

The Association for Diplomatic Studies and Training
Foreign Affairs Oral History Project

CARL F. SALANS

Interviewed by: Richard L. Jackson
Initial interview date: December 30, 1998
Copyright 2002 ADST

TABLE OF CONTENTS

Background

Born and raised in Illinois
Harvard College
Cambridge University - Trinity College

State Department - Foreign Service Affairs - Legal Adviser ca. 1959-1961

U.S.-Japan, China relations
Governor Harriman
Southeast Asia
Ambassador William Sullivan

State Department - Foreign Service Affairs - Assistant Legal Advisor ca. 1961-1964

Japan Treaty
SEATO
Australia
Ambassador William Battle

State Department - Inter-American Affairs - Assistant Legal Adviser ca. 1964-1966

OAS
Inter-American system treaties
Bethuel Webster
Cultural differences (negotiations)

State Department - Deputy Legal Adviser 1966-1968

Vietnam
Tonkin Gulf Resolution
Pentagon Papers

Paris, France - Vietnam Negotiations 1968-1971

Kissinger and Le Duc Tho
International Highjacking Convention
Libyan delegation
Delegation members

State Department - Deputy Legal Adviser Vietnam World Heritage Convention Standards of behavior FSO versus lawyers relationship Secretary of State role	1971-1978
Conclusions and observations Career versus non-career advisers Lawyers' role	
Paris, France - Private Law Firm	1978

INTERVIEW

Q: This will be an oral history interview with Mr. Carl Salans, conducted in Paris on December 30, 1998 by Richard Jackson. Mr. Salans, I see that you were in the Department of State from '59 to '72. Before we get to that, could you tell us a little bit about how you came to join the State Department, whether that came from your education and how you got interested in foreign affairs.

SALANS: Yes, my interest in foreign affairs goes back to my days in high school. I had a history teacher who was an inspiration to me, Miss Margaret Norman, I still remember. We together started something called the Forty-nine Club, which was an international relations club. At that time there were 49 countries in the United Nations. I went on to Harvard College where I studied international relations and political science and to law school where I majored in international law at Cambridge University, Trinity College, in England.

Q: The high school where you first got interested, what part of the country was that in?

SALANS: It was Bloom Township High School in Chicago Heights, Illinois. I think I was the first student from that high school that ever went out of state to college which shows you the kind of community I grew up in. It was unusual to have an interest in international relations coming from a community like that, a small industrial town. But, as I say, there was this teacher who was herself interested in the subject and got me interested.

Q: That was in the years after the UN had burst on the scene?

SALANS: Yes. It was in the aftermath of W.W.II and the creation of the United Nations. The beginning of the role of the United States as a major influence in international relations.

Q: Any influence of Adlai Stevenson coming from Illinois?

SALANS: Adlai Stevenson of Illinois was one of my heroes. Yes, all of that I am sure had played a part. The fact that my parents were born in Europe and emigrated to the United States also created an interest. In any case, the interest persisted when I went to law school, particularly when I went to Cambridge. I focused principally on international law studies and public international law in particular, which itself was not a usual course of study for a young lawyer in those days. Maybe even today it is not a usual course of study. But, that was my interest; I pursued it. When I came out of law school, there weren't very many places where one could practice public international law. One of those places was the Legal Advisor's office of the State Department. Other places that came to my attention were international organizations that were created in the aftermath of the creation of the United Nations. I was interested in Paris. I was interested in UNESCO. At that time I applied for a job there, but I was persuaded by the people I had met in the State Department that I had better have a good grounding in my own legal system before going to work in an international organization. I followed that advice, and I accepted a job in the Legal Advisors office in the State Department. That must have been in 1959 in the last years of the Eisenhower administration. My first assignment in the Legal Advisor's office was in the Office of Far Eastern Affairs where I worked for the then assistant legal advisor for Far Eastern Affairs whose name was Eli Maurer. In that job, I was introduced to all of the problems of Southeast Asia, Laos, Cambodia, Vietnam in particular, to U.S.-Japan relations, in particular American-Japanese security arrangements, to U.S.-China relations, etc.

Q: Travel out to the region?

SALANS: I did not travel out to the region at that stage. I was a youngster and pretty much stayed at home. Although, in 1962, I did travel to Geneva for the international conference on Laos with Averell Harriman and was the legal advisor to the delegation for part of the time of that conference. That was the conference in which the 1962 Geneva Agreements neutralizing Laos were negotiated and signed. But, I did not travel to Southeast Asia itself.

Q: So what was it like as a young recent employee being advisor to Averell Harriman at a conference like that? What kind of a person was he?

SALANS: I had a great admiration for Governor Harriman and kind of followed him around throughout my career. He was someone who was so devoted to his country. He was a man of principle, I thought, whom one couldn't help but admire, whether one agreed with him all the time or not. I tended to share his views on many things. He was kind enough during his time in the State Department to seek my advice on many occasions. I think he became Assistant Secretary of State for Far Eastern Affairs at one point if I am not mistaken. Later when he was Ambassador to the Vietnam talks together with Cyrus Vance, he sought me out and asked me to join the U.S. delegation in Paris. I think I had a very close and warm relationship with him which to me as a youngster, I

still thought of myself as a youngster in those days, was very exciting. I felt it was an honor really to work for a man like that. He and Cyrus Vance were two people I admired very much in my time in the State Department and for whom I enjoyed working immensely.

Q: You must have worked in Geneva very closely drafting with him and coming up with the framework for those agreements.

SALANS: Yes. The essential role of the lawyer in that negotiation was A. drafting agreements, B. bringing to the attention of the people in the delegation the relevance to any new negotiation or new agreement of the 1954 Geneva agreements which had been negotiated also in Geneva and which were the result of the French withdrawal from Southeast Asia. There was a whole legal framework within which Southeast Asia was operating starting from 1954 until 1962 and later until the Vietnam conference, which was relevant to any new agreements that would be negotiated. One of the roles of the lawyer was to be thoroughly familiar with those agreements, how they had operated in practice, what the institutions that had been created by those agreements had done, and how they functioned, and all of that. The lawyer brought it to the attention of Governor Harriman and the other members of the delegation who may not have been as familiar with that history and legal framework as the lawyers were. Governor Harriman also liked the way I drafted, and looked to me very often at that conference, but more so later at the Vietnam peace talks, to draft the policy statements that he would make in plenary sessions or other statements. I became kind of a draftsman for him, which went beyond the normal role of a lawyer.

