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By **989** ARA Date **8/21/03**

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December 18, 2008

THE ACTING SECRETARY'S ANALYTICAL STAFF MEETING
MONDAY, JUNE 17, 1974 --- 3:00 P.M.
SECRETARY'S CONFERENCE ROOM

PRESENT:

THE ACTING SECRETARY -- MR. SISCO

Ambassador Brown
Ambassador McCloskey
Ambassador Stevenson
Mr. Aldrich
Mr. Springsteen
Mr. Ingersoll
Mr. Stabler
Mr. Easum
Mr. Sober
Mr. Buffum
Mr. Pollack
Mr. Vest
Mr. King
Governor Holton
Mr. Blake
Mr. Lewis
Mr. Blaney
Mr. Grove
Mr. Moore
Mr. Blow
Mr. McIntyre
Mr. Sober

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DECLASSIFIED

Authority **NND 989505**

By **SP-9** ARA Date **8/21/03**

DECLASSIFIED
A/ISS/IPS, Department of State
E.O. 12958, as amended
December 18, 2008

2

P R O C E E D I N G S

MR. SISCO: This is such a monumental subject, I suppose we had better get started. I am glad we can have this meeting, because (a) I think it is timely, but, (b) this is, I think, a terrific example of where the entire world is involved, and there are so many different interests. And it is complicated, to say the least. I had a little bit to do with the Law of the Sea Conference a decade ago, and I know what the problems were then. And I know that they have multiplied since.

Who is going to kick this off.

MR. STEVENSON: I will start it off. And then we are going to divide up the more specific issues.

MR. SISCO: I am sure there is enough to divide.

MR. STEVENSON: I do think it is helpful, particularly the questions both John and I have been getting the last two months, to go back a little bit over the background. I know some of you know this as well as we do. But I think it does put it in the proper context.

I think the first thing is really the importance of this conference, which is really the first substantive session of the Law of the Sea Conference. We have had a good deal of preparation in the UN and the Seabed Committee and elsewhere. But this is really the first actual session

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DECLASSIFIED

Authority **NND 989505**

By **RA** ARA Date **8/21/03**

DECLASSIFIED
A/ISS/IPS, Department of State
E.O. 12958, as amended
December 18, 2008

3

of the conference. We will have probably close to 150 countries -- all the UN members -- probably between 3,000 and 5,000 delegates in total.

And of course the objective is really preparing -- not really laws for the ocean, but really it is a basic constitution, I think is the best way to look at it.

The U.S. and world interests involved cover a wide range, from the traditional uses of the ocean -- namely, fishing and transportation, commerce -- to much more important strategic uses today; the question of submerged transit of our nuclear submarines, which is becoming more important in the whole deterrent picture, the mobility of our other naval forces and aircraft, the problem of super-tankers and other new types of vessels. The most important new sources of petroleum and minerals, at a time where we have had an energy crisis, and increasing nationalization of the more traditional sources of hard minerals -- I think the development probably within the next three years of commercial production of nickel and copper from the deep sea bed is perhaps the most completely new use of the oceans that we have to cope with.

We also, of course, have tremendous concern with maintaining the recreation facilities of the ocean and protecting both the fish population and our beaches and other

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coastal areas from the increasing risk of pollution that we are dealing with.

Now, if I might just take one minute--as to why at this late date we have a crisis in the basic constitutional structure for this huge area -- you may very properly say how in the world did we get along for three-and-a-half centuries in this area. And of course the answer is that until World War II we had a very simple system, which involved on the one hand the very narrow territorial sea, in which the country had the same kind of rights that it had basically on land, sovereignty, subject only to a limited right of innocent passage, and everything beyond was the high seas, where freedom of the seas was the principle, and anyone could do anything they wanted, as long as they showed reasonable respect for others use of the sea, and no one had any sovereign rights or could claim any territorial jurisdiction. And while there were disputes as to how wide the territorial sea was, between the majority view, which was three miles, and others viewed it as up to twelve miles, beyond twelve miles everyone was agreed you had the high seas, and you had this freedom of the seas regime.

Basically, three things have changed this and brought it to where we are today.

First, I think most significant is the technological

SECRET

DECLASSIFIED

Authority **NND 989505**

By **SP-9** ARA Date **8/21/07**

DECLASSIFIED
A/ISS/IPS, Department of State
E.O. 12958, as amended
December 18, 2008

5

explosion reflected in some of the interests I mentioned earlier -- the new types of exploitation of the offshore oil, and deep sea bed, the new type of vessels, the highly intensified fishing through highly mechanized fish factories, and so forth.

