



United States Department of State

Washington, D.C. 20520

SECRET ATTACHMENT

June 19, 1984

MEMORANDUM FOR MR. ROBERT C. MCFARLANE
THE WHITE HOUSE

Subject: Background Information on Terrorism for
Edwin Meese, III

The Department of State forwards the attached background material on terrorism for use by Edwin Meese, III. Among the documents are Secretary Shultz's address to the Trilateral Commission, his statement to the House Foreign Affairs Committee on June 13, 1984, and a draft of his upcoming speech on terrorism to the Jonathan Institute.

A handwritten signature in dark ink, appearing to read "C. Hill".

Charles Hill
Executive Secretary

Attachments:

As stated.

GLOBAL TERRORISM IN 1983

I. GENERAL PERSPECTIVE

- o There were 500 terrorist incidents in 1983, a slight increase over 1982. The Middle East, however, witnessed a 128% increase in the number of terrorist incidents over 1982. Fully one half of all international terrorist attacks were directed against the United States and France. In 1983, the highest number of persons were killed (652) and injured (1,273) by terrorists since we began keeping statistics in 1969.

- o GEOGRAPHIC DISTRIBUTION OF TERRORIST INCIDENTS

	<u>1983</u>	<u>1973-82</u>
W. Europe	37.2%	36.8%
Latin America	25.6	19.6
Mid East		
North Africa	22.8	21.6
Asia/Pacific	7.8	5.1
Africa	3.4	3.6
North America	2.4	9.4
USSR		
Eastern Europe	.8	1.3

- o Diplomatic and government personnel accounted for 48% of all the international victims of terrorism in 1983.

- o TARGETS BY TYPE

	<u>1983</u>	<u>1979-83</u>
Diplomatic	42.6%	43.5%
Military	18.4	11.8
Business	14.0	19.2
Other Government	5.6	4.4
Other	14.0	21.1

- o As high-level targets have become better protected, we have witnessed more and more attacks against lower-level victims, particularly diplomatic officers abroad. The assassinations of Commander Schaufelberger, Captain Tsantes, Leamon Hunt, two Turkish consuls, and a British Council officer, as well as unsuccessful attacks against a U.S. military man assigned to our Embassy in Athens and our Consul General in Strasbourg, bear stark witness to this new trend in terrorism.
- o Bombings accounted for 52% of all terrorist attacks in 1983. Bombings are cost-effective, indiscriminate, and frequently devastating in the number of victims and the consequent publicity produced. The bombing of our Embassy in Beirut (57 killed, 120 wounded), the bombings of the U.S. Marine and French barracks in Beirut (296 killed, 84 wounded), and the bombing of our Embassy in Kuwait (5 killed, 28 wounded) are notable examples of this devastating method of attack.

o INCIDENTS BY TYPE (U.S. Citizens Only)

	<u>1983</u>	<u>1973-82</u>
Bombings	96	1,196
Kidnapping	10	115
Assassination (includes attempts)	8	87
Hijackings	6	74
Armed Attack	24	73
Arson	36	-
Hostages	8	26
Other	3	212

- o The U.S. remains an attractive terrorist target with 271 Americans losing their lives to terrorists in 1983. This represents more American deaths from terrorism than were recorded in the preceding 15 years. We are a prime target because we have an extensive official and commercial presence overseas which is high in numbers of people and profile; our citizens and facilities are accessible and open to the public; our policies are opposed to the interests of many terrorist groups; and we often support governments which terrorists are attempting to bring down.

STATE-SUPPORTED TERRORISM

I. BACKGROUND

- o While not a new problem, support for acts of international terrorism by governments has increased recently. This support has taken the form of: logistical aid, provision of weapons and/or training, granting of safe-havens, use of diplomatic pouches and/or documentation, and--in some cases--actual targetting and/or provision of information about the selected target. Seventy attacks in 1983 can be attributed to this phenomenon.
- o Under the provisions of the Fenwick Amendment (Section 6 of the Export Administration Act of 1979), we periodically review all the information available to us and designate to Congress those countries which have "repeatedly provided support for acts of international terrorism." Currently, we have identified five countries as doing so: Iran, Cuba, Syria, Libya and the People's Republic of South Yemen. Countries designated as state supporters of international terrorism have applied to them a range of export controls designed to prevent licensing of exports which can enhance the military potential of those countries, or their ability to continue to support terrorist acts.