Q: Were there some other State Department people from different bureaus on the delegation or the Vietnam negotiations?

SALANS: Yes. The person I remember best from the Laos conference is Bill Sullivan who later became Ambassador to I'm not sure what country in Southeast Asia (Laos?).

Q: He was in Iran wasn't he?

SALANS: Yes, you are right. He ended up as Ambassador in Iran. He was I think the principal political advisor to Harriman at the Laos conference. Again, at that point, Bill Sullivan was a relatively young man, 1962. He was older than I was. He was not a senior Foreign Service officer, but Governor Harriman took a liking to him too, and Harriman had people he liked and relied on, and there were people he thought were terrible whom he didn't want to listen to. Bill Sullivan was a person he liked very much and relied on very much. I remember, therefore, working closely with Bill Sullivan during that conference and subsequently in the Bureau of Far Eastern Affairs in the State Department after the Laos conference was over.

Q: Well, spanning the years you were in the legal office, Vietnam must have been a particular focus. I don't know if you watched that at all.

SALANS: In the first years from 1959 until 1962 or 1963, I am not sure exactly, sometime in that era, as I explained earlier, I started off as a junior lawyer in the Assistant Legal Advisors office for Far Eastern Affairs. After two or three years, I became the Assistant Legal Advisor for Far Eastern Affairs. In 1963 or '64, I became the Assistant Legal Advisor for Inter-American Affairs.

Q: The two together?

SALANS: No, I left the Far East and began to work on Inter-American Affairs. But, during the first period of four or five years when I was in the office of the Far Eastern Affairs. Vietnam, Laos, and Cambodia, Thailand as well, became principal areas of activity for me, though there were other interesting things that were happening during that period which I worked on that I remember, particularly United States relations with Japan. In the aftermath of the war in the late 1950's, the United States was negotiating a security treaty with Japan. I participated in the drafting of the security treaty, the status of forces agreement that regulated the basing of United States forces in Japan, negotiations over the status of the Bonin Islands and Ryukyu Islands (Okinawa). The Japanese badly wanted Okinawa back, and the United States finally reluctantly agreed to return Okinawa to the Japanese. That was a difficult and elaborate and long negotiation I participated in.

Q: The reversion was in those years?

SALANS: It must have been. My memory is not altogether clear, but I know that was one of the principal issues that I worked on. I think the reversion was in those years, and if it wasn't in those years, it was immediately after. Another area that I worked on at that time was, I'm not sure whether it was the creation, but it was the early days of the organization of SEATO, the Southeast Asian Treaty Organization. The negotiation of that treaty and the carrying out of the treaty, advising what the treaty meant both vis a vis Congress and vis a vis the other parties to the agreement. It was also something that I played a role in and that was also a principal focus of those days. I can't remember in terms of time whether it was in those days when I was Assistant Legal Advisor for Far Eastern Affairs, or whether it was later in my career when I became Deputy Legal Advisor, that I traveled with Secretary Rusk to the Far East, to Japan, to the Philippines for meetings of SEATO nations. I did do that at some point in my career either in those days or later as I say when I became Deputy Legal Advisor. The whole problem of the United States' relations with China, the recognition or non-recognition of China, relations with and the defense of Formosa or Taiwan were issues in those days. I was deeply involved in that because I remember very well, I became not so much a lawyer as a politician, feeling strongly that the United States' non-recognition of the Peoples Republic of China didn't make any sense either as a legal matter or as a matter of political reality. I tried to get the United States to change its policy. The policy was finally changed, I'm sure not for legal reasons, but for political reasons. One often encounters areas when working as a lawyer in the State Department where it becomes unclear whether what you are advocating is really law or policy. The two overlap and are difficult to separate.

Q: Was there a separate advisor for UN affairs.

SALANS: There was a separate advisor.

Q: You must have been also involved on these issues in a UN context.

SALANS: I was and more particularly when I became Deputy Legal Advisor because at that point I had responsibility for supervising a number of offices in the Legal Advisor's office. The United Nations Affairs office was one of those offices, as well as many of the geographic offices. Those were the principal areas of my responsibility. Again, I am not sure about the timing of this, but I know that another Far Eastern area in which I was involved and on which I spent a lot of time was the United States' relations with Australia, and particularly the setting up in Australia of U.S. military facilities and also the negotiation of agreements for the status of United States forces in Australia. I traveled to Australia when William Battle was the United States Ambassador to Australia. We became very close friends because we worked together day and night flying back and forth from Sydney where as I recall, the Australian Minister of Foreign affairs had his offices, and Canberra where the Embassy was located, where we worked. For two or three weeks we negotiated base agreements and status of forces agreements. Mr. Battle, later, either he became Governor of the State of Virginia or it was his father who was Governor of the State of Virginia. The Battles were a family which was very politically involved in the State of Virginia.

Q: He later was very involved in establishing Colonial Williamsburg.

SALANS: That may be; he was that sort of person. I think that is right. In any case, I also remember that after he was Ambassador, the Nixon administration's Deputy Attorney General Mr. Patrick Gray investigated him. I think he was the Deputy Attorney General. He went after him for his disloyalty to the United States while he was Ambassador in Australia. Mr. Battle asked me to be a witness in court for him. The charges were eventually dismissed by the judge. Gray was later prosecuted himself for having broken the law in some way. It was one of these political vendettas that were not too far distant from what later took place in the Watergate affair.

Q: It is hard to think of an Ambassador of greater loyalty than Battle.

SALANS: That's right, but there it was. In any case, that was another experience that was interesting and that I recall from my days as Assistant Legal Advisor for Far Eastern Affairs, or as I say it may have been somewhat later when I was Deputy Legal Advisor, but I believe those occasions took place in 1963-4 which would have made them during my tenure as Assistant Legal Advisor.

Q: You said you switched to Latin...

SALANS: Then I switched to Latin America in '64-'65.

Q: Was that just from a feeling of broadening out and getting in a new region?

