

# WITHDRAWAL SHEET

## Ronald Reagan Library

**Collection Name** CICCONI, JAMES: FILES

**Withdrawer**

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**File Folder** [ARMENIANS]: GENOCIDE TREATY

**FOIA**

M10-339

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ID	Doc Type	Document Description	No of Pages	Doc Date	Restrictions
107242	MEMO	ROBERT MCFARLANE TO JAMES BAKER RE ARMENIAN-AMERICAN CONCERNS <i>R 3/20/2006 NLSF97-066/9 #10</i>	1	6/30/1984	B1
107243	DRAFT LETTER	MCFARLANE TO GEORGE DEUKMEJIAN <i>R 3/20/2006 NLSF97-066/9 #11</i>	1	ND	B1
107244	LETTER	ELLIOTT ABRAMS TO CICCONI RE GENOCIDE CONVENTION <i>R 1/23/2015 M339/1</i>	1	3/28/1984	B1
107245	MEMO	ABRAMS ET AL TO SECRETARY OF STATE RE CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE <i>R 3/20/2006 NLSF97-066/9 #13</i>	4	11/30/1983	B1
107246	MEMO	FAITH WHITTLESEY TO BAKER RE ATTACHED MEMO	1	3/15/1984	P5
107247	MEMO	WHITTLESEY TO BAKER RE RATIFICATION OF GENOCIDE CONVENTION	2	3/16/1984	P5

Freedom of Information Act - [5 U.S.C. 552(b)]

B-1 National security classified information [(b)(1) of the FOIA]

B-2 Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]

B-3 Release would violate a Federal statute [(b)(3) of the FOIA]

B-4 Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]

B-6 Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]

B-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]

B-8 Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]

B-9 Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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# WITHDRAWAL SHEET

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**Collection:** Cicconi, James W.: Files  
**OA/Box:** Box 6  
**File Folder:** [Armenians:] Genocide Treaty

**Archivist:** kdb  
**FOIA ID:** F1997-066/8, D. Cohen  
**Date:** 08/24/2004

DOCUMENT NO. & TYPE	SUBJECT/TITLE	DATE	RESTRICTION
<del>1. memo (4456)</del>	<del>Robert McFarlane to James Baker re Armenian-American concerns, 1p</del> <i>R 3/20/06 NLSF97-066/9 #10</i>	<del>6/30/84</del>	<del>B1</del>
<del>2. draft letter</del>	<del>McFarlane to George Deukmejian, 1p</del> <i>R u ^ #11</i>	<del>n.d.</del>	<del>B1</del>
3. letter	Elliott Abrams to Cicconi re Genocide Convention, 1p	3/28/84	B1
<del>4. memo (8336809)</del>	<del>Abrams, Davis Robinson, H. Eugene Douglas, and Gregory Newell to Sec. of State, re Convention on the Prevention and Punishment of the Crime of Genocide (w/notations), 4p</del> <i>R 3/20/06 NLSF97-066/9 #13</i>	<del>11/30/83</del>	<del>B1</del>
5. memo	Faith Whittlesey to Baker re attached memo, 1p [Item is still under review under the provisions of EO 13233]	3/15/84	
6. memo	Whittlesey to Baker re ratification of Genocide Convention, 2p [Item is still under review under the provisions of EO 13233]	3/16/84	

### RESTRICTIONS

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- B-7 Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA].
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- B-7b Release would deprive an individual of the right to a fair trial or impartial adjudication [(b)(7)(B) of the FOIA].
- B-7c Release could reasonably be expected to cause unwarranted invasion or privacy [(b)(7)(C) of the FOIA].
- B-7d Release could reasonably be expected to disclose the identity of a confidential source [(b)(7)(D) of the FOIA].
- B-7e Release would disclose techniques or procedures for law enforcement investigations or prosecutions or would disclose guidelines which could reasonably be expected to risk circumvention of the law [(b)(7)(E) of the FOIA].
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# PENDING REVIEW IN ACCORDANCE WITH E.O. 13233