II. FOUR SPECIFIC EXAMPLES

- o Syria and Iran played significant roles in encouraging Middle Eastern terrorism such as the bombing of the US Embassy in Beirut carried out by Iranian -- supported Lebanese Shi'ite radicals operating from Syrian-controlled territory.
- o Elements of the Al Dawa Party, trained by Iran, were responsible for the bombing of our Embassy in Kuwait.
- o Damascus has become the home for one of the most dangerous Palestinian terrorist groups, Black June headed by Abu Nidal, who has targeted US, Israeli, Jordanian, and UK interests.
- o North Korea perpetrated, using its own agents, a vicious bombing in Rangoon designed to assassinate the President of the Republic of Korea and his cabinet in October. The President escaped, but many high ranking officials of the ROKG and several Burmese died in the attack.

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THE USE OF FORCE AGAINST TERRORIST ACTS

I. HIGHLIGHTS

-- It is internationally accepted that a host country is responsible for protecting the personnel and facilities of other states that are located within its borders. This, however, does not preclude personnel of receiving states from defending themselves and their facilities against actual attacks or taking armed action when requested or consented to by the host country.

-- The commission of terrorist violence by one state against the personnel and facilities of another is clearly an unlawful use of force under the U.N. Charter; this includes instigating or assisting private groups or individuals in the commission of such acts.

-- The state which is the target of terrorist violence has the right, in accordance with Article 51 of the U.N. Charter, to act in legitimate self-defense including, if necessary, the use of appropriate force.

-- In extreme situations, a state may take forcible action to prevent an imminent attack if non-forcible means of preventing it have been exhausted or are not reasonably available.

-- Such use of force without the consent of the host state is entitled only when the host country is unable or unwilling to take effective action.

-- Acts of "retaliation" or "reprisal" are not justified by the principle of self-defense and the terms should not be used in explaining any use of force against terrorist activity.

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NSDD 138 OF APRIL 3, 1984 ON COMBATTING TERRORISM

I. HIGHLIGHTS

o Basic purpose in view of increasingly heavy involvement of states in terrorism is to shift policy focus from passive to active defense measures and to require that resources be reprogrammed and/or obtained to support that policy focus.

o Active defense requires significant increase in intelligence resources to pinpoint groups (or targets) that are actively considering strikes against us and to disrupt, confuse or otherwise preempt such strikes. All proposals must be in conformity with existing US law. Thus:

--State is instructed to intensify efforts to achieve cooperation of other governments.

--CIA is to intensify use of liaison and other intelligence capabilities and also to develop plans and capability to preempt groups and individuals planning strikes against US interests which it is to present to NSPG by May 31.

--DOD is instructed to maintain and further develop capabilities to deal with the spectrum of threat options.

o Active defense measures by the United States are expected to prompt retaliation and at least in short run to increase level of terrorist activity against us, including within United States. Accordingly,

--State, DOD, Justice, Treasury, and CIA are to develop the full range of overt options to deal with terrorism.

--State and Defense are instructed to accelerate defensive measures for personnel and facilities overseas including those of alerts, training, etc.

--State and Justice are to present any legislation needed.

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--Justice and Treasury are to review defensive steps needed within US including coordination with state and local authorities. State is involved on foreign officials.

--IGT is to pull together this program including resource requirements of all agencies for all defensive measures and present plan to NSPG by May 31.

- o The foregoing is to be done by December 31, 1984 under existing organizational arrangements. In the meantime, the NSC is to chair an interagency review to consider whether any new organizational arrangements are needed to have a more effective effort.

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QUESTIONS AND ANSWERS

I. GENERAL

Q. Why is state use of terrorism such a special problem?

A. Where the state itself is using terrorism, it goes outside the normal rules governing international behavior. Diplomatic pressures are not very effective in getting a country to stop, as we saw in the Iran hostage situation or a few weeks ago with the People's Bureau case in London. States that work within the rules will always have a problem with states that do not, just as any society has a problem with its criminal element. When a group gets state support, that group is able greatly to extend its reach, to enhance its logistics, to use more sophisticated weapons, to move with greater anonymity and safety. In the military sense, state support for a terrorist group is a force multiplier, and the danger to targeted people and countries goes up accordingly.

