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TEXT
TAGS: PREL, AU
SUBJECT: AUSTRIAN CHARGE CALL TO DISCUSS WALDHEIM
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1. FOLLOWING IS THE TEXT OF MEMCON PREPARED AFTER APRIL 25 CALL BY CHARGE KUEN ON EUR/CE OFFICE DIRECTOR GILMORE.
2. BEGIN TEXT:

MEMORANDUM OF CONVERSATION

PARTICIPANTS: AUSTRIAN EMBASSY:
- - - CHARGE (MINISTER) ADOLF KUEN;
- - - SECOND SECRETARY LEOPOLD RADAUER;
- - MARY MOCHARY, DEPUTY LEGAL ADVISOR;
- - HARRY GILMORE, DIRECTOR, EUR/CE;
- - JOHN NESVIG, AUSTRIA DESK

DATE AND PLACE: APRIL 25, 1986, EUR/CE

SUBJECT: KURT WALDHEIM

KUEN OPENED BY SAYING THAT HE HAD BEEN INSTRUCTED BY THE MINISTRY OF FOREIGN AFFAIRS TO VERIFY PRESS REPORTS THAT

THE HEAD OF THE U.S. DEPARTMENT OF JUSTICE'S OFFICE OF

NAZI WAR CRIMES DISCLOSURE ACT
2000

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SPECIAL INVESTIGATIONS, NEAL SHER, HAD RECOMMENDED PLACING WALDHEIM ON THE "WATCH LIST." HE POINTED OUT THAT THE AUSTRIAN PRESIDENTIAL CAMPAIGN WAS IN ITS FINAL STAGES. NEWS ON WALDHEIM, A LEADING CANDIDATE, WAS READ, AND INTERPRETED, EAGERLY. COULD WE CONFIRM THAT THE REPORTS ON SHER'S STATEMENT WERE ACCURATE?

MOCHARY REPLIED THAT, IN THE WEEKS SINCE THE INITIAL ALLEGATIONS CONCERNING WALDHEIM'S WARTIME ACTIVITIES WERE SURFACED, JUSTICE AND STATE HAD BEEN LOOKING INTO THE MATTER. THIS WAS DONE BECAUSE BOTH DEPARTMENTS HAVE PARALLEL RESPONSIBILITIES UNDER THE IMMIGRATION AND NATIONALITY ACT TO DETERMINE A FOREIGN CITIZEN'S ELIGIBILITY TO ENTER THE U.S. AT JUSTICE, SHER IS CONSIDERED TO BE "WORKING LEVEL." HIS WORK WOULD NORMALLY BE SUBMITTED TO HIS SUPERIORS FOR REVIEW. NOT EVEN SHER'S DIRECT SUPERIOR HAS COMMENTED ON THIS MATTER. ANY RECOMMENDATION SHER MAY HAVE MADE IS NOT A U.S. GOVERNMENT POSITION.

KUEN REPLIED THAT THE VIEWS OF A U.S. OFFICIAL ON THIS ISSUE COULD BE CONSTRUED AS INTERFERENCE IN THE AUSTRIAN ELECTION PROCESS. HE HOPED THAT WE WOULD LOOK INTO THE LEAKS. WERE THE QUOTES FROM THE REPORT IN THE NEWS REPORTS ACCURATE?

MOCHARY SAID THAT WE COULD NOT VERIFY THE QUOTES OR THE NEWS REPORTS. IN RESPONSE TO KUEN'S QUESTION ON WHO IN THE JUSTICE DEPARTMENT WOULD BE REVIEWING ANY RECOMMENDATION ON WALDHEIM, MOCHARY SAID SHE UNDERSTOOD THAT THE DEPUTY ASSISTANT ATTORNEY GENERAL, THE ASSISTANT ATTORNEY GENERAL AND THE ATTORNEY GENERAL HIMSELF WOULD DEAL WITH THIS CASE.

KUEN THEN ASKED ABOUT THE NATURE OF THE "WATCH LIST." MOCHARY EXPLAINED THAT PLACING A NAME ON THE LIST WAS NOT A JUDICIAL DETERMINATION. IT REQUIRED A LOW THRESHOLD OF EVIDENCE AND PEOPLE OFTEN DID NOT KNOW WHEN THEIR NAMES WERE PLACED ON THE LIST. ONCE A PERSON IS ON THE LIST, HE IS DENIED ENTRY TO THE U.S. UNTIL HE PRESENTS EVIDENCE TO JUSTICE SUFFICIENT TO CONVINCING THEM THAT HE IS ELIGIBLE TO ENTER THE U.S. THE DECISION WOULD BE MADE INDEPENDENTLY BY JUSTICE. STATE AND JUSTICE HAD PARALLEL, INDEPENDENT RESPONSIBILITY IN THIS AREA. STATE DID NOT HAVE A FORMAL ROLE IN THE JUSTICE DECISION.

