

CHRONOLOGY OF CONSULTATIONS AND PUBLIC STATEMENTS
RELATED TO ACTIONS AGAINST LIBYA

Assumptions governing this chronology and factors that will be determining when precise dates are selected include the following:

1. The President, upon consultation with the NSC, may approve a program of phased implementation of more than one option. Time allotted to evaluate the effectiveness of each measure and choice of the optimum point for proceeding to the next step will have to be factored into the scenario presented here.
2. Timing of implementation of the more forceful options, for example, Option 3, the U.S. embargo of Libyan oil, will have to be geared to external events. Principal among these is the Libyan withdrawal from Chad and the degree to which the Africans and our European allies believe this process to be demonstrating good faith on the part of the Libyans.
3. We will want to weigh the benefits of implementing our stronger measures (Option 3 and above) immediately following some particularly egregious Libyan action against those of moving in a deliberate, measured manner, and at a time of our own choosing, to demonstrate that we are acting against the whole range of threatening Libyan behavior. A particularly heinous Libyan crime, like the assassination of a U.S. ambassador, would help dramatize the need for U.S. actions against Libya and the fulfillment of our promise of swift and effective retribution against terrorism. On the other hand, we would not want to narrow the frame of reference of "provocation" and "response" to such an extent that we leave ourselves open to the politically costly charge of having overreacted.
4. While we will want to give Congress and our allies as much advance warning of our intended actions as possible, the presence of 1500 Americans in Libya makes us particularly vulnerable to the negative effects of leaks. Our first goal will be to try to obtain the withdrawal of as many Americans as possible, through application of Option 1 (voluntary withdrawal by U.S. companies) and, if necessary, Option 2 (mandatory withdrawal). Even as we consult with the CEOs of the major companies in Libya as envisioned by Option 1, we cannot rule out the possibility that we will be contributing inevitably to a self-fulfilling prophecy: some of the companies may immediately inform Qadhafi of the purpose underlying our approach to them; although unlikely, Qadhafi, in turn, may delay the departure and otherwise harass those Americans under instruction to leave, creating a situation differing from a "hostage crisis" only in degree.

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5. We will want to weave together the public affairs strategy presented at Tab B with the implementing actions that we choose to undertake. This will require careful calibration so that we prepare the U.S. public in advance of actions taken without (a) adding to the gap that currently exists between rhetoric and action and (b) sending a message to our domestic audience that will build up Qadhafi's prestige when replayed in the media of Arab and other Third World states that harbor a certain sympathy for Qadhafi as an underdog taking on -- or being taken on by -- one of the superpowers.

6. We will want to encourage a shift in the oil market away from Libya and toward Nigeria and other alternative energy suppliers. We will also want to see production levels and pricing policies undertaken by Saudi Arabia and other OPEC members that will facilitate our ability to enact an embargo against Libyan oil without incurring undue hardship ourselves or bringing it upon our allies. We can approach our allies with the suggestion that they shift their contracts, where possible, to Nigeria. We can approach the companies with this fairly obvious suggestion. We can approach Saudi Arabia and other OPEC members carefully and generally about issues like production levels and in explanation of the rationale behind actions being considered against Libya. We must be very careful, however, lest we:

-- create sufficient sympathy for Qadhafi to activate Article 4 of the OPEC charter that states that "if sanctions are adopted directly or indirectly by one or several companies against one or several member states, no other member state will accept an offer of preferential treatment"; or

-- by informing Nigeria in advance of our intention to embargo Libyan oil and encouraging our own companies and allies to shift to Nigeria as a supplier, that we inadvertently encourage Nigeria to raise its price or hold up long-term contracts currently being negotiated with our companies and those of our allies, in the anticipation that an embargo against Libyan oil will put them in an advantaged position.

We may have already passed the point at which advance notice of the likelihood that the U.S. will impose an embargo against Libyan oil constitutes "secret" information that could

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be used for commercial gain either by the producers or oil-importing companies. Nevertheless, the companies would probably prefer handling the shift to Nigeria in their own way, without a well-meaning government-to-government approach that might undercut them financially more than it paves the way for increased access. The Nigerians have oil to sell and they will sell it. In this instance, it may be better to let the oil market do our work for us.