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SMF 4/24/2002

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**FOIA**

F97-066/9

**Box Number** 6

ID	Doc Type	Document Description	No of Pages	Doc Date
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<del>4</del>	<del>MEMO</del>	<del>ABRAMS, ,ET AL TO THE SECRETARY (F97-066/9 #13)</del>	<del>4</del>	<del>11/30/1983</del>
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*OPENED  
08/03/2005  
GK*

TAB  
A

~~CONFIDENTIAL~~

MEMORANDUM

4456

THE WHITE HOUSE

WASHINGTON

June 30, 1984

~~CONFIDENTIAL~~  
ACTION

MEMORANDUM FOR JAMES A. BAKER, III

FROM: ROBERT C. McFARLANE *Bud*  
SUBJECT: Armenian-American Concerns

As promised in my June 9 memo, working with State we have prepared a draft Presidential letter aimed at alleviating Armenian-American concerns over the Administration's position on the tragic historical events of 1915. The draft letter also denounces by implication any actions (e.g., Congressional resolutions) which appear to condone or offer excuses for Armenian terrorist activities.

Neither the President's letter nor my covering letter, which addresses the controversy surrounding the footnote to the article in the August 1982 State Department's Bulletin, will fully satisfy Governor Deukmejian. They hopefully, however, clarify the President's position and clearly state our foreign policy concerns. In draft form the letters are confidential, but once we agree on the text they no longer need to be classified.

Once you concur with the President's letter and my covering letter, I will send them to the President for his approval and signature. Please let me know your reaction. Thank you.

Attachment

Tab A - Covering Letter  
Tab B - Presidential Letter

cc: Lee Verstandig

DECLASSIFIED  
NLS 97-066/9716  
a: CIS, NARA, DATE 3/20/06

~~CONFIDENTIAL~~  
Declassify on: OADR

CONFIDENTIAL

~~CONFIDENTIAL~~

D R A F T

Dear Governor,

In forwarding the President's letter on the tragic historical events of 1915, I wish to reiterate our position on the controversy -- of which you are well aware -- which arose two year's ago over the incorrect insertion in a footnote to an article on terrorism in the State Department's Bulletin.

The footnote stated that the State Department "does not endorse allegations that the Turkish Government committed a genocide against the Armenian people." The Department, as you probably know, issued a clarification in a subsequent issue of the Bulletin stating that the earlier article and its accompanying notes and footnotes:..." were not intended as statement of policy of the United States. Nor did they represent any change in U.S. policy."

I wish to repeat our position:

The Department of State has confirmed that neither the article on Armenian terrorism in the August 1982 Bulletin, its accompanying note, nor footnotes were intended as statements of policy of the United States. Nor did they represent any change in U.S. policy. An Editor's Note to this effect was included in the April 1983 issue of the Bulletin.

We hope this reaffirmation addresses your questions.

Sincerely,

Robert C. McFarlane

The Honorable  
George Deukmejian  
Governor of California  
Sacramento, California

DECLASSIFIED

NLS 897-006/9 #11

2: CH NARA, DATE 3/20/06

107244

ASSISTANT SECRETARY OF STATE  
WASHINGTON

March 28, 1984

DECLASSIFIED

NLRR MID-339/1 #107244

BY RW NARA DATE 1/23/15

~~CONFIDENTIAL~~/PERSONAL

Mr. James W. Cicconi  
Special Assistant to the President  
West Wing, First Floor  
The White House  
Washington, D.C. 20500

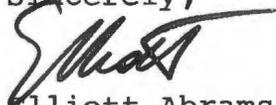
Dear Jim:

Attached is the action memo by which, on November 19, 1983, Secretary Shultz gave his approval to the Genocide Convention. There is a memo dated January 20, 1984 from the Assistant Attorney General, Office of Legal Counsel, to Attorney General Smith. This memo proposes that Smith reject the State Department's proposal, and come up with his own. It also suggests that before Justice does anything further, it should negotiate with Senator Thurmond and others on the Hill.

