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PART I REPORT ON THE 27th UNITED NATIONS GENERAL ASSEMBLY (1972) DEBATE ON LAW OF THE SEA

The major development at the 27th General Assembly was the adoption by acclamation of a Resolution (A/RES/3209 (XXVII)(A)), providing a specific schedule for a Third U.N. Law of the Sea Conference. This resolution requested the Secretary General to convene a two-week organizational session of the Conference on the Law of the Sea at New York in November/December 1973 followed by an eight-week substantive session at Santiago, Chile in April/May 1974. The Resolution expressed the expectation that the Conference will conclude its work in 1974, or at subsequent sessions, if deemed necessary by the Conference and approved by the General Assembly.

The U.N. General Assembly approved an accelerated work schedule for the Seabed Committee, with a five week session (March 5-April 6) in New York and an eight week session (July 2-August 24) in Geneva. The Seabed Committee is to complete its preparatory work in these sessions and to submit a report, with recommendations, to the 28th General Assembly and to the Conference. The 28th General Assembly will review the progress of the preparatory work of the Seabed Committee and, if necessary, take further action to try to ensure that the Conference can complete its work. Although such actions are not specified, they could include an additional preparatory session in early 1974 or changing or adding to the Conference schedule.

The General Assembly decided to consider this and related matters as a matter of priority at the 28th General Assembly, including the question of invitations to the Conference.

Although there were some differences over the Conference Resolution, particularly regarding the "escape clause" which provided for review of the preparatory work by the 28th UNGA (the U.S. supported inclusion of such a clause in the Resolution), there was general agreement that the substantive Conference must begin in 1974 and that every effort should be made to complete all preparations before then.

The U.S. Delegation urged agreement on more than eight weeks of meetings on substantive matters in 1974. The U.S. Representative, John R. Stevenson, however, stated that the U.S. was reassured by statements from the co-sponsors of the Resolution that the decision regarding eight weeks of work was not necessarily a complete schedule

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for 1974 and that it could be expanded in an appropriate way by the 28th General Assembly. Despite the limited time for meetings scheduled for 1974, the U.S. Delegation was pleased that specific dates and places had been agreed for the Conference and that an accelerated schedule for the Seabed Committee was approved.

The Study Resolution

Another issue in the First Committee and in the U.N. General Assembly concerned the "Study Resolution" sponsored by 31 land-locked and shelf-locked countries. The draft resolution requested a comparative study by the Secretary General of the extent and economic significance, in terms of resources, of the international area that would result from each of the various proposals which have been made for the limits of national jurisdiction.

This draft resolution was considered by many delegations as a test of strength between the advocates of broad coastal state jurisdiction and the advocates of narrow coastal state jurisdiction. The principal proponents of broad coastal state controls, chiefly some of the Latin Americans and Canada, bitterly attacked the land-locked and shelf-locked group, expressing concern that their action would split the developing countries (Group of 77). The land-locked/ shelf-locked countries however demonstrated unprecedented and unexpected unity while the coastal states were divided on the issue.

Several countries proposed amendments in the First Committee to the land-locked and shelf-locked Resolution. Canada, Malta and France sought changes which would have gutted the Resolution, and these changes were defeated by a vote of 46-46(US)-27. Kenya proposed adding the question of the economic effects, particularly on land-locked states, of an economic zone not exceeding 200 miles. This was defeated by a vote of 33(US)-38-48.

Peru proposed expanding the study to include the economic effects on coastal states of the various proposed limits. This was defeated in a vote of 39(US)-43-37. The Peruvian proposal was converted into a separate resolution and approved by the General Assembly (A/RES/3029 (XXVII)(C)), by a vote of 76 (US)-1-23, with most land-locked and shelf-locked countries voting in favor. The land-locked/ shelf-locked Resolution (A/RES/3029(XXVII)(B)) was passed by the General Assembly on December 18 by a vote of 100 (including the U.S.)-0 with 28 abstentions. The U.S.

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supported all the study proposals except that of Canada, Malta, and France because of our general policy to support requests for information.

Moratorium Resolution

Two draft resolutions, one calling for a moratorium on exploitation of and the other on commercial activities in the deep seabed, circulated informally during the UNGA. One was the Kuwaiti Resolution, proposed at the July/August Seabed Committee, which would have, in effect, banned all commercial activity leading to exploitation. The Australian, Canadian and New Zealand delegations considered a more moderate text limited to exploitation. The U.S. Delegation successfully sought to persuade the potential sponsors to refrain from introducing either draft. In the end there was no public debate on the moratorium issue at the 27th GA.