SALANS: I think so. I think whoever the powers were in the Legal Advisors Office at that time thought that it would be useful for me to broaden out and have another experience. Maybe they already had in mind that they needed to finger someone who would be Deputy Legal Advisor and they wanted me to have a different experience. I'm not sure, but I do recall that one day I got called in to what we call the front office by either Abram Chayes, who was Legal Advisor at that time, or Leonard Meeker, who was his successor. They asked me if I would be willing to take on the job of Inter-American Affairs, which I was happy to do. That job lasted not much longer than two years for me. What I remember as the principal areas of activity during that period are, one, there were negotiations or re-negotiations of parts of the series of treaties that make up the Inter-American system. The Rio Treaty I believe it was called which created the Organization of American States and also created defense ties between the United States and the other nations of the hemisphere. It also contained clauses about the principle of non-interference in one another's affairs, which the Latin Americans always felt was important vis a vis, the United States. There were negotiations in Rio and in Buenos Aires during that period 1964-'65-'66. In that period, I traveled to those cities with the Legal Advisor who was Leonard Meeker. We assisted in the negotiation and drafting on behalf of the United States of those revised treaties.

Q: When you switch from one area to another as legal advisor that must be a tremendous reading in. You are advising on all the precedent treaties and expected to know.

SALANS: There is a tremendous reading in. There is also a certain amount of continuity in those offices. People who have been in those offices for some time continue to work there and you learn from the people who have been working in those areas.

Q: These are civil servants, research types?

SALANS: They are lawyers like myself. For example, when I first started, I didn't know very much about the United States' relations with Far Eastern countries, but after two or three years, I knew quite a bit. If a new Assistant Legal Advisor had come into that office, he would certainly have relied on me to a great extent to fill in the background that he didn't have. I remember very definitely when I became Deputy Legal Advisor, the Legal Advisors, who were all political appointees who came from outside the Department and who had been in private practice somewhere, never had any public international law background or experience, relied heavily on me and other people like me who had been there for many years. That is not unusual in the State Department or the Legal Advisors office. It happens in any organization. So, you are right. When one switches from one area to another, there is a lot of reading to do to familiarize oneself with the treaties, agreements, the history of relations between one country and another, the problems that have been historic problems, whether there are border problems or territorial disputes or sensitive issues of relations between one country and another. These are things that one had to try to familiarize oneself with in the political and legal background.

Q: Was there the same kind of interest in the Department in the Latin American area? It sounds as though the Far East was slightly higher profile.

SALANS: I didn't think so at the time I was doing this. I didn't have a feeling that I was moving from an area of higher profile to an area of lower profile. My days as Assistant Legal Advisor for Far Eastern Affairs were before the Vietnam War started, and while relations with Southeast Asia and China and Japan were obviously important, there has always been a great deal of importance and emphasis on United States' relationships within its own continents, North and South America. I was involved, for example, in the beginnings of the negotiations on the Panama Canal Treaty with Ambassador John Irwin who later became United States Ambassador to France. I saw him here as well. In those days we were working on the beginnings of the treaty to return the Panama Canal to the Panamanians. We were working already on the problems with the border between the United States and Mexico and all the difficulties that were created along that border with illegal immigration. The use of the waters of Colorado River as between the U.S. and Mexico was an issue in which the Legal Advisor's Office played a key role. There was an unusual issue that arose, I remember, which had to do with the status of the territory in Central America called Belize. There was a dispute between Great Britain and Honduras over the status of Belize. The United States was asked to name a mediator to mediate the dispute between those two countries. The mediator was a man by the name of Bethuel Webster, who was a senior lawyer in a New York law firm. He came down to Washington to fulfill this job at the time when I was Assistant Legal Advisor for Latin American Affairs. I was his chief interlocutor. You talk about trying to educate people; there was an enormous education process so he could understand. I was not that familiar with the dispute either before the mediation, so we both were really learning together. I was in a sense his backstop in the State Department for those negotiations which finally led to an agreement between the U.K. and Honduras over what was going to happen to this territory they disputed.

Q: He was a very traditional New York, old-line type. It seems odd that he would become involved in that kind of a dispute.

SALANS: It was odd. I thought he was an odd choice myself, but he turned out to be a very wise man and very apt at listening to what each side had to say and weighing the pros and cons of what they had to say and going back to them with more questions. It made them think about whether their position was all that sound as they thought it was from the beginning, and gently working them over time to a common position. He turned out to be a very good choice, even though as you say, he was a very traditional, conservative, wall Street lawyer who was not especially suited for this sort of thing from his private practice. That is one of the strengths of government in the United States that you don't find so much in other countries. For example, here in France, the Foreign Service is essentially a career service, with very little movement between the private sector and the Service. In the United States people from private life come into the government with a fresh eye and different experience. They are not career foreign service officers, but they bring something that often is very valuable to the conduct of United States foreign policy – a fresh look, a new imagination, different ideas. They don't always bring something positive, but they can. People like Governor Harriman, Mr. Webster and others, Jack Irwin for example, were examples of that principle. It works very well in the

United States, although Foreign Service officers often complain about someone coming in from outside to usurp their functions. They do; but on balance it is a good thing.

Q: Did you find advising these different delegations differences in strategy and differences in style say between Asians you had worked with and then moving into the Latin context?

SALANS: Well certainly the countries we dealt with and the representatives of those countries were quite different. Asians generally came from different cultures altogether. Even among Asians there are differences say with the approach of the Japanese to the approach of the Chinese, or the Chinese as opposed to the Indians, the Indonesians as opposed to of course the Australians. Then Latin America I found to be something totally different for which I didn't think I was especially well suited, mainly because I didn't speak the language. I didn't speak Asian languages either, but I didn't feel such a disadvantage there because everybody I dealt with even then spoke English. The Latin Americans had a common language among themselves. Everything was done in Spanish, except when they were talking to the North Americans, whereas the Asians, each Asian country had its own language and they couldn't speak to one another in any common language, so English was the common language. That made a big difference in my ability to deal effectively with these people.

Q: There just wasn't time to get the language, to go to FSI and take the course.

SALANS: No. If the job had lasted longer, I would have done that, but no longer had I been appointed Assistant Legal Advisor for Latin American Affairs or Inter-American Affairs I think it was called. It must have been a year and a half after, I was called in by Leonard Meeker to his office. He was the Legal Advisor, and he said, "Carl, I think the time has come for you to become a Deputy Legal Advisor." That is all he said. So, I didn't get deeply into my job and didn't have time to learn the language.

