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FM HENRY A. KISSINGER
TO WHITE HOUSE SITUATION ROOM

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IMMEDIATE - DELIVER OOB VIA SPECIAL CHANNEL

AUGUST 19, 1972

FOR AMBASSADOR BUNKER, SAIGON

FROM HENRY A. KISSINGER

CITE: WH 2146

SUBJ: RESPONSE TO GVN COMMENTS ON OUR PEACE PROPOSALS

1. HERewith OUR RESPONSE TO THE GVN AUGUST 18 COMMENTS ON OUR PROPOSED PEACE OFFER. YOU SHOULD CONVEY OUR POSITION TO THE PRESIDENTIAL PALACE AS SOON AS POSSIBLE, AND REQUEST THIEU'S EARLY COMMENTS LOOKING TOWARD OUR HAWAII MEETING.

2. FIRST, SOME GENERAL COMMENTS. I CANNOT EMPHASIZE TOO STRONGLY THE POINT I MADE REPEATEDLY TO THIEU THAT WE MUST KEEP OUR EYE ON THE MAIN ISSUE AND NOT GET HUNG UP ON MINOR LEGAL TECHNICALITIES. WE WANT TO ACCEPT AS MUCH OF THE DRV LANGUAGE AS POSSIBLE ON PERIPHERAL ISSUES SO THAT IF TALKS EVER BREAK UP, WE ARE IN IMPECCABLE PUBLIC POSTURE AND IN POSITION TO DEMONSTRATE BEYOND SHADOW OF A DOUBT THAT FAILURE OF NEGOTIATION

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WAS DUE TO HANOI'S UNWILLINGNESS TO ACCEPT OUR FORTHCOMING POLITICAL FORMULATION--IN SHORT BY THEIR INSISTANCE ON OUR IMPOSING A COMMUNIST GOVERNMENT. WE CANNOT AFFORD BREAK-UP IN WHICH DRV CAN DIVERT ATTENTION FROM OUR FUNDAMENTAL POLITICAL DIFFERENCE BY POINTING TO OTHER NONESSENTIAL AREAS OF DISAGREEMENT.

GVN MUST ALSO BEAR IN MIND THAT ACCEPTING HANOI'S LANGUAGE IN ESSENTIALLY NON-OPERATIVE CLAUSES WILL NOT ALTER CENTRAL FACT THAT, SHOULD OUR PROPOSAL BE ACCEPTED, GVN WILL HAVE VETO IN VARIOUS FORUMS AND, THAT IF THEY REJECT OUR OFFER, SOME OF THE MINOR OBJECTIONS GVN HAS RAISED WILL BE OVERSHADOWED BY ENORMOUS ADVANTAGES ACCRUING TO BOTH OURSELVES AND GVN FROM STRATEGY WHICH I OUTLINED IN SUCH DETAIL TO THIEU. SO FINALLY, AS A GENERAL PRINCIPLE, WE CANNOT SLIDE BACKWARDS FROM US-GVN JANUARY PLAN WHICH GVN COMMENTS SUGGEST IN SOME INSTANCES.

3. WE ACCEPT THEIR SUGGESTION THAT THE PEACE OFFER AND THE PROCEDURAL PLAN SHOULD BE CONSIDERED AS SEPARATE PROPOSALS. WE ALSO SUGGEST THAT THE PEACE PROPOSAL BE TREATED AS A FORMAL NEGOTIATING DOCUMENT WHILE THE PROCEDURAL PROPOSAL CAN BE INFORMAL IN NATURE.

