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LEGISLATIVE INTERDEPARTMENTAL GROUP

Friday, June 16, 1972

Time and Place: 9:32 - 10:15 a.m., White House Situation Room

Subject: SALT Legislation

Participants:

Chairman - John Lehman

State - Marshall Wright
Charles Brower
Robert Martin

Defense - Col. George L. Dalferes
Col. Zane Finkelstein

CIA - Jack Maury
Bruce Clarke

ACDA - Spurgeon Keeny
William Hancock

USIA - Charles Ablard

OMB - William Gifford

AEC - Thomas R. Clark

White House- Tom Korologos
Richard Cook
Gerald Warren
Fred Fielding

NSC Staff - Philip Odeen
William Hyland
David Aaron
James T. Hackett

NSS, OSD, State Dept. reviews
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Mr. Lehman: Jack (Maury), what's your view of the possibility of the Director coming back and giving testimony in an open session of the Senate Foreign Relations Committee?

Mr. Maury: Well, I think he'll be opposed to that. It would be a serious matter of precedent for the Director of Central Intelligence to give testimony in an open session. If he did, everyone in town would be after him to testify on all kinds of things. It would be especially bad to have him testify openly on this subject (SALT).

Mr. Clarke: Also, he is charged with the responsibility of avoiding public disclosure of intelligence matters. What is the need for him to testify publicly?

Mr. Lehman: The question of verification is going to be a key issue on the Hill and it would be helpful if he could make a positive statement on the record.

Mr. Korologos: He can do that in closed session.

Mr. Maury: I don't think he can do it publicly without getting into some serious security problems.

Mr. Wright: A real problem here is that the things he can say publicly are not going to be sufficient to bear out the Administration's position that our verification is adequate. To do that he will have to get into sensitive areas. So if he makes a public presentation that is incomplete, it will just give the critics of the agreements a new argument that our verification is inadequate.

Mr. Korologos: I don't see any problem with an executive session before the SFRC, and if Scoop Jackson isn't happy, he can do it again before the Armed Services Committee. Fulbright would love to have an open session with Helms. What he wants is to get on TV. He'd like an open session with Kissinger, too. Either one of them would put Fulbright and his committee on national television.

Mr. Maury: I am convinced it would do lasting damage to the Agency to have the Director appear in open session.

Mr. Lehman: O. K.

Mr. Hancock: What is the schedule for next week?

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Mr. Lehman: The Secretary of State goes before the SFRC on Monday, followed by Smith.

Col. Dalferes: Secretary Laird will go on Wednesday.

Mr. Korologas: Isn't Laird testifying before the Armed Services Committee on Tuesday?

Col. Dalferes: Yes, that's their first day of hearings.

Mr. Brower: They're going to hold simultaneous hearings?

Col. Dalferes: Yes. Senator Stennis wants a piece of the action.

Mr. Odeen: The Joint Chiefs are going to testify, aren't they?

Col. Finkelstein: Yes, but not all together. I don't think they have ever testified jointly.

Mr. Hancock: Yes, they have. On the test ban hearings they were all there with their square jaws lined up in a row.

Col. Dalferes: Adm. Moorer will go with Laird.

Mr. Wright: Morgan said his committee can't have hearings until after the Democratic convention.

Mr. Keeny: Stennis originally said the same thing. Why did he change his mind?

Mr. Korologos: Stennis didn't want to be left out. He wants to get in on the action and is talking about holding hearings on everything, SALT, the ABM, you name it. By the way, you know there are two offensive agreement resolutions circulating, the Scott/Mansfield Resolution and one submitted by Fulbright. Our people should understand that they are to testify to the Scott/ Mansfield Resolution.

Mr. Lehman: Does everyone understand that the resolution we are to testify to is the one sponsored by Scott and Mansfield in the Senate and Boggs and Ford in the House?

Mr. Hancock: I have a copy of both of them right here.

Mr. Lehman: I'll have copies made and circulate them. Our witnesses should make favorable noises about the Scott/Mansfield Resolution and avoid discussing the differing texts of the two resolutions.

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Mr. Keeny: The Secretary of State can't avoid such a discussion if he is asked.

Mr. Cook: What are the main differences?

Mr. Lehman: The Fulbright Resolution says "authorize" instead of "approve" and the lawyers tell us to avoid that wording.

Mr. Brower: What lawyers? The Secretary of State is a lawyer and a former Attorney General. He shouldn't duck this question or sit up there and say he can't fathom the difference. What the Secretary should say is that this is a very important agreement that has been negotiated with painstaking care and that he wants a simple, broad expression of congressional approval. He shouldn't get into an argument over the wording of the resolution. The word "authorize" is used in congressional resolutions all the time without causing us any serious problems.

Mr. Lehman: That sounds good. Can you write up an explanatory paragraph on this issue that we can circulate to this group?

Mr. Brower: I'll do a talking paper on this today and send it to you (Lehman) for distribution.

Mr. Hancock: How about some Q's & A's for our witnesses?

Mr. Brower: Well, I'll prepare something in one form or another.

Mr. Lehman: The next item is our position on amendments, reservations, etc. The tendency now is to act in a generally negative way toward them. Charlie (Brower), what is the legal effect of a reservation on a bilateral agreement? Does a reservation require you to go back to re-negotiate with the other party?