Q: You mentioned some of the border and immigration issues which you found in that context that you were working with local American authorities and lawyers. How was that intersection?

SALANS: We found we were working not with local American lawyers but with other departments of the government, the Justice Department, Defense Department, Immigration and Naturalization Service, Treasury Department in certain cases involving some of these areas. It was often an inter-agency effort to deal with the problems and one had to coordinate among the different departments of the government. It was not so much with outside lawyers and private practitioners. If they had problems on behalf of clients, say, they would not come to the State Department with those problems, or at least not to me in my experience. They went to other agencies of the government.

Q: Drugs were not so much on the horizon.

SALANS: No, I don't think I ever dealt with a drug problem at that point. It was before

drugs really became a serious problem.

Q: So it must be about 1967.

SALANS: 1966 I believe it was.

Q: The Johnson administration, Vietnam was heating up, and you are the Deputy Legal Advisor.

SALANS: I am the Deputy Legal Advisor, and I had responsibility essentially for the geographic bureaus of the Department, as opposed to what I think of as the functional bureaus of the Department. Therefore, I did not work on economic affairs very much for example. I did work on matters involving all of the geographic areas of the world as well as on United Nations matters, and very often also on political-military affairs. These were the years when Vietnam was beginning to be a real issue not so much with the public, but within the government. They were the years during which George Ball was attempting to influence Vietnam policy in one direction. I am speaking within the State Department. There were many characters involved in this. They were the years in which the Deputy Undersecretary of State was a man by the name of U. Alexis Johnson, who had a view on Vietnam which was different from the view of Mr. Ball. Dean Rusk was Secretary of State.

Q: What was the common polarity there?

SALANS: What was the polarity? The polarity was Johnson felt, as I think did Dean Rusk, that the United States had to stop communists from taking over South Vietnam. He viewed the struggle there as essentially one between China, Russia, and the communist world on the one hand and the Free World on another. Whereas, George Ball's view, I think, was more that this was a civil war. There wasn't an awful lot the United States could do. Nor was it a conflict that engaged the vital interests of the United States. We had to rely on the local Vietnamese and support them to the extent we could, but we should not involve United States forces and United States prestige in trying to beat off what was essentially not a threat to United States security but a local civil war situation. Leonard Meeker who was the Legal Advisor at that time, had very strong views that the United States should not be military directly involved in the Vietnam situation. I shared those views, frankly, and we worked together to produce and write many memoranda to the Secretary of State and other people in the Department trying to argue from a legal standpoint, the framework of the Geneva accords, why the United States policy should be more one of trying to duplicate for Vietnam what had been done in the Geneva agreements for Laos back in 1962 rather than huge troop involvements, military involvements which were not justified as a matter of international law and under the Geneva agreements. This again was lawyers arguing policy issues, what we felt from a policy standpoint the United States should do. We were the lawyers in the department so we had to use whatever legal reasoning or rationale we could. I remember U. Alexis Johnson not being very appreciative of legal advice which he felt was more policy and not really legal advice; and he was right. Of course, we made the arguments, we lost the

arguments. Nobody really paid much attention to what the lawyers were saying. But I often had interplay with people like Bill Bundy, U. Alexis Johnson, even Mr. Rusk, who by that time I had come to know quite well, and we worked a lot on that whole Southeast Asia area particularly on Vietnam.

Q: This must have been a very agonizing stretch of time. It cost Johnson his presidency and a lot of anguish in those people.

SALANS: Yes. Essentially what my experience in terms of Southeast Asia was from 1966 to 1968, I was in Washington in the Department and increasingly spending time on the Vietnam situation. For example, I remember very well having drafted what later became the Tonkin Gulf Resolution, but wasn't the Tonkin Gulf Resolution at the time I drafted it, and putting it away in my drawer as a kind of contingency plan that if something happened of the kind that later happened in the Tonkin Gulf, the United States had an approach to the Congress to seek authority for carrying on military operations. When the Tonkin Gulf incident occurred and United States ships were attacked, we pulled that document out of our files and put it into the context of what actually happened at the time and it then became the Tonkin Gulf Resolution, but it was something that had been thought of before as a contingency. So, there was this period of two years when I was working on various aspects of the increasing military role of the United States – the constitutional powers of the President to commit U.S. forces to Vietnam, the applicability of the SEATO treaty, the framework of the 1954 Geneva Agreement, the international law justification for the U.S. intervention in Vietnam, etc. I think that perhaps during this period, maybe you can help me on this, the so-called “Pentagon Papers” were released, to the Washington Post or the New York Times?

Q: Ellsberg.

SALANS: I remember that it was either between this period 1966-'68 or it was perhaps at a subsequent time when I was in Washington as Deputy Legal Advisor, that Daniel Ellsberg had released the Pentagon Papers, and we, the Legal Advisors Office and me in particular were involved with the Justice Department and particularly with Mr. William Rehnquist who at that time was Assistant Attorney General for Civil Affairs, who worked out the Executive Branch's position vis a vis the press and vis a vis the courts. It eventually got to the Supreme Court, and we worked out the Executive Branch's position. There was an enormous struggle between the State Department and the Justice Department because the State Department or at least I, the Legal Advisors Office, felt there was really no constitutional basis to prevent the publication of these papers. But, the Justice Department and the White House felt very strongly that everything had to be done to prevent their publication. The suit went ahead with the result that the papers were finally published. Then in the fall of 1968, Governor Harriman asked that I come to Paris to help in the delegation there and the negotiations with the Vietnamese to try and resolve the Vietnam situation. So, in November, I think it was, of 1968, I moved to Paris and was here.

Q: Had the election probably taken place? This was the last months of the Democratic

administration.