Q. When you talk about an active defense, what do you mean?

A. You have to start with the fact that there is no one easy answer to the problem of terrorism. I don't know of any country that has a very satisfactory answer today. We have to protect our people from terrorist attacks. We have to work with other governments to do that, and we have to try to get the states that are supporting terrorism to stop. But when all that fails, and we still have the problem, we cannot just sit and wait to be attacked. We have to find ways to frustrate, interfere with and prevent terrorist attacks. If that involves the use of force, it will be carried out in accordance with our right of self-defense under Article 51 of the United Nations Charter.

Q. Mr. Secretary, can you tell us something about the conclusions and recommendations made in the new NSDD number 138 signed by the President on April 3?

A. Mr. Chairman, As I understand it, the leadership of the committees primarily concerned with terrorism in both houses has been briefed in sessions jointly conducted by representatives of the key federal agencies concerned with the problem of terrorism. I am unable to add to that briefing, and I should not do so in any event in a public hearing.

Q. Would you be prepared to discuss the NSDD with the members of this Committee in executive session?

A. I believe, Mr. Chairman that such a briefing is best provided by the kind of team that did the original brief. The subject matter cuts across several different agency lines, and the Department really should not try to speak for the other agencies concerned. I would be happy to ask Ambassador Sayre and others who worked with him to discuss with you and others on the Committee any remaining issues that may be of concern.

Q. Mr. Secretary, you said that you had rather extensive discussions in London on how the allies plan to confront international terrorism. What exactly do you have in mind? Are we going to strengthen liaison and other activities on intelligence and at the police level? Are there any meetings of diplomats or lawyers already scheduled to discuss these problems?

A. I cannot be specific. We share intelligence with our friends and allies. We are in daily bilateral contact on a broad range of issues. Given the nature of the terrorist problem, however, we believe that we will be more effective if we work these matters out discretely either in bilateral or multilateral channels and take the legal action we consider appropriate in the circumstances. We are, of course, available to discuss these matters in executive session or to consult with any of you individually if you are seeking specific information.

Q: Is there any substance to Qadhafi's charge that the Central Intelligence Agency is backing Libyan dissidents attempting to overthrow Qadhafi's regime?

A: We had no prior knowledge of attacks against the Libyan government, nor were we involved in any way in the fighting last month in Tripoli.

Q: Is there any information available that Qadhafi's statement represents an actual threat to conduct terrorist attacks in the United States?

A: We reject Qadhafi's charge of U.S. involvement in last month's fighting in Tripoli. Qadhafi has again announced to the world that he is willing to use terrorism as an instrument of state policy. As you know, he has for some years deliberately supported terrorists as an extension of his own foreign policy. At this time, I have nothing to offer concerning any specific Libyan terrorist threat to the United States. We will, however, deal effectively and swiftly with any such acts in the United States.

- Q. How would the United States deal with a problem such as the British had with the Libyan Embassy? Would we be unable to try in the United States a diplomat who committed such an act here?
- A. Under the Vienna Convention diplomats have immunity from criminal prosecution. The remedy is to declare them persona non grata. When the Convention was written no one could contemplate that a sending state would so flagrantly abuse the immunity provided by the Convention. The international community has to address this problem. In the meantime, we have concluded that the police have a right to protect themselves and to return suppressing fire until they can take cover. We believe that is consistent with the doctrine of proportional response under international law. As we discussed in London, we will have to review this matter and develop better procedures and laws to deal with it.

II. THE LEGISLATIVE PACKAGE

Q. How will the legislative package contribute to the fight against terrorism? Why is it necessary at this time?

A. The four bill package strengthens our ability to deal with terrorism through our criminal laws in a variety of ways. The two bills that implement international anti-terrorism conventions on aircraft sabotage and hostage-taking extend our criminal jurisdiction over these crimes and would strengthen our hand with allies and others in the international community who have already adopted strict legal measures in these areas. The bill on rewards will enable us to offer significant financial incentives to persons willing to provide information that would aid us in thwarting terrorist acts, bringing an incident to an end, or apprehending perpetrators of such acts. The bill prohibiting the provision of training and support to groups or states that engage in acts of international terrorism provides a legal basis to control activities which experience has shown are not sufficiently covered by existing law.