The second factor has been the logical reaction to this by coastal states of trying to get these new resources for themselves or protect their old resources against foreign fishing, and to get control of the oil, and to protect themselves against pollution -- they have begun to expand their coastal jurisdiction beyond twelve miles. And you had a very general increase in these coastal state claims to greater and greater jurisdiction.

Now, the third new factor has been decolonization and the appearance of many new states, most of whom do not accept the old order, who feel it doesn't take into account their interests, and who have to some extent allied themselves in voting blocs in the UN and elsewhere with the older developing countries.

So now we have a conference of close to 150 as compared to the 50 countries when the UN was founded.

Well, given these three factors, we have a critical situation today, where in my view we do not have an unlimited amount of time. Today, particularly the next

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DECLASSIFIED

Authority NND 999505

By [REDACTED] ARA Date 8/21/03

DECLASSIFIED
A/ISS/IPS, Department of State
E.O. 12958, as amended
December 18, 2008

6

two years may be the best opportunity we will have for a long time to get agreement on an overall settlement.

I think there is increasing recognition that the best hope is a comprehensive approach rather than a piecemeal approach to these problems. And just to get the framework set for some of the individual issues that we are going to deal with, I think maybe a somewhat geopolitical approach is helpful, because we really are dealing with different types of problems in three different areas.

One is the traditional territorial sea that I talked about. Secondly is an area where the coastal state will control resources and maybe some other functions beyond the territorial sea. And finally, you have the completely international area beyond this area of special coastal state control.

Now, there is clearly a developing consensus for a settlement which would involve a twelve-mile territorial sea and coastal state control over resources beyond the twelve-mile sea for a considerable distance, probably two hundred miles is by far the most likely prospect, although there will unquestionably be exceptions, both beyond the two hundred and within two hundred, for certain types of problems which we will get into later.

And finally there is an agreement on an

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DECLASSIFIED

Authority **NND 989505**

By **RS/ARA** Date **8/24/03**

DECLASSIFIED
A/ISS/IPS, Department of State
E.O. 12958, as amended
December 18, 2008

7

international regime for the deep sea bed beyond this area of coastal state control, although by and large the old freedom of the seas regime, subject to some special treaties, will probably continue for the waters beyond this area of special coastal state control.

I think with that I would like to turn within that overall consensus to some of the more specific problems. And the first one I think we should turn to -- and I want to ask John Moore to present this issue -- is one aspect of the twelve-mile territorial sea is it is a conditional consensus. On the one hand, from our standpoint, if we go to a twelve-mile territorial sea, you must have unimpeded transit through straits, while on the other hand to satisfy developing countries, to stop at twelve miles, you must have a large area of coastal state resource jurisdiction.

John will talk first about the straits issue and related archipelago problems.

MR. MOORE: Thank you, Jack.

MR. SISCO: Pardon me. Are there any observations or questions that anyone wants to raise on John's introduction? I think we ought to take this, to the degree we can, on a fairly piecemeal basis, particularly as the individual problems are discussed here.

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DECLASSIFIED

Authority **NND989505**

By **RRG/ARA** Date **8/21/03**

DECLASSIFIED
A/ISS/IPS, Department of State
E.O. 12958, as amended
December 18, 2008

8

All right. Why don't you go ahead, then.

MR. MOORE: Thank you. The question of the breadth of the territorial sea and the regime of passage through and over international straits is completely linked. We have for years recognized a breadth of the territorial sea no greater than three nautical miles. If we are to shift to acceptance of a twelve-mile territorial sea -- and as Jack pointed out there is a strong trend towards acceptance of that in the Conference -- there will be some 116 straits used for international navigation which will be overlapped by the territorial sea. In other words, the difference between the strait six miles wide and the strait twenty-four miles wide will include some 116 straits used for international navigation.

MR. SISCO: That many -- 116.

MR. MOORE: Most of those are not major straits, but it is a large number of straits with the potential to be used for international navigation. The straits, of course, are important to us for a number of security as well as commercial reasons. On the security side, it is very important to us to be able to have access to the large areas of the oceans that are controlled by straits as vital choke points, particularly for a continuation of submerged transit, for our missile fleet, which traditionally goes out

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DECLASSIFIED

Authority **NND 989505**

By **SP-9 ARA** Date **8/21/03**

DECLASSIFIED
A/ISS/IPS, Department of State
E.O. 12958, as amended
December 18, 2008

9

under water, does not surface until it returns to its base, in the absence of some extraordinary circumstance. If those fleets had to surface every time they went through a strait, it would decrease the secrecy with which they were able to operate. And I think it is the view at least of the Defense Department that this would significantly decrease the survivability of the missile fleet involved.