SALANS: The elections must have taken place. It was the last months of the Democratic administration, but there was still an effort being made on the part of Governor Harriman and Cyrus Vance to try to conclude an agreement with the Vietnamese before Mr. Johnson left office. That's my recollection. I remember working with the two of them to try to persuade everybody and then even into the first days of the Nixon administration, that an agreement could be reached with the Vietnamese which would have been an agreement that would have in effect declared Vietnam to be a neutral country and keep the government that then existed in place with the addition of representatives of the North Vietnamese. In other words, I think the term was a coalition government, everybody recognizing that the likely outcome of this coalition government would be the North Vietnamese communist dominance of the government. But, the feeling was that was the best the United States could obtain anyway even if it continued to fight; therefore, why not do what was at least on the face of it an honorable settlement of the war which would give the non-communist parties in South Vietnam an opportunity to prevail if they did the right things, but which would have the risk in it that the North Vietnamese would dominate and eventually take over the whole country. That was felt by Harriman, Vance, and others who shared that view including me, that would avoid continuing the war and reach an outcome that was likely to be the result of the war anyway. Those were in the first days I was at the negotiations in Paris that was our principal preoccupation. This was not so much a legal job, but I think I was perhaps helpful in putting this sort of suggested solution in the context of historical continuity of policy toward Southeast Asia going back to the 1954 agreements and then the 1962 agreements, which made it a sensible and honorable solution and a solution which had been tried before in this part of the world.

Q: There was intense scrutiny of those negotiations by the press. Were they going on two levels, the open, public meetings and then there were the quiet meetings in safe houses that both the Vietnamese and we had direct contact?

SALANS: Yes, that is exactly what was happening; although, the truth is as far as I was concerned, I did not know for a long time that those secret meetings were going on. I don't know whether that was common in the delegation for the more junior people. I'm sure that Harriman and Cyrus Vance and probably Philip Habib knew what was going on. I'm not sure whether the Carl Salans and the Dick Holbrookes knew what was going on.

Q: In Phil Habib's own oral history, he describes intricate logistics of picking up Vance and Harriman and these safe houses out in the suburbs, how they would get figures as visible as Harriman and Vance without the press getting on to it.

SALANS: Yes, of course, I have read about all of that since, but I'm telling you that at the time and for a long time, I did not know that was going on even though day in and day out, I was in the Embassy delegation working with all these people. I simply didn't know. My activity was limited to what the public saw which were weekly meetings between the two delegations at I think it was called the Hotel Majestic on the Avenue Kleber, where statements would be made by each of the delegations. I drafted many of

those statements on the part of the United States because again as I have said earlier, Governor Harriman relied on me to a great extent for drafting his statements. But those statements really got nowhere. They were just the public face. The real negotiation was going on between Mr. Kissinger and Le Duc Tho.

Q: With Kissinger then, that was in the next phase when the Nixon administration came in.

SALANS: Yes, that's right. Because, by the time I got to Paris which was November, I think at that point while Harriman was still trying to reach an agreement, I think he saw the North Vietnamese and the South Vietnamese were not going to agree on anything until the new administration came in and they could see what the policy of the new administration would be.

Q: Phil Habib alleged in his oral history that the new administration actually passed a message "Hang tough; you'll get a better deal from us." to the Vietnamese via that well-known Taiwanese.

SALANS: He passed this message to the South Vietnamese, not to the North Vietnamese. They passed this message to General Thieu who was then the president of South Vietnam. Again, I have read this since. I didn't know at the time that such a message had been passed, but reading the memoirs of people like Henry Kissinger and William Bundy, one sees that in fact that did happen and accounts for the fact that the South Vietnamese dragged their feet until the new administration.

Q: Did you notice a stiffening of their position?

SALANS: We definitely noticed a stiffening in their position as we sat there. As I said earlier, both Governor Harriman and Mr. Vance became less and less optimistic as the end of the Johnson administration came that they would be able to do anything because they could see that the South Vietnamese government was not prepared to go along, was dragging its feet, and they suspected if they didn't know that the new administration had told them not to make an agreement.

Q: I would think you as the legal advisor must have been frustrated. The delegation was meeting secretly and there are the open talks and the new incoming administration saying hold off, don't make a deal.

SALANS: Yes, I was very frustrated, and my frustration eventually led to my leaving the State Department and the decision to stay in Paris and go into private practice. It was extremely frustrating because I felt very strongly that in 1968 and early 1969 an agreement could have been reached which would have preserved the ability of the South Vietnamese, our South Vietnamese as opposed to the Viet Cong, it preserved their ability to survive if they could politically function properly without the war continuing. You could have negotiated with North Vietnam a coalition government solution. They would have been perfectly confident that with time, they could have prevailed, but you would at

least have preserved a chance for our South Vietnamese to prevail and stopped the fighting at that point I think. When we saw what the new administration wanted to do was in effect to continue the war to save the "honor" of the United States as they saw it, I found that extremely frustrating and I quickly decided to come back to Washington to finish my career in the State Department and then to leave the Department altogether and to return to Paris to practice law.

Q: So you then stayed in Paris a little bit into 1969 with the new team.

SALANS: I did. I stayed all of 1969 here in Paris. I wanted to leave earlier. I remember going to Governor Harriman while he was still here, it must have been the end of 1968, and saying to him that I would like to leave because I was just so unhappy. He said to me that I should stay. He said the government needs people like you to stay and continue to fight for what you think is the right position. You should stay. "I'm leaving," he said, "but you should stay." That sort of puffed up my chest and head a little bit and I stayed on for another year, but nothing changed and indeed I thought it even got worse in the sense that we began to extend the war into Cambodia, into Laos. The whole policy of saving the honor of the United States by intensifying the war under the guise of a withdrawal of American forces, but relying more on bombers and impersonal methods of warfare, I found an obnoxious policy, so I asked to be sent back to Washington. Jack Stevenson from Sullivan and Cromwell was then the Legal Advisor in the State Department. He wanted me back to help him run the office. So, I spent a year more, 1970-71. During this period, I was occasionally detached from the Vietnam delegation to perform specific functions on behalf of the U.S. Government elsewhere. I remember going to The Hague as the legal advisor on the U.S. delegation to negotiate the first International Aircraft Hijacking Convention. I remember the French delegation at that conference, heading by Mr. Guillaume, who is now a judge on the International Court of Justice, playing a very obstructive role, not wanting to surrender sovereignty by agreeing to extradite hijackers to another country. I remember being sent to Tripoli to assist Ambassador Palmer in negotiating the withdrawal of American forces from Wheeling Air Force Base in Libya after Qadhafi came to power. That was an interesting experience, because the Libyan Government had organized mobs of screaming Libyans outside the conference room, shouting "Go Home", and every time the negotiations reached a difficult point, a member of the Libyan delegation would get up from the table, walk over to a window and open it so we could better hear the howling mob. At the outset of the negotiations, Ambassador Palmer had to ask the Libyan delegation (whose members were all dressed in battle fatigues) to remove their submachine guns from the room, where they had brought them into the room and laid them on the negotiating table, to impress us. That was quite an experience.