Scenario The target dates presented below are for purposes of illustration only. In order to establish the distinction between consultations in the pre-decision and post-decision stage, an arbitrary date for Presidential decision has been selected as being December 4. Another parameter that has to be taken into account is the fact that it takes from 45-60 days for the processing of exit visas of U.S. citizens wishing to leave Libya. Implementation of Option 3, the oil embargo, and above, would have to be delayed accordingly.

The following groups would be consulted: (1) companies with major operations in Libya and principal U.S. exporters to Libya; (2) members of Congress; (3) our allies; (4) regional friends in Africa and the Middle East; (5) Saudi Arabia, key OPEC states, and (if decided advisable) Nigeria and other potential replacers of Libyan oil; and (6) the U.S. public. It is assumed that our campaign to publicize the Libyan threat abroad is underway and is continuing.

Chronology: Pre-Decision Phase. There is a strong feeling on the part of those with wide experience in dealing with Congress that we should bring key members into our decision process by consulting them before a decision is actually taken. given the problem of leaks, even from such a select group, a decision to inform key members of Congress about the kinds of action we have under review necessitates even earlier consultation with our principal allies, again in very general terms. In order to guard against the possibility of injured feelings on the part of Saudi Arabia and other key OPEC members, this may also be the time to consult with this group as well.

-- Consultations with Allies would begin immediately. We would go to the Quad and to Malfatti of Italy and indicate that we are reviewing our policies toward Libya and feel the need to take measured action to protect our citizens there and our friends in the area. No further details would be given. The objective would be to prepare the ground for more specific information to be provided later and to guard against the possibility that the allies learn of the basic outlines of our policy review from leaks in the press.

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- Consultations with key members of Congress would begin two days later. At this stage we would want to consult with the bipartisan leadership of both the House and Senate. Our primary purpose would be to begin to build support for more forceful actions against Libya by consulting privately with key members of both houses, those who could be especially influential with their colleagues, and in a way that would give them a stake in the policy outcome. We would also want to consult with those members who have a particular interest in usage of IEEPA, the Trade Expansion Act, and the Export Administration Act should we want to use these as legislative instruments later on.
 - o In the House we would want to consult at this stage with Zablocki, Broomfield, Fascell, Hamilton, Findley, Wolpe, Derwinski, Goodling, and Bingham.
 - o In the Senate we would want to consult with Percy, Pell, Boschwitz, Kassenbaum, and Lugar.
 - o To be effective, these consultations should be conducted at the Secretarial level.

- Consultations with Saudi Arabia and key OPEC states, including Nigeria would begin simultaneously with these early Congressional consultations. Our objective would be to discuss the Libyan threat in general terms, our feeling that we will eventually have to take action to protect our people and regional friends, and our concern that the oil market not be allowed to give Libya particular advantages at the very time when its threatening actions will have to be contained.

- Public Statements. We would begin immediately to ask administration spokesmen to introduce, where relevant, measured but forceful statements about the broad scope of Libyan activities that threaten U.S. interests. We would stress the political ideology that motivates Libyan activities (see Tab B) and the capabilities that Libya has at its disposal. We would seek as wide as possible geographical distribution of this message within the U.S., through backgrounding the press as well as through the vehicle of public speeches. What we would want

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to avoid, at this stage, would be highly dramatized descriptions of Libyan behavior (assassination plots, terrorist training camps) that would heighten the public dismay that our rhetoric is unmatched by action on our part.

Chronology: Presidential Decision. Anticipated by December 4.

Chronology: Immediate Post-Decision Phase. We would want to give the oil companies enough information to make a persuasive case that they should withdraw their personnel voluntarily without giving them information that, if leaked, will forewarn Qadhafi and enable him to take pre-emptive action -- including the taking of hostages. It will be very difficult, if not impossible, to strike this balance.