At the same time, there is a consideration in terms of our attack boats, that I think everyone is concerned that if we lost the secrecy, for example, of our attack submarines going through submerged into places like the Mediterranean, in which they would be encountering the Soviet fleet in those areas, that there would be a significant decrease in our ability to counter the submarine fleets of other powers.

We are also very concerned in straits with overflight, in terms of particularly the Strait of Gibraltar. I think if there is any lesson that we have learned in the Law of the Sea as a result of the October War, it is that one needs overflight through the Strait of Gibraltar. And this is perhaps the most important strait. But it could become important in other straits as time goes on. And we feel that it is something that should be preserved as part of a general high seas freedom that we now exercise in those areas.

SECRET

DECLASSIFIED
Authority **NND 989505**
By **RAA** Date **8/21/03**
SECRET

DECLASSIFIED
A/ISS/IPS, Department of State
E.O. 12958, as amended
December 18, 2008

10

It is also important to us from a commercial standpoint, because we move a great deal of oil that comes to the east and west coast of the United States through the Strait of Formosa, through the Strait of Malacca. An enormous amount of our commercial shipping in general goes through Dover, it goes through Gibraltar. So that if there were a regime which was restrictive, which could limit the size of super-tankers, which would in essence give control of the traffic through a strait to the adjacent strait states, we would be in a particularly vulnerable position in terms of the movement of petroleum supplies.

For all of these reasons, this to us has been one of the most important issues in the negotiation. And we have made it very clear that as part of an overall package settlement, we must obtain unimpeded transit through and over straits used for international navigation.

In this, we have been fortunate in that for the most part the Soviet Union has shared our view, and we have worked very closely within what we call the Group of Five, which is a secret negotiating group, comprising the United States, the Soviet Union, the United Kingdom, France and Japan, which has coordinated very closely on the policy, at this point across the board, in the Law of the Sea negotiations.

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The Soviet Union has felt very strongly on the straits issue. In fact, their current political demarche internationally is to go around and indicate that they can accept the two-hundred mile economic zone provided they get unimpeded transit of straits and provided there are preferential as opposed to exclusive rights in the zone on the coastal fishing issues.

But the point is that we have had very strong Soviet support on this issue.

There have been two issues particularly, sub-issues, within the straits negotiation, that if we could resolve would make it a great deal easier to achieve our objectives. One of those is the archipelago problem; the states such as Indonesia, the Philippines and Fiji, which have opposed the notion of transit through straits, largely because they are archipelagos, which itself includes a large number of straits used for international navigation. Indonesia is the best example of that, with Lombok and Sunda, and a number of other straits through the archipelago, as well as ^{Malacca} Molucca, which of course is outside the archipelago, but also a very vital strait.

We have felt that if we could work out an accommodation within the multilateral setting with the

DECLASSIFIED

Authority **NND 999505**
By **BARA** Date **8/21/03**

DECLASSIFIED
A/ISS/IPS, Department of State
E.O. 12958, as amended
December 18, 2008

12

archipelago states, so that we would agree to support a reasonable archipelago principle in return for the kind of transit through the archipelago which we needed, and in return for support on their part for the straits position of the United States, that we would be able to swing one of the major groups in opposition over to support, and it would be a very major boost to achieving our straits objective.

As a result, we have been engaged in active negotiation with Indonesia and the Philippines primarily, but Fiji, because it has some influence within this archipelago group over the others. We have gone to Jakarta with a team about four weeks. We then held a second round of discussions here in Washington about two weeks ago, followed by a visit to Manila and discussions in New York with the representatives of Fiji, all of this being carefully coordinated with the other members of the Group of Five, so that at every stage they knew basically what we were doing and they knew the kind of response we were getting from the other archipelago states.

Basically we have told them that we are willing to accept the archipelago principle and work actively to include a chapter in the convention on this, if they will agree, one, to a definition reasonably limiting the concept

SECRET

DECLASSIFIED
Authority **NND 989505**
By **RAA** Date **8/21/03**

DECLASSIFIED
A/ISS/IPS, Department of State
E.O. 12958, as amended
December 18, 2008

to basically five or six states including Indonesia, the Philippines, Fiji; secondly, that they would permit unimpeded transit through archipelago sea lanes, that would be broad sea lanes through the archipelagos, including submerged transit, overflight, and no requirement of notification for the transit through the archipelago.

