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182566ID #... CO054-01 WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET O · OUTGOING · INTERNAL - INCOMING Date Correspondence 83 Received (YY/MM/DD) is Name of Correspondent: **User Codes:** (B) **MI Mail Report** (C) words 0 Ca awent Ci Subject: hom hs ACTION **ROUTE TO:** DISPOSITION Completion Tracking Туре Action Date of Date Office/Agency (Staff Name) Code YY/MM/DD Response Code YY/MM/DD CS 0 ORIGINATOR **Referral Note: Referral Note: Referral Note: Referral Note: Referral Note: ACTION CODES: DISPOSITION CODES:** 1 - Info Copy Only/No Action Necessary R - Direct Reply w/Copy A - Appropriate Action A - Answered C - Completed C - Comment/Recommendation B - Non-Special Referral S - Suspended D - Draft Response S - For Signature Furnish Fact Sheet X - Interim Reply FOR OUTGOING CORRESPONDENCE: to be used as Enclosure Type of Response Initials of Signer = Code "A" C:S **Completion Date** = Date of Outgoing **Comments:** tte

Keep this worksheet attached to the original incoming letter. Send all routing updates to Central Reference (Room 75, OEOB). Always return completed correspondence record to Central Files. Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

## **RECORDS MANAGEMENT ONLY**

CLASSIFICATION SECTION							
No. of Additional Correspondents:	Media:	Individual Codes:	4500				
Prime Subject Code: <u>CO</u>	254-01 Secon Subje	ndary ect Codes:					

## PRESIDENTIAL REPLY

Code	Date	Comment	Form
c		Time:	<u>P.</u>
DSP .		Time:	Media:

#### SIGNATURE CODES:

- **CPn** Presidential Correspondence

  - n 0 Unknown n 1 Ronald Wilson Reagan n 2 Ronald Reagan
  - n 3 Ron n 4 Dutch n 5 Ron Reagan n 6 Ronald n 7 Ronnie
- CLn First Lady's Correspondence n 0 Unknown

  - n 1 Nancy Reagan n 2 Nancy n 3 Mrs. Ronald Reagan
- CBn Presidential & First Lady's Correspondence n 1 Ronald Reagan Nancy Reagan n 2 Ron Nancy

#### MEDIA CODES:

- B Box/package
- C Copy D Official document
- G Message H Handcarried
- L Letter
- M Mailgram O Memo
- P Photo
- R Report S Sealed

- T Telegram V Telephone X Miscellaneous Y Study

TASPAN

December 12, 1983

#### Dear Mr. Rogers:

I am responding to your letter of October 24 to the President.

The striking letters and art work of the children of Nordhausen, East Germany, gathered by Ms. Gisela Hartmann, eloquently reflect the longing of young people everywhere for a world of peace and a more hopeful future. While there may be honest differences of opinion on how the United States can best assure peace and security in Europe and throughout the world in the coming decades, there can be no genuine doubt that this Administration is totally committed to the task of working toward that goal. Anything less would be unacceptable to the American people.

I would ask that you let Ms. Hartmann know that the message from the children of Nordhausen has been heard and understood. The President is deeply aware of his responsibility for millions of people facing a future over which they themselves have virtually no control. The confidence on the part of Bast Germans in America's leadership, which your letter reflected, is justified and will be affirmed.

Sincerely,

Anne Higgins Special Assistant to the President and Director of Correspondence

The Reverend John M. Rogers Conference Minister The United Church of Christ Michigan Conference Post Office Box 1006 East Lansing, Michigan 48823

AVH/STATE/NSC/nlm--12AVH

### DRAFT REPLY

Dear Mr. Rogers:

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The striking letters and art work of the children of Nordhausen, East Germany, gathered by Ms. Gisela Hartmann, eloquently reflect the longing of young people everywhere for a world of peace and a more hopeful future. While there may be honest differences of opinion on how the United States can best assure peace and security in Europe and throughout the world in the coming decades, there can be no genuine doubt that this Administration is totally committed to the task of working toward that goal. Anything less would be unacceptable to the American people.

I would ask that you **confirm** to Ms. Hartmann that the message from the children of Nordhausen has been heard and understood. The President is deeply aware of his responsibility for millions of people facing a future over which they themselves have virtually no control. The

The Reverend John M. Rogers Conference Minister The United Church of Christ Michigan Conference Post Office Box 1006 5945 Park Lane Road East Lansing, Michigan. confidence on the part of East Germans in America's leadership, which your letter reflected, is justified and will be affirmed.

Sincerely,

Enclosure:

Fact Sheet.



Nov. 21, 1983

MEMO FOR BOB KIMMITT FROM: TY COBB

SUBJECT: 8416

Please sign the selfexplanatory memo to Sally Kelley and forward to her. Thanks.

83	RECEIVED	-	
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MEMORANDUM

-

#### NATIONAL SECURITY COUNCIL

November 21, 1983

MEMORANDUM FOR SALLY KELLEY

FROM:  $\lambda^{\text{ROBERT M. KIMMITT}} \mathcal{J}^{\mathcal{N}}$ 

SUBJECT: Letter to the President from the Church of Christ

The NSC staff concurs with the State Department draft letter regarding the response to the presentation of children's art works forwarded by the Reverend John Rogers.

Tab IDraft letterTab AIncoming correspondence

8416

8410

UNCLASSIFIED (Classification)

DEPARTMENT OF STATE EXECUTIVE SECRETARIAT TRANSMITTAL FORM

s/s 83 8833948 A12: 21

Date November 17, 1983 WHITE House SITUATION ROOM

For: Mr. Robert C. McFarlane National Security Council The White House

Reference:

To:	Pres	ident :	Reaga	an		From:	Mr.	John	Μ.	Roger	S
Date	: 00	ctober	24,	1983		Subject:	For	wards	Let	tters	and
Dra	awings	from	Cit	izens	of	Nordhaus	en,	German	ny		

WH Referral Dated: November 4, 1983 NSC ID# 182566 (if any)

The attached item was sent directly to the Department of State.

#### Action Taken:

X A draft reply is attached.

A draft reply will be forwarded.

A translation is attached.

An information copy of a direct reply is attached.

- We believe no response is necessary for the reason cited below.
- The Department of State has no objection to the proposed travel.
- X Other. A fact sheet on the letters is also attached.