4. WITH REGARD TO THEIR POINT-BY-POINT COMMENTS ON OUR COUNTER-PROPOSAL, OUR RESPONSE, KEYED TO THE MEMORANDUM THEY CONVEYED TO US ON AUGUST 18, IS AS FOLLOWS:

POINT 1: WE BELIEVE IT WOULD BE MOST UNWISE TO ALTER THE LANGUAGE

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IN OUR POINT 1 TO REFER TO THE TERRITORIAL INTEGRITY OF "NORTH AND SOUTH VIETNAM." FIRST OF ALL THIS IS A NON-OPERATIVE PROVISION IN ANY EVENT. SECONDLY, FROM LEGAL POINT OF VIEW OUR UNDERSTANDING IS THAT UNITY OF VIETNAM HAS NEVER BEEN AT ISSUE ANYWAY BUT RATHER MEANS BY WHICH IT IS TO BE ACHIEVED. ARTICLE 1 OF GVN'S OWN CONSTITUTION STATES THAT VIETNAM IS A "TERRITORIALY INDIVISIBLE, UNIFIED, AND INDEPENDENT REPUBLIC." THUS WE WOULD VIEW THIS AS A WEAK POINT ON WHICH TO HAVE A SHOWDOWN WITH DRV. ALSO WE DO NOT BELIEVE THIS IS PLACE TO RAISE THEOLOGICAL ISSUE OF SEPARATE LEGAL STATUS OF NORTH AND SOUTH VIETNAM.

IN ADDITION, GVN MEMORANDUM LEAVES OUT PHRASE QUOTE AS RECOGNIZED BY THE 1954 GENEVA AGREEMENTS ON VIETNAM UNQUOTE. WE BELIEVE WE SHOULD KEEP THIS FORMULATION. WE HAVE ALWAYS EXPRESSED RESPECT FOR GENEVA AGREEMENTS, AS REFLECTED IN POINT 4 OF OUR JANUARY PLAN AND POINT 7 OF OUR CURRENT PROPOSAL. WE DO NOT MIND UNILATERAL EXPRESSION HERE SO LONG AS IT APPLIES TO ALL PARTIES AS WELL IN POINT 7.

POINTS 2 AND 3: WE APPEAR TO BE IN AGREEMENT ON THESE POINTS AND AS I TOLD THIEU, THE PERIOD FOR WITHDRAWAL, AND CONSEQUENTLY FOR PRISONER RELEASE, WILL BE SET AT THREE MONTHS. PLEASE RECONFIRM OUR INTENTION ON THIS.

POINT 5: WE DO NOT BELIEVE QUESTION OF NVA FORCES SHOULD BE RAISED IN THIS DOCUMENT. THIS IS A MATTER WHICH WILL BE DISCUSSED IN THE ENSUING FORUMS. YOU SHOULD POINT OUT THAT NVA FORCES WERE NOT REPEAT NOT MENTIONED

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IN OUR JANUARY PROPOSAL AND THIS WOULD BE A RED FLAG TO OTHER SIDE. THE PROBLEM OF NVA FORCES IS CLEARLY DEALT WITH BY INFERENCE IN OUR POINT 7. ALSO IT IS BETTER RAISED IN A FORUM WHERE THE GVN HAS A VETO.

WE NOTE GVN'S SUGGESTED LANGUAGE ALSO DROPS WORD "EQUALITY" FROM PARAGRAPH. WE UNDERSTAND THEIR POINT BUT IT IS ESSENTIALLY SEMANTIC AND NON-OPERATIVE. WE CONSTRUE WORD "EQUALITY" IN SENSE OF FAIRNESS AND NOT TO MEAN THAT THERE IS PARITY BETWEEN GVN AND NLF FORCES. BESIDES, THAT PROBLEM WILL BE SETTLED IN THE SUBSIDIARY FORUMS, IF NOT ON THE BATTLEFIELD.

POINT 6: WE BELIEVE THEIR FIRST SUGGESTION REGARDING PROMPT STARTING NEGOTIATIONS TOWARDS REESTABLISHMENT OF NORMAL RELATIONS IS A MINOR ONE, PARTICULARLY SINCE LE DUC THO SAID AT THE LAST PRIVATE MEETING THAT THIS WOULD BE THE CHIEF SUBJECT FOR THE THIRD FORUM. BUT WE AGREE TO THE CHANGE "PROMPTLY START NEGOTIATIONS TOWARDS," WITH UNDERSTANDING THAT WE MAY BALL OFF THIS SHOULD IT TURN OUT TO BE ONE OF FEW REMAINING STICKING POINTS WITH DRV. THE SUBSTITUTION OF THE WORD "; VARIOUS" FOR "ALL" FIELDS IS SEMANTIC, RELATES TO A MATTER WHICH WILL BE UNDER GVN'S COMPLETE CONTROL IN SUBSIDIARY FORUM AND THEREFORE WE BELIEVE IT AN UNNECESSARY CHANGE.

