MEMORANDUM

NATIONAL SECURITY COUNCIL

INFORMATION

MEMORANDUM FOR RICHARD V. ALLEN

FROM: DOUGLAS J. FEITH

SUBJECT: Israeli Raid on Iraqi Nuclear Facility

June 9, 1981

The State Department has cabled our embassies a "condemnation" of the Israeli raid -- complete with a suggestion that Israel "possibly" violated U.S. arms use laws. The condemnation message read like Carter Administration Standard Denunciation of Israel No. 403. More troubling than the extraordinary term "condemn" was reference to Israel's possible violation of U.S. law.

The Carter Administration's chief innovation in the field of U.S.-Israeli relations was the use of legal judgments as sticks for beating the Israelis. The practice confounded law and diplomacy and served chiefly to embolden the anti-Israel (and largely anti-US) chorus at the UN which revels in denunciations of Israel's "criminality."

President Reagan broke with that practice when he criticized Israel's West Bank settlements while, in the same breath, rejected the contention that they are "illegal." Administration officials would do well to follow the President's lead by abjuring unduly antagonistic legal pretexts for essentially non-legal diplomatic pronouncements.

The Israeli raid's historical context deserves emphasis. Iraq is in a state of war with Israel and has been so since 1948 when Iraqi forces joined in the Arab attack against Israel. The declared aim of that attack was to destroy the Jewish State. The U.S. representative to the UN in 1948 denounced the attack as a violation of international law. The U.S. Government's position on that subject has not changed since 1948. Given that Iraq officially retains its declared intention to destroy Israel, no rebuke of Israel's raid against Iraq should be issued without an equally emphatic rebuke of Iraq for refusing to fulfill its international obligation to make peace with Israel.

The State Department stated yesterday, in effect, that the Israeli raid was destabilizing. It would benefit our peace diplomacy if an official U.S. spokesman noted that among the most grievously destabilizing practices in the region is the refusal of Israel's neighbors to make peace with it.

I happened to talk with Gene Rostow on the telephone yesterday. I asked his opinion of Israel's new non-proliferation exercise and he framed his wise answer so skillfully that I requested him to dictate it to me. It is attached at Tab A.

ATTACHMENT

Tab A - Rostow statement
The Israeli raid against the Iraqi nuclear facility was a flash of lightning, demonstrating both the extent to which world public order has crumbled during the last ten years and the true menace of nuclear proliferation. The Israelis perceive the Iraqi nuclear project as a mortal threat, despite Iraqi adherence to the Nuclear Proliferation Treaty, because Iraq declares its bellicose intentions toward Israel and refuses to make peace in accordance with the mandatory United Nations Security Council Resolution 338. Israel relies on the doctrine of self-defense as once stated by Elihu Root: "The right...to project itself by preventing a condition of affairs in which it will be too late to protect itself."

The moral of the episode is clear: The nations of the world, at the brink of the abyss of anarchy, must renew their efforts to restore the stability of the states system based on mutual and reciprocal respect for the rules of the Charter of the United Nations with regard to the international use of force.