- Consultations with CEOs of major companies doing business in Libya would take place within one week of the decision. In order to be effective, these consultations would have to take the form of a personal appeal by the President for these companies to withdraw their personnel from Libya as rapidly as possible in the national interest (Option 1).
 - o If Option 2 (mandatory withdrawal) or Option 3 (oil embargo) are chosen, the message would be restated and framed accordingly at the appropriate time. If Option 1 is relied upon to get the Americans out of Libya prior to implementation of an oil embargo, the date of the oil embargo itself would be projected to fall approximately on February 15.
 - o If Option 4 (banning all exports to Libya) is chosen, the President would also call in the CEOs of major U.S. exporters to Libya.
- Broader Consultations with Congress would begin at the same time: within one week of decision, bearing in mind the possibility that the Christmas recess will intervene.
 - o During this phase we would want to broaden the scope of individual congressmen being approached privately and confidentially. In the House, for example, we would want to include Members like Fenwick and Lantos who, while not as intimately connected with the regional issues, have a unique ability to focus their colleagues' attention on the moral imperative of certain policy actions. We would also want to broaden the initial group in the Senate for similar reasons.

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- o We would also want to make certain that from this point forward (from decision to implementation of Options 2-4), there is good liaison work between the intelligence community and the relevant intelligence committees of Congress on (a) the Libyan threat and (b) the likely impact of our planned actions.
- o Legislative requirements to consult with Congress before invoking IEEPA, the Trade Expansion Act, or the Export Administration Act would be fulfilled during this phase. The precise requirements are set forth in Attachment A of this paper.

Chronology: Pre-Implementation Phase (for Options 3-4, with implementation date for Option 3 tentatively set at February 15. If Option 2 is necessary to achieve a sufficiently large withdrawal of U.S. citizens then the implementation date will slip accordingly).

- Broader Consultation with our Allies would take place at least one week prior to implementation. We would want to be certain to include the Turks (because of their 70,000 nationals now working in Libya) and the Netherlands (because of the operation in Libya of Royal Dutch Shell). Our briefings at this point would also include NATO Secretary General Luns and European Community Commission President Gaston Thorn.
 - o We would explain our purposes in undertaking unilateral action; express our preference for allied action of a similar kind; thank them in advance for whatever other cooperation they can provide; and express our willingness to help them as much as possible to counteract whatever negative effects of our actions they find themselves enduring.
 - o As with similar instances of prior consultation, we would want to prepare contingency press guidance for use in case there are leaks to the press.
- Consultation with Regional States would take place at the same time. There would be a trade-off here: the possibility that leaks or intelligence gathering on his part will give Qadhafi prior warning and the ability to take pre-emptive or retaliatory action versus the responsibility on our part to give our friends in the region sufficient time to present their own views and to take preparatory action should Libya decide to retaliate against them.

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- o It can be argued that, as with our allies, certain regional states, principally Egypt and the Sudan, should be approached in a two-phased process that gives them a longer lead-time than 1 week.

Chronology: Upon Implementation. (Options 2, 3, or 4)

- Presidential meeting with leadership of both houses of Congress. This would take place immediately prior to public announcement of the action to be taken and its rationale. These leaders will already have been briefed by others. A meeting with the President at this time would signify to those concerned, and to the press, when announced, the importance and symbolism of the policy action(s) about to be implemented.
- Presidential Statement indicating that U.S. concern about Qadhafi's support of international terrorism; his destabilization campaigns aimed at regional states; his initial incursion into Chad and the way in which he manipulated his withdrawal to Libyan advantage (or, if clearly apparent by this time, "in spite of Qadhafi's orderly and seemingly permanent withdrawal from Chad"); his assassination campaigns against U.S. public figures and against the leaders of regional friends -- Egypt and the Sudan -- and the massive Libyan stockpiling of advanced Soviet weaponry make it imperative that the United States:
 - o If Option 2 being implemented: "withdraw our citizens from the danger we believe them to face in Libya so long as that country is led by a lawless regime that does not respect the norms of international behavior";
 - o If Option 3 being implemented: "cease funding such lawless Libyan behavior through U.S. yearly \$10 billion purchase of Libyan oil"; or
 - o If Option 4 being implemented: "cease all exports to and commercial activity in Libya so that we will no longer be in a position of contributing to Libya's ability to carry on its lawless behavior through our \$10 billion yearly purchase of Libyan oil and our \$500 million yearly exports of oil production and other high technology equipment".