What is absent from the Justice Department's memo, despite the fact that it is 25 pages long, is the slightest, vaguest, hint that there may be any utility to moving ahead with this before the turn of the century. Nor is there any hint in the memo that continuing, endless delay in taking a position opens the Administration to wider and wider possibilities of political damage. If Mondale or Hart thought of it, they could right now subject us to damage and ridicule, noting that we have been "studying" this thing for three damn years and that Ronald Reagan remains the only President who has failed to endorse it since the Second World War. Now this morning I learn that the lawyers here want to do some more legal analysis of the new Justice memo.

May I therefore repeat my plea that you ask the lawyers to stop treating this as some great intellectual exercise and get on with the fashioning of a position -- fast. Negotiations between State's lawyers and Justice would, without your intervention, take only twenty or thirty years, so I strongly recommend that somebody at the White House preside over future consideration of this issue.

Sincerely,



Elliott Abrams  
Assistant Secretary for Human  
Rights and Humanitarian Affairs

EA:ksr

~~CONFIDENTIAL~~/PERSONAL

OADR

TAB  
B

Dear George,

I understand that you and others in the Armenian-American community are concerned over our position on a Congressional resolution designating April 24 as a national day of remembrance of man's inhumanity to man.

I deeply sympathize with all those who suffered during the terrible days of 1915. My heart goes out to them and to their families, who continue to live in the shadow of the intense feelings aroused by these tragic historical events.

At the same time, we must remain sensitive to the modern phenomenon of international terrorism, which has taken on an increasingly ugly role in world affairs and is a major concern of our Administration. Mindful of the climate in which terrorism thrives, the Department of State is concerned, as am I, that Congressional action highlighting the events of 1915 could unintentionally encourage extremist groups which have carried out terrorist attacks against the Turkish government and its people. We are also concerned over the potential broader foreign policy implications of such a resolution.

I appreciate your personal interest and delicate position. Please let me assure you that our position is in no way intended to overlook or condone the tragic historical events which befell the Armenian people.

Sincerely,

Ronald Reagan

The Honorable  
George Deukmejian  
Governor of California  
Sacramento, California

8336809

Department of State



ACTION MEMORANDUM

S/S <sup>ch</sup> 12/1

HA

Original to:  
FAIM

- Copies to:
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- D
- P
- S/P
- S/R
- HA
- IO
- L
- S/S
- S/S-S
- Team-A
- Team-B
- Team-C
- RF:njs

~~CONFIDENTIAL~~

November 30, 1983

GM  
SB

TO: The Secretary

THRU: The Deputy Secretary *KWD*

FROM: HA - Elliott Abrams  
L - Davis Robinson *DMR*  
S/R - H. Eugene Douglas *ED*  
IO - Gregory J. Newell *GN*

SUBJECT: Convention on the Prevention and Punishment  
of the Crime of Genocide



FILE

ISSUE FOR DECISION

What position you should recommend to the White House on the Genocide Convention. (Tab 1)

ESSENTIAL FACTORS

The Genocide Convention defines the act of genocide, confirms that it is a crime under international law which may be prosecuted in an international penal tribunal, obliges States Parties to enact legislation to make genocide a crime under national law, and specifies that genocide shall not be considered a political offense for the purpose of extradition. The Convention also provides that disputes relating to its interpretation, application or fulfillment shall be submitted to the International Court of Justice.

President Truman sent the Convention to the Senate for its advice and consent to ratification in 1949 and it has remained pending in the Senate ever since. More recently Presidents Nixon, Ford and Carter endorsed the Convention. On several occasions, the Senate Foreign Relations Committee has favorably reported out the Convention, but the Senate has not given its advice and consent to ratification of the treaty for a number of reasons including: the initial American Bar Association (ABA) opposition (although the ABA has supported adherence since 1976), initial Senate doubt whether genocide was a proper subject of the treaty making power, and the strenuous opposition of many conservatives on constitutional and other grounds.

The Genocide Convention has been under Departmental review since the beginning of this Administration, and it has become

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NLS F97-066/9 #13

BY CU NARA, DATE 3/20/06

~~CONFIDENTIAL~~

-2-

increasingly difficult to continue to claim that it is still under study. After having reviewed the legal and policy issues related to the Convention, all bureaus agree that we should not recommend against its ratification. However, the issue remains whether and on what basis the Administration should endorse its ratification. Informal soundings by HA indicate that the White House would expect the Department to take the lead in managing the Administration's posture with the Senate.