III. TRAINING AND SUPPORT BILL

Q. Why do we need a bill like the Training and Support legislation?

A. What we are trying to stop is an individual or business under US jurisdiction selling training, intelligence, logistical and other similar support services to governments for the purpose of organizing hit squads or otherwise carrying out terrorist acts. This law is not intended to stand alone; it is part of a set with the Export Administration Act, and the International Traffic in Arms Regulations. It closes the gap that we now have on selling training, intelligence and logistical support services to states that engage in terrorism.

Q. Is it correct that this bill grants the Secretary of State unprecedented powers?

A. No, the basic criticism is that this bill grants the Secretary of State too much discretion in the designation determination. Actually, the procedure used is little different than under the Arms Export Act and the Export Administration Act, both of which provide for a factual determination by the executive branch in the context of possible criminal penalties.

Q: What guidance does the bill provide to distinguish between terrorist groups, on the one hand, and legitimate insurgencies, on the other? Where would the contras fall under this distinction? The PLO? The IRA? (etc.)

A: The basis for a designation by the Secretary under the bill would be the acts or likely acts of international terrorism of an entity, not the legal status of that entity itself. The bill recognizes that acts of international terrorism may be carried out by a terrorist group, which by definition has no international legitimacy, by a foreign faction, which may or may not be a recognized insurgency, or by a state. "International terrorism" is defined in the bill, and the definition used is one that the Congress has already approved and enacted in the Foreign Intelligence Surveillance Act. I want to underscore here that there are important differences between terrorism and insurgency particularly respecting targets and methods. As this is proposed criminal legislation that, when enacted, will provide a basis for possible criminal prosecutions after formal determinations by the Secretary of State, I don't believe it would be appropriate for me to speculate about possible specific determinations the Secretary might make once this bill becomes law.

Q: Why are designations of specific countries or groups necessary at all? Why did the Administration draft this bill to require a determination of countries, factions and groups that support terrorism instead of merely specifying all the activities you are concerned about as crimes under U.S. law?

A: There were two primary considerations leading the Administration to choose the approach in the bill rather than broad criminal legislation. First, the activities that concern us in this bill are in the great majority of cases innocent commerce. While we wanted to stop them in cases where provision of these services posed a danger to lives, property or U.S. foreign policy interests, we saw no need to do so in a way that could generally interfere with peaceful trade. The point of the bill is not to prevent people from providing these services in general, but to prevent them from providing these services to entities that engage in international terrorism as spelled out in the bill. Second, because this legislation has as its primary purpose persuading particular countries and groups to stop practicing or supporting terrorism, it was our belief that this legislation would be a more useful tool in combatting terrorism if its effects were to be very precisely and publicly targeted on the offending countries and groups.

Q. What states do you have in mind adding to those already designated under the Export Administration Act?

A. The legislation would set up a specific procedure for designating states to which it would be illegal to provide training, logistical and other support services. This would include consultations with the Congress at that time. The procedures require the development of evidence to support any determination that I would make. It would not be appropriate for me to make any comments at this time either on those states already on the Export control list or those that might be designated under the proposed legislation. What I can say is that we know that states are supporting terrorist groups and are carrying out terrorist acts that threaten us around the world. The legislation will be helpful to the Justice Department in filling legal gaps.

Q: Why is there a requirement that specific U.S. interests be affected by these acts of international terrorism? Isn't all international terrorism inherently harmful to U.S. interests? Or are there going to be "good terrorists" and "bad terrorists" under this bill?

A: The enactment of a criminal prohibition is normally based on the notion that the society for whose benefit the law is enacted will suffer some identifiable harm resulting from the prohibited act. Without such a link, the basis for the criminal law becomes weakened. While we of course universally condemn any act of terrorism, it is not appropriate for us to legislate universally. It is simply a matter of confining U.S. criminal law to the protection of U.S. interests. By linking the bill's standards explicitly to U.S. interests, we provide a clear and strong basis for a U.S. criminal law in this area.