Q: Before we get into that, there was quite a transition in the working composition of the delegation. Is it your perception that the new administration came in with considerable suspicion, replaced the Vietnamese speaking American interpreters, that kind of a thing? People like Phil Habib would have been phasing out in that period. Did you see that kind of reshuffle transition?

SALANS: No. There was of course a reshuffling at the top. Harriman and Vance left. I believe the first person that came in after that was Henry Cabot Lodge and then David Bruce followed as the negotiator. Then eventually Philip Habib became the negotiator. I think he was head of the delegation for awhile wasn't he?

Q: He describes in his oral history with a lot of indignation somebody he brought in to interpret who knew Vietnam that initially the incoming team didn't want to use. I think he said they turned it over to General Vernon Walters. He set up the safe house negotiations through French intelligence sources.

SALANS: I do remember that General Walters suddenly began to appear as a principal player in the negotiations. That I do recall with the advent of the new administration. At the lower level, I remember Philip Habib staying on. I remember Bob Miller staying on. I remember Dick Holbrooke staying on I can't recall the other...

Q: John Negroponte.

SALANS: John Negroponte stayed on. I stayed on during that period. At the level of interpreters, I don't remember that frankly. I don't see what the importance of that would have been at that level, but I certainly do remember Vernon Walters suddenly appearing and becoming more of a presence. He had an office not with the delegation but elsewhere in the Embassy. One would see more of him starting with the new administration.

Q: That was quite a crew, Dick Holbrooke and John Negroponte and some of the people who rose to the surface. You observed them in fairly intense activity in this period?

SALANS: I did. They were young at that time, as was I. We were all in our 30's although Holbrooke, I think, may have been in his 20's. I'm not sure. We were all young people. Holbrooke and Negroponte were extremely bright people. Dick Holbrooke even at that time was an aggressive young hawk type person, but much admired by everybody he worked with, an obvious star, as he later became. John Negroponte was a quieter person but also very bright, very imaginative. They were both devoted hard working people and as I recall it, very frustrated people in the delegation, as I was. I certainly had the highest admiration for them as I did for Bob Miller who was a more senior foreign service officer at that time. I remember a funny incident with Bob Miller. He was, from a hierarchical standpoint, below me in the hierarchy of the State Department. I was Deputy Legal Advisor which was the equivalent of a Deputy Assistant Secretary of State, and I think he maybe was at the level of a desk officer, but Phil Habib asked me if despite that I would be willing to sit lower down in the delegation of the ranks when the delegation marched into the room where the famous four sided table was, would I be willing to sit and have Bob Miller sit in a higher order. Of course I said yes. It had no importance to me whatsoever. He was a wonderful guy and also I think deeply frustrated as I saw it. Peter Tarnoff and Jim Rosenthal were also involved in the Vietnam Peace Talk and they later rose to the heights in the Department.

Q: Is Bob Miller writing a book about his experience ?

SALANS: You were the one who informed me he was writing a book. I didn't know.

Q: He put me on to interviewing you. I think it is an interested perspective. So you came back to Washington with this frustration and had a final year or so.

SALANS: I had a final year or so in Washington as Deputy Legal Advisor. I continued to work on Vietnam negotiations from Washington, although I was replaced on the delegation by another lawyer whose name was George Aldrich. He came from the Legal Advisors Office. He really handled most of the legal issues in the negotiations rather than me in Washington. I stayed involved and stayed abreast of what was happening. At that point I was really representing the Legal Advisors Office at many of the meetings at senior levels in the Department. I went to the weekly staff meetings of the Secretary of State where there were discussions of what was happening in Vietnam. I attended a lot of meetings with U. Alexis Johnson that were concerned with Southeast Asia and the war because the Legal Advisor himself was principally tied up in the law of the sea negotiations. There were negotiations going on about law of the sea treaties. He was extremely interested in that, and he left to me basically the role of administering and managing the office and representing the office in these other meetings. I also became involved in other matters apart from Vietnam. I came back to Paris I remember in the last year, it must have been 1971, as the principal United States representative in the negotiations of what became known as the World Heritage Convention. This was a UNESCO negotiation which led to an international treaty by which a number of historic or geographic sites of renown were named as part of the world cultural heritage. That was a refreshing change for me from the Vietnam negotiations. It was more constructive, and led to something that even today the world enjoys and appreciates.

Q: Well you had a fairly sizable office to manage you know.

SALANS: Yes there were I think at that point 60-70 lawyers in the office. It was a good experience for later coming to Paris and starting my own law firm and learning how to manage lawyers, which doesn't come easily to lawyers. Management is not usually a lawyer's strength.

Q: Then you have a couple of lawyers up in New York, Herb Reis and Bob Rosenstock.

SALANS: Herbert Reis, yes. I think Bob Rosenstock was in New York.

Q: Reporting directly to L?

SALANS: They were reporting to the Ambassador and to the Assistant Secretary of State for United Nations. The Legal Advisors Office, particularly the Assistant Legal Advisor for United Nations Affairs, did have a role in supervising the work of Bob Rosenstock and Herb Reis. I would occasionally have something to do with their affairs as well, particularly Herb Reis whom I knew better. He came from Washington. Bob Rosenstock had a different origin. I don't know where. The Legal Advisors office also sent a lawyer

to Saigon. I think Bob Starr was sent to Saigon as a lawyer and worked there for a year or two. We sent a lawyer to Geneva to work there in the U.S. mission to the various United Nations organizations located there. It was the beginning of an expansion of the legal realm outside of Washington a bit. We brought in for the first time what I would say was a visiting scholar from the international law world, Professor Louis Sohn from Harvard, and later Steven Schwebel, I think he came from private practice. He is now the President of the International Court of Justice. John Moore from the University of Virginia and Professor Baxter from Harvard Law School, they all came down and spent a year in the Legal Advisors Office. That was a program that was started during my years as Deputy Legal Advisor.

