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1982 AGREEMENT WITH SPAIN

General Objectives. Our minimum objective in the 1981-82 base negotiations with Spain, which we achieved, was to retain all existing activities in Spain; however, our maximum objective, the resumption of at least some of the operational flexibility enjoyed prior to the 1976 treaty, eluded us--at least in terms of the new agreement's language. Some resumed flexibility may come with time as Spain gains familiarity with NATO, though Spain's perceived interests in the Middle East and the Third World make this doubtful. A further objective, successfully achieved, was the discontinuance of grant aid and multi-year security assistance commitments.

General Operating Rights and Flexibility of Use. The new agreement retains existing US access to Spanish bases and generally preserves the (restrictive) status quo for US operations. An advance in the new agreement is the authorization for the basing of 20 tanker aircraft in Spain, in place of the former limitation of 5. The new agreement contains language which explicitly recognizes Spain's full sovereignty and control over its territory and airspace and stipulates that US use of the Spanish bases will be in conformity with those stated principles of sovereignty and control. The 1976 treaty did not contain similar language. The US made it clear that this language cannot be interpreted to condition authorizations specifically granted elsewhere in the agreement.

Out-of-Area Transits/Overflights. Unlike the 1976 treaty, the new agreement explicitly provides that we will seek the "prior authorization of the Government of Spain" for any use of the bases which go beyond "the bilateral or multilateral scope" of the agreement--a phrase which we interpret broadly. US transit rights to non-NATO destinations were a key and greatly contested issue in the negotiations. Although the 1976 treaty did not contain a specific requirement for prior authorization in these cases, the US had sought prior GOS approval for transits to destinations considered sensitive by the Spanish government.

Nuclear Overflights. Although the agreement merely says that nuclear and other special weapons may be introduced onto Spanish soil only with the consent of both parties to the agreement, the Spaniards also sought in association with the agreement our public recognition that we do not overfly Spain with nuclear weapons (a practice stemming from the Palomares nuclear accident in the early 60's). In the closing days of the negotiations, the US decided to accede to this demand in

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the form of a public exchange of letters in which each government reiterates current policy. The Spanish letter stated the policy of the Spanish government not to permit the overflight of its territory with nuclear weapons, while the US letter responded by noting our intention to respect fully the policies of the Spanish government.

SOFA. Several favorable changes were also made in the status of forces agreement, the most important involving trials of US servicemen. Under the 1976 treaty, long delays in bringing accused US servicemen to trial had become a serious problem. Inadequate judicial facilities, especially in southern Spain, had resulted in lengthy (2-4 years) pretrial detentions. Under the new agreement, if Spanish judicial proceedings involving US servicemen are not completed within one year, US military authorities have no subsequent responsibility to produce servicemen for trial in Spain and such servicemen may be freely reassigned outside Spain.

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