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TOP SECRET 100311Z SEP 72 SENSITIVE EXCLUSIVELY EYES ONLY
VIA BUNKER CHANNELS SECTION 1 OF 2
FROM: HENRY A. KISSINGER
TO: AMBASSADOR BUNKER, SAIGON
CITE: WHS2159

Henry Kissinger

SEP 10 AM 2 00

SEPTEMBER 9, 1972

DELIVER OPENING OF BUSINESS

TO AMBASSADOR BUNKER

FROM HENRY A KISSINGER

REF: 0153 AND 0154

1. WE HAVE CAREFULLY REVIEWED THE GVN'S COMMENTS AND COUNTER PROPOSALS ON THE POLITICAL AND PROCEDURAL DOCUMENTS, NOTING THAT ALL OTHER POINTS IN SUBSTANTIVE PROPOSAL ARE NOW AGREED.

2. BY WAY OF GENERAL COMMENT, YOU SHOULD TELL THE GVN THAT WE FOUND SPIRIT OF THEIR SUGGESTED CHANGES HELPFUL AND CONSTRUCTIVE AND WE HAVE ACCEPTED MOST OF THEM. THERE ARE ONLY A FEW SUGGESTED MODIFICATIONS WHICH, WERE WE TO ACCEPT THEM, WOULD DEPRIVE OUR PLANS OF WNY NOVELTY, WND ENABLE THE OTHER SIDE TO REJECT THEM OUT OF HAND OR PUT US ON THE DEFENSIVE WITH PUBLIC OPINION. AS WE HAVE POINTED OUT IN PREVIOUS MESSAGES, WE BELIEVE WE HAVE GONE A LONG WAY TO MEET GVN CONCERNS, WE HAVE NOT COME ALL THIS WAY IN 3 AND ONE HALF YEARS TO SEE IT UNDONE IN THE FINAL MONTHS OF OUR FIRST TERM AND IT IS IN THIS SPIRIT THAT WE HOPE THE GVN WILL TAKE OUR FEW REMAINING COMMENTS. FOLLOWING ARE OUR COMMENTS ON GVN RESPONSE, FIRST LISTING THOSE SUGGESTIONS WE ACCEPT AND THEN THOSE ON WHICH WE STILL DIFFER:

WHAT WE ACCEPT : SUBSTANTIVE PROPOSAL

3. IN FIRST SENTENCE OF THE POLITICAL POINT, POINT 4, WE ACCEPT ADDITION " FREE FROM ANY OUTSIDE INTERFERENCE."
4. WE AGREE TO NEW SECOND SENTENCE IN SECTION 4(B), ALTHOUGH YOU SHOULD NOTE THAT OUR LANGUAGE WAS PRECISELY WHAT WAS USED IN US-GVN AGREED JANUARY PLAN.
5. WE AGREE TO SUBSTITUTION OF WORD "VARIOUS" FOR " THE EXECUTIVE, LEGISLATIVE AND JUDICIAL " IN SECTION 4(D), ALTHOUGH WE CONSIDER THIS STRICTLY COSMETIC; THE MEANING DOES NOT CHANGE IN OUR VIEW.
6. REGARDING SECTION 4(F), WE ACCEPT THE NEW NEUTRAL FORMULATION THAT YOU PROPOSED AND THIEU ACCEPTED. WE ALSO ASSUME YOU CONVERSATION ON THIS POINT WITH THIEU OVERTAKES GVN MEMORANDUM PROVIDED TO YOU EARLIER AND WE WILL THEREFORE RETAIN PHRASE "REVIEW OF THE CONSTITUTION" IN SECTION 4(A).

WHAT WE ACCEPT : PROCEDURES

7. WE ACCEPT GVN'S SUGGESTIONS IN REGARD TO PROCEDURAL POINT 1, NAMELY, DELETION OF " IN DETAIL" IN THE FIRST SENTENCE OF LAST PARAGRAPH AND SUBSTITUTION OF " FOR FURTHER DISCUSSION" IN PLACE OF "FOR DETAILED DISCUSSION" IN LAST SENTENCE OF LAST PARAGRAPH.
8. WE AGREE TO DELETION OF WORDS " IN DETAIL" IN SECOND SENTENCE OF PROCEDURAL POINT 2.
9. WE ACCEPT GVN CHANGES ON PROCEDURAL POINT 4.