Q: With Reis and Rosenstock, were there sometimes differences of opinion between Washington and what they and the Ambassador there wanted to do?

SALANS: I don't remember that as being a particularly contentious relationship. There are always differences of view on what people want to do, but I don't remember those as occupying my mind or my time very much. Whatever differences there were I think were basically worked out. Herb Reis had been for many years Assistant Legal Advisor for United Nations Affairs in the Legal Advisors Office. Therefore he knew the Office well. I don't think there was anything that rose to the level of what you would call friction between us.

Q: Differences the L perspective and traditional FSO culture. I always felt most FSOs regarded the lawyer coming as somebody that would make problems for them, find reasons why they couldn't do whatever they wanted.

SALANS: Yes, I think that that attitude depended a lot on who the Secretary of State was and who the people at the top of the Department were. First of all, I think that in the general conduct of foreign affairs, the law does not play a very important role. That's unfortunate from my standpoint, but that is the fact. International law is not a very settled and organized group of rules that countries or nations really abide by to a great extent, unfortunately. But, very often countries and the United States in particular want to appear to be complying with law. I think it is in the interest particularly of the United States and countries like the United States to establish rules of law that other nations will be guided by so they will act in a predictable way and not resort to force to settle problems. One of the roles of the lawyer in the State Department is to show the foreign service officer why it is important for the actions of the United States in the field of foreign affairs to conform to some standards which one could cite as precedents to other countries as the way things should be done. You negotiate agreements, treaties, conventions, whatever form they take, to standardize rules of behavior on one subject or another and lay down the rules by which you are going to be judged. Very often foreign service officers don't see the relevance of this and often what the lawyers say are the rules that have grown up over history, custom, practice, treaty, they find inconvenient because oftentimes it frustrates what they want to do. Again the intelligent lawyer whether it is in foreign service or private practice tries to find a way that the policy maker or the client can achieve what it wants to achieve but in a way that conforms more with rules and

standards of behavior that conform to law. I always felt that most of the people I dealt with in the foreign service appreciated what the lawyer was trying to do although they often, I would say most often didn't in the end pay much attention to what the lawyer was saying. Maybe they did to a certain extent. Maybe they modified their policies a little bit to take into account the law. They certainly liked to have the lawyers on their side so that they could, whether it was vis a vis the public, vis a vis the Congress, vis a vis another nation, say that what they were doing was in conformity with the law. Sometimes it wasn't a vague international law standard people had to be concerned with but statutes that were enacted by Congress that you had to comply with while conducting your foreign policy. There, people looked to the Legal Advisors Office to tell them whether they could or could not do something that may have been regulated by statute. Often it was a question of whether constitutionally the executive branch of the government or the President could do something without going to Congress. There very often were issues the State Department and the Justice Department had to work out over the ability of the President to act as Chief Executive and the United States spokesman in foreign affairs without the consent of Congress. So, the role of the lawyer in the State Department is multi-faceted.

Q: You mentioned that the view of the lawyers at the FSO level would depend on the Secretary. Would you say that among the different secretaries you have observed, there was a different feeling toward them?

SALANS: I think so. I did not work in the State Department under many Secretaries of State. I worked principally under Dean Rusk, but I think I know what the attitude of Mr. Kissinger was toward law and lawyers even though I was not in the Department when he became Secretary of State. I think that he did not believe, and I think he has even said this publicly in his writings and his speeches, that law was an important factor for him in what he decided to do. Where I think Dean Rusk had a greater appreciation of the role that a lawyer could play. Not only was the attitude of the Secretary of State important but the relationship of the Secretary of State to his Legal Advisor. This is a very personal thing. If the Secretary thought that his legal advisor was a wise man who could help him, then I think, he paid more attention to the law, and his under secretaries and assistant secretaries also got the message that the Secretary was interested in what his legal advisor was saying. I think, for example, that Dean Rusk's relationship with Abe Chayes, with Leonard Meeker later, was quite close, and Chayes, of course, had his own relationships in the White House, which Meeker didn't have. Those relationships, one could see in the office that your role went up or down very often depending on who the Legal Advisor was, who the Secretary was. I think also in the Department there were people like George Ball, for example, who was somebody who liked to hear what lawyers had to say. U. Alexis Johnson looked at lawyers as people who would help him justify what he had already decided on without regard to what the law was. This was true of other people who were in policy making positions.

Q: Having an actual lawyer as Secretary like Secretary Christopher or Secretary Vance, that too would change the relationship although you weren't there at those times.

SALANS: I think that certainly that would. If one is trained in the law, one has a greater appreciation for the legal aspects of foreign policy. I think even the President's attitude toward the law could also be a factor, whether he felt that legal aspects of policy making were important or not. Abram Chayes' role, as State Department Advisor, in the Cuban Missile Crisis helped shape United States policy there because President Kennedy and his closest advisors wanted him to play a role.

Q: You mentioned the contact with the White house that some of the advisors had. Did you find that as the Deputy, you were frequently in contact with lawyers in the White House or the Congress or the CIA as these policies developed?

SALANS: Yes, I was. I don't have a strong recollection of those relationships. They were not daily kinds of relationships. Certainly I had relationships with lawyers in the Justice Department, the CIA, and the White House. I remember working with people like John Dean in the White House during the Nixon Administration, who later became infamous, but I don't have any strong impressions of those relationships. They were sporadic relationships devoted to specific issues that came up that were not of a continuing nature in my personal experience. It may be different for other people.

Q: Well, in this last year were there any other things you would like to mention. You were watching just what you had opposed on Vietnam come to pass, the expansion of the war, the strikes over the parrots beak, that was in that period.