Q: Could the bill be used to prosecute people who donated money to a country or group that had been placed on the list? What about someone who raised funds for such a group?

A: The bill is not intended to cover people who simply donate money to a group or country that has been designated by the Secretary, or to a "front" group that acted as a conduit for funds to a designated entity. On the other hand, an individual who actively raised funds for a designated entity or for a "front" group for such an entity might be subject to the bill.

Q: Why can't much of the terrorist activity you are trying to reach with this bill be covered under existing federal law relating to conspiracy?

A: In order for a conspiracy to be a criminal offense under federal law, the act that is the aim of the conspiracy must itself be a federal criminal offense. As most of the acts addressed by the new bill are not currently federal offenses, the conspiracy law would not be applicable to them.

Q: Why is there a need for an exemption for official activities (new section 2331(i))?

A: The purpose of that section is to avoid any possible confusion or question as to the potential criminal liability of government officials or agents carrying out lawful and properly authorized activities. We believe there is a policy interest in providing assurance to government officials that they will not be held criminally liable for such activities carried out in good faith.

Q: We are particularly concerned about the vagueness of the phrase "act in concert with". This looks like the type of provision that could cause a chilling effect on the exercise of constitutionally protected rights such as free speech and free assembly. How strongly are you wedded to that formulation?

A: Our purpose in that section of the bill is to cover individuals who, while not actually becoming an official member of a designated foreign group or the armed forces or intelligence service of a designated foreign state, act for all practical purposes as a member of such an entity. We have no intention of interfering with any constitutionally

Q: This legislation would produce some foreign policy problems and some additional restrictions on the liberties of Americans. Do the potential benefits--the numbers of people likely to be prosecuted and terrorist acts prevented--justify these costs?

A: We do not believe that potential foreign policy problems or controversy constitute a valid reason to shy away from taking vigorous steps to combat international terrorism. Nor do we have any intent to restrict constitutionally protected rights of Americans. There is no absolute constitutional right to provide training and support services to states or groups that engage in terrorism. Where the language of the bill causes concern on this point, we are prepared to look at modifications. We believe that the situation where Americans are free to sell their expertise and services to terrorist groups or states has gone on too long. We view the benefits of the bill not so much in terms of numbers of people prosecuted as in the establishment of legal controls on this type of activity, and the resultant message, both to those who would provide such services to terrorist entities and to those who would benefit from these services, that the United States is prepared to take serious legal measures against international terrorism.

Q: Would you be prepared to accept a requirement to consult Congress in the process of designating specific countries or groups under this law?

A: We feel that such designation is basically an executive responsibility, and that Congress's role should consist essentially in providing the guidelines for the executive determination in the legislation itself. At the same time, we recognize the interest of the Congress in these sensitive and important decisions, and would be willing to explore procedures for advance notification of designations to foreign affairs committees , along the lines of existing procedures in other laws.

TERRORISM

Terrorism is the use or threatened use of violence for a political purpose to create a state of fear which will aid in extorting, coercing, intimidating or causing individuals and groups to alter their behavior. A terrorist group does not need a defined territorial base or specific organizational structure. Its goals need not relate to any one country. It does not require nor necessarily seek a popular basis of support. Its operations, organization and movements are secret. Its activities do not conform to rules of law or warfare. Its targets are civilians, non-combatants, bystanders or symbolic persons and places. Its victims generally have no role in either causing or correcting the grievance of the terrorists. Its methods are hostage-taking, aircraft piracy or sabotage, assassination, threats, hoaxes, and indiscriminate bombings or shootings.

Terrorism is international when the victims, the actors, the location of a terrorist incident, or the means used to carry out the act involve more than one country.

INSURGENCY

Insurgency is a state of revolt against an established government. An insurgent group has a defined organization, leadership and location. Its members wear a uniform. Its objectives are acquisition of political power, achievement of participation in economic or political opportunity and national leadership or, ultimately, taking power from existing leadership. Its primary interests relate to one country. Its methods are military and paramilitary. Its targets are military, both tactical and strategic, and its legitimate operations are governed by the international rules of armed conflict. It operates in the open, and it actively seeks a basis of popular support.