MR. SISCO: What you are really saying is, when you talk about the principle that is involved here -- what you really trying to do is to get them to accept our basic position, really, of unimpeded transfer through and over.

MR. MOORE: Exactly. And it is perfectly consistent -- if they accept it through the archipelago, for them to accept it in straits and be willing to work for it there as well.

And the third principle is, of course, support for the straits objective. Though we do not have any agreement at this point, and we are not certain whether we are headed towards an agreement, I think it is fair to say that we are optimistic at this point. We received back on Saturday for the first time a formal written communication from the government of Indonesia which indicated that in essence they were accepting the idea of submerged transit through the archipelago, and they were accepting the idea that no notification would be required for the transit of war ships

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DECLASSIFIED

Authority **NND 989505**

By **RA** ARA Date **8/21/03**

DECLASSIFIED
A/ISS/IPS, Department of State
E.O. 12958, as amended
December 18, 2008

14

through the archipelago.

We still have a difference on overflight. My own feeling is in the end they are going to accept overflight, and that we will have a basic negotiation on the breadth of the corridors, and how we word their support for our straits objectives.

If we are able to get an early agreement in this area, I think it is going to make an enormous difference, not only in achieving our straits objectives, but also in terms of a psychological boost to the whole conference, that things are happening, agreements are being reached, others better get in this negotiation or they are going to be left out. And we are hopeful that it will be possible to try to work something out in the early weeks at Caracas.

The second major problem area we have on the straits issue that I think is equally critical, that we have got to work out some way to defuse the issue, is frankly the Arab-Israeli conflict and the Tiran problem. And the problem there is that Tiran has traditionally been, of course, viewed in the Middle East context by both sides as not a strait in which the Geneva Convention of '58 would apply. In other words, the regime of non-suspendable innocent passage set out in the convention is not viewed by either side as the applicable legal regime. The Arabs view it as

SECRET

DECLASSIFIED

Authority **NND 999505**
By **SP-9** ARA Date **8/21/03**

DECLASSIFIED
A/ISS/IPS, Department of State
E.O. 12958, as amended
December 18, 2008

15

going too far, and they oppose the conclusion of that agreement, as you know, and have never signed the treaty because of that. The Israelis opposed it for different reasons. It doesn't include overflight. And they have never been happy with it for differing reasons.

The problem in the Law of the Sea negotiation is that almost certainly, unlike 1958, if the issue focuses as one of having a specific vote on the Tiran issue, I think we are simply going to be out-voted on the issue -- unlike the situation in '58 in which the non-suspendable innocent passage won by one vote. It is highly likely that we need Arab support in order to obtain our general straits objectives in the negotiation. And I might add Israeli objectives as well in terms of Gibraltar and Bab el Mandeb, which are very much also part of their straits thinking. And part of the question is, is it possible to work out some kind of a tacit understanding or an approach to the straits negotiation that will leave this issue effectively out of the Law of the Sea context in a broader Middle Eastern context for settlement between the parties. And we have had feelers from the Egyptians, we have had discussed the issue with Ambassador Rosan of Israel, and we are continuing to seek some way to defuse that issue. The most promising seems to be to limit

SECRET

DECLASSIFIED

Authority NND 989505

By ~~REDACTED~~ ARA Date 8/21/03

DECLASSIFIED
A/ISS/IPS, Department of State
E.O. 12958, as amended
December 18, 2008

16

the basic unimpeded transit article to straits connecting high seas to high seas, and in some other fashion deal with all of the other straits, Tiran being merely one of the other straits -- probably with a regime of non-suspendable innocent passage. There would be other ways to deal with the Tiran problem. For example, a tacit understanding that it was to be left to a part of the final peace settlement between the parties. And I think if it were possible to get that, that might be the most promising way to deal with the issue.

MR. SISCO: If you get into language like this, I think it is important that you leave the language ambiguous enough so that you are not really getting an international stamp which says that it has to be part of the settlement. I can see phraseology which would say -- coincidental thereto, conjunctive with, parallel with, or at the time of. But let's try to avoid language which would make it part and parcel a significant element of the negotiations per se. I think you might get this kind of an exception. The trouble is if you open this door, I can think of all sorts of places in Latin America and elsewhere where people will plead the same sort of exceptions.

MR. MOORE: This is the kind of tacit understanding we were hoping to do privately among the principal parties, rather than something that would be part of the multilateral

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DECLASSIFIED
Authority **NND 989505**
By **BARA** Date **8/21/01**

DECLASSIFIED
A/ISS/IPS, Department of State
E.O. 12958, as amended
December 18, 2008

agreement itself.