Permanent Sovereignty

In a related development, the UNGA Second Committee considered a draft resolution on permanent sovereignty. This had been a long-standing, contentious issue in the United Nations which was complicated during this debate by the fact that it was to apply, for the first time, to resources in adjacent waters as well as on the land. The draft resolution reaffirmed the right of states to permanent sovereignty over all the natural resources on land within national boundaries as well as those in the seabed within national jurisdiction and in the superjacent waters. It declared that actions, measures or legislative regulations by states aimed at coercing, directly or indirectly, other states exercising their sovereign rights over their natural resources, both on land and in their coastal waters, were in violation of the UN Charter.

This draft resolution was adopted by 102-0-22(US). The U.S. Representative, in explaining our abstention, stated that the U.S. position on the substantive questions contained in this resolution remained unchanged; that the Law of the Sea Conference is the proper forum for dealing with ocean issues; and that action on this Resolution by the General Assembly was inappropriate. The U.S. Representative said that the Resolution should not in any way be construed as limiting or otherwise prejudicing the outcome of the Law of the Sea deliberations and could not affect the well established rights and obligations of states under international law.

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PART II - THE MARCH MEETING OF THE U.N. SEABED COMMITTEE

Our basic objective for the March meeting of the Seabed Committee is to continue to move the preparatory work into the negotiating and initial drafting phases on all fronts. However, we are not optimistic that great progress will be made at the March session. More likely, this year as last, it will be the summer session which will be more productive as States delay making moves until they are closer to the Conference. Working groups have already been established on the deep seabed regime and pollution. Others are needed -- particularly to deal with fisheries and coastal State jurisdiction over seabed resources. In these working groups, we would hope to refine the issues and narrow differences, above all in a way that keeps the US and other interested States involved in the mainstream of the negotiations.

In line with this approach, we believe the March meeting affords a good opportunity to make a further effort to present comprehensive arguments in favor of US negotiating positions prior to the more intensive negotiations we expect in the summer. For example, there is need to explain in greater detail why an international approach to the establishment of anti-pollution standards is the most sensible and effective way to deal with the problem, in accordance with our instructions in NSDM-177. Further elaboration of the biological and economic basis of our fisheries position could also be useful, particularly in order to stimulate more intensive work on this issue. We also wish to emphasize further the benefits to all nations from free scientific research. At the same time, we will work to avoid a confrontation between three major groups -- maritime powers, coastal States, and land-locked/shelf-locked States -- by stressing that their interests can be reconciled.

Insofar as substantive positions are concerned, this means that we should be flexible enough to avoid being isolated with a few conservative maritime powers, while at the same time preserving sufficient negotiating room for ourselves at the summer meeting. It is the opinion of the Task Force that existing instructions, expressed in NSDM's 62, 122, 157, 177 and 196, largely permit us to achieve these goals in March on issues of importance. Accordingly, we are not recommending new instructions at this time.

During last summer's meeting in Geneva, the US delegation made important statements on straits and resources, and introduced a new fisheries article. While we have had some response to these statements, we would like to have more information on attitudes toward these issues. Other States have also made proposals on these issues, and we wish to see the response

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to those proposals as well. New developments may occur as a result of consultations among Asian-African States and Latin American States during the current inter-sessional period.

In those areas where private exploration of issues is authorized, we believe there are sufficient instructions for the time being.

We have not yet utilized the full extent of our negotiating flexibility on seabeds resources or fisheries under existing instructions.

This does not of course mean that we are convinced that all of our existing instructions are adequate to achieve a final substantive settlement. Our objective now is to vigorously pursue international acceptance of the existing proposals we have made in support of the US position. The supporting data which we have gathered, and which we are continuing to gather, should enable us to reinforce the substance of our proposals. A concentrated effort to form working groups should also enhance our posture as a highly active participant in the negotiating process. This approach should provide important additional ground work for even more tangible manifestations of progress during the summer session of the Seabed Committee. There could be some domestic difficulties with the coastal fisheries and hard minerals industries which may argue that the lack of more tangible progress during the March meeting will create an increased need for unilateral legislation. We intend to discuss our tactics in general terms with industry members of the Law of the Sea Advisory Committee and Congressional leaders in an attempt to reduce possible domestic difficulties. At the same time we will remain alert for counter proposals by other nations which might serve as a basis for alternate means of accomplishing our basic objectives, and will be prepared to request any additional instructions which may be needed to permit full exploitation of such potentialities.

This report of the Law of the Sea Task Force is being concurrently submitted to the various agencies for comment and clearance.

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