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We made no response to this

25 AUG 1981



Office of the Attorney General
Washington, D. C. 20530

August 25, 1981

MEMORANDUM FOR:

Rudolph Giuliani
Associate Attorney General

Doris Meissner,
Acting Commissioner, INS

Frank Hodsoll
Deputy Assistant to the President

Richard Hauser
Deputy Counsel to the President

Nick Schowengerdt
Coast Guard

Kevin McIntyre
Department of State

Ted Briggs
Department of State

Carol Williams
Office of Legal Counsel

FROM:

David Hiller *DA*
Special Assistant to
the Attorney General

SUBJECT:

Interdiction of Undocumented Aliens:
Presidential Proclamation and
Executive Order

There are attached drafts of a decision memorandum from the Attorney General to the President, a Presidential Proclamation, and Executive Order authorizing a limited program of interdiction. The operative language of these documents follows quite closely the language contained in the draft diplomatic note. I would be grateful for your comments by the close of business today.

Thank you.



Office of the Attorney General
Washington, D. C. 20530

DRAFT

MEMORANDUM FOR: The President
FROM: The Attorney General
SUBJECT: Interdiction of Illegal Aliens Arriving
in the United States by Sea.

As part of the Administration's recently announced immigration and refugee policy, you asked that I seek necessary legal authority to conduct a limited program of intercepting illegal aliens traveling to the United States by sea. It is the opinion of the Office of Legal Counsel, with which I concur, that existing Presidential authority is adequate to support the cooperative program now being negotiated with the Government of Haiti. That authority will be clarified and strengthened by the legislation we will submit to Congress in September. In view of the urgency of the situation in south Florida caused by continuing illegal migration, we propose that you authorize the Secretary of State, the Secretary of Transportation, and the Attorney General to proceed with a program of limited interdiction at this time.

There are attached a Presidential Proclamation and Executive Order authorizing and directing that a program of interdiction be undertaken in cooperation with foreign governments. The Proclamation is necessary to invoke the Presidential authority on which the program depends. It contains a finding that the continued illegal migration by sea to the southeast United States is detrimental to the national interest, suspends the entry of such illegal migrants, and directs the Secretary of State, the Secretary of Transportation, and the Attorney General to take necessary actions. The Executive Order implements the Proclamation.

RECOMMENDATION

The Secretary of State, the Secretary of Transportation, and the Attorney General recommend that you sign the attached Proclamation and Executive Order, authorizing a limited program of interdicting illegal alien traffic by sea.

Approve _____

Disapprove _____

EXECUTIVE ORDER

Direction Relating to the Interdiction of Illegal Aliens

By the authority vested in me as President by the Constitution and statutes of the United States, including sections 212(f) and 215(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(f) and 1185(a)(1)), in view of the continuing problem of migrants coming to the United States, by sea, without necessary entry documents, upon which I based my August ____ Proclamation ____, it is hereby ordered that, as of the effective date of this Order:

1-101. The Secretary of State shall enter into, on behalf of the United States, cooperative agreements with foreign governments for the purpose of preventing illegal migration to the United States by sea.

1-102. The Secretary of Transportation shall instruct the Coast Guard to stop and board U.S. vessels, unregistered vessels, and vessels of foreign nations with whom we have agreements authorizing such actions, suspected of carrying illegal aliens to the United States; and to make inquiries of those on board, examine documents and take such actions as are necessary to establish the registry, condition and destination of the vessel and the status of those on board the vessel. When these measures suggest that an offense against United States immigration laws, or an offense under appropriate laws of a foreign country whom we have agreed to assist is being committed, the Coast Guard shall return the vessel and its passengers to the country from which they came.

Provided, however, that no person who is a refugee, who has proper immigration documents, or who is otherwise entitled to proceed will be returned without his consent. These actions are authorized to be undertaken outside the territorial waters of the United States.

1-103. The Attorney General, shall, in cooperation with the Secretary of State and the Secretary of Transportation, take whatever steps are necessary to ensure the fair enforcement of our laws relating to immigration and the strict observance of our obligations to those who genuinely flee persecution in their homeland.

1-104. This Order shall be effective immediately.

PROCLAMATION TO AUTHORIZE HIGH SEAS INTERDICTION
BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

The ongoing migration of persons to the U.S. in violation of our laws is a serious national problem, and one to which I have given much attention. Recently, the Attorney General, on behalf of the Administration, presented to the Congress a series of administrative and legislative measures intended to deal comprehensively with this problem. A particularly difficult aspect of the problem is the continuing illegal migration by sea of large numbers of undocumented aliens into the southeast United States. These arrivals have severely strained the law enforcement resources of the Immigration and Naturalization Service, and have threatened the welfare and safety of communities in that region.

