

PRESS DEPARTMENT OF STATE

October 7, 1975

No. 522



STATEMENT OF
THE HONORABLE HENRY A. KISSINGER
SECRETARY OF STATE
BEFORE THE SENATE FOREIGN RELATIONS COMMITTEE
ON THE
EGYPTIAN-ISRAELI AGREEMENT
OCTOBER 7, 1975

Mr. Chairman, Members of the Committee:

I welcome this opportunity to appear before your Committee to testify on the recent agreement between Israel and Egypt. That agreement -- if carried out in good faith by both parties -- may well mark an historic turning point away from the cycle of war and stalemate that has for so long afflicted Israelis and Arabs and the world at large. I am here to urge prompt and positive Congressional action to help further the prospects for peace in the Middle East.

For more than thirty years the issues in dispute in that troubled region have been recognized by successive American Administrations as having profound consequences for America's own interests. The United States diplomatic role in the Middle East is a matter of vital national importance:

We have an historic and moral commitment to the survival and security of Israel.

We have important interests in the Arab world with its 150 million people and the world's largest oil reserves.

We know that the world's hopes, and our own, for economic recovery and progress could be dashed by another upheaval in the Middle East.

We must avoid the severe strains on our relations with our allies in Europe and Japan that perpetual crisis in the Middle East would almost certainly entail.

We face the dangers of a direct U.S.-Soviet confrontation, with its attendant nuclear risk if tension in the Middle East should increase.

The October War of 1973 brought home to every American, in concrete and dramatic ways, the price we pay for continued Arab-Israeli conflict. The oil embargo triggered by that war cost us 500,000 jobs, more than \$10 billion in national production, and a rampant inflation. The 1973 crisis put our alliances with Western Europe and Japan under the most serious strain they had ever known. And it brought us to the verge of a confrontation with the Soviet Union requiring us to place our military forces on a global alert.

Thus for the most basic reasons of national policy we owe it to the American people to do all we can to ensure that the Middle East moves towards peace and away from conflict.

For further information contact:

If the past two years of vigorous diplomatic endeavor have promoted the prospects of peace -- as I believe they have -- the United States has made the difference. We have maintained our special relationship with Israel, while at the same time dramatically improving our relations with the Arab world. It is the United States alone among the world's nations that both Israel and its Arab neighbors have been prepared to trust. This link of confidence must be maintained. Without it the Middle East will have lost the key element of its stability. Without it the period ahead -- difficult at best -- may well grow unmanageable.

It is our strong conviction that the Sinai Agreement is indispensable to the process of peace. Were I here today to report that we had failed to obtain a Sinai Agreement, I would have to tell you, as well, that the prospects of still another Arab-Israeli war were infinitely and imminently greater. Instead, I can state that the prospects for peace in the Middle East have been significantly advanced, and that good chances exist for even further progress -- if we have the wisdom and the national will to seize the opportunity before us.

Hailed by both Prime Minister Rabin and President Sadat as a possible turning point, the Sinai Agreement represents the most far-reaching, practical test of peace -- political, military, and psychological -- in the long and tragic history of the Arab-Israeli conflict. For the first time in more than two decades, Israel and an Arab state have agreed, not just to disentangle their forces in the aftermath of war, but to commit themselves to the peaceful resolution of the differences that for so long have made them mortal enemies.

Thus, what we are proposing to the Congress-- as we seek approval for the stationing of no more than 200 technicians in the Sinai -- is an investment in peace. But we must never forget that the most precarious part of the road toward a just and lasting peace still lies ahead. We will require national unity and a sympathetic understanding for the delicacy of the process if we are to continue the journey.

With these considerations in mind, Mr. Chairman, I urge this Committee and the Congress to respond promptly and sympathetically to the President's request for approval of the stationing of up to 200 Americans in the Sinai -- a request that has now been before the Congress for more than four weeks.

The proposed American presence is a limited but crucial American responsibility. It is not a role we sought; it is a role we accepted reluctantly at the request of both sides -- and only when it was clear that there would be no agreement without it. The American personnel will be volunteers, and they will be civilian. Their function is to assist in an early warning system in the small area of the Sinai passes in the UN buffer zone. They are not combat personnel or advisers for one side; they will serve both sides at their request. They will complement the UN military contingents already there from such countries as Canada, Sweden, Austria and Finland whose responsibility it is to protect the buffer zone. Nor is our own presence in the area new -- thirty-six Americans are serving there at this moment with the United Nations Truce Supervisory Organization. Americans have been serving in this capacity for over 25 years.