Remarks:

ve Secretary

UNCLASSIFIED (Classification)



United States Department of State

Washington, D.C. 20520

FACT SHEET

## SUBJECT: Letters and Drawings from Citizens of Nordhausen, Germany

The East German children's letters ask the President to help keep peace in the world. Some refer to the horrors of war. One letter says the writer cannot understand that the President could be willing to have millions of people killed. The forwarding letter from Ms. Gisela Hartmann, while it does refer to both sides having developed "entirely unacceptable methods", goes on to focus solely on U.S. policies as the source of the threat to world peace by creating universal fear of a nuclear catastrophe. The bombing of Hiroshima is cited as an example of such "a frightful error, an accident or a politician's decision."

This is, in effect, a one-sided attack on U.S. INF policies much more like those mounted in the campaign of the East German regime than the criticisms of both U.S. and Soviet missile deployments put forward by the small authentic peace movement in the GDR. The real peace movement activists there generally recognize the fact that Soviet deployment of SS-20 missiles have upset the rough equilibrium of power in Central Europe over the past few years.

While the Reverend Mr. Rogers is doubtless sincere in considering the Nordhausen group to be endangered by their initiative, or at least by any direct response from the White House, the letters are in fact very similar to those received almost every day by the American Embassy in East Berlin as part of the GDR regime's campaign against deployment of new U.S. missiles in Western Europe. Rather than question the letters' ostensibly nonpolitical motivation, we recommend a brief reply to Mr. Rogers which takes the letters at face value. A proposed text of such a reply is attached.

### Attachment:

- 1. Suggested reply
- 2. Letter from Mr. John M. Rogers

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#### THE WHITE HOUSE OFFICE

REFERRAL

NOVEMBER 4, 1983

TO: DEPARTMENT OF STATE

ACTION REQUESTED: FURNISH FACT SHEET TO BE USED AS ENCLOSURE

DESCRIPTION OF INCOMING:

ID: 182566

MEDIA: LETTER, DATED OCTOBER 24, 1983

TO: PRESIDENT REAGAN

- FROM: MR. JOHN M. ROGERS CONFERENCE MINISTER THE UNITED CHURCH OF CHRIST MICHIGAN CONFERENCE POST OFFICE BOX 1006 5945 PARK LAKE ROAD EAST LANSING MI 48823
- SUBJECT: FORWARDS LETTERS AND DRAWINGS FROM CITIZENS OF NORDHAUSEN, GERMANY

PROMPT ACTION IS ESSENTIAL -- IF REQUIRED ACTION HAS NOT BEEN TAKEN WITHIN 9 WORKING DAYS OF RECEIPT, PLEASE TELEPHONE THE UNDERSIGNED AT 456-7486.

RETURN CORRESPONDENCE, WORKSHEET AND COPY OF RESPONSE (OR DRAFT) TO: AGENCY LIAISON, ROOM 91, THE WHITE HOUSE

> SALLY KELLEY DIRECTOR OF AGENCY LIAISON PRESIDENTIAL CORRESPONDENCE



Conference Minister JOHN M. ROGERS

Associate Conference Ministers

Central Area HERMAN HALLER P.O. Box 1006 East Lansing, MI 4BB23 517/332-3511

East Area JIMMIE SAWYER 15325 Gratiot Avenue Detroit, MI 48205 313/371-6320

North Area JOHN G. WIGHTMAN 824 Westlawn Harrison, MI 48625 517/539-7163

West Area GAIL M. HENDRIX 2318 Kalarama Portage, MI 49002 616/323-2825

Outdoor Ministries and Youth RAY SPARROWE P.O. Box 1006 East Lansing, MI 48823 517/332-3511



Correspondence

# THE UNITED CHURCH OF CHRIST MICHIGAN CONFERENCE

October 24, 1983

37

P.O. BOX 1006 5945 PARK LAKE ROAD EAST LANSING, MICHIGAN 48823 517 332-3511

President Ronald Reagan 1600 Pennsylvania Avenue N.W. Washington, D.C. 20500

182566

Dear Mr. President:

I have just returned from two months in Germany. I was sent to Germany to represent the United Church of Christ as the German Church celebrates the 500th anniversary of Martin Luther's birth, and to engage in dialogue with Christians in West and East Germany around our mutual concerns for peace. Approximately one half of my time was spent with Christians in East Germany.

One leg of my journey took me to the city of Nordhausen which was liberated by American forces in May, 1945, only to be turned over to the Soviets three months later. Nordhausen is remembered as the place where Werner Von Braun developed the V-2 rocket with the help of concentration camp labor. We both remember how that rocket was deployed against the British, as well as how Werner Von Braun contributed his invaluable genius to America's cause since World War II.

While in Nordhausen, a group of Christians asked me to carry out letters they had written to you in which they expressed their hopes for peace between the two super powers of the world. At their request, I enclose their letters and the drawings of their children which seek to convey to you the dreams and hopes of an entire world made uneasy by continued military escalation. These letters have not been translated as I have assumed you will wish to employ your own translators before responding to them. I should also add that these letters are sent to you at great personal risk to their authors. Had they been detected on my person, those who have written the letters would be in grave trouble.

I wish to make several suggestions as to how I hope you might treat this valued correspondence:

- 1. First, I hope that you will employ a creditable translator so that you will know how many people in East Germany feel about the issues of war and peace.
- 2. Second, I hope that you will be able to distinguish between East German policy and the wishes of its people; recognize that most people living in East Germany are not Communist nor do they enjoy living under Soviet oppression.

Mr. Ronald Reagan October 14, 1983 Page 2

- 3. Thirdly, I hope that you will acknowledge receipt of this correspondence and respond to it in some meaningful way. By that, I mean that I hope that you might spare the rhetoric which they already hear through West German television coverage of your speeches, and engage them in meaningful dialogue.
- 4. Finally, I hope that you might consider sending your response to them to me for forwarding. I am very concerned that a White House return address will seriously endanger their security, to say nothing of the letter never reaching its destination.

Once again, this correspondence comes from Christians in East Germany who have great appreciation for and believe strongly in the United States of America. They invest great hope in America's leadership toward making this world a more peaceful place in which to live. They are friends and allies, not enemies, who need to know that you care for them and value their future.