Accordingly, after consultation with the governments of affected foreign countries and with agencies of the Executive Branch of our government, I have determined that new and effective measures to curtail these unlawful arrivals are necessary. In particular, I have determined that international cooperation to intercept vessels trafficking in illegal migrants is a necessary and proper means of insuring the effective enforcement of our laws.

Now, therefore, I, RONALD REAGAN, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States, including sec-

tions 212(f) and 215(a)(1) of the Immigration and Nationality Act, to protect the sovereignty of the United States, and in accordance with cooperative agreements with certain foreign governments, do proclaim that:

(1) The entry of undocumented aliens, arriving at the borders of the United States from the high seas, is detrimental to the United States. Such entry is hereby suspended and shall be prevented by the interdiction by the Coast Guard of vessels suspected of carrying such aliens.

(2) The Secretary of State shall enter into, on behalf of the United States, cooperative agreements with foreign governments for the purpose of preventing illegal migration to the United States by sea.

(3) The Secretary of Transportation shall instruct the Coast Guard to stop and board U.S. vessels, unregistered vessels, and vessels of foreign nations with whom we have agreements authorizing such actions, suspected of carrying illegal aliens to the United States; and to make inquiries of those on board, examine documents and take such actions as are necessary to establish the registry, condition and destination of the vessel and the status of those on board the vessel. When these measures suggest that an offense against United States immigration laws, or an offense under appropriate laws of a foreign country whom we have agreed to assist is being committed, the Coast Guard shall return the offending vessel and passengers to the country from which they came.

Provided, however, that no person who is a refugee, who has proper immigration documents, or who is otherwise entitled to proceed will be returned without his consent. These actions are authorized to be undertaken outside the territorial waters of the United States.

(4) The Attorney General, in cooperation with the Secretary of State and the Secretary of Transportation, shall take whatever steps are necessary to ensure the fair enforcement of our laws relating to immigration and the strict observance of our obligations to those who genuinely flee persecution in their homeland.

(5) Sums appropriate to carry out the proclamation and accompanying orders shall be made available.

IN WITNESS THEREOF, I have hereunto set my hand this _____ day of August, in the year of our Lord nineteen hundred and eighty-one, and of the Independence of the United States of America the two hundred and fifth.

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

August 27, 1981

MEMORANDUM FOR MICHAEL LUTTIG

FROM: RICHARD A. HAUSER

SUBJECT: Interdiction of Undocumented Aliens:
Presidential Proclamation and Executive
Order

The attached is for your information.

*File Walter
Interdiction*



Office of the Attorney General

Washington, D. C. 20530

August 26, 1981

MEMORANDUM FOR:

Rudolph Giuliani
Associate Attorney General

Doris Meissner
Acting Commissioner, INS

Frank Hodsoll
Deputy Assistant to the President

Richard Hauser
Deputy Counsel to the President

Nick Schowengerdt
U.S. Coast Guard

Kevin McIntyre
Department of State

Ted Briggs
Department of State

David Small
Office of the Legal Advisor
Department of State

Carol Williams
Office of Legal Counsel

FROM: David Hiller *DH*
Special Assistant to
the Attorney General

SUBJECT: Interdiction of Undocumented Aliens:
Presidential Proclamation and
Executive Order

There are attached revised drafts of a decision memorandum from the Attorney General to the President, a Presidential Proclamation, and Executive Order authorizing a limited program of interdiction. The revisions reflect comments received from the Office of Legal Counsel, Coast Guard, and the Department of State. The operative language of these documents follows quite closely the language contained in the draft diplomatic note.



Office of the Attorney General

Washington, D. C. 20530

MEMORANDUM FOR: The President

FROM: The Attorney General

SUBJECT: Interdiction of Illegal Aliens Arriving
in the United States by Sea.

As part of the Administration's recently announced immigration and refugee policy, you asked that I seek necessary legal authority to conduct a limited program of intercepting illegal aliens traveling to the United States by sea. It is the opinion of the Office of Legal Counsel, with which I concur, that existing Presidential authority is adequate to support the cooperative program now being negotiated with the Government of Haiti. That authority will be clarified and strengthened by the legislation we will submit to Congress in September. In view of the urgency of the situation in south Florida caused by continuing illegal migration, we propose that you authorize the Secretary of State, the Secretary of Transportation, and the Attorney General to proceed with a program of limited interdiction at this time.

There are attached a Presidential Proclamation and Executive Order authorizing and directing that a program of interdiction be undertaken in cooperation with foreign governments. The Proclamation is necessary to invoke the Presidential authority on which the program depends. It contains a finding that the continued illegal migration by sea to the southeast United States is detrimental to the national interest, suspends the entry of such illegal migrants, and directs the Secretary of State, the Secretary of Transportation, and the Attorney General to take necessary actions. The Executive Order implements the Proclamation.

