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Editor NYTimes

After the Mayaguez

To the Editor:

I share Anthony Lewis's concern about the unilateral adjudication by the United States that Cambodia's seizure of the Mayaguez was illegal and the forceful self-help measures taken to effect its release [column May 19]. The American reaction must be critically analyzed in terms of the prohibition in the U.N. Charter of the use of force in relations between states, and its requirement that international disputes be settled by peaceful means. However, because the circumstances of this incident were unique, it cannot be used as precedent by this or other countries which may in the future be faced with foreign seizures of their vessels.

It is of great significance that the crew of the Mayaguez was seized along with the vessel and taken into captivity by a new Government with which the United States has had no experience in dealing. In other Communist-governed Southeast Asian countries, captured American nationals have had to wait months and often years in dehumanizing confinement without even the minimal standards of due process required by international law before their release was ultimately obtained. It appears that the United States did attempt, through intermediaries, to negotiate the re-

lease of the Mayaguez and its crew prior to the institution of military action, but these initiatives were rebuffed. American officials undoubtedly considered it an unacceptable risk to the crew to rely exclusively on this approach with the untried Cambodian Government and deemed armed intervention to be the only means by which the well-being of the crew could be assured.

Moreover, the illegality of Cambodia's seizure of the Mayaguez was reasonably clear. Even if the ship were within what Cambodia could legitimately claim as her territorial waters, the right of innocent passage through such waters is guaranteed by the 1958 Geneva Convention on the Territorial Sea, to which both the United States and Cambodia are parties. Cambodia has presented no clear-cut allegations or evidence that the passage of the Mayaguez was non-innocent, in that it prejudiced the peace, good order or security of Cambodia. Her assertions amount to little more than that a portion of the ship's cargo contained arms, the origin or destination of which was never specified, and general allegations that the C.I.A. is engaged in spying operations in Cambodia.

The American military response to the seizure of its ship and crew should be limited to the factual and political context from which it arose. Maritime disputes with countries such as Ecuador and the Soviet Union, which Mr. Lewis fears may now result in military action, are, and will likely continue to be, resolved by peaceful means.

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Boston, May 21, 1975