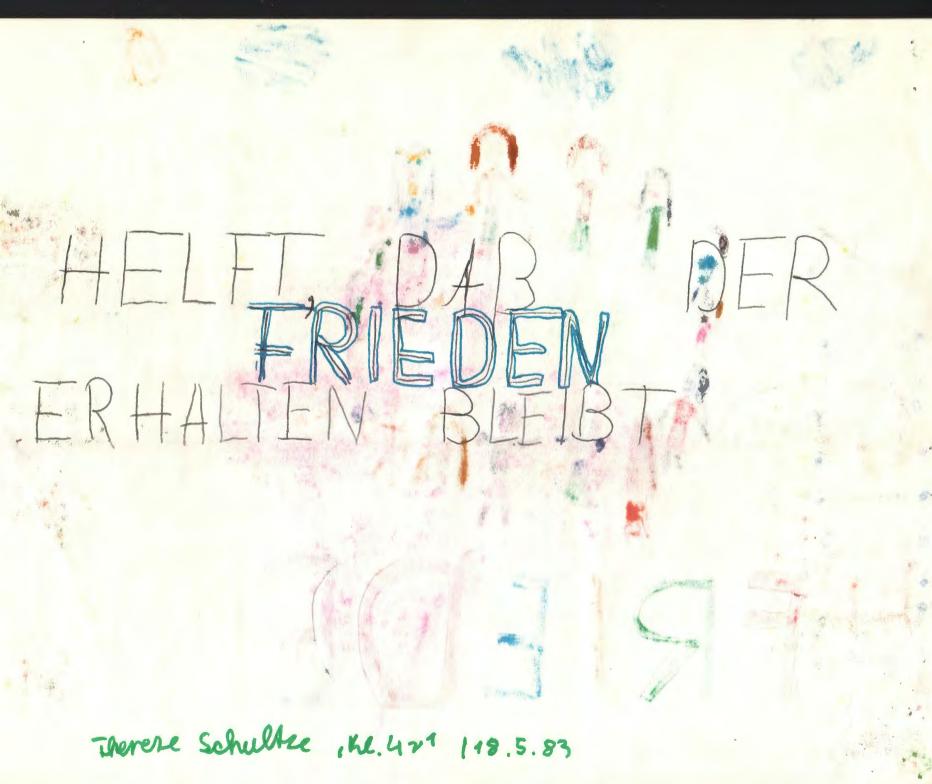
If there is additional information I might be able to provide, please do not hesitate to have your office be in touch with me. In the meantime, warmest best wishes to you.

Most cordially topers John M. Rogers

JMR/db

Enclosures







Sehr geehrser Herr Prasident!

Joh bin ein Machen von 10 Jahren

und lebe in der DDR. Nativlich wünsche ich mis wie fast alle Menschen den Frieden. Bille helfen Sie, den Frieden zu enhalten das meine zwei Bnieder sowie auch meine Ellern nicht in dem schnecklichen Knieg unskommen.

Es gnift Sie schr herslich

Veronika Koloczek

Adnesse:

V.Kolocsek Badestraße 134 5501 Neusladt (Südhanz) DDR

DDR, Mordhausen 28. 9.83

Werter May Reagen !

Joh heiße Karoline Jælger und bin 12 jahre alt.

E

Da sich die Gelegenheit bietet, Thnen einmal zu schreiben, möchte ich diese gleich ausnutzen. Jch will nicht lange "Um den heißen Brei "reden und gleich sagen, was mich bedrückt.

Jch kann das nicht verstehen, daß Sie Millionen von Menschen zu Gounde gehen lassen wollen. Sind sie denn so menschenungseundlich ? Jch weiß, dapsie ein Christ sind (wit ich auch). Halten Sie sich elenn nicht an das fünfte gebot, indem es heißt: Du societ nicht tören !? Sie haven doch auch kinder und Enkelkinder. Haben Sie denn diese nicht lieb ? Denken Sie doch mal, wie viele, viele kinder sterbon müssen, die nichts für die Politik konnen. Meine Foundinnen und ich haben uns schon oft und intensite über den 3. Weltkrieg unterhalten, der hoffentlich nie ausbrechen wird. wir sind alle zur gleiehen Meinung gekommen: Wie kann ein Mensch elas nur woceen? Wie kann ein Mensch nur allein Raketen an die verschiedensten Stellen der Erde stationieven? Konnen Sie nicht einen solchen

Krieg verhindern ?

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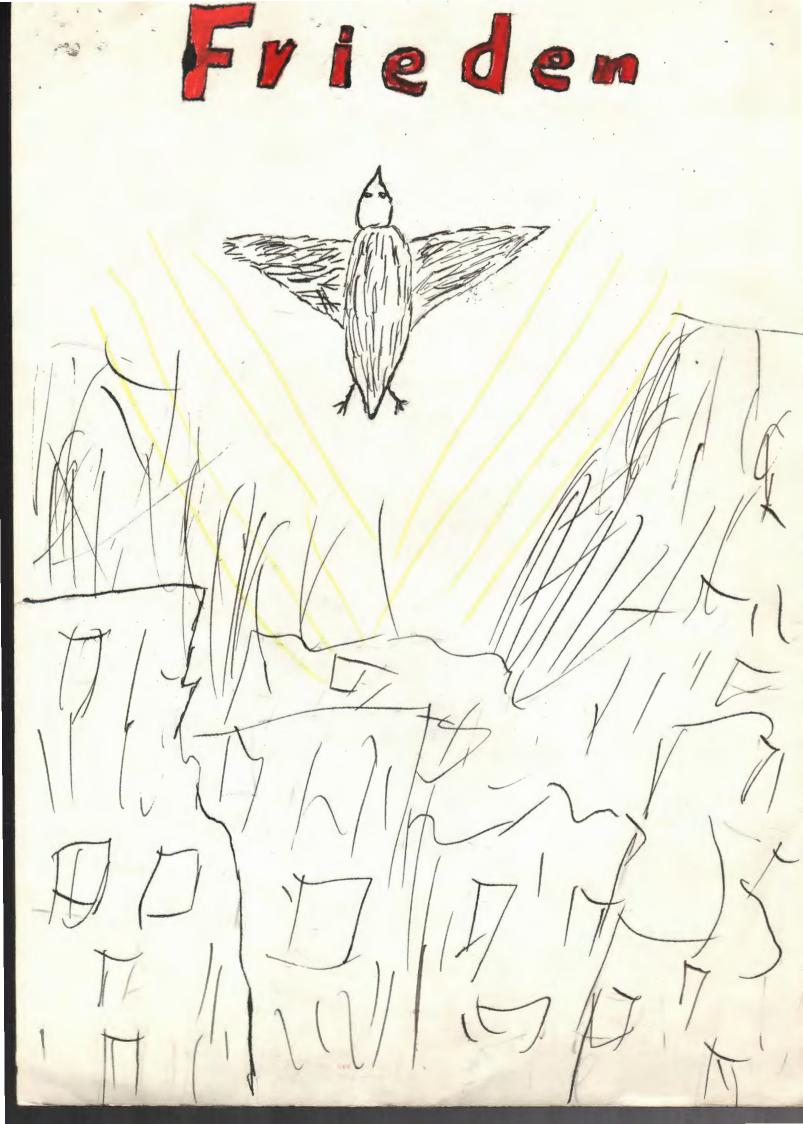
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AD Parking all



Martik Ruddighin 55° d. 1 Neustad A 2- Osterocle Hange Astr. 411 Friedensbild ]



Mr. Prasident!