SALANS: That was in that period. The last year of my tenure at the State Department was really a year in which I was actively looking to do something else. I mentioned earlier the negotiation in Paris for the World Heritage Convention. I probably came to Paris three or four times during 1971 for that negotiation, and whenever I had any free time, I would go out and see if I couldn't find a job in Paris which I finally did. At that point I was 39 years old. I had never been in private practice before. All my training and experience was in public international law, and there aren't very many law firms looking for people that age with no experience in commercial law and no clients or willing to take them. In the end I had to accept a salary cut from my magnificent government salary of \$36,000 a year. I accepted a job for \$30,000 in Paris just so I could leave the government. I was really so frustrated over the Vietnam policy. So I spent a lot of time in the last year just managing the Legal Advisors Office. I'm sure I was involved with many things, which have escaped my memory now, but I continued to work principally on the geographic areas of the Department's activity. I continued to be involved in Asian matters. I continued to be involved in Latin American matters, particularly the Panama Canal. I was involved during that period it seems to me also, there must have been something going on with respect to the Middle East, because I remember trying to come up with ideas of what could be a possible status for Jerusalem in the ultimate Arab-Israeli peace agreement. Even then we were thinking about that and working on such issues. That last year, while I was trying to do my job, my mind was really focused on leaving.

Q: Well thinking about your experience there with respect to people who may read your oral history and be thinking about an international law career, what conclusions do you

draw? Is the legal office something that is really a career or is it to do what you did, a department to come in to or go out from?

SALANS: Well, when I joined the Legal Advisors Office in 1959, it was definitely a career legal office. People came and stayed for 30-40 years. That changed radically with the advent of the Kennedy administration and with the appointment of Abram Chayes from the Harvard Law School as the Legal Advisor. Abe Chayes brought with him a bunch of young Harvard graduates who clearly had no public law experience at all. In fact they had very little experience of any kind. They were recently out of law school, most of these guys...

They were not people who were coming to the Legal Advisors Office for a career; they were coming for an exciting experience where they would be in the field of foreign relations with somebody they admired, Abram Chayes. Most of those people stayed anywhere from three to six years and then left and went to teach in law schools or to private practice or did something else with their lives. During the tenure of Abe Chayes in the Office, the character of the Office began to change. He continued to hire people who were not looking to the government for a career, but who were energetic, bright, imaginative young lawyers interested in an experience in the field of foreign relations. I very much encouraged this attitude and carried on with it after Abe Chayes left following the assassination of President Kennedy. I think this is a policy one has to be careful about because as people come and go, so often you lose experience and any continuity in what you are doing in the Office. There must be a balance I think in the Legal Advisor's Office. Many people, like me for example, who come thinking they will only stay for a few years, end up liking it and I stayed for almost 15 years. Other people stayed longer than I did. Some people stayed for far less time than I did. The Legal Advisors Office became one of the premier government legal offices in Washington. It was able to attract the best lawyers around, so that it became almost impossible to get in to the Legal Advisors Office by the time I left the Office. As opposed to the days when I joined the office, there was a steady stream of people who came and did not look upon their job there as a career. There became such a demand for jobs in the Legal Advisors Office that the office could attract the best people, people who were law clerks to Supreme Court Justices which it never could get before. I continue to visit the Legal Advisors Office to meet the new Legal Advisors as time goes on, and I think the office remains a very exciting place. It is a place where lawyers can become involved in the events of the day, the events in the newspaper, without themselves being in the newspaper. They participate in and help to shape United States foreign policy, even though the lawyer most often does not have the leading role in the shaping of foreign policy. It is a job that demands a lot of imagination. It is a job that requires one to have good relations with one's clients, with the foreign service officers with whom one works. If one is going to have any impact on foreign policy from a lawyer's standpoint, one has to establish good working relationships and relationships of trust and confidence in the advice you are giving so that you are listened to.

The role of the lawyer in the formulation and execution of United States foreign policy, while usually not determinative, can be influential and contribute to sound policy. The

lawyer advises his “clients”, the Secretary of State and those under him, on what law and precedents exist with respect to a given situation (both international law and domestic law) and how that law is to be interpreted. The lawyer advises on the legal consequences of alternative policies or actions being considered by the United States Government in its relations with other countries and may recommend one or another as being sounder policy from a legal standpoint. The lawyer advises as to what rules are desirable to foster in international relations to achieve U.S. national interests – such as peace, limits on resort to force, democracy, stability, predictability, free trade, respect for human rights, etc. – when considering what policies the United States should adopt or encourage others to adopt, bearing in mind that United States actions create precedents which others will follow. Lawyers help to shape the way policies fixed by the President or the Secretary of State are carried out to conform to existing law or to create desirable precedents. Lawyers in the State Department, together with those in the Justice Department, advise on what the powers of the Executive Branch are in the field of foreign relations and on compliance with U.S. legislation bearing on foreign affairs. They participate in the creation of new rules of international law through the drafting of international agreements and treaties. They are involved in dispute resolution, whether before the International Court of Justice or in other fora. They testify before congressional committees on issues within their domain. In all these ways and many others the role of the lawyer in the State Department can be exciting and stimulating, both as a lifetime career or as an experience in one’s professional life. Whenever I meet a young lawyer who is looking for a job, I tell them about the Legal Advisors Office and tell them how much I enjoyed working there and urge them to think of that as an alternative. I think it is an exciting job and would like to continue to think it is one of the premier legal offices in Washington.

Q: Well, now, from the perspective of having spent an equal or longer time in a private practice subsequently, the world has changed in that period, the proliferation of NGOs, the other ways outside government that lawyers can shape policy, it seems to me that you probably continued active in the same interests you had before but just in different ways.

SALANS: I have remained interested, but I must say that I haven't participated in the shaping of the policies toward the things I have been interested in. I've frankly been so busy with the firm that I helped to establish in 1978 in Paris. There were three of us, two Americans and one French lawyer, who established a firm which in 20 years has grown to over 300 lawyers with offices in eight different cities around the world. That has been a full time job and a full time occupation, so that I have not had much time to participate in the other events that are of most interest to me. Frankly, private law practice is not nearly as exciting to me as practicing law in the State Department was. I much more enjoyed what I was doing in the Legal Advisors Office than I have in private practice. What I have enjoyed in private practice is building an institution. That I liked, and I even liked that when I was in the Legal Advisors Office. The idea of attracting bright young people and surrounding oneself with the people in whom you had confidence who did excellent work has always been something that gave me a great deal of satisfaction. I have continued to do that in private practice. Now, just recently I have really retired from my position as a partner in this firm. I continue to come into the office from time to time, but I am now trying to enjoy my children and my grandchildren, my wife and...

Q: Well, Mr. Salans, we thank you very much. This concludes the oral history interview December 30, with Carl Salans conducted by Richard Jackson.

End of interview