WE CANNOT ACCEPT GVN'S SUGGESTED ADDITION OF CLAUSE" EXCEPT FOR PURELY DEFENSIVE PURPOSES AND ON A TEMPORARY BASIS" AT THE END OF FINAL PARAGRAPH.

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THIS WOULD BE A MAJOR RED FLAG TO THE DRV AND IN END OF ITSELF COULD PRODUCE THE VERY BLOW-OUT OVER A NON-OPERATIVE CLAUSE WHICH WE SEEK TO AVOID. YOU SHOULD POINT OUT THAT WE HAVE ALREADY MET THE GVN POINT BY INFERENCE BY DROPPING DRV'S LANGUAGE CONTAINED IN THEIR POINT 6(B) ABOUT THE TWO VIETNAM'S REFRAINING QUOTE FROM RECOGNIZING THE PROTECTION OF ANY FOREIGN POWER, ANY MILITARY ALLIANCE OR BLOC UNQUOTE. WE DROPPED THIS CLAUSE FROM OUR PROPOSAL PRECISELY BECAUSE WE HAD IN MIND THE GVN'S RIGHT TO CALL ON OUTSIDE ASSISTANCE FOR SELF DEFENSE. YOU SHOULD ALSO POINT OUT THAT GVN'S SUGGESTED LANGUAGE WAS NOT IN OUR JOINT JANUARY 25 PROPOSAL AND WOULD LOOK LIKE A SIGNIFICANT NEW HEDGE. COSMETICALLY, WITH PARTICULAR REFERENCE TO OUR DOMESTIC SCENE, IT COULD BE VIEWED AS A LOOPHOLE TO JUSTIFY CONTINUED U.S. INVOLVEMENT.

POINT 7: GVN LANGUAGE WOULD (1) MOVE UP PRINCIPLE OF ARMED FORCES STAYING WITHIN NATIONAL FRONTIERS TO FIRST PARAGRAPH ON GENEVA AGREEMENTS AND (2) INTRODUCE PHRASE QUOTE FOUR COUNTRIES UNQUOTE.

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WE BELIEVE THAT WE SHOULD STICK TO OUR LANGUAGE WHICH IS SUBSTANTIALLY IDENTICAL TO POINTS 4 AND 5 OF OUR JOINT JANUARY 25 PROPOSAL. FURTHERMORE, WE CANNOT ACCEPT INJECTING IDEA OF QUOTE FOUR COUNTRIES UNQUOTE INTO OUR FORMAL PROPOSAL. HERE AGAIN, WE WOULD BE SPECIFYING SEPARATE NORTH AND SOUTH VIETNAMESE COUNTRIES, A THEOLOGICAL POINT NOT RAISED IN OUR PREVIOUS PROPOSAL AND AGAIN A RED FLAG FOR HANOI. WE BELIEVE OUR POINT AS PRESENTLY PHRASED DEALS ADEQUATELY WITH GVN CONCERNS AND WOULD AGAIN POINT OUT THAT GVN HAS AMPLE ROOM FOR MANEUVER ON THIS ISSUE IN THE NEGOTIATING FORMS WHICH WOULD OPEN UP.

POINT 8: WE HAVE NO DIFFERENCES.

POINT 9: WE AGREE THAT FOR PRESENTATIONAL PURPOSES THE WORD "GENERAL" CAN BE SUBSTITUTED FOR "STAND-STILL" BEFORE CEASEFIRE AS SUGGESTED AT OUR AUGUST 18 MEETING.