BONN DECLARATION

ADDENDUM TO ECONOMIC SUMMIT CONFERENCE COMMUNIQUE

JULY 17, 1978

Following is an addendum to the communique as delivered by Chancellor Helmut Schmidt on terrorism on behalf of the Delegations:

THE HEADS OF STATE AND GOVERNMENT, CONCERNED ABOUT TERRORISM AND THE TAKING OF HOSTAGES, DECLARE THAT THEIR GOVERNMENTS WILL INTENSIFY THEIR JOINT EFFORTS TO COMBAT INTERNATIONAL TERRORISM.

TO THIS END, IN CASES WHERE A COUNTRY REFUSES EXTRADITION OR PROSECUTION OF THOSE WHO HAVE HIJACKED AN AIRCRAFT AND/OR DO NOT RETURN SUCH AIRCRAFT, THE HEADS OF STATE AND GOVERNMENT ARE JOINTLY RESOLVED THAT THEIR GOVERNMENTS SHOULD TAKE IMMEDIATE ACTION TO CEASE ALL FLIGHTS TO THAT COUNTRY.

AT THE SAME TIME, THEIR GOVERNMENTS WILL INITIATE ACTION TO HALT ALL INCOMING FLIGHTS FROM THAT COUNTRY OR FROM ANY COUNTRY BY THE AIRLINES OF THE COUNTRY CONCERNED. THE HEADS OF STATE AND GOVERNMENT URGE OTHER GOVERNMENTS TO JOIN THEM IN THIS COMMITMENT.

1981 Venice Declaration on the Taking of Hostages
Subscribed to by the U.S., Japan, France,
FRG, Italy, Canada and UK

Gravely concerned by recent incidents of terrorism involving the taking of hostages and attacks on diplomatic and consular premises and personnel, the Heads of State and Government affirm their determination to deter and combat such acts. They note the completion of work on the International Convention Against the Taking of Hostages and call on all states to consider becoming parties to it as well as to the Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons of 1973.

The Heads of State and Government vigorously condemn the taking of hostages and the seizure of diplomatic and consular premises and personnel in contravention of the basic norms of international law and practice. The Heads of State and Government feel it necessary that all governments should adopt policies which will contribute to the attainment of this goal and to take appropriate measures to deny terrorists any benefits from such criminal acts. They also resolve to provide to one another's diplomatic and consular missions support and assistance in situations involving the seizure of diplomatic and consular establishments or personnel.

LONDON ECONOMIC SUMMIT DECLARATION ON
INTERNATIONAL TERRORISM, ISSUED JUNE 9, 1984

The heads of state and government discussed the problem of international terrorism.

They noted that hijacking and kidnapping had declined since the Declarations of Bonn (1978), Venice (1980), and Ottawa (1981) as a result of improved security measures, but that terrorism had developed other techniques, sometimes in association with traffic in drugs.

They expressed their resolve to combat this threat by every possible means, strengthening existing measures and developing effective new ones.

They were disturbed to note the ease with which terrorists move across international boundaries, and gain access to weapons, explosives, training and finance.

They viewed with serious concern the increasing involvement of states and governments in acts of terrorism, including the abuse of diplomatic immunity. They acknowledged the inviolability of diplomatic missions and other requirements of international law; but they emphasized the obligations which that law also entails.

Proposals which found support in the discussion included the following:

- closer cooperation and coordination between police and security organizations and other relevant authorities, especially in the exchange of information, intelligence and technical knowledge;
- scrutiny by each country of gaps in its national legislation which might be exploited by terrorists;
- use of the powers of the receiving state under the Vienna Convention in such matters as the size of diplomatic missions, and the number of buildings enjoying diplomatic immunity;
- action by each country to review the sale of weapons to states supporting terrorism;
- consultation and as far as possible cooperation over the expulsion or exclusion from their countries of known terrorists, including persons of diplomatic status involved in terrorism.

The heads of state and government recognized that this is a problem which affects all civilized states. They resolved to promote action through competent international organizations and among the international community as a whole to prevent and punish terrorist acts.