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Cautionary Note. In making our case to the public at this point, the greatest political danger (and one that could be focused on the President and the Secretary, in particular) is that the United States would be perceived as over-reacting, no matter how great the actual threat posed by Libya. To the extent that the way in which we talk to our own people about Libya will be replayed in the press of our allies and throughout the Arab and Third World, this cause for concern is magnified. Therefore, we will want to get across the basic message that our purpose is to protect our citizens and to cease being in a position of funding Libyan aggression, albeit indirectly. We would stress that our actions are measured and, after careful analysis, calculated prudently to meet the specific problem posed by Libya: that Qadhafi is an international outlaw, there is a need to respond, and ours is a reasonable, concrete response to the dangers posed by Qadhafi's behavior. In addition, we may wish to put a time limit on whatever action we decide to take, along with conditions that Libya must fulfill for the measure(s) to be rescinded. We do not want to leave ourselves open to the facile charge that our measures have not achieved a moderation of Qadhafi's behavior. On the other hand, we do not want removal of our sanctions to signal approval of Qadhafi's behavior at some later date. One way out of this dilemma may be to make it clear that we will review whatever sanctions we undertake after a one-year (or two-year) period. This approach may also have the advantage of appealing to those portions of the U.S. business community that will be bearing the brunt of this foreign policy action.

Drafted: S/P:EMorton

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Attachment A

Congressional and Industry Consultations:

Statutory Requirements

IEEPA provides that "the President, in every possible instance, shall consult with the Congress before exercising any of the authorities granted by this title."
" It does not specify the procedures to be followed in conducting such consultations. Based on past practice we judge that, as a minimum, the Chairman and Ranking Minority Member of (a) both Foreign Affairs Committees, (b) the Trade and Economic Subcommittee of the House Foreign Affairs Committee, and (c) the Senate Banking Committee should be contacted.

IEEPA does not specify the content of such consultations. It does require, however, that upon exercising his authority under the Act, the President shall immediately transmit to Congress a report specifying the circumstances which necessitate such exercise of authority and why they constitute an unusual and extraordinary threat. He must also report the actions to be taken and why such actions are necessary. Congress will expect these matters, at a minimum, to be covered in prior consultations.

Finally, IEEPA does not specify the timing of such Congressional consultations. The Congress will expect that, consistent with the purposes of the requirement, consultations occur sufficiently in advance of a decision that any views conveyed during such consultations could be taken into account by the President in reaching a final decision.

Section 6 of the Export Administration Act of 1979 authorizes the imposition of Foreign Policy controls on U.S. exports. Certain enumerated criteria must be considered prior to imposing such controls. The Secretary of Commerce is required to "consult with such affected United States industries as the Secretary considers appropriate" with respect to two of those criteria -- (a) the probability that the controls will achieve their intended purpose and (b) likely effects of the controls on the export performance, competitive position and international reputation of the United States.

Prior consultations with Congress are also required "in every possible instance." At a minimum, such consultations should include the Chairman and Ranking Minority member of the Trade and Economic Subcommittee of the House Foreign Affairs

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Committee and of the Senate Banking Committee. A written report to the Congress detailing the conclusions reached by the President concerning the various criteria enumerated in the statute is required immediately upon imposition of controls.

As in the case of IEEPA, timing of consultations should be such as to permit Congressional views to be taken into account prior to a final decision.

Section 232(b) of the Trade Expansion Act of 1962, as amended, which authorizes the restriction of imports for national security purposes, requires consultations with the Executive Branch and public hearings "if it is appropriate." We believe a decision not to hold public hearings in this case would be legally supportable. A public report is required on the disposition of each such proposed restriction.

Congressional consultations are not expressly required, but would seem prudent, particularly in the absence of public hearings. Experience would indicate that the Chairman and Ranking Minority members of the Trade Subcommittee of the House Ways and Means Committee and of the Trade Subcommittee of the Senate Finance should be contacted as a minimum

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Option 2: Withdraw U.S. Business Personnel from Libya

As indicated in the basic policy paper, this option includes several legal steps designed to bring about the withdrawal of U.S. business personnel. These steps might be taken individually or in conjunction with other options discussed in this paper. Several of those options involve novel uses of statutory and regulatory authorities. Their implementation would require further legal and factual analysis by the agencies concerned.