We will prepare a memorandum to the President based on the option which you select.

#### ANALYSIS OF OPTIONS

##### Option 1: Administration Support for the Convention and Proposal of Two Reservations

HA, IO, S/R and H believe that the Senate will not give its advice and consent to ratification of the Genocide Convention without reservations. On the other hand, based on HA's preliminary soundings on the Hill, HA, IO, S/R and H believe that the Senate could give its advice and consent if the Administration supports two specific reservations dealing with extradition and the International Court of Justice, respectively. (Tab 2)

HA, IO, S/R and H also believe that if the Administration proposes these two reservations, obtaining Senate advice and consent will only require moderate involvement by the President and high level Department officials because many conservatives among the President's supporters (although not Senators Helms and Thurmond) who oppose the Convention may well be mollified by the reservations. HA's soundings also indicate that traditional supporters of the Convention would have little difficulty with the proposed reservations.

In the Convention's long history, a number of objections to it have been raised in the Senate, in addition to the extradition and ICJ questions addressed by the two proposed reservations. In L's view, shared by the Department of Justice, the legal and constitutional issues raised in the past have not been well-founded; nevertheless, they may resurface. We intend to try to deflect them by proposing reservations which would demonstrate our willingness to anticipate and deal sensibly with concerns on extradition and the ICJ that have previously been raised.

~~CONFIDENTIAL~~

~~CONFIDENTIAL~~

-3-

Option 2: Administration Support for the Convention Without Proposing Reservations

Given the large number of objections to the Convention that have been raised in the past, it may be advisable for the Administration not to propose reservations at the time it expresses support for the Convention. Instead, the Administration, while supporting ratification of the Convention, could note that a number of objections have been raised about the Convention and could express a serious intent to give full consideration to any reservations that members of the Senate may consider necessary in order to give their advice and consent. By demonstrating recognition of the need to accommodate their views, this approach might blunt some negative reactions from the President's supporters who now oppose the Convention, although it might also be interpreted as an invitation to critics of the Convention to deluge it with reservations. Nonetheless, this approach could be portrayed to supporters as a serious effort to secure ratification as opposed to the sort of posturing in which past Administrations have engaged. In addition, it would allow the President and high ranking Department officers more flexibility in deciding how visible they would be in the process.

Option 3: Maintain the Status Quo

From time to time, the White House and the Department receive inquiries from members of Congress and the public concerning our stance on the Convention. H notes that despite occasional inquiries, there is no noticeable Congressional pressure for ratification. In addition, each January, the Senate Foreign Relations Committee requests an official statement of the Administration's views on each treaty still pending with the Senate. In each case, this Administration has replied that the Convention and other "human rights" treaties are "under review." Maintenance of this posture is increasingly awkward, although it does avoid potential conflict with Administration supporters who have opposed the Convention and would not be mollified by reservations.

Bureau Views:

HA and IO strongly support Option 1 because they believe that indicating support for the Convention without putting forward specific reservations would not be successful either in blunting conservative opposition or obtaining Senate advice and consent to the Convention. S/R and L would support either Option

~~CONFIDENTIAL~~

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-4-

or Option 2. H sees no compelling Congressional reason to alter the Administration's stance with respect to the Convention. However, if for other than Congressional reasons the Department wishes to go forward, H supports Option 1.

RECOMMENDATIONS

That you recommend to the White House:

Option 1: Administration support of the Convention and the proposal of two reservations.

Approve \_\_\_\_\_ Disapprove \_\_\_\_\_

*WBS* DEC 5 1983

Option 2: Administration support of the Convention without proposing reservations.

Approve \_\_\_\_\_ Disapprove \_\_\_\_\_

Option 3: Maintain the status quo.