MR. SISCO: Yes.

MR. MOORE: Jack, you may have other points on the straits and archipelago negotiation.

MR. SISCO: I would like also to hear from any of the regional bureaus. We are talking in this particular instance pretty much along the lines of general principles. Although I am very pleased with the character of the discussion here in terms of focusing on the practical problems. I know you said 116. But when you really get down to it, it is a handful of places where it is really key. The rest of these are important, but on the margin. But are there any particular comments that might be relevant from the point of view of the specific area, on the Latin American side, or elsewhere?

MR. EASUM: A question. Do most of the states with whom we are talking separate the question of underwater passage from the question of passage on the surface or through the air? You mentioned one that did -- Indonesia, I think.

MR. MOORE: It is very much understood in the negotiation that the difference between innocent passage and unimpeded transit, which is what we see, are about four major distinctions, or at least three. One is submerged transit. There will be a right of submerged transit under

SECRET

DECLASSIFIED

Authority **NND 989505**

By **989** ARA Date **8/21/03**

DECLASSIFIED
A/ISS/IPS, Department of State
E.O. 12958, as amended
December 18, 2008

18

unimpeded transit, but not under innocent passage, under present law. Secondly, overflight, which is not included in present law. It is included in unimpeded transit. Thirdly, we would do away with the present subjectivities in the innocent passage regime, which, for example, under the '58 convention on the territorial sea says that the coastal state can suspend passage whenever it is "inimical to its peace, good order or security." This is a rather open-ended, unilateral determination to be made.

The last point is the question of the interaction of the new marine pollution law in straits. Is the coastal state going to have a right to set standards for vessels going through, for vessel source pollution, because if they could, you could require triple hulls, you could prohibit nuclear power, you could prohibit the discharge of any neutrons. There are a whole series of horrors that one could think of. But it is basically those four areas. I think all the states in the negotiation understand that.

The major problem we are having, frankly, is on the overflight issue -- because the Soviet Union is weak on overflight, and they are sending signals elsewhere on this issue that maybe they are not as concerned about overflight as we are. For example, when we went to Cairo,

SECRET

DECLASSIFIED
Authority **NND 989505**
By **RAA** Date **8/21/03**

DECLASSIFIED
A/ISS/IPS, Department of State
E.O. 12958, as amended
December 18, 2008

Ahmed greeted us with the view "You are not still urging overflight, are you? We know that the Soviet Union has already given that away. You can't be serious about this issue." That is his general negotiating style, anyway.

MR. SISCO: You are going to have trouble on that.

MR. STEVENSON: This is one of the problems, of course, with the Straits of Tiran. Rosan told us last week that while he had previously thought that you could get a solution in terms of not having unimpeded transit through the Straits of Tiran but simply non-suspendable innocent passage, that of course would not guarantee overflight. And he now feels that they want guaranteed overflight and not simply surface transit. Of course, they are not concerned with the submerged --

MR. SISCO: I think they are going to be absolutely adamant on this question of overflight, just adamant. Because it is a question of the capacity of each side in the situation. They would feel that overflight was essential to their own security.

MR. MOORE: I think from our standpoint on that issue, if we can handle it by saying the straits article applies high seas to high seas, but it is understood behind the scenes with the tacit understanding, let's say,

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with Egypt, Israel, possibly the Soviet Union, that the question of Tiran is to be settled along with or part of or whatever --

MR. SISCO: And in the meantime the de facto situation continues. It is very important to underscore that. Because they are doing all of the things they need to do in those circumstances. I think the Bab el Mandeb experience has been a little eye-opener for them.

MR. STEVENSON: The interesting thing, I think -- while the Arab states have to some extent lined up behind Egypt because of the Middle East, they have discovered more and more that their own interests are in exiting the Mediterannean and exiting the Persian Gulf. So I think we -- if we can deal with this issue, I think we will get Arab support.

MR. MOORE: In fact, there has been a decision by the Law of the Sea Committee of the Arab League to support unimpeded transit of straits connecting high seas to high seas. So that there really is a trend.

MR. SISCO: That is going to be very helpful.

MR. STABLER: There is the possibility of Greece now extending their territorial sea to twelve miles. I gather they are suggesting free transit -- subject to national security.

DECLASSIFIED

Authority **NND 989505**

By **RA** Date **8/21/03**

DECLASSIFIED
A/ISS/IPS, Department of State
E.O. 12958, as amended
December 18, 2008

21

MR. MOORE: Greece has been one of our strongest straits opponents. It is particularly embarrassing since