A. Impose administrative or criminal penalties on persons employed by United African Airlines under the Export Administration Act: Violations of regulations or orders issued by Commerce pursuant to the Export Administration Act are punishable by the imposition of administrative penalties (fines and denial of export licenses) or criminal sanctions.

UAA has been determined by Commerce to be ineligible as a recipient of U.S. exports. Commerce regulations prohibit any person from providing U.S. origin goods or technology to such a "denied party." Therefore, persons providing such technology in the form of services to UAA might be charged with a violation of the regulations on this ground.

Under the regulations, aiding or abetting violations of the export controls imposed pursuant to the Act is itself a violation. Some of the U.S. civilian type aircraft used by UAA have been transferred to Libya in violation of Commerce Department export controls. Use of such aircraft with knowledge of the violation is a continuing violation under the regulations. Commerce might therefore charge United States persons working for UAA in the use or servicing of illegally obtained aircraft with aiding and abetting such violations.

Such actions would constitute novel applications of the Act, and enforcement could prove problematic given the difficulty of obtaining information on activities in Libya which could be used as evidence in on-the-record administrative proceedings governed by formal adjudicatory procedures or in judicial proceedings. Nevertheless, the very fact that we were seeking to impose sanctions in such cases could serve as a deterrent to additional U.S. nationals taking employment with UAA.

This step would be consistent with all of the other options described in this paper, but is not dependent upon

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the adoption of any other measures. It could be taken now in furtherance of our existing policy of denying support to Qadhafi's air carriers.

B. Impose Restrictions on Use of U.S. Passports for Travel to Libya: The Secretary of State has authority under the Passport Act of 1926, as amended, to make passports invalid for travel to, in or through "a country or area in which there is imminent danger to the public health or safety of U.S. travelers." Restrictions on the use of passports for travel to Libya could be justified in light of Qadhafi's manifest hostility towards the U.S., his willingness to encourage or permit placing in jeopardy the safety of U.S. individuals, as the mob attack on our Embassy which caused us to withdraw U.S. diplomatic personnel demonstrates, and the absence of any consular protective services in Libya for U.S. nationals.

It should be recognized, however, that this step alone could be of limited effectiveness. During the nearly 40 years in which geographic restrictions on travel by American citizens to one or more foreign countries were in force under the Passport Act, no successful prosecution was maintained for violation of geographic restrictions. This is so largely because in order to have a successful prosecution the Government must prove that a U.S. passport that was geographically restricted was used to enter the country to which travel was restricted. Persons travelling to geographically restricted areas generally work out arrangements with the country of destination to admit them without presentation of the passport; if the passport is not used, no violation occurs. Even if the passport is used, evidence on this point is not likely to be available to prosecutors in the United States.

Notwithstanding the potential prosecutorial problem, an order under the Passport Act might be effective as a basis for withdrawal of U.S. persons by corporations otherwise inclined to such withdrawal but who simply desire a firm order from the Government to protect them from shareholder actions. Thus it would serve to reinforce efforts under Option 1 to encourage voluntary withdrawal. Moreover, it would constitute a means of buttressing our legal case in support of the steps described under C below, should one of those measures be approved.

C. Seek to Compel or Promote the Withdrawal of U.S. Business Personnel from Libya as a Prerequisite to Additional Economic Measures Under the International Emergency

-3-

Economic Powers Act or the Export Administration Act:

U.S. policy making vis-a-vis Libya has been constrained by the presence of the significant number of U.S. business personnel there as potential hostages. Under this approach, we would seek in advance of imposing any additional economic sanctions to minimize the potential for hostage-taking by taking--in conjunction with passport restrictions--steps designed to force the termination of employment of U.S. nationals in Libya. Two potential legal bases are available; there are legal problems and uncertainties with each.