Approve \_\_\_\_\_ Disapprove \_\_\_\_\_

Attachments:

- Tab 1 - The Genocide Convention
- Tab 2 - The Proposed Reservations

Drafted: L/HRR:ASurena/HA:WSBurke  
11/23/83, Exts. 23044/20798

Clearances: L:DMcGovern }  
H:JMontgomery } *WBS*

~~CONFIDENTIAL~~

THE WHITE HOUSE

WASHINGTON

March 27, 1984

MEMORANDUM FOR JIM CICCONI

FROM: MARSHALL BREGER Mb

I enclose copies of some recent correspondence from John Norton Moore of the University of Virginia Law School relative to the question of ratifying the genocide treaty.

Should you wish further briefing, I am sure that Max Kampelman would be happy to fill you in on the substantive issues.

March 12, 1984

The Honorable Robert C. McFarlane  
Assistant to the President for  
National Security Affairs  
The White House  
Washington, D.C. 20500

Dear Bud:

I understand that there may be some some discussion soon within the White House, if it hasn't already begun, concerning the benefits to the Administration's foreign policy of the President urging Senate approval of the Genocide Convention. Since it has been some time since I discussed the importance of the treaty with the NSC staff, I thought I would drop you this note.

The ABA considers ratification of this treaty one of its important legislative priorities this year, and my committee is working to implement this priority. I am told the Secretary of State has approved a ratification endorsement and that the matter now is pending at Justice. For your reference I enclose a copy of a letter I have today sent to Ed Meese.

On behalf of the American Bar Association I would appreciate discussing this treaty further, and receiving your guidance on how the ABA can be of greater assistance.

With warm regards.

Sincerely,

John Norton Moore  
Chairman

JNM:ddg

cc: Ambassador Max Kapelman  
Morris Leibman  
Craig Baab

Enclosure: as stated

bcc: Marshall Breger

# American Bar Association

March 12, 1984

The Honorable Edwin Meese, III  
Counsellor to the President  
The White House  
Washington, DC 20500

Dear Ed:

Let me express my congratulations and best wishes on your nomination as Attorney General. Your personal excellence and integrity will bring to the Department of Justice a man superbly qualified to direct our Nation's law enforcement efforts.

I would like to thank you once again for the delightful and informative breakfast with you, Jack Marsh and Bob Kimmitt. One issue I raised then, the Administration's leadership in efforts to ratify the Genocide Convention, I would like to elaborate on now.

In line with the Administration's strong stance against terrorism, reiterated by the President in his State of the Union address, the Genocide Convention seeks to eliminate the most vile of terrorist acts -- the intentional, calculated destruction of an entire people. In the contemporary world the principal threat of genocide has originated from totalitarian communist governments. This point has been cogently outlined in recent years through statements by Senator Goldwater, in discussing Soviet genocide in the Ukraine, and Senator Dole, concerning communist genocide in Kampuchea.

Paradoxically, however, although United States leadership was responsible for the Genocide Convention, the United States has never ratified it. The Soviet Union has repeatedly used this non-adherence as grist for disinformation to hide their massive human rights failure. Ambassador Max Kampelman has reported that this is a Soviet theme in the ongoing Helsinki process. And Professors Cline and Alexander, in their new book "Terrorism and the Soviet Connection," report: "The mono-thematic message, repeated continuously, is that it is the United States and not the Soviet Union that is principally responsible for encouraging low-level conflict and promoting international chaos through terrorism, sabotage, and subversion." To "substantiate" their position, the Soviets repeatedly cite U.S. failure to ratify the Genocide Convention. For example, on July 17, 1981, the Moscow Domestic Service observed that the U.S. "has so far failed to ratify such agreements as the U.N. Convention on the Provision and Punishment of the Crime of Genocide.... Of 19 U.N. treaties dealing exclusive with human rights, Washington has ratified only five."

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Edwin Meese  
March 12, 1984  
Page 2

As you know, the American Bar Association adopted a resolution in 1976 calling for United States ratification of the Genocide Convention. At present, ratification of this Treaty is one of the important legislative priorities of the Association. It is my hope that the Reagan Administration will be in the forefront of this ratification effort.