RECOMMENDATION

The Secretary of State, the Secretary of Transportation, and the Attorney General recommend that you sign the attached Proclamation and Executive Order, authorizing a limited program of interdicting illegal alien traffic by sea.

Approve _____

Disapprove _____

PROCLAMATION TO AUTHORIZE HIGH SEAS INTERDICTION
BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

The ongoing migration of persons to the U.S. in violation of our laws is a serious national problem, and one to which I have given much attention. Recently, the Attorney General, on behalf of the Administration, presented to the Congress a series of administrative and legislative measures intended to deal comprehensively with this problem. A particularly difficult aspect of the problem is the continuing illegal migration by sea of large numbers of undocumented aliens into the southeast United States. These arrivals have severely strained the law enforcement resources of the Immigration and Naturalization Service, and have threatened the welfare and safety of communities in that region.

Accordingly, after consultation with the governments of affected foreign countries and with agencies of the Executive Branch of our government, I have determined that new and effective measures to curtail these unlawful arrivals are necessary. In particular, I have determined that international cooperation to intercept vessels trafficking in illegal migrants is a necessary and proper means of insuring the effective enforcement of our laws.

Now, therefore, I, RONALD REAGAN, President of the United States of America, acting under the authority vested in me by the Constitution and the statutes of the United States, including sec-

tions 212(f) and 215(a)(1) of the Immigration and Nationality Act, to protect the sovereignty of the United States, and in accordance with cooperative agreements with certain foreign governments, do proclaim that:

(1) The entry of undocumented aliens, arriving at the borders of the United States from the high seas, is detrimental to the United States. Such entry is hereby suspended and shall be prevented through interdiction by the United States Coast Guard of vessels suspected of carrying such aliens.

(2) The Secretary of State shall enter into, on behalf of the United States, cooperative agreements with foreign governments for the purpose of preventing illegal migration to the United States by sea.

(3) The Secretary of Transportation shall instruct the Coast Guard to stop and board U.S. vessels, unregistered vessels, and vessels of foreign nations with whom we have agreements authorizing such actions, suspected of carrying illegal aliens to the United States; and to make inquiries of those on board, examine documents and take such actions as are necessary to establish the registry, condition and destination of the vessel and the status of those on board the vessel. When these measures suggest that an offense against United States immigration laws, or an offense under appropriate laws of a foreign country whom we have agreed to assist is being committed, the Coast Guard shall return the offending vessel and passengers to the country from which they came.

Provided, however, that no person who is a refugee, who has proper immigration documents, or who is otherwise entitled to proceed will be returned without his consent. These actions are authorized to be undertaken outside the territorial waters of the United States.

(4) The Attorney General, in cooperation with the Secretary of State and the Secretary of Transportation, shall take whatever steps are necessary to ensure the fair enforcement of our laws relating to immigration and the strict observance of our obligations to those who genuinely flee persecution in their homeland.

(5) Funds appropriate to carry out the proclamation and accompanying orders shall be made available.

IN WITNESS THEREOF, I have hereunto set my hand this _____ day of August, in the year of our Lord nineteen hundred and eighty-one, and of the Independence of the United States of America the two hundred and fifth.

EXECUTIVE ORDER

Direction Relating to the Interdiction of Illegal Aliens

By the authority vested in me as President by the Constitution and statutes of the United States, including sections 212(f) and 215(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(f) and 1185(a)(1)), and in view of the continuing problem of migrants coming to the United States, by sea, without necessary entry documents, upon which I based my August ____ Proclamation ____, it is hereby ordered that, as of the effective date of this Order:

1-101. The Secretary of State shall enter into, on behalf of the United States, cooperative agreements with foreign governments for the purpose of preventing illegal migration to the United States by sea.

1-102. The Secretary of Transportation shall instruct the Coast Guard to stop and board U.S. vessels, unregistered vessels, and vessels of foreign nations with whom we have agreements authorizing such actions, suspected of carrying illegal aliens to the United States; and to make inquiries of those on board, examine documents and take such actions as are necessary to establish the registry, condition and destination of the vessel and the status of those on board the vessel. When these measures suggest that an offense against United States immigration laws, or an offense under appropriate laws of a foreign country whom we have agreed to assist is being committed, the Coast Guard shall return the vessel and its passengers to the country from which they came.

Provided, however, that no person who is a refugee, who has proper immigration documents, or who is otherwise entitled to proceed will be returned without his consent. These actions are authorized to be undertaken outside the territorial waters of the United States.

1-103. The Attorney General, shall, in cooperation with the Secretary of State and the Secretary of Transportation, take whatever steps are necessary to ensure the fair enforcement of our laws relating to immigration and the strict observance of our obligations to those who genuinely flee persecution in their homeland.

1-104. Funds appropriate to carry out the proclamation and accompanying orders shall be made available.

1-105. This Order shall be effective immediately.