Sorgen Sie Anv den Frieden in der ganzen Well! Schaffen Sri Beine neven Waffen und bauen Sie die allen ab, denn jeder, auch Sie, braucht den Trieden!

Mis Vielen Dans

Stykan Holoczez 113 Jame 5501 Nensladt 1DDR Backerstrappe 134

Gisela Hartmann 5500 Nordhausen/Harz A.-Träger-Str. 29

## Sehr geehrter Herr Präsident Reagen!

Als Mutter von drei Kindern verfolge ich mit großer Aufmerksamkeit und Sorge seit Jahren das Ringen der Politiker in Ost und West um die Erhaltung des Friedens. Daß ich dabei zu der Meinung gekommen bin, daß beide Seiten völlig untaugliche Methoden entwickeln, werden Sie mir nicht übel nehmen. Ganz sicher ist die Methode der Abschreckung, Sicherheit durch m e h r Sicherheit, seit Beendigung des 2. Weltkrieges die Ursache dafür, daß wir eine lange Periode des relativen Friedens

erleben durften. Diese Periode aber war immer gekennzeichnet von der Angst vor der großen Kathastrophe. Es kann und wird auf Dauer keine Methode sein, den Frieden zu erhalten.

keine Methode sein, den Frieden zu erhalten. Eines Tages muß das Schreckliche geschehen, entweder durch einen entsetzlichen Irrtum, einen Unfall oder durch die Entscheidung eines Politikers, der, wie beim Abwurf der Bombe auf Hiroshima, das Gefühl verloren hat, welchen Einmaligen Wert e in Mensch darstellt.

Es ist mit vällig unbegreiflich, daß Menschen überhaupt in der Lage sind, einen Krieg zu planen, weil schon der Gedanke jemanden zu töten, zu welchem Zwecke auch immer, mir bestialisch erscheint!

Warum, so frage ich mich, warum beschäftigen sich so kluge Leute wie sie in den Regierungen tätig sind, nicht mit den Problemen der leidenden Menschen: dem Hunger in der Welt, dem Rassismus, der Umweltzerstörung u.ä.

Wollte man die genannten Probleme bewältigen, bliebe weder Zeit noch Kraft, überhaupt an Krieg zu denken.

Würden wir alle d a s tun, wären wir würdig Gottes Geschöpfe zu sein.

Es wäre einfach wunderbar, wenn wir Menschen einander annehmen, für einander sorgen und von einander lernen könnten! Würden Präsidenten ihre ganze Kraft dafür einsetzen, wie stolz wäre ein Volk auf einen solchen Präsidenten.!----

Viele Kinder aus Nordhausen/DDR kennen Sie aus dem Fernsehen. Einige haben Bilder für Sie gemalt. Ihre Entscheidungen dort in Amerika sind auch von größter Bedeutung für die se Kinder!

Gott schenke Ihnen Weisheit und Kraft, sich von den politischen Zwängen zu befreien und neue Wege zu finden, den Friden zu erhalten!

fisle Harmanne





an den withtin

Horve Regen / von Dorothea Einboth. Hartmann

Wir Wollen Frieden V

THE WHITE HOUSE

7: "

January 31, 1984

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Dear Charlie,

I have long been a believer that the quiet diplomacy carried out through people-to-people contact can be an effective foreign policy instrument. It also has the decided advantage of emphasizing the strength of the American character and system.

I was pleased to hear of the reaction in East Berlin. I would encourage your staff to review with Jack Matlock and Walt Raymond your projected plans for East Europe and the USSR for the upcoming year.

I think this area of cultural diplomacy is very important and I support your efforts.

- Bud

The Honorable Charles Z. Wick Director US Information Agency 400 C Street, S.W. Washington, D.C. 20547

NSC#8400394

MEMORANDUM

### NATIONAL SECURITY COUNCIL

ACTION

January 23 1984

MEMORANDUM FOR ROBERT C. MCFARLANE

FROM: WALTER RAYMOND, JR.

USIA Exchange with the Soviet Bloc SUBJECT:

Charlie Wick has sent you an upbeat comment on a recent exchange with East Germany. I thought we should pick up on it, encourage the program, but also review it for balance and effectiveness. My letter draft for you is designed to pave the way for that review.

Jack Matlock concurs.

Recommendation:

That you sign the attached letter to Charlie Wick.

Agree / Disagree\_\_\_\_

Attachment

Letter to Charlie Wick for signature Tab I Tab II Letter to you from Charlie Wick

0394



Washington, D.C. 20547

Office of the Director



January 11, 1984

Dear Bud:

I received some good news over the holidays from an unexpected quarter, East Germany, which I would like to share with you.

It concerns a report, which I have enclosed, from the post in East Berlin commenting on the impact of two outstanding cultural presentations which we sent there recently. The first was a series of screenings and seminars with Film Director ("Sophie's Choice", et al) Alan Pakula. The second was the tour of the Orpheus Chamber Music Ensemble which conducted performances in East Germany as well as in Romania, Yugoslavia, and several stops in Western Europe.

In countries such as East Germany where cultural leaders are starved for exposure to the outside world, visits such as these can have tremendous impact. We also know that when controlled presses like the East German begin to present more complex and three dimensional pictures of Americans and our culture, we have made a significant gain.

This report simply shows us what we can accomplish when we identify sensitive and sophisticated private American talents and work with them. Such a resource, where it can be effectively utilized can be a powerful asset to American policy.

I hope we will have many more examples of this for you in the year to come. Until then, best wishes for a Happy New Year.