KUEN SAID THAT, REGARDLESS OF THE U.S. GOVERNMENT'S INTERNAL PROCESS, ANY DECISION MADE BEFORE THE ELECTION

WOULD BE CONSIDERED BY AUSTRIANS AS INTERFERENCE IN THE CAMPAIGN. IN RESPONSE TO KUEN'S QUESTION ABOUT THE TIMING OF THE JUSTICE AND STATE DECISIONS, MOCHARY INDICATED THAT ONE EFFECT OF THE LEAK MIGHT BE TO HOLD UP THE FINAL DECISION, SINCE SOME TIME WOULD PRESUMABLY BE SPENT TRYING TO FIND OUT HOW THE INFORMATION GOT TO THE PRESS.

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KUEN GAVE THE FOLLOWING SUMMARY OF HIS UNDERSTANDING OF THIS PART OF THE DISCUSSION: THE DEPARTMENTS OF JUSTICE AND STATE ARE REQUIRED BY LAW TO REVIEW THE ACCUSATIONS AGAINST WALDHEIM. THAT REVIEW IS CONTINUING. ANY WORKING LEVEL RECOMMENDATIONS ARE ONLY ONE STEP IN THE PROCESS. THEY MUST BE SUBMITTED TO THE DECISION MAKING LEVEL. UNTIL THE PROCESS WAS COMPLETE THERE WAS NO USG DECISION. JUSTICE WOULD MAKE AN EFFORT TO DETERMINE WHO WAS RESPONSIBLE FOR THE LEAK AND TO PREVENT FURTHER LEAKS. THE PROCESS WOULD PROBABLY TAKE SOME TIME. THE USG HAD AVOIDED PUBLIC PRONOUNCEMENTS AND WOULD CONTINUE TO DO SO UNTIL A DECISION WAS REACHED. KUEN EXPRESSED HIS APPRECIATION FOR THE WAY THE USG HAD HANDLED THE MATTER. IT WAS UNFORTUNATE, HOWEVER, THAT THE LEAKED RECOMMENDATION HAD BEEN INTERPRETED BY SOME AS A USG DECISION.

KUEN OUTLINED HIS GOVERNMENT'S SENSITIVITIES ON THIS MATTER. HE EXPLAINED THAT THIS PRESIDENTIAL CAMPAIGN HAD BEEN LONG AND DIFFICULT. BECAUSE OF THE ALLEGATIONS MADE ABOUT WALDHEIM'S WARTIME ACTIVITIES, THE ELECTION DEBATE HAD TAKEN ON A DIMENSION NOT USUALLY FOUND IN AUSTRIAN PRESIDENTIAL CAMPAIGNS. TO A CERTAIN EXTENT, THE CAMPAIGN HAD BECOME A DISCUSSION OF AUSTRIA'S PAST.

INTERNATIONAL INTEREST HAD BEEN FOCUSED ON AUSTRIA'S ROLE DURING WORLD WAR II. WHILE THE DISCUSSION WOULD PROBABLY PROVE BENEFICIAL TO AUSTRIA'S YOUTH, HELPING THEM TO UNDERSTAND BETTER THEIR PAST, AUSTRIA'S PERFORMANCE AS A DEMOCRATIC COUNTRY DURING THE PAST 40 YEARS WAS SOMETIMES IGNORED. FOR THESE REASONS PRESIDENT KIRCHSCHLAEGER HAD AGREED TO REVIEW THE DOCUMENTS IN THE UN WAR CRIMES COMMISSION FILE AND MATERIAL GIVEN HIM BY THE WORLD JEWISH CONGRESS AND WALDHEIM. HE WANTED TO EXERCISE A CALMING EFFECT ON THE DOMESTIC DEBATE. WHILE HE DID NOT HAVE LEGAL AUTHORITY TO PRONOUNCE GUILT OR INNOCENCE, HE ACTED ON THE BASIS OF HIS MORAL AUTHORITY.

KUEN CONCLUDED BY SAYING THAT THE PRESENT AUSTRIAN GOVERNMENT, WHICH IS POLITICALLY OPPOSED TO WALDHEIM, WAS IN A DIFFICULT POSITION. GOVERNMENT OFFICIALS WERE

TREATING THE ISSUE VERY CAREFULLY, GIVING WALDHEIM THE SAME TREATMENT THEY WOULD GIVE TO ANY AUSTRIAN CITIZEN. WALDHEIM WAS STILL IN THE LEAD IN RECENT POLLS, BUT THERE WAS A LARGE PERCENT OF UNDECIDED. END TEXT. WHITEHEAD
END OF MESSAGE

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