THE WHITE HOUSE
WASHINGTON

Date 9/16/81

Suspense Date: _____

MEMORANDUM FOR: Mike Luttrely

FROM: RICHARD A. HAUSER

ACTION

- Approved
- Please handle
- For your information
- For your recommendation
- For the files
- Please see me
- Please prepare response
for _____
- Please forward:

COMMENT



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

15 SEP 1981

*Hausman gave this to me
before Darman copy came.
He got it from Bud Badell.
as information*

GENERAL COUNSEL

September 15, 1981

Honorable William French Smith
Attorney General
Washington, D. C. 20530

*P.A. — ^{back}
13 hours after
received
16 SEP 1981*

Dear Mr. Attorney General:

Enclosed, in accordance with the provisions of Executive Order No. 11030, as amended, is a proposed Executive proclamation entitled "High Seas Interdiction" and a proposed Executive order entitled "Interdiction of Illegal Aliens."

The proposed Executive order and proclamation were submitted via the White House by the Department of Justice, along with the enclosed transmittal letter. The proposed proclamation would "suspend" the entry by sea of illegal aliens and proclaim their interdiction on the high seas. The proposed order would direct the Secretary of State to enter into arrangements with foreign governments (Haiti) for such interdiction, direct the Secretary of Transportation to order the Coast Guard to conduct the interdiction and return vessels with "illegals" on board, and direct the Attorney General to ensure the fair enforcement of our laws and the strict observance of our commitment concerning refugees.

The proposal was circulated to affected and interested agencies; comments were received as follows:

OPD	None
State	Technical (oral)
DOT	Technical and substantive (written and oral)
NSC	Editorial (written)
DOD	None
CIA	Concur (written)
Justice	Technical (oral)

We have made all of the changes suggested and have made the following additional changes:

COPY FOR WHITE HOUSE LEGAL COUNSEL - MR. FRED F. FIELDING

- Shortened the proclamation by deleting directions to agency heads which are repeated in the order.

- Deleted press release type language relating to submission of a legislative agenda to the Congress (language is unnecessary, and untrue--it may or may not be submitted by the time the proclamation is signed).

- We have made several editorial, legal citation, and stylistic changes: In particular, we have shortened titles, shortened sentences without a change in substance, and restructured the instructions to the Secretary of Transportation to make them clearer.

- We made one substantive change which will permit the Coast Guard to permit a vessel to continue if that vessel has a very small percentage of "illegals". That change was made at the request of the Coast Guard by deleting language. In addition, we deleted language which said that the Coast Guard "shall return the offending vessel" and substituted our revision of the instructions to the Secretary of Transportation, which result in the Secretary having implied discretion to give specific guidance as to when a vessel could be permitted to continue rather than be required to return several hundred "legals" to the country of origin (Haiti).

We were advised by Justice and the Department of Transportation that Haiti is expected to enter into, imminently, an arrangement which will permit the interdiction to be implemented. At that time it is anticipated that it would be desirable for these documents to be issued.

We recirculated the final draft to the agencies directly affected: Transportation (Coast Guard); State; and Justice. Each of those agencies approved the final draft with some new technical suggestions. They have been incorporated in substance.

The term "agreement" has been deleted and the term "arrangement" has been substituted, because the representative of the Department of State indicated that the latter term was more descriptive and accurate. State also pointed out that our obligations with respect to refugees were "international" obligations that "concerned" refugees and were obligations running to other nations rather than to the individual refugee (see Section 3).

At the request of the Coast Guard representative, references to the Secretary of Transportation have been changed to the more accurate phrase "the Secretary of the Department in which the Coast Guard is operating".

The Coast Guard also suggested that the standard for returning vessels be changed from "actions which suggest that an offense" to "there is reason to believe that an offense". This change was made in Section 2(c)(3). It is consistent with the language already used in Section 2(c)(1).

At the request of a representative from the Department of Justice, and with the concurrence of the Coast Guard representative who confirmed the Coast Guard's jurisdiction, the order was modified to make it clear that the actions to be taken by the Coast Guard were to be taken "only" outside the territorial waters of the United States (see Section 2(d)).

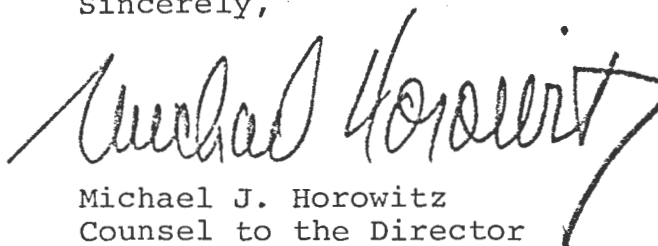
We requested from the Coast Guard a definition of "United States Vessels" so that others beside those versed in the technical jargon of international shipping would have some idea of its meaning. We were especially concerned that the reader not be given the misleading idea that these were only vessels of the Government of the United States. The representative of the Coast Guard suggested the definition contained in one of the drug abuse statutes (21 U.S.C. 955b). Because we agreed that it would be inappropriate to cite a drug abuse statute in connection with the present subject matter, we have incorporated the entire substance of that definition in the proposed Executive order (see Section 2(b)(1)).