Sincerely,

Charles Z. Wick Director

The Honorable Robert C. McFarlane Assistant to the President for National Security Affairs The White House

# ACTION

## UNCLASSIFIED UNITED STATES INFORMATION AGENCY

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# INCOMING Telegram

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FORWARD TO MORE ARTS AMERICA OFFERINGS. ROSINUS BT

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USIA

FOR P/DC, EU-GILDEA

E.O. 12356: N/A SUBJECT: GDR MEDIA COVERAGE OF P/DC SPONSORED OFFERINGS: ORPHEUS CHAMBER ENSEMBLE AND ALAN PAKULA

REF: (A) BERLIN #362#; (B) BERLIN 3194

1. TWO RECENT ARTICLES ON CULTURAL PROGRAMS SPONSORED BY P&C BERLIN UNDER THE ARTS AMERICA PROGRAM REINFORCE THE POST'S CONVICTION THAT OUR CULTURAL PROGRAM HAS THE VALUABLE SIDE BENEFIT OF BRINGING PRACTICALLY THE ONLY FAVORABLE MENTION OF U.S. CULTURE IN THE GDR MEDIA.

2. IN THE MAGAZINE "FILM UND FERNSEHEN" FOR DECEMBER, 1983, THE FOURTH ARTICLE ON ALAN PAKULA APPEARED (PREVIOUS ARTICLES APPEARED IN NEUES DEUTSCHLAND, JULY (REFTEL (A); IN BERLINER ZEITUNG, AUGUST, REFTEL (B) AND IN FILM UND FERNSEHEN, FOR OCTOBER. THE DECEMBER ARTICLE IS THE FULLEST AND MOST FAVORABLE COVERAGE TO DATE. THIS PIECE IS THREE PAGES LONG AND INCLUDES FOUR STILLS SUPPLIED IN THE P/DC PRESS PACKET.

--

3. AS WELL AS EXTENSIVELY QUOTING PAKULA'S COMMENTS ON NIS ARTISTIC LIFE, HIS EMPHASIS ON INDIVIDUAL CREATIVITY, AND HIS DELIBERATIONS ON HUMAN NATURE WHILE FILMING "SOPHIE'S CHOICE," THE ARTICLE CITES PAKULA'S RE-FLECTIONS ON FILM-MAKING: "ONE CANNOT MAKE A FILM WITHOUT A MORAL APPEAL; ONE IS ALWAYS MAKING MORAL DECISIONS. ALL POLITICAL JUDGMENTS ARISE FROM HUMAN BEHAVIOR. BUT I AM NOT A MORALIST. IF I WERE, I WOULD NOT TRY SO HARD TO MAKE SOME KIND OF A STATEMENT ABOUT OTHERS. I MAKE FILMS BECAUSE I LIKE TO MAKE FILMS. THAT IS THE PURE TRUTH. MY ADVENTURES ARE VOYAGES OF DISCOVERY INTO THE SOULS OF OTHER HUMAN BEINGS," WHICH SOULS, HE NOTES, ARE INFINITELY COMPLEX.

4. THIS NOTE OF INTELLIGENT, RESPONSIBLE REFLECTION BY AN AMERICAN IS SELDOM STRUCK IN THE GOR MEDIA AND IS A VELCOME RELIEF TO THE GENERALLY BLACK PICTURE OF AMERICA AS AN ENEMY OF HUMANE VALUES.

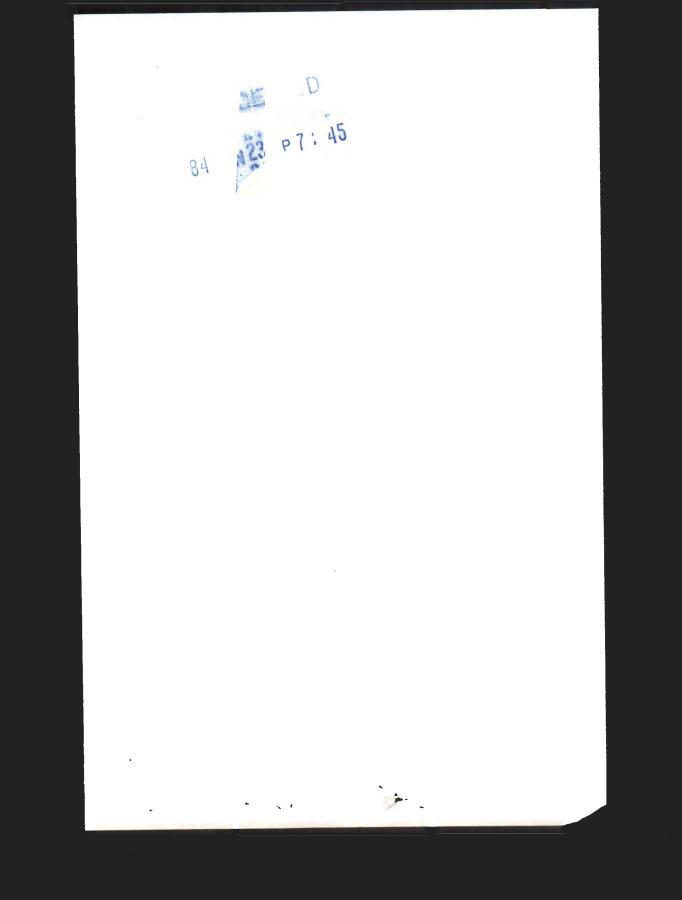
5. ARTICLES HAVE ALSO APPEARED RECENTLY IN LEIPZIG AND IN BERLIN PAPERS ON THE ORPHEUS CHAMBER MUSIC PERFORMANCES. THE ARTICLE IN THE BERLINER ZEITING (NOVEMBER 38) COMMENTED THAT THE ORCHESTRA "WAS WITHOUT A CONDUCTOR; AND THAT REQUIRES A MAXIMUM OF COORDINATION. MOZART'S DIVERTIMENTO LIVED BY THE UNANIMITY WITH WHICH THE MUSICIANS PERFORMED (ABOVE ALL RANDALL WOLFGANG WITH AN EXCELLENT OBDE-SOLO AND MARTHA CAPERN WITH A PARTICULARLY WARM-TONED BUT PRECISELY RENDERED SOLO VIOLIN)".