The proposal we ask you to approve provides that the President may withdraw these volunteer technicians if we believe them to be in jeopardy or are no longer necessary. We are prepared, as well, to accept the Congressional proposal to make withdrawal mandatory in the event of hostilities.

Mr. Chairman, I am well aware of, and respect, this Committee's desire to be certain that it has before it all undertakings relevant to its consideration and approval of the proposal for U. S. participation in the Sinai early warning system.

We have made an unprecedented effort to meet the Committee's concerns. Within days of my return from the Middle East we voluntarily supplied to the Committees of Congress, on a classified basis, highly sensitive material relevant to the negotiations of the Sinai Accord. Included in this material was information from the record of the negotiations of the very category which President Washington declined to furnish to the House of Representatives in 1794, and which no Administration has supplied since.

Four weeks ago, we provided four sets of documents to the appropriate Congressional Committees. They are:

First, the United States Proposal for stationing technicians in the Sinai.

Second, the unclassified Agreement between Israel and Egypt, and its military annex.

Third, the classified documents which the Administration has certified include all of the assurances, undertakings, and commitments which we consider to be legally binding upon the United States. These documents also contain many provisions which are not considered legally binding, they were submitted because they were contained in documents which include binding clauses and which were initialed or signed by the United States and one of the parties.

Fourth, extracts from other classified documents in the negotiating record which the Administration believes are legally binding assurances, undertakings, or commitments. We have included in this category certain provisions which, although not regarded by the Administration as binding, might be so regarded by others.

Finally, the Legal Adviser of the State Department submitted yesterday to this Committee on a classified basis a memorandum which provides his assessment of the legal character of all the documents previously given to the Congress.

We presented these classified documents on the assumption that they would be treated as if they had been transmitted under the Case Act, which provides for submission of executive agreements to the Congress, but with "an appropriate injunction of secrecy to be removed only upon due notice from the President."

Mr. Chairman, the Executive Branch has complied with both the letter and spirit of the Committee's resolution requesting the President to inform the Committee "of all the assurances and undertakings by the United States on which Israel and Egypt are relying in entering into the Sinai Agreement..." I am authorized on behalf of the President to state that there are no other assurances or undertakings, beyond those already submitted to the Congress, which are binding upon the United States. We will make no contrary claim in the future; nor can any other government.

Mr. Chairman, if there has been a disagreement between this Committee and the Executive Branch over the past several weeks, it has concerned not disclosure to the Congress -- which has been complete -- but the form of disclosure to the public.

We had hoped that a summary could be worked out with the Committee which could have been certified as containing all commitments so that the full Senate would feel free to vote unreservedly on the U. S. technicians.

This procedure was intended as a means of satisfying the needs of the Congress and the rights of the American people to know, while at the same time maintaining the integrity and confidentiality of the diplomatic process. We believed that we were following the precedents set in previous negotiations in the Middle East when classified documents were submitted to the Congress but not made public. Our purpose was to avoid a situation in which other governments would feel compelled to take a public position and to protect our ability to act as a mediator in the future.

This plan became problematical when the confidential documents were leaked. This created a new and very difficult situation. The Administration disagrees with the decision of the Committee to publish these documents and maintains that it in no way sets a precedent. We consider that the provisions of the Case Act regarding classification remain valid; they should be respected in the future.

We recognize that the Committee faced an unusual problem to which no good answer existed. We are prepared to work with this Committee to develop procedures for future negotiations which will permit ground rules to be clearly established in advance so that all parties will know what to expect.

With regard to the U. S. undertakings, the Administration is particularly concerned about two points:

First, that Congressional approval of the proposal on the technicians not link the Sinai Agreement to the U. S. undertakings -- which are distinct and separate; and

Second, that U. S. statements of intention not be given a legally binding character which was never intended and is not inherent in them.

The Administration is convinced that Congressional approval of the proposal to station technicians in the Sinai does not import or imply approval of anything more.