All of the functions assigned to the agencies by this proposed order, including the responsibilities to be performed by the Coast Guard, are to be performed within available resources.

Your staff may direct any questions concerning these proposed documents to Mr. Ronald A. Kienlen of this office (395-5600).

These proposed documents have the approval of the Director of the Office of Management and Budget.

Sincerely,



Michael J. Horowitz
Counsel to the Director

Enclosures

HIGH SEAS INTERDICTION OF ILLEGAL ALIENS

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

The ongoing migration of persons to the United States in violation of our laws is a serious national problem detrimental to the interests of the United States. A particularly difficult aspect of the problem is the continuing illegal migration by sea of large numbers of undocumented aliens into the southeastern United States. These arrivals have severely strained the law enforcement resources of the Immigration and Naturalization Service and have threatened the welfare and safety of communities in that region.

As a result of our discussions with the Governments of affected foreign countries and with agencies of the Executive Branch of our Government, I have determined that new and effective measures to curtail these unlawful arrivals are necessary. In this regard, I have determined that international cooperation to intercept vessels trafficking in illegal migrants is a necessary and proper means of insuring the effective enforcement of our laws.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, by the authority vested in me by the Constitution and the statutes of the United States, including Sections 212(f) and 215(a)(1) of the Immigration and Nationality Act, as amended (8 U.S.C. 1182(f) and 1185(a)(1)), in order to protect the sovereignty of the United States, and in accordance with cooperative arrangements with certain foreign governments, and having found that the entry of undocumented aliens, arriving at the borders of the United States from the high seas, is detrimental to the interests of the United States, do proclaim that:

The entry of undocumented aliens from the high seas is hereby suspended and shall be prevented by the interdiction of certain vessels carrying such aliens.

IN WITNESS WHEREOF, I have hereunto set my hand this
day of , in the year of our Lord
nineteen hundred and eighty-one, and of the Independence of
the United States of America the two hundred and sixth.

EXECUTIVE ORDER

INTERDICTION OF ILLEGAL ALIENS

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Sections 212(f) and 215(a)(1) of the Immigration and Nationality Act, as amended (8 U.S.C. 1182(f) and 1185(a)(1)), in view of the continuing problem of migrants coming to the United States, by sea, without necessary entry documents, and in order to carry out the suspension and interdiction of such entry which have concurrently been proclaimed, it is hereby ordered as follows:

Section 1. The Secretary of State shall undertake to enter into, on behalf of the United States, cooperative arrangements with appropriate foreign governments for the purpose of preventing illegal migration to the United States by sea.

Sec. 2. (a) The Secretary of the Department in which the Coast Guard is operating shall issue appropriate instructions to the Coast Guard in order to enforce the suspension of the entry of undocumented aliens and the interdiction of any defined vessel carrying such aliens.

(b) Those instructions shall apply to any of the following defined vessels:

(1) Vessels of the United States, meaning any vessel documented under the laws of the United States, or numbered as provided by the Federal Boat Safety Act of 1971, as amended (46 U.S.C. 1451 et seq.), or owned in whole or in part by the United States, a citizen of the United States, or a corporation incorporated under the laws of the United States or any State, Territory, District, Commonwealth, or possession thereof, unless the vessel has been granted

nationality by a foreign nation in accord with Article 5 of the Convention on the High Seas of 1958 (U.S. TIAS 5200; 13 UST 2312).

(2) Vessels without nationality or vessels assimilated to vessels without nationality in accordance with paragraph (2) of Article 6 of the Convention on the High Seas of 1958 (U.S. TIAS 5200; 13 UST 2312).

(3) Vessels of foreign nations with whom we have arrangements authorizing the United States to stop and board such vessels.

(c) Those instructions to the Coast Guard shall include appropriate directives providing for the Coast Guard:

(1) To stop and board defined vessels, when there is reason to believe that such vessels are engaged in the irregular transportation of persons or violations of United States law or the law of a country with which the United States has an arrangement authorizing such action.

(2) To make inquiries of those on board, examine documents and take such actions as are necessary to establish the registry, condition and destination of the vessel and the status of those on board the vessel.

(3) To return the vessel and its passengers to the country from which it came, when there is reason to believe that an offense is being committed against the United States immigration laws, or appropriate laws of a foreign country with which we have an arrangement to assist; provided, however, that no person who is a refugee will be returned without his consent.

(d) These actions, pursuant to this Section, are authorized to be undertaken only outside the territorial waters of the United States.

nationality by a foreign nation in accord with Article 5 of the Convention on the High Seas of 1958 (U.S. TIAS 5200; 13 UST 2312).