WE ALSO INTEND TO LEAVE IN LANGUAGE "AT A TIME MUTUALLY AGREED UPON" AT THE BEGINNING OF THE POINT ALTHOUGH YOU SHOULD MENTION AGAIN THAT I INTEND TO TELL THE DRV NEGOTIATORS SEPTEMBER 15 THAT AS A CONCESSION WE ARE PREPARED TO ACCEPT THEIR POSITION THAT A CEASE-FIRE SHOULD COME AFTER OVERALL AGREEMENT ON ALL OTHER ISSUES.

FOR THE SAME REASONS AS OUTLINED WITH RESPECT TO POINT 7, WE CANNOT ACCEPT THEIR SUGGESTED ADDITION AT THE END OF POINT 9 CONCERNING FOUR REPEAT FOUR COUNTRIES OF INDOCHINA.

POINT 10: YOU SHOULD POINT OUT THAT WE WOULD ADD POINT 4 AS ONE COMING UNDER INTERNATIONAL SUPERVISION SINCE PROVISION IS MADE FOR INTERNATIONAL SUPERVISION OF THE PRESIDENTIAL ELECTION, AS IN THE JANUARY 25 PROPOSAL.

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WE ACCEPT THE ADDITION OF THE WORD "BELLIGERENT" AND THE PHRASE "PRIOR TO THE CEASEFIRE" ALTHOUGH THE LATTER PHRASE MAY DROP OUT AGAIN IN THE PROCESS OF NEGOTIATIONS. YOU CAN ASSURE THIEU THAT , AS I TOLD HIM ON AUGUST 18, WE ENVISAGE AGREEMENT ON SUPERVISION PRIOR TO A CEASEFIRE IN ANY EVENT, AND THAT IS ONE REASON WHY WE GAVOR SHIFTING DISCUSSION OF CEASEFIRE MODALITIES TO THE KLEBER FORUM AS SOON AS POSSIBLE.

AS FOR PARAGRAPH (B) WE ACCEPT THE INSERTION OF "FOR THE RESPECT OF THE CEASEFIRE" AFTER WORDS "INTERNATIONAL GUARANTEES"; WE ALSO AGREE TO INSERTION OF WORD "BELLIGERENT" BEFORE "PARTIES" AT END OF PARAGRAPH.

PROCEDURAL ISSUES

1. WE HAVE ALREADY USED THE CORRECT DESIGNATION FOR THE GVN. WE ALSO AGREE TO THEIR SUGGESTION THAT ANY PROCEDURAL DOCUMENT WILL REFER TO THE NLF INSEAD OF THE PRG. WE PRESUME GVN WILL ALSO WANT TO REFER TO THEM AS NLF IN POINT 4 OF OUR SUBSTANTIVE PROPOSAL. SHOULD NOMENCLATURE PROVE AT SOME STAGE TO BE ONLY OBSTACLE TO AGREEMENT BETWEEN US AND DRV WE ARE NOT GOING TO FALL ON OUR SWORDS OVER THIS.

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YOU MAY , HOWEVER , REAFFIRM TO GVN THAT IN ANY FORMAL DOCUMENT WE WIL IN THE FIRST INSTANCE SEEK TO FOLLOW STANDARD DIPLOMATIC PRACTICE OF EACH SIDE USING NOMENCLATURE IT WISHES IN INSTANCES WHERE JURIDICAL STATUS OF A POLITICAL ENTITY IS IN DISPUTE. SO WE WOULD CALL THE PRG THE NLF IN OUR DOCUMENTS AND THEY IN TURN WOULD PROBABLY REFER TO THE GVN AS THE SAIGON ADMINISTRATION.

2. WE AGREE TO DELETE WORDS QUOTE AND RESOLVE UNQUOTE FROM THE SECOND SENTENCE OF WHAT IS NOW POINT 11(A) OF OUR PROPOSAL. SINCE, WITH THIS DELETION, WE ARE NO LONGER REFERRING TO SOLUTION OF POLITICAL ISSUES IN THE FIRST FORUM, THERE WOULD NOT APPEAR AS GREAT A NEED TO CHANGE THE WORDS QUOTE IS RESOLVED UNQUOTE TO QUOTE HAS BEEN DEALT WITH UNQUOTE IN THE THIRD PARAGRAPH; BUT I VIEW OF OUR DISCUSSION ON AUGUST 10, WE DEFER TO THE GVN IF THEY INSIST ON THIS POINT.