In the assessment of the American Bar Association, there exists no legal impediment whatsoever to U.S. ratification of the Genocide Convention. Various ABA groups have subjected the document to rigorous analysis for more than thirty years and have concluded, as stated by then-Assistant Attorney General William Rehnquist, that "there are no constitutional obstacles to U.S. ratification of the treaty." For your reference I enclose a copy of my Senate testimony on behalf of the ABA in support of ratification.

The time has come for the United States to join those countries, including all of our NATO allies, which have already acceded to the Genocide Convention. Quite simply, the Genocide Convention has been for a number of years the law of nations. It should be the law of the United States for all to see and to remove a potent source of disinformation used by the Soviet Union.

In the past, ratification has been supported by the last five Administrations. Moreover, ratification has been repeatedly supported by successive Joint Chiefs of Staff. In recent months the American Bar Association has conducted a survey of Senatorial views on the treaty and it is our conclusion that this Administration has a unique opportunity to achieve United States ratification this year if it will endorse the treaty and transmit that endorsement to the Senate. Personally, I believe that an appropriate statement on the Treaty by President Reagan early this year would ensure passage and underline his own strong commitment to human rights. Effective Administration leadership in this area would also pose a sharp contrast with past Administrations which possessed a highly visible commitment to human rights but which failed in this most elemental human rights challenge.

I understand the Secretary of State has recommended the President support prompt ratification, perhaps with additional clarifying language, and that the issue is now pending in the Justice Department. I look forward to providing you any assistance you might require in considering the importance of ratification, especially this year.

Edwin Meese  
March 12, 1983  
Page 3

Again, my congratulations on your appointment. Godspeed.

With warm regards.

Sincerely,

John Norton Moore  
Chairman

JNM:ddg

cc: The Honorable George Shultz  
The Honorable William P. Clark  
The Honorable John O. Marsh  
The Honorable Robert C. McFarlane  
Ambassador Max Kampelman  
Morris I. Leibman

bcc: Marshall Breger

# American Bar Association

March 12, 1984

The Honorable Casper W. Weinberger  
Secretary of Defense  
The Pentagon  
Washington, DC 20301

Dear Secretary Weinberger:

Congratulations on your splendid victory at the Oxford Union! It was outrageous of the Union to even pose the issue as they did suggesting there is a legitimate question about equating the actions of the leader of the free world and those of the Soviet Union.

In line with the Administration's strong stance against terrorism, reiterated by the President in his State of the Union address, the Genocide Convention seeks to eliminate the most vile of terrorist acts -- the intentional, calculated destruction of an entire people. In the contemporary world the principal threat of genocide has originated from totalitarian communist governments. This point has been cogently outlined in recent years through statements by Senator Goldwater, in discussing Soviet genocide in the Ukraine, and Senator Dole, concerning communist genocide in Kampuchea.

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The Honorable Casper W. Weinberger  
March 12, 1984  
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As you know, the American Bar Association adopted a resolution in 1976 calling for United States ratification of the Genocide Convention. At present, ratification of this Treaty is one of the important legislative priorities of the Association. It is my hope that the Reagan Administration will be in the forefront of this ratification effort.

In the assessment of the American Bar Association, there exists no legal impediment whatsoever to U.S. ratification of the Genocide Convention. Various ABA groups have subjected the document to rigorous analysis for more than thirty years and have concluded, as stated by then-Assistant Attorney General William Rehnquist, that "there are no constitutional obstacles to U.S. ratification of the treaty." For your reference I enclose a copy of my Senate testimony on behalf of the ABA in support of ratification.

The time has come for the United States to join those countries, including all of our NATO allies, which have already acceded to the Genocide Convention. Quite simply, the Genocide Convention has been for a number of years the law of nations. It should be the law of the United States for all to see and to remove a potent source of disinformation used by the Soviet Union.