First, under the International Emergency Economic Powers Act the President may declare a national emergency to deal with any unusual or extraordinary threat to the national security, foreign policy or economy of the United States which has its origin outside the United States. Once he has done so, he has authority to preclude transfers of credits or payments by any person subject to U.S. jurisdiction, directly or indirectly, to any foreign country or its nationals as well as to prohibit importation or exportation of any property in which any foreign country or its nationals has an interest. This authority has been used in the past, specifically in the Iranian hostage situation, to restrict transactions related to travel, but only in the context of broad restrictions against transactions with the country involved.

Conceivably the President could declare a national emergency in narrow terms focused on the presence of the approximately 1500 U.S. citizens now in Libya. The argument used would be that Libya's record of support of terrorism and declared hostility against the United States places these Americans in circumstances that make them potential hostages, thereby constituting "an extraordinary threat to the effective conduct of U.S. foreign policy."

There are three concerns regarding declaration of an emergency which is narrowly based on the voluntary presence of U.S. persons in Libya. First, such a declaration accompanied by appropriate sanctions would be utilizing the power available under IEEPA as a pure restriction on travel, a purpose not clearly justified by its history. Such a narrow utilization of IEEPA power would provide an additional basis for challenging prosecutions for violation of such an IEEPA order. In addition, a narrow declaration would possibly require the issuance of a broader declaration if other IEEPA sanctions were deemed necessary at some point in the future, requiring the various procedures required by IEEPA to be followed. Finally, it can be argued that invocation of IEEPA on this

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basis could "cheapen the currency" and raise foreign apprehensions that IEEPA can or will be invoked to deal with situations of lesser gravity.

On the other hand, it can also be argued that declaring and explaining an emergency on such narrow grounds might minimize concerns of investors and other governments that might follow from declaring a broadly articulated emergency that would permit full-scale U.S. embargo of Libya possibly extending to foreign subsidiaries of U.S. firms.

On the basis of this declaration of emergency, the President would prohibit direct or indirect financial transactions by Americans with foreign persons related to the travel to or presence in Libya of Americans for business purposes. This would substantially inhibit business travel to or presence in Libya. Limiting the restrictions to business related travel would substantially increase the prospects for effective enforcement. To the extent that U.S. based and controlled firms are the employers, enforcement efforts could be focused on them rather than on individual employees.

By restricting only business related transactions, we would seek to avoid Constitutional challenges based on interference with first amendment freedoms.

A second alternative legal basis for applying pressure to achieve the withdrawal of U.S. personnel would be the Export Administration Act of 1979. That statute permits the President to prohibit the export of goods and "technology" for overriding foreign policy reasons. Restrictions on the export of "technology" have included restrictions on the export of technical services (e.g., technical services by computer technicians in the Soviet Union). We could prohibit the export of "technology" in the form of technical services performed in Libya by U.S. oil workers, aircraft pilots and service personnel.

This approach would have certain advantages from an enforcement standpoint. Administrative sanctions against U.S. firms, which failed to cease providing designated services, include general denial of export privileges. On the other hand, usable proof that an individual performed technical services utilizing U.S.-sourced "technology" while in Libya would be extremely difficult--if not impossible--to obtain.

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The alternative legal bases described above are not mutually exclusive. If this step were decided upon, further review would be required to determine which of the two bases (or a combination thereof) would be most effective.



DEPARTMENT OF STATE
SECRETARIAT STAFF
(s/s-s)

81-8870

11/25/81

30 Nov 1981

Admiral Inman:

[Redacted]

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I neglected to pass out to you during today's SIG the most current version of the paper under discussion.

[Redacted] brought the attached over this morning. He said it is the most recent paper on Libya. They did not discover that it was in Admiral Inman's safe at home until 4:00 on Friday.

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It is attached.

Tain Tompkins
Tain Tompkins
S/S-S (IA)

[Redacted] trusts that we will get the appropriate copies to the proper people (ES, etc.). (FYI-This paper came in in an EYES ONLY envelope).

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J
JW

[Redacted]

MLG

[Redacted]

PIS make copy for ES, if necessary, file in [Redacted] SIB folder
ER provided a copy on 11/30/81

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[Redacted]