(2) Vessels without nationality or vessels assimilated to vessels without nationality in accordance with paragraph (2) of Article 6 of the Convention on the High Seas of 1958 (U.S. TIAS 5200; 13 UST 2312).

(3) Vessels of foreign nations with whom we have arrangements authorizing the United States to stop and board such vessels.

(c) Those instructions to the Coast Guard shall include appropriate directives providing for the Coast Guard:

(1) To stop and board defined vessels, when there is reason to believe that such vessels are engaged in the irregular transportation of persons or violations of United States law or the law of a country with which the United States has an arrangement authorizing such action.

(2) To make inquiries of those on board, examine documents and take such actions as are necessary to establish the registry, condition and destination of the vessel and the status of those on board the vessel.

(3) To return the vessel and its passengers to the country from which it came, when there is reason to believe that an offense is being committed against the United States immigration laws, or appropriate laws of a foreign country with which we have an arrangement to assist; provided, however, that no person who is a refugee will be returned without his consent.

(d) These actions, pursuant to this Section, are authorized to be undertaken only outside the territorial waters of the United States.

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

September 29, 1981

EXECUTIVE ORDER

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INTERDICTION OF ILLEGAL ALIENS

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Sections 212(f) and 215(a)(1) of the Immigration and Nationality Act, as amended (8 U.S.C. 1182(f) and 1185(a)(1)), in view of the continuing problem of migrants coming to the United States, by sea, without necessary entry documents, and in order to carry out the suspension and interdiction of such entry which have concurrently been proclaimed, it is hereby ordered as follows:

Section 1. The Secretary of State shall undertake to enter into, on behalf of the United States, cooperative arrangements with appropriate foreign governments for the purpose of preventing illegal migration to the United States by sea.

Sec. 2. (a) The Secretary of the Department in which the Coast Guard is operating shall issue appropriate instructions to the Coast Guard in order to enforce the suspension of the entry of undocumented aliens and the interdiction of any defined vessel carrying such aliens.

(b) Those instructions shall apply to any of the following defined vessels:

(1) Vessels of the United States, meaning any vessel documented under the laws of the United States, or numbered as provided by the Federal Boat Safety Act of 1971, as amended (46 U.S.C. 1451 et seq.), or owned in whole or in part by the United States, a citizen of the United States, or a corporation incorporated under the laws of the United States or any State, Territory, District, Commonwealth, or possession thereof, unless the vessel has been granted nationality by a foreign nation in accord with Article 5 of the Convention on the High Seas of 1958 (U.S. TIAS 5200; 13 UST 2312).

(2) Vessels without nationality or vessels assimilated to vessels without nationality in accordance with paragraph (2) of Article 6 of the Convention on the High Seas of 1958 (U.S. TIAS 5200; 13 UST 2312).

(3) Vessels of foreign nations with whom we have arrangements authorizing the United States to stop and board such vessels.

more

(OVER)

(c) Those instructions to the Coast Guard shall include appropriate directives providing for the Coast Guard:

(1) To stop and board defined vessels, when there is reason to believe that such vessels are engaged in the irregular transportation of persons or violations of United States law or the law of a country with which the United States has an arrangement authorizing such action.

(2) To make inquiries of those on board, examine documents and take such actions as are necessary to establish the registry, condition and destination of the vessel and the status of those on board the vessel.

(3) To return the vessel and its passengers to the country from which it came, when there is reason to believe that an offense is being committed against the United States immigration laws, or appropriate laws of a foreign country with which we have an arrangement to assist; provided, however, that no person who is a refugee will be returned without his consent.

(d) These actions, pursuant to this Section, are authorized to be undertaken only outside the territorial waters of the United States.

Sec. 3. The Attorney General shall, in consultation with the Secretary of State and the Secretary of the Department in which the Coast Guard is operating, take whatever steps are necessary to ensure the fair enforcement of our laws relating to immigration (including effective implementation of this Executive Order) and the strict observance of our international obligations concerning those who genuinely flee persecution in their homeland.

RONALD REAGAN

THE WHITE HOUSE,
September 29, 1981.

#

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

September 29, 1981

HIGH SEAS INTERDICTION OF ILLEGAL ALIENS

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

The ongoing migration of persons to the United States in violation of our laws is a serious national problem detrimental to the interests of the United States. A particularly difficult aspect of the problem is the continuing illegal migration by sea of large numbers of undocumented aliens into the southeastern United States. These arrivals have severely strained the law enforcement resources of the Immigration and Naturalization Service and have threatened the welfare and safety of communities in that region.