AREAS OF REMAINING DIFFERENCE : SUBSTANTIVE

10. WE BELIEVE THE GVN REWRITE OF FIFTH PARAGRAPH OF SECTION 4(A) ON THE COMPOSITION OF THE CNR IS EXTREMELY UNWISE. ON THE ONE HAND IT IS MORE SWEEPING THAN OURS PERHAPS UNINTENTIONALLY GIVING UP THE VETO. ON THE OTHER HAND GVN CHANGE OBVIOUSLY WOULD REMOVE ONE OF THE FEW NEW ELEMENTS OF OUR PROPOSAL SINCE JANUARY 25 PLAN. WE HAVE ALREADY AGREED TO DROP REFERENCE TO EQUAL PROPORTIONS IN THE COMPROMISE YOU BROUGHT BACK FROM HAWAII. WITHOUT OUR ALREADY WATERED DOWN VERSION WE WOULD BE BACK TO THE JANUARY 25 PROPOSITION AND WOULD NOT HAVE A VEHICLE FOR OUR STRATEGY FOR THE NEXT FEW MONTHS. FOR REASONS CITED IN OUR 2157 AND PREVIOUS MESSAGES WE BELIEVE GVN HAS AMPLE SAFEGUARDS IN NEGOTIATIONS WHICH COULD LEAD EITHER TO EFFECTIVE GVN MAJORITY ON CNR OR AT WORST A STALEMATE.

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T O P S E C R E T 100311Z SEP 72 SENSITIVE EXCLUSIVELY EYES ONLY
VIA BUNKER CHANNELS SECTION 2 OF 2
FROM: HENRY A. KISSINGER
TO: AMBASSADOR BUNKER, SAIGON
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REMAINING AREAS OF DIFFERENCE: PROCEDURES

11. BEFORE COMMENTING ON SPECIFIC AREAS OF DIFFERENCE, I CANNOT EMPHASIZE TOO STRONGLY THAT WHAT WILL DETERMINE THE OUTCOME IS NOT WHAT IS IN THE PROCEDURAL DOCUMENT BUT THE FORUMS OPEN AND WHAT HAPPENS WITHIN THEM IF AND WHEN THEY ARE. AS LONG AS GVN RETAINS VETO IN WHATEVER FORUM IT PARTICIPATES, WE VIEW PROCEDURAL QUESTIONS AS ESSENTIALLY SECONDARY AND DO NOT WANT TO OVERDIGNIFY THEM BY EXCESSIVE QUIBBLING WITH GVN. ANY ANALYSIS OF THE COMPLEXITY OF THE ISSUES SUCH AS CEASEFIRE AND COMPOSITION OF VARIOUS BODIES MAKES IT OBVIOUS THAT THEY CANNOT BE SETTLED IN THE FIRST FORUM AND WILL HAVE TO BE REFERRED FOR CONSIDERATION IN THE OTHER FORUMS.

12. ON THE SPECIFICS, IN RESPECT TO THE SECOND PROCEDURAL POINT, WE DO NOT AGREE TO THE FIRST TWO GVN SUGGESTIONS AND ARE NOT CERTAIN WE EVEN UNDERSTAND THEIR RATIONALE. IF, IN PROPOSING DELETION OF "THE AGREEMENTS ON" IN FIRST SENTENCE, GVN IS APPREHENSIVE ABOUT LEGAL IMPLICATIONS OF WORD "AGREEMENTS", WE COULD LIVE WITH SUBSTITUTION OF WORDS "WHAT HAS BEEN AGREED". SENTENCE WOULD THEN READ, " THIS FORUM WILL DEAL WITH WHAT HAS BEEN AGREED ON THE MILITARY QUESTIONS . . . "

13. SECOND PROPOSED GVN CHANGE IN RESPECT TO PROCEDURAL POINT 2 STRIKES US AS INCONSISTENT WITH POINT 1 WHICH ALREADY PROVIDES FOR DEALINGS ON SVN POLITICAL QUESTION AS WELL AS MILITARY QUESTIONS IN U.S./DRV FORUM. LANGUAGE WHICH GVN PROPOSES TO DELETE FLOWS LOGICALLY FROM PREVIOUS POINT AND WE THEREFORE PROPOSE TO RETAIN IT. SUGGESTED DELETION WOULD ALSO MAKE NEXT SENTENCE VIRTUALLY MEANINGLESS.