UNDER THE SECOND FORUM WE AGREE TO CHANGE QUOTE MAY NOT HAVE BEEN RESOLVED UNQUOTE TO QUOTE MAY NOT HAVE BEEN DEALT WITH UNQUOTE IN THE SECOND SENTENCE .

3. GVN OBJECTION TO A TRIPARTITE FORUM GIVES US CONSIDERABLE DIFFICULTY AND AS I POINTED OUT WE BELIEVE LEGALISTIC DISADVANTAGES ARE IN OUR VIEW STRONGLY OUTWEIGHED BY POLITICAL AND LEGAL RECOGNITION GVN GAINS BY DEALING WITH OTHER SIDE IN AS MANY FORUMS AS POSSIBLE.

TO EASE GVN'S PROBLEM WE WOULD SUGGEST DELETION OF "TRIPARTITE" FROM NOMENCLATURE OF THESE PRIVATE MEETINGS AND ALSO DELETE PHRASE QUOTE SUCH AS PROBLEM OF VIETNAMESE ARMED FORCE UNQUOTE RIGHT THROUGH TO END OF SENTENCE.

ALSO, AS I POINTED OUT TO THIEU, DRV DOES NOT VISUALIZE DISCUSSION OF INTERNAL ISSUES IN THIS FORUM BUT RATHER THE STATUS OF THE DMZ, RELATIONS BETWEEN THE TWO ZONES AND STEPS LEADING TO REUNIFICATION.

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4. WITH RESPECT TO FOUR PARTY FORUM WE PROPOSE TO DELETE PHRASE QUOTE SUCH AS AN INDOCHINA-WIDE CEASEFIRE UNQUOTE SO AS TO BE CONSISTENT WITH OUR APPROACH OF BEING VAGUER ON WHAT IS DISCUSSED IN THE THIRD AND FOURTH FORUMS. THIS CHANGE AS IT HAPPENS, ALSO REVERTS BACK MORE CLOSELY TO ORIGINAL DRV LANGUAGE AT NO EXPENSE TO US. THIS DELETION IN NO WAY DETRACTS FROM OUR INTENTION THAT CEASEFIRE MODALITIES BE DISCUSSED AT KLEBER.

REGARDING PARAGRAPH (C) OF OUR PROCEDURAL PROPOSAL, JOINT U.S. -DRV RESPONSIBILITY, WE WILL DELETE THIS IN THE PROCEDURAL PROPOSAL, ITSELF.

ON PARAGRAPH (D), PURSUANT TO OUR AUGUST 18 DISCUSSION, WE AGREE TO CHANGING THE SECOND SENTENCE TO READ QUOTE BESIDES THE OVER-ALL AGREEMENT THE PARTIES MAY ALSO REACH BILATERAL OR MULTILATERAL AGREEMENTS WITH ONE ANOTHER UNQUOTE, THERBY AGAIN AVOIDING REFERENCE TO TRIPARTITE AGREEMENTS.

5. YOU SHOULD, OF COURSE, PRESENT OUR COMMENTS IN THE MANNER YOU CONSIDER MOST EFFECTIVE, DRAWING ON THE ABOVE RATIONALE AS YOU SEE FIT TO ACCOMPLISH OUR OBJECTIVES. IN SO DOING, PLEASE REITERATE TO THIEU MY APPRECIATION FOR OUR CONSTRUCTIVE DISCUSSIONS AND THE SPIRIT IN WHICH WE BELIVE HE IS CONSIDERING OUR STRATEGY AND COUNTER PROPOSALS. WE HOPE THIS SPIRIT WIL INFUSE HIS REACTIONS TO OUR POSITIONS IN THIS MESSAGE AS WELL AS THE CENTRAL QUESTION OF POINT 4. AS YOU KNOW, WE WOULD LIKE TO HAVE THEIR COMMENTS AS SOON AS POSSIBLE AND ANY EVENT IN TIME FOR HAWAII MEETING.

WARM REGARDS

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