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THE WHITE HOUSE WASHINGTON D.C. ON INDEPENDENCE DAY, I CONVEY BEST WISHES TO YOU AND THE CITIZENS OF THE UNITED STATES OF AMERICA. I AM CONVINCED THAT THE DEEPENING OF THE POLITICAL DIALOGUE AND THE FURTHER SHAPING OF RELATIONS PAGE 2/50 BETWEEN THE GERMAN DEMOCRATIC REPUBLIC AND THE UNITED STATES OF AMERICA BASED ON THE PRINCIPLES OF PEACEFUL CO-EXISTENCE SERVE THE INTEREST OF OUR PEOPLES JUST AS IT CAN PROMOTE THE PRESERVATION OF WORLD PEACE. ERICH HONECKER GENERAL SECRETARY OF THE CENTRAL COMMITTEE OF THE SOCIALIST UNITY PARTY OF GERMANY AND ..... CHAIRMAN OF THE COUNCIL OF STATE OF THE

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NATIONAL SECURITY COUNCIL WASHINGTON, D.C. 20506

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August 4, 1986

MEMORANDUM FOR RONALD K. PETERSON

FROM:

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RODNEY B. MCDANIEL BAL for

SUBJECT:

CJ ::

H.R. 228, "International Claims Settlement Act Amendments of 1983"

NSC concurs with the State Department's draft report on H.R. 228, "International Claims Settlement Act Amendments of 1983."

NSC 8605611

Attachment

Tab A: Draft Report



# EXECUTIVE OFFICE OF THE PRESIDENT OFFICE OF MANAGEMENT AND BUDGET WASHINGTON, D.C. 20503

SPECIAL

July 29, 1986

# LEGISLATIVE REFERRAL MEMORANDUM

TO:

#### Legislative Liaison Officer -

Department of Justice (Perkins 633-2113) National Security Council 17

SUBJECT: State draft report on H.R. 228, "International Claims Settlement Act Amendments of 1983."

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than MONDAY, AUGUST 11, 1986.

Questions should be referred to SUE THAU/ANNETTE ROONEY (395-7300), the legislative analyst in this office.

RONALD K. PETERSON FOR Assistant Director for Legislative Reference

Enclosures

cc:

United States Department of State



Washington, D.C. 20520

# Dear Chairman Fascell:

Thank you for your letter of June 3, 1986 to the Secretary requesting comments from the Department of State on H.R. 228, a bill "[t]o amend title VI of the International Claims Settlement Act of 1949 (relating to claims of nationals of the United States against the German Democratic Republic) to permit the determination of claims of persons who were aliens lawfully admitted for permanent residence in the United States as of the date of loss and by September 4, 1974, citizens of the United States."

If enacted, this bill would authorize the Foreign Claims Settlement Commission to receive and determine the validity of a category of claims against the German Democratic Republic, consisting of the claims of individuals who were permanent residents but not citizens of the U.S. at the time of their loss, and who later acquired U.S. citizenship before the establishment of diplomatic relations between the United States and the German Democratic Republic. The apparent purpose of the bill is to permit those claimants who succeed in obtaining favorable awards from the Commission to share in any lump-sum settlement that may at some future date be agreed upon between the U.S. and the GDR.

The international legal basis for such a program is problematic. Under generally accepted principles of international law, a claim may properly be brought by one government against another only on behalf of an individual who possessed its nationality at the time the claim arose and continuously thereafter until the claim is presented. Since the claimants described in H.R. 228 by definition were not United States nationals at the time their claims arose, inclusion of their claims in any settlement with the GDR would be contrary to long-established principles of international law. Furthermore, it would be contrary to Department of State policy and practice, as well as consistent congressional policy.

Moreover, there are at present no funds available to pay the claims of U.S. nationals against the GDR. Such payment could only occur from funds made available through a negotiated

The Honorable Dante B. Fascell, Chairman, Committee on Foreign Affairs, House of Representatives. lump-sum settlement with the GDR. Since January 1982, the Department has pursued negotiations with the GDR in an attempt to reach a settlement agreement covering those claims already found to be valid by the Foreign Claims Settlement Commission under Public Law 94-542. No agreement has yet been reached, and at this time the Department is unable to predict if or when a settlement might be reached. Because inclusion of the new category of claimants contemplated by H.R. 228 would likely be viewed by the GDR as inconsistent with international law and practice, enactment of the proposed bill could very well adversely effect the negotiations to achieve a settlement of the other claims.

In addition, if the GDR refused to fund a settlement of this new category of claims, as we would expect they would, such claims would have to be paid out of the aggregate amount paid by the GDR for claims of U.S. citizens which are valid under international law. We believe it would be unfair to dilute the pro rata share of the legitimate claimants in this way. It has been the consistent policy of the United States Government that the public treasury not be used to pay outstanding claims. Thus, if no funds would be available to pay this new category of claims, enactment of the proposed bill would be futile and would not provide any practical solution for these claimants.

For the foregoing reasons, the Department of State is opposed to the enactment of H.R. 228. Bills similar to H.R. 228 have been introduced since 1981 and the Department has consistently opposed enactment of each one. For your reference I am enclosing a copy of the Department's 1981 letter commenting on a similar bill which set forth the Department's objections in greater detail.

The Office of Management and Budget advises that from the standpoint of the Administration's program, there is no objection to the submission of this report.

Sincerely,

# J. Edward Fox Assistant Secretary Legislative and Intergovernmental Affairs

Enclosure:

As stated.

#### DEPARTMENT OF STATE



Washington, D.C. 20520

AUG 0 5 1954

Dear Mr. Chairman:

I refer to your letter of March 23, 1981, requesting a report on H.R. 2619, a bill "To amend title VI of the International Claims Settlement Act of 1949 (relating to claims of nationals of the United States against the German Democratic Republic) to permit the determination of claims of persons who were aliens lawfully admitted for permanent residence in the United States as of the date of loss and by September 4, 1974, citizens of the United States."

If enacted, the bill would amend Title VI of the International Claims Settlement Act of 1949, by authorizing the Foreign Claims Settlement Commission of the United States to receive and determine the validity of a new category of claims of persons against the German Democratic Republic, who were not United States citizens at the time of loss of property or injury, but who later (at latest by September 4, 1974) had acquired United States citizenship by naturalization (so-called "late" nationals). Such a result would not be in accord with long-established international law on state responsibility regarding claims against foreign governments, customary Department of State policy and practice, as well as consistent congressional policy.

