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BACKGROUND MEMORANDUMSHCHARANSKIY CASEA. Current Status

1. Investigation period is over. Lawyer must soon be obtained by family or he will be officially appointed. Trial itself may not begin for several weeks or even months, perhaps after Belgrade.

2. Hundreds of witnesses, mostly Soviet Jews, have been interrogated. The Soviets have a wealth of "evidence", much more than they have felt the need for in other cases in which accused political dissidents were imprisoned for long periods of time.

3. Charges have still not been made public officially, but it appears Shcharanskiy will be charged under Article 64 (treason--with sentence ranging from death to ten to fifteen years in prison and/or labor camp), Article 70 (anti-Soviet agitation--up to ten years), or, less likely, Article 190 (spreading slanderous fabrications--up to three years).

4. Shcharanskiy's mother has reportedly been told the trial could last for three or four months, but this would be unprecedented and is doubtful.

5. We do not yet know if the Soviets plan a long, highly publicized trial or a quiet, quick proceeding. Chances are there will be a degree of publicity, with some exposure of "evidence".

B. Probable Evidence

1. Lipavskiy. The Soviets could produce "evidence" which they already publicized in March 1977 Izvestiya article and during a subsequent press conference with Lipavskiy. They may also have tape recordings, films, video tapes of Lipavskiy's (and perhaps Shcharanskiy's) meetings with American diplomats, journalists, tourists. They would still have to make the connection between Lipavskiy's activities and those of Shcharanskiy, but in view of the fact that Lipavskiy was quite close to Shcharanskiy and other activists, it is possible he may have drawn them unknowingly into activities and areas which could now be damaging to them.

DOS and DIA review(s) completed.

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2. Toth. Toth was quite open about admitting he used information Shcharanskiy had given him for newspaper articles. What appeared innocent at the time could be used by the Soviets to show that Shcharanskiy passed "secret" information. In addition, the Soviets can produce a letter from former Military Attache Watters to Toth to "prove" that Toth worked for DIA. The President's denial on Shcharanskiy mentioned only specifically CIA, so the Soviets could proceed without directly challenging the President's assertion.

3. Acts Against Soviet Interests. The Soviets undoubtedly have numerous letters and documents sent to the West signed by Shcharanskiy (and others) urging that trade be diminished, claiming that Western products are used in the Soviet defense industry, and supporting Jackson/Vanik amendment. They have also referred to letters to and from Jackson.

4. Other. Besides Lipavskiy, we can assume that the KGB had other agents among the Jewish activists (e.g., Leonid Tsipin) and that other evidence showing actions against Soviet interests could be produced. They may be saving this for the trial, not only to be used against Shcharanskiy, but also to discredit the Soviet Jewish activist movement. It is also possible that they will force Shcharanskiy to recant publicly and, thereby, further implicate other Soviet Jews and Americans.

#### C. Non-Trial Use of Evidence

Should the Soviets decide to give wide publicity to the evidence in the Shcharanskiy case to discredit our and the dissidents' motives, they have two basic options:

--They could keep the trial closed, not allow in Western observers or journalists, and restrict Soviet citizens' access, either by packing the courtroom or by declaring the trial a national security matter. The evidence could be publicized via their media, backgrounders to selected journalists, etc. The credence of the evidence would be reduced in such a case and public furor in the West would undoubtedly intensify as a result.

--It is entirely possible that they will open the trial to selected Western observers and journalists, particularly if they are confident of the plausibility of their case. Depending on their cleverness in presenting the material, they could promote a degree of doubt concerning our involvement with Shcharanskiy.

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STATEMENT BY DEPARTMENT SPOKESMANSHCHARANSKIY TRIAL

We view with deep concern the opening of the trial of Anatoliy Shcharanskiy. Mr. Shcharanskiy has been held in detention by the Soviet authorities for almost one year. He has not been allowed to communicate with family or friends. Nor has he been allowed to select his own legal counsel for a trial, which is itself under the control of the Soviet authorities who arrested him. These factors call into question the fairness of the trial and the protection of Mr. Shcharanskiy's human rights. The U.S. Government has repeatedly made its concern for Mr. Shcharanskiy known, both privately to the Soviet Government and publicly. Our interest in him is natural in view of his activities on behalf of human rights, particularly for the right to emigrate which we and the American people have a firm commitment to promote. This interest is even more intense because of unfounded allegations in the official Soviet press accusing him of engaging in espionage on behalf of the United States and linking him with U.S. officials and private Americans. We have, of course, firmly denied any link between Mr. Shcharanskiy and U.S. intelligence agencies and we reiterate that denial now. The trial of Mr. Shcharanskiy will be watched closely in the United States. In our view the fate of Mr. Shcharanskiy will be an important indicator of the attitude of the Soviet Government both with regard to observing its commitments under the Helsinki Final Act and to promoting a healthy atmosphere for the constructive development of U.S.-Soviet relations. We have made our position clear and we do not plan to offer further comments on aspects of the trial while it is in session.

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