As a result of our discussions with the Governments of affected foreign countries and with agencies of the Executive Branch of our Government, I have determined that new and effective measures to curtail these unlawful arrivals are necessary. In this regard, I have determined that international cooperation to intercept vessels trafficking in illegal migrants is a necessary and proper means of insuring the effective enforcement of our laws.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, by the authority vested in me by the Constitution and the statutes of the United States, including Sections 212(f) and 215(a)(1) of the Immigration and Nationality Act, as amended (8 U.S.C. 1182(f) and 1185(a)(1)), in order to protect the sovereignty of the United States, and in accordance with cooperative arrangements with certain foreign governments, and having found that the entry of undocumented aliens, arriving at the borders of the United States from the high seas, is detrimental to the interests of the United States, do proclaim that:

The entry of undocumented aliens from the high seas is hereby suspended and shall be prevented by the interdiction of certain vessels carrying such aliens.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of September, in the year of our Lord nineteen hundred and eighty-one, and of the Independence of the United States of America the two hundred and sixth.

RONALD REAGAN

#

17 SEP 1981 RAA for PFF air

Document No. 033441SS

WHITE HOUSE STAFFING MEMORANDUM

DATE: 9/17 ACTION/CONCURRENCE/COMMENT DUE BY: 9/22/81

SUBJECT: EXECUTIVE ORDER & PROCLAMATION RE INTERDICTION OF ILLEGAL ALIENS

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input type="checkbox"/>	<input type="checkbox"/>	JAMES	<input type="checkbox"/>	<input type="checkbox"/>
MEESE	<input type="checkbox"/>	<input checked="" type="checkbox"/>	MURPHY	<input type="checkbox"/>	<input type="checkbox"/>
BAKER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	NOFZIGER	<input type="checkbox"/>	<input type="checkbox"/>
DEAVER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	WILLIAMSON	<input checked="" type="checkbox"/>	<input type="checkbox"/>
STOCKMAN	<input type="checkbox"/>	<input type="checkbox"/>	WEIDENBAUM	<input type="checkbox"/>	<input type="checkbox"/>
ALLEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	CANZERI	<input type="checkbox"/>	<input type="checkbox"/>
ANDERSON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	FULLER (For Cabinet)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BRADY	<input type="checkbox"/>	<input type="checkbox"/>	HICKEY	<input type="checkbox"/>	<input type="checkbox"/>
DOLE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	HODSOLL	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FIELDING →	<input checked="" type="checkbox"/>	<input type="checkbox"/>	MC COY	<input type="checkbox"/>	<input type="checkbox"/>
FRIEDERSDORF	<input checked="" type="checkbox"/>	<input type="checkbox"/>	CEQ	<input type="checkbox"/>	<input type="checkbox"/>
GARRICK	<input type="checkbox"/>	<input type="checkbox"/>	OSTP	<input type="checkbox"/>	<input type="checkbox"/>
GERGEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	USTR	<input type="checkbox"/>	<input type="checkbox"/>
HARPER	<input type="checkbox"/>	<input type="checkbox"/>	ROGERS	<input type="checkbox"/>	<input type="checkbox"/>

Remarks:

Could you please give me your comments/edits by c.o.b. Tuesday, September 22?

Thank you.

Richard G. Darman
Deputy Assistant to the President
and Staff Secretary
(x-2702)



U.S. Department of Justice
Office of Legal Counsel

Office of the
Assistant Attorney General

Washington, D.C. 20530

16 SEP 1981

The President,
The White House,
My dear Mr. President:

I am herewith transmitting a proposed Executive order entitled "Interdiction of Illegal Aliens" and a proposed Proclamation entitled "High Seas Interdiction of Illegal Aliens."

This proposed order and proclamation were submitted by the Department of Justice, after consultation with the Departments of State and Transportation. They have been forwarded for the consideration of this Department as to form and legality by the Office of Management and Budget with the approval of the Director.

The proposed Executive order is approved as to form and legality.

Respectfully,

Theodore B. Olson
Assistant Attorney General
Office of Legal Counsel

SEP 16 1981



Office of the
Assistant Attorney General

Washington, D.C. 20530

1 6 SEP 1981

MEMORANDUM

Re: Proposed Executive order entitled
Interdiction of Illegal Aliens and
Proposed Proclamation entitled High
Seas Interdiction of Illegal Aliens

The attached proposed Executive order and Proclamation were submitted by the Department of Justice, after consultation with the Departments of Transportation and State. They have been forwarded for the consideration of this Department as to form and legality by the Office of Management and Budget with the approval of the Director.

The proposed Executive order and Proclamation are designed to permit the Coast Guard to interdict vessels engaged in the transport of aliens in violation of the law of either the United States or a country with which we have an arrangement. The legal issues raised by this proposed interdiction have been discussed in memoranda issued by this Office. See Memorandum for the Attorney General from Assistant Attorney General Olson, August 11, 1981; Memorandum for the Associate Attorney General from Assistant Attorney General Olson, August 5, 1981. The proposed Executive order and Proclamation, which were drafted by this Department, have been reviewed by affected agencies, including the Departments of State, Transportation and Defense, and revised to reflect their concerns.