Under the long-established rule of international law of continuous nationality, no claimant is entitled to diplomatic protection of the state whose assistance is invoked unless such claimant was a national of that state at the time when the claim arose and continuously thereafter until the claim is presented. In effect, a claim must be a national claim not only at the time of its presentation, but also at the time when the injury or loss was sustained. (See Borchard, Diplomatic Protection of Citizens Abroad, 660 ff. (1928); 2 Hyde, International Law Chiefly As Interpreted and Applied by the United States, 893 ff. (2d ed., 1945); 5 Hackworth, Digest of International Law, 802 ff. (1943); 1 Whiteman, Damages in International Law, 94 ff. (1937); 8 Whiteman,

The Honorable Clement J. Zablocki, Chairman, Committee on Foreign Affairs, House of Representatives Digest of International Law, 1243-1245, 1246-1247 (1967); Panevezys-Saldutiskis Railway, Judgment 1939, P.C.I.J., Series A/B, No. 76; Nottebohm, Second Phase, Judgment, I.C.J. Reports 1955.)

In 1939, the Permanent Court of International Justice stated:

"[T]he rule of international law...is that in taking up the case of one of its nationals by resorting to diplomatic action or international judicial proceedings on his behalf, a State is in reality asserting its own right, the right to ensure in the person of its nationals respect for the rules of international law. This right is necessarily limited to intervention on behalf of its own nationals because, in the absence of a special agreement, it is the bond of nationality between the State and the individual which alone confers upon the State the right of diplomatic protection, and it is as a part of the function of diplomatic protection that the right to take up a claim and to ensure respect for the rules of international law must be envisaged. Where the injury was done to the national of some other State, no claim to which such injury may give rise falls within the scope of the diplomatic protection which a State is entitled to afford nor can it give rise to a claim which that State is entitled to espouse." (Panevezys-Saldutiskis Railway, Judgment, 1939, P.C.I.J., Series A/B No. 76, 4, 16-17.)

Innumerable international, domestic and mixed claims arbitral tribunals have followed and applied the international law rule of continuous nationality. It has been the constant policy and practice of the Department of State to decline to espouse claims which have not been continuously owned by United States nationals. Subsequent acquisition of United States citizenship by naturalization does not retroactively change the original legal defect.

In 1871 Secretary of State Fish stated:

"By adopting a foreigner, under any form of naturalization, as a citizen, this government does not undertake the patronage of a claim which he may have upon the country of

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his original allegiance or upon any other government. To admit that he can charge it with this burden would allow him to call upon a dozen governments in succession, to each of which he might transfer his allegiance, to urge his claim. Under such a rule the government supposed to be indebted could never know when the discussion of the claim would cease. All governments are, therefore, interested in resisting such pretensions." (6 Moore, <u>Digest</u> of International Law, 636-637.)

In 1874 Secretary Fish stated:

"When your alleged injuries took place you were not a citizen of the United States, and therefore, under well-established canons of international law, it is not within the province of this Government to inquire whether your property was wrongfully or rightfully taken .... It would be a monstrous doctrine, which this Government would not tolerate for a moment, that a citizen of the United States who might deem himself injured by the authorities of the United States or of any State, could, by transferring his allegiance to another power, confer upon these powers the right to inquire into the legality of the proceedings by which he may have (ibid. p. 637.) been injured while a citizen."

Secretary Bayard stated in 1887:

"Subsequent naturalization does not alter the international status of a claim which accrued before naturalization." (ibid. p. 637.)

It has always been the policy of the United States Government not to permit persons who were not citizens of the United States at the time of loss or damage to share in lump sums paid by foreign governments in settlement of nationalization claims or war claims. This policy rests upon the wellestablished principle of international law as stated above. This policy seems not to have been questioned before the enactment of the International Claims Settlement Act of 1949. Since the passage of that Act, however, bills have been introduced in the Congress to permit persons who were not citizens at the time of loss or damage to receive compensation out of vested Bulgarian, Hungarian and Romanian assets for nationalization and war damage in those countries. Bills have also been introduced to permit such persons with nationalization claims against Czechoslovakia to share in the proceeds of the sale of a steel mill of the Czechoslovak Government. Neither the executive branch nor the Congress favored any of such bills and none was enacted with the exception of a bill which permitted a small number of persons who were not citizens at the time of damage to share in the lump sum paid by Italy for war losses and damages outside of Italy. That bill was not opposed because the lump sum paid by Italy exceeded the amount needed to satisfy claims of persons who were citizens at the time of loss or damage.

An agreement settling claims of U.S. nationals against Czechoslovakia was initialed on November 6, 1981, and approved by Public Law 97-127, approved on December 29, 1981. Section 6 of that law directs the Foreign Claims Settlement Commission of the United States to reopen certain claims that had been denied by the Commission, on the ground that the claimants in question were not nationals of the United States on the date of taking, during an earlier adjudication of claims against Czechoslovakia carried out between 1958 and 1962 under the authority of Title IV of the International Claims Settlement Act of 1949, as amended. The particular claims arose from expropriations carried out between January 1, 1945, and February 26, 1948, by the Benes government, against promises of compensation that were later repudiated by the Communist government. The precise question before the Commission in those cases was whether the date of taking was the date of expropriation (when the claimants were not United States nationals) or the date on which it became clear that no compensation would be forthcoming (by which time the claimants had become United States nationals). The effect of Section 6 is to reconsider and resolve that question in favor of those claimants, who had become nationals of the United States on or before February 26, 1948, the date of the Communist takeover. Given the particular facts involved, and the precise legal questions actually at issue, Section 6 cannot properly be regarded as an exception to the "continuous nationality" principle, which is expressly reaffirmed by subsection (a) (2) (B) of that section. That subsection provides:

"The Congress reaffirms the principle and practice of the United States to seek compensation from foreign governments on behalf only of persons who were nationals of the United States at the time they sustained losses by the nationalization or other taking of their property by those foreign governments. In making payments under this section, the Congress does not establish any precedent for future claims payments."

Bills have also been introduced in prior sessions of the Congress to amend the War Claims Act of 1948 to permit payment of compensation for imprisonment during the war out of vested German and Japanese assets to certain persons who resided in the United States and persons who acquired citizenship after their imprisonment. The Department of State opposed all of such bills on which its comments were requested and none was enacted.