Mr. Brower: If the treaty is changed you have to go back. It is always tougher to justify opposition to reservations on a bilateral treaty than on a multilateral one. With the latter you can argue that seventy countries have approved it and it can't be changed, while with a bilateral you only have to renegotiate with one country. The President said yesterday that he is not adopting an attitude that Congress should "swallow it whole," but at the same time the argument can be made that this treaty was prepared through the most deliberate negotiations ever held, on a highly complex subject. The best minds in the country spent years of effort on every detail of the treaty and it received more continuing Presidential attention than any treaty ever has. Consequently, the Congress should approach any reservations with great trepidation.

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Mr. Wright: Another point is that SALT II is to begin in October and if reservations require us to go back and re-negotiate with the Russians, it could delay the follow-on negotiations for a long time.

Mr. Brower: We also can argue that any problems the Congress has with the agreement can be discussed with the Russians and ironed out in phase two. I think the current posture on reservations can be maintained.

Mr. Lehman: At present, Ron Ziegler is postured to take a negative attitude toward suggestions on reservations. What would be equivalent in an executive agreement to a reservation to a treaty?

Mr. Brower: You get into some real problems here. If we get into a legal hassle on reservations to the executive agreement, the whole question of the President's right to do it as an agreement and not a treaty may arise and Congress may insist that it be resubmitted as a treaty requiring Senate approval. We will have to make a careful distinction between amendments of the preambular clauses and the agreement itself.

Mr. Cook: By the way, would you (Lehman) please remind Ziegler to stop calling this an executive agreement?

Mr. Lehman: Yes, he should avoid that.

Mr. Brower: There are all kinds of technical, legal pitfalls in this exercise and I want to urge all of you to keep in close touch with your lawyers.

Mr. Hancock: The Senate may want to include the initialed agreements or even the unilateral statements as part of the treaty. This has to be avoided, or we may find ourselves forced to go back to the Russians.

Mr. Lehman: What about including some of these unilateral statements in the whereas clause?

Mr. Martin: That wouldn't be helpful; it would be throwing mud in the Soviets' faces.

Mr. Hyland: I don't agree with that view. I don't think the Russians give a damn what Congress does. The German Parliament gutted the Berlin treaty and then wrote 55 pages of interpretation. They went back to the Russians with it and the Russians went ahead and signed it. We have discussed a number of interpretations with the Russians, and they can always say that these were what we agreed to, regardless of what the Senate does.

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Mr. Wright: I want to register a reclama on Ziegler's posture of being negative to any reservations. I don't think that's wise.

Mr. Lehman: No, his instructions are not to be negative, but rather not to encourage reservations and to indicate that they will be considered on a case by case basis. Does everyone agree with that approach?

Mr. Wright: That's O.K. with me.

Mr. Cook: I'd like to move away from the President's position on this as much as possible.

Mr. Lehman: Now, for the schedule, we have the Secretary of State on Monday, followed by Smith.

Col. Finkelstein: And Laird before the Senate Armed Services Committee on Tuesday, with Admiral Moorer.

Mr. Lehman: I need the statements the Secretary and Smith are going to make.

Mr. Aaron: The Secretary's statement is coming over today. There won't be a statement by Smith.

Mr. Maury: Mr. Helms is on Tuesday morning with the Foreign Relations Committee, and the Armed Forces Committee wants to get him later. The Director plans to stick to his knitting and not get into other people's business, except that the Committee has asked to be updated on the Soviet Strategic situation.

Col. Finkelstein: That area is supposed to be covered by Adm. Moorer. That's what Dr. Kissinger's memo said!

Mr. Maury: I know that, but the Committee has asked Helms to do it, so he will present an update first and then get into verification afterwards. I understand Foster will follow Helms on Tuesday.

Col. Dalferes: No, Foster is not going to testify before Laird, so he won't be going on Tuesday.

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Mr. Wright: So to summarize, we have the Secretary of State and Smith before the Foreign Relations Committee on Monday, Helms before the SFRC on Tuesday, Laird and Moorer before the Armed Forces Committee on Tuesday, Laird and Moorer before the Foreign Relations Committee on Wednesday and Foster before SFRC at some time to be determined.

Mr. Cook: We will have to make private arrangements to get copies of the transcript of the executive sessions for our use as soon as possible after they are held. The committees only make one or two copies, so we'll have to make duplicates. Jack (Maury) can you take care of that?

Mr. Maury: Sure, I'll do it. Do you think many witnesses will have executive sessions?

Mr. Cook: I don't know. Helms for sure. There may not be any others. I just want to make sure we get transcripts of the testimony quickly. Is Helms going to make a statement?

Mr. Maury: I don't know.

Mr. Hyland: We should have a prepared statement, very brief, saying that verification is not a problem. It should be something that can be released publicly and used or referred to by the other witnesses as necessary.

Mr. Maury: I'll talk to him about it.

Mr. Lehman: When can I get a copy of Laird's statement?
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Mr. Odeen: He's planning very different statements before the two committees on Tuesday and Wednesday.

Col. Dalferes: I'll find out when they'll be available.

Mr. Lehman: Pastore said he would ask Fulbright to let his committee sit in on the hearings of the Foreign Relations Committee. Perhaps we should offer the Secretary of State and Smith to the Armed Forces Committee as witnesses.

Mr. Clark: When is Schlesinger to testify before the Joint Atomic Energy Committee?

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Mr. Lehman: Hasn't the committee been in touch with him?

Mr. Clark: I think they asked him to appear on Wednesday, but I'm not sure.

Mr. Lehman: I'd like a copy of his testimony by Monday. We also want him to testify before the Stennis Committee.

Mr. Clark: I'll get the testimony to you.

Mr. Cook: It's very important for Schlesinger to stay close to the Joint Atomic Energy Committee. They could give us a lot of trouble if we're not careful.

Mr. Clark: I understand.

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