The proposed Executive order and Proclamation are acceptable as to form and legality.

Theodore B. Olson
Assistant Attorney General
Office of Legal Counsel

EXECUTIVE ORDER

INTERDICTION OF ILLEGAL ALIENS

By the authority vested in me as President by the Constitution and statutes of the United States of America, including Sections 212(f) and 215(a)(1) of the Immigration and Nationality Act, as amended (8 U.S.C. 1182(f) and 1185(a)(1)), in view of the continuing problem of migrants coming to the United States, by sea, without necessary entry documents, and in order to carry out the suspension and interdiction of such entry which have concurrently been proclaimed, it is hereby ordered as follows:

Section 1. The Secretary of State shall undertake to enter into, on behalf of the United States, cooperative arrangements with appropriate foreign governments for the purpose of preventing illegal migration to the United States by sea.

Sec. 2. (a) The Secretary of the Department in which the Coast Guard is operating shall issue appropriate instructions to the Coast Guard in order to enforce the suspension of the entry of undocumented aliens and the interdiction of any defined vessel carrying such aliens.

(b) Those instructions shall apply to any of the following defined vessels:

(1) Vessels of the United States, meaning any vessel documented under the laws of the United States, or numbered as provided by the Federal Boat Safety Act of 1971, as amended (46 U.S.C. 1451 et seq.), or owned in whole or in part by the United States, a citizen of the United States, or a corporation incorporated under the laws of the United States or any State, Territory, District, Commonwealth, or possession thereof, unless the vessel has been granted

nationality by a foreign nation in accord with Article 5 of the Convention on the High Seas of 1958 (U.S. TIAS 5200; 13 UST 2312).

(2) Vessels without nationality or vessels assimilated to vessels without nationality in accordance with paragraph (2) of Article 6 of the Convention on the High Seas of 1958 (U.S. TIAS 5200; 13 UST 2312).

(3) Vessels of foreign nations with whom we have arrangements authorizing the United States to stop and board such vessels.

(c) Those instructions to the Coast Guard shall include appropriate directives providing for the Coast Guard:

(1) To stop and board defined vessels, when there is reason to believe that such vessels are engaged in the irregular transportation of persons or violations of United States law or the law of a country with which the United States has an arrangement authorizing such action.

(2) To make inquiries of those on board, examine documents and take such actions as are necessary to establish the registry, condition and destination of the vessel and the status of those on board the vessel.

(3) To return the vessel and its passengers to the country from which it came, when there is reason to believe that an offense is being committed against the United States immigration laws, or appropriate laws of a foreign country with which we have an arrangement to assist; provided, however, that no person who is a refugee will be returned without his consent.

(d) These actions, pursuant to this Section, are authorized to be undertaken only outside the territorial waters of the United States.

Sec. 3. The Attorney General shall, in consultation with the Secretary of State and the Secretary of the Department in which the Coast Guard is operating, take whatever steps are necessary to ensure the fair enforcement of our laws relating to immigration and the strict observance of our international obligations concerning those who genuinely flee persecution in their homeland.

THE WHITE HOUSE

, 1981

HIGH SEAS INTERDICTION OF ILLEGAL ALIENS

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

The ongoing migration of persons to the United States in violation of our laws is a serious national problem detrimental to the interests of the United States. A particularly difficult aspect of the problem is the continuing illegal migration by sea of large numbers of undocumented aliens into the southeastern United States. These arrivals have severely strained the law enforcement resources of the Immigration and Naturalization Service and have threatened the welfare and safety of communities in that region.

As a result of our discussions with the Governments of affected foreign countries and with agencies of the Executive Branch of our Government, I have determined that new and effective measures to curtail these unlawful arrivals are necessary. In this regard, I have determined that international cooperation to intercept vessels trafficking in illegal migrants is a necessary and proper means of insuring the effective enforcement of our laws.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, by the authority vested in me by the Constitution and the statutes of the United States, including Sections 212(f) and 215(a)(1) of the Immigration and Nationality Act, as amended (8 U.S.C. 1182(f) and 1185(a)(1)), in order to protect the sovereignty of the United States, and in accordance with cooperative arrangements with certain foreign governments, and having found that the entry of undocumented aliens, arriving at the borders of the United States from the high seas, is detrimental to the interests of the United States, do proclaim that:

The entry of undocumented aliens from the high seas is hereby suspended and shall be prevented by the interdiction of certain vessels carrying such aliens.

IN WITNESS WHEREOF, I have hereunto set my hand this
day of _____, in the year of our Lord
nineteen hundred and eighty-one, and of the Independence of
the United States of America the two hundred and sixth.