In the past, ratification has been supported by the last five Administrations. Moreover, ratification has been repeatedly supported by successive Joint Chiefs of Staff. In recent months the American Bar Association has conducted a survey of Senatorial views on the treaty and it is our conclusion that this Administration has a unique opportunity to achieve United States ratification this year if it will endorse the treaty and transmit that endorsement to the Senate. Personally, I believe that an appropriate statement on the Treaty by President Reagan early this year would ensure passage and underline his own strong commitment to human rights. Effective Administration leadership in this area would also pose a sharp contrast with past Administrations which possessed a highly visible commitment to human rights but which failed in this most elemental human rights challenge.

I understand the Secretary of State has recommended the President support prompt ratification, perhaps with additional clarifying language, and that the issue is now pending in the Justice Department. I look forward to providing you any assistance you might require in considering the importance of ratification, especially this year.

The Honorable Casper W. Weinberger  
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With warm regards.

Sincerely,

John Norton Moore  
Chairman

JNM:ddg

cc: Ambassador Max Kampelman  
Morris I. Leibman

bcc: Marshall Breger

THE WHITE HOUSE  
WASHINGTON

March 15, 1984

TO: JAMES A. BAKER *FRW*  
FROM: FAITH R. WHITTLESEY

Information

Action

Please help!

Delay in making this decision amounts to a negative decision and loss of an opportunity for Presidential leadership.

DOJ feels it stinks & shouldn't be pursued.  
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THE WHITE HOUSE

WASHINGTON

March 16, 1984

MEMORANDUM FOR JAMES A. BAKER, III

FROM: Faith Whittlesey *FRW*

SUBJECT: Ratification of the Genocide Convention

As you know, American ratification of the United Nation's genocide convention was first proposed in 1948. The treaty has been approved by 92 countries including the Soviet Union and various Eastern Bloc states. However, the treaty has never been ratified by the United States Senate.

This Administration has not yet taken a position on the treaty, stating repeatedly since 1981 that the question of support for a ratification effort is "under study." Some months ago, Secretary Shultz approved the treaty with minor language modifications or "reservations" and sent it to Justice where it is now waiting review.\* Assistant Attorney General Theodore Olsen has sent an options memo to Attorney General Smith suggesting a number of additional "reservations" - all of which are acceptable in principle to State. It is our understanding that the Attorney General, as a courtesy, is planning to hold this matter over until Ed Meese's confirmation.

Delay in addressing this matter will be the equivalent of making a negative decision. That is because it will be extremely difficult for an Administration bill approving the treaty to pass the Senate if the go-ahead does not occur until early April. The short legislative session will require that some decision on this matter occur at this time.

From a political perspective the following points are relevant:

- There is every indication of broad support for a treaty with proper clarifying "reservations." This support flows from conservatives as well as liberals. Opposition should be limited to a handful of senators, and a number of well-known conservatives may be prepared to work to mitigate such opposition. Further, Evangelical Christian groups are likely to support ratification of a treaty which contains appropriate clarifying "reservations."

- Passage of the treaty would be a significant political plus for the President. It would show him to be a leader - as five Presidents since Eisenhower tried to get a treaty passed and failed. If we could say that this President succeeded, it would underscore his leadership capabilities.
- It would position the President as a leader who is prepared to make use of international treaties where appropriate, although he also has the will to reject international relationships (e.g., Law of the Sea, UNESCO) where necessary for United States interests.
- Ratification of the treaty would be well received in the Jewish community, the Eastern European ethnic community and the moderate-to-liberal "internationalist" political community - all areas where gains by the President would be significant.

cc: Edwin Meese, III  
Robert McFarlane  
Richard Darman

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\* Legal scholars, in general, support ratification as an important symbolic statement which will in no way affect United States sovereignty. As is the case with some fifty treaties ratified by the United States, dispute settlement under the genocide convention falls within the compulsory jurisdiction of the International Court of Justice. However, in no case may individuals ever be charged and brought before the ICJ, which has neither personal nor criminal jurisdiction. Moreover, the proposed "reservations" ensure that the definition of genocide accepted by any instrument of ratification would be drawn so as to protect the United States from frivolous or malicious charges in any international forum. Further, even if ratified the genocide convention and its provisions will have no domestic legal effect until implementing legislation is passed by each House of Congress.