The United States is not a party to the Sinai Agreement. That Agreement is between Israel and Egypt; they are the only signatories and the only states bound by it. The Agreement repeatedly speaks of the obligations of "the parties"; it is beyond dispute that "the parties" are Egypt and Israel, and not the United States.

The Agreement provides, in an annex, that in the buffer zone between Egypt and Israel -- in which the United Nations Emergency Force will continue to perform its functions -- there will be established an early warning system entrusted to United States civilian personnel. The proposal of the United States, for which approval of the Congress is being sought, provides details of that early warning system. That proposal is described as a part of the Agreement between Egypt and Israel, but that does not imply that the United States is party to this Agreement. By the same token the U. S. assurances and undertakings before this Committee, while given on the occasion of, and concordant with the conclusion of the Sinai Agreement between Egypt and Israel, are not in any sense part of the Sinai Agreement.

Thus, even if the United States were unable to fulfill all of the intentions we have expressed, the parties -- Egypt and Israel -- would nonetheless remain bound by the Sinai Agreement. The obligations of the Egyptian-Israeli Agreement are clear, direct and unqualified; they stand on their own.

A vote in favor of the specific, limited U. S. role in the early warning system will not thereby commit the Congress to a position on any other

issue -- whether it be the question of undertakings and assurances to the parties involved; our continuing relations with various countries of the area; a given level of budget support; or our policies and programs in the Middle East. Those are separate issues which you will want to consider carefully at the appropriate time. Many will come up in the normal authorization and appropriation process; they are not an integral part of the Egyptian-Israeli Agreement.

Let me turn now to the question of the nature of American assurances and undertakings to Israel and Egypt.

The special position of trust enjoyed by the United States inevitably means that both sides attach great significance to our views. Statements of our intentions, therefore, served as a lubricant in this most recent negotiation just as they have in every previous mediation effort. But they must be seen in perspective and in the light of historical practice. It is extremely important, therefore, that in approving the sending of U. S. technicians the Congress should take care not inadvertently to create commitments that were never intended.

We have submitted all documents containing U. S. commitments. Not all provisions in these documents amount to binding undertakings. They include:

First, assurances by the U. S. of our political intentions. These are often statements typical of diplomatic exchange; in some instances they are merely formal reaffirmations of existing American policy. Other provisions refer to contingencies which may never arise and are related -- sometimes explicitly -- to present circumstances subject to rapid change.

Second, undertakings or assurances by the U. S. which are conditional on existing or prior authorization and appropriation of the Congress or which fall within the constitutional authority of the President to conduct the foreign relations of the United States.

Thus to speak of Memoranda of Agreement as Executive Agreements is by no means to say that each of their individual provisions is binding upon the United States. That depends entirely upon the content of the specific provisions in question. Moreover, nothing in these particular documents constrains Congressional action in any issue involving the future legislative process.

The fact that many provisions are not by any standard international commitments does not mean, of course, that the United States is morally or politically free to act as if they did not exist. On the contrary, they are important statements of diplomatic policy and engage the good faith of the United States so long as the circumstances that gave rise to them continue. But they are not binding commitments of the United States.

Mr. Chairman, I should like to conclude with this thought: the Sinai Accord could prove to be an historic milestone. It is not a peace agreement, but it can be an important step in that direction.

The United States remains committed to helping bring a just, durable and comprehensive peace to the Middle East. We do not consider the Sinai Agreement as permitting stagnation in the process of negotiation; its purpose is to give impetus to that process. We are prepared to work with all the parties toward a solution of all the issues yet remaining -- including the issue of the future of the Palestinians.

Whether the Sinai Agreement fulfills its promise depends crucially on the confidence and trust America inspires. Yet we cannot gain -- nor retain -- confidence abroad if we lack it at home. Whether there will be peace or war in the Middle East depends importantly on whether America is at peace with itself; whether America is united in its purpose.

The challenge now is to build on the progress that has been made. So let us get on with the job, for there will be no Sinai Accord unless the Congress of the United States takes positive action to approve the proposal to place up to 200 technicians in the Sinai. And if there is no accord, then all that America has worked for, and all that the Middle East has hoped for, may well be lost.

So, Mr. Chairman, I respectfully ask that this Committee act now to approve the resolution before it, so that Israel and Egypt can get on with the business of implementing the Sinai Accord, and so that the march toward peace can be resumed in the Middle East.

* * * * *