14. WE CANNOT ACCEPT GVN PROPOSED CHANGE ON POINT 3 . WE UNDERSTAND GVN CONCERN AND YOU CAN ASSURE THEM THAT WE HAVE ABSOLUTELY NO INTENTION OF RECOGNIZING TWO SEPARATE GOVERNMENTS IN SOUTH VIETNAM. AT THE SAME TIME, AS PART OF OUR STRATEGY OF BEING CONCILIATORY ON ESSENTIALLY PERIPHERAL ISSUES, WE DO NOT WANT TO REJECT OUTRIGHT HANOI'S CONCEPT OF W THREE WAY VIETNAMESE FORUM. WE HAVE ALREADY MET IMPORTANT GVN CONCERNS ON THIS POINT, FIRST BY EARLIER DELETION OF WORD "TRIPARTITE" AND SECONDLY BY CHANGING NAME OF PRG TO NLF. IF FORUM WERE EVER TO ACTUALLY BECOME OPERATIVE, GVN WOULD HAVE VETO AND TREAT NLF HOWEVER IT WISHED. IN EXPLAINING OUR POSITION, THIS MAY PROVIDE CONVENIENT POINT AT WHICH TO EMPHASIZE WE CANNOT AFFORD BLOW-OUT OVER A PROCEDURAL QUESTION.

ADDITION COMMENTS

15. IN ADDITION TO THE FOREGOING COMMENTS, PLEASE INFORM THIEU THAT WE HAVE ADDED A FINAL SUBSECTION TO POINT 4 CONCERNING THE U.S. ATTITUDE. IT IS THE STANDARD LANGUAGE WE HAVE USED IN SPEECHES AND IN OUR JANUARY 25 PLAN. IT READS AS FOLLOWS: QUOTE FOR ITS PART, THE UNITED STATES DECLARES THAT IT RESPECTS THE SOUTH VIETNAMESE RIGHT TO SELF DETERMINATION; IT WILL REMAIN COMPLETELY NEUTRAL WITH RESPECT TO THE POLITICAL PROCESS IN SOUTH VIETNAM; AND IT WILL ABIDE BY THE OUTCOME OF ANY POLITICAL PROCESS SHAPED BY THE SOUTH VIETNAMESE PEOPLE THEMSELVES. UNQUOTE.

IT WAS IN THE JANUARY 25 PLAN AND IS ADDED ONLY BECAUSE WE WANT TO AVOID QUESTIONS WHICH ITS OMISSION WOULD RAISE.

16. SECONDLY, ANOTHER MINOR POINT, YOU SHOULD MENTION THAT WE HAVE DECIDED TO USE WORDS "DEAL WITH" RATHER THAN "DISCUSS" IN THIRD POINT OF OUR PROCEDURAL PROPOSAL TO MAKE IT CONSISTENT WITH REMAINDER OF TEXT. WE NOTE GVN TEXT RETAINS PHRASEOLOGY USED IN OUR EARLIER DRAFTS.

17. IN YOUR DISCUSSIONS YOU SHOULD POINT OUT THAT AFTER THE LONG DISTANCE WE HAVE TRAVELLED AND THE EFFORTS WE HAVE MADE WHAT WORRIES US NOW IS THAT WE ARE EDGING TOWARD A PLAN THAT ~~COULD LOOK LIKE A~~ TRANSPARENT RECASTING OF THE JANUARY 25 PROPOSAL. THIS WOULD UNDERMINE OUR STRATEGY AND JOINT US-GVN OBJECTIVES. THAT IS WHY WE FEEL WE MUST HOLD FIRM ON THOSE FEW REMAINING AREAS OF DIFFERENCE LISTED ABOVE. PLEASE SEE WHETHER WE CAN NOW GET A SPEEDY RESOLUTION.

WARM REGARDS.

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