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THE WHITE HOUSE

WASHINGTON

October 19, 1989

MEMORANDUM FOR THE HONORABLE DICK THORNBURGH
The Attorney General

SUBJECT: Extraterritorial Rendition

This memorandum is to confirm our understanding on handling opportunities to conduct arrests outside the United States. Any such undertaking inevitably raises significant issues of law and policy. As we discussed, any decision to conduct such arrests will be reached only after prior review by all interested Executive departments and agencies and their counsel and by the National Security Council Deputies Committee. The Deputies Committee may recommend presidential consideration of the proposed action. This process should ensure that all competing national interests are properly weighed prior to action.



Brent Scowcroft

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20508

October 17, 1989

ACTION

MEMORANDUM FOR BRENT SCOWCROFT

FROM: NICHOLAS ROSTOW *NR*.

SUBJECT: Memorandum to the Attorney General on
Extraterritorial Rendition

Attached at Tab I is a memorandum to the Attorney General confirming your understanding with him that any decision to conduct an extraterritorial rendition (arrest) shall be made only after formal interagency review of all legal and policy issues that might be raised.

RECOMMENDATION

That you confirm your understanding with the Attorney General in writing by signing the memorandum attached at Tab I.

Attachment

Tab I Memorandum for the Attorney General

Following language dictated by SecState Jim Baker during
telcon with General Scowcroft -- 2:30 p.m., October 13, 1989

The Office of Legal Counsel at Justice prepared an opinion
some months ago on the question of whether the FBI has legal
authority under domestic U.S. law to arrest persons in other
countries.

It is important to isolate the question of whether domestic
legal authority exists from the separate question of whether the
President will in fact authorize the use of that authority.

In any given case, the President must weigh his
constitutional responsibilities for formulating and implementing
both foreign policy and law enforcement policy.

An interagency process exists to insure that the President
takes into account the full range of foreign policy and
international law considerations as well as the domestic law
enforcement issues raised by any specific case. There will be no
arrests abroad that have not been considered through that
interagency process.