The Department is not aware of any instance in which persons who were not citizens of the United States at the time of loss, with the exception of the small number who shared in the above-mentioned Italian fund and certain religious organizations in the United States, have been permitted to share in funds paid by foreign governments or funds derived from vested amounts either for the taking of property or for losses and damages as a result of the war.

This congressional policy was most recently reiterated and followed in Public Law 96-606, approved on December 28, 1980, which amended the International Claims Settlement Act of 1949 to allow recovery by United States nationals for losses incurred in Vietnam. Section 704 provides:

"A claim may be favorably considered under section 703 of this Act only if the property right on which it is based was owned, wholly or partially, directly or indirectly, by a national of the United States on the date of loss and only to the extent that the claim has been held by one or more nationals of the United States continuously from the date that the loss occurred until the date of filing with the Commission."

In enacting Title VI of the International Claims Settlement Act of 1949, as amended, establishing the East German Claims Program, the 1976 Report of the Senate Committee on Foreign Relations states:

"Section 603. Ownership of claims

"This section, which follows the pattern of previous U.S. claims programs, provides that a claim for property losses shall not be considered unless the property involved was directly or indirectly owned by a U.S. national on the date of the loss and continuously thereafter by one or more U.S. nationals until the date it is filed. In case a claim is owned jointly by a U.S. national and an alien, only the validity and amount of the U.S. national's interest in the property will be determined by the Foreign Claims Settlement Commission." (Emphasis added.)

Espousal of any kind of claims of persons who were not citizens of the United States at the time of loss or damage would establish a major departure in U.S. claims practice that would be inconsistent with international law.

As a political matter, it appears highly unlikely that the United States Government would be able to negotiate a claims settlement agreement with the German Democratic Republic which would provide payment of compensation for claims of "late" nationals. Since World War II the Congress has authorized from time to time claims programs against 13 countries: Bulgaria, the People's Republic of China, Cuba, Czechoslovakia, Hungary, Italy, Poland, Panama, Romania, the Soviet Union, Yugoslavia, the German Democratic Republic and Vietnam. Negotiations have been conducted with those countries, except Cuba and Vietnam. With none of these countries has the United States negotiated and concluded agreements which provided for the payment of compensation of claims of "late" nationals as now proposed in the draft bill. Furthermore, should such a precedent be established, it is believed that those citizens who have not received compensation from any of the above-mentioned funds or treaties, because they were not citizens at the time of loss or damage, would have grounds for insisting upon compensation from some source. In the Department's view, it would be undesirable to provide this opportunity.

In 1974, upon the establishment of diplomatic relations, the United States and the German Democratic Republic agreed that private organizations designated in both countries shall directly conduct talks on so-called "humanitarian claims" of victims of Nazi persecution. (See statement of Congressman Bingham in the <u>Congressional Record</u> of September 30, 1976, 34109-34112.) At least some of the claims of "late" nationals proposed in the draft bill appear to be included in those "humanitarian claims." Since that time discussions have taken place between the Anti-Fascist Resistance Fighters League in the German Democratic Republic and the Conference on Jewish Material Claims Against Germany in the United States. The Anti-Fascist Resistance Fighters League has stated that the German Democratic Republic does not recognize any legal or moral obligation to pay those claims except on a humanitarian basis. This situation is unsatisfactory, but the Department does not believe H.R. 2619 is the answer.

Even though the United States Government might not have the standing under international law to espouse a claim of a United States national and interpose it through diplomatic channels against a foreign government, in practice, the Department and its missions abroad informally have exercised their good offices in behalf of such persons. Without adopting the claim as its own, or passing on the merits of the claim, the Department or the missions abroad would raise the matter informally with the appropriate authorities of the foreign government concerned to encourage an ex gratia settlement, not on the basis of legal right, but on humanitarian and equitable grounds. For example, in the case of the "humanitarian claims" of the Conference on Jewish Material Claims Against Germany, since 1974, both the Department and the American Embassy in East Berlin have acted on numerous occasions to encourage and facilitate direct talks between the Conference on Jewish Material Claims and the Anti-Fascist Resistance Fighters League to arrive at an amicable settlement of those claims without officially involving the United States Government and the German Democratic Republic Government.

Since 1976 the United States and the German Democratic Republic have held informal discussions on claims of United States nationals against the German Democratic Republic. The German Democratic Republic has been cooperative in providing assistance and documentation in the processing of claims of United States nationals by the Foreign Claims Settlement Commission. Formal negotiations were conducted with the German Democratic Republic in January of 1982. If the proposed bill were enacted, it might have an adverse effect on formal negotiations that will follow in the future. The East German Claims Program was completed on May 16, 1981. Further adjudication of claims of "late" nationals would delay both the existing program and negotiations with the German Democratic Republic. There are no available funds to pay the valid claims of United States nationals against the German Democratic Republic. Such payment would depend upon any lump-sum agreement to be negotiated with the German Democratic Republic. If the German Democratic Republic refuses to pay the claims of "late" nationals, such claims would have to be paid out of the aggregate amount of compensation paid by the German Democratic Republic for the claims of United States citizens which are valid under international law. It would be unfair and inequitable to dilute the pro rata share of the legitimate United States claimants.

Otherwise, funds have to be found from other sources. It has been the constant policy of the United States Government and of Congress not to pay claims out of the public treasury. If no funds would be available to pay claims of "late" nationals, enactment of the proposed bill would be futile and would not provide any effective legal remedy or practical relief.

For the foregoing reasons, the Department of State is unable to recommend enactment of the proposed bill H.R. 2619.

The Office of Management and Budget advises that from the standpoint of the Administration's program, there is no objection to the submission of this report.

With cordial regards,

Sincerely,

Powell A. Moore Assistant Secretary for Congressional Relations NATIONAL SECURITY COUNCIL WASHINGTON, D.C. 20506

August 1, 1986

ACTION

MEMORANDUM FOR RODNEY B. McDANIEL

FROM: PAULA DOBRIANSKY

SUBJECT: H.R. 228, "International Claims Settlement Act Amendments of 1983"

Attached at Tab I for your signature is a memorandum for Ronald Peterson indicating NSC concurrence with the State Department's draft report on H.R. 228, "International Claims Settlement Act Amendments of 1983."

Danzansky, Sable and Farrar concur.

RECOMMENDATION

That you sign the memorandum at Tab I.

Approve Wife

Disapprove

Attachments

Tab I McDaniel/Peterson Memo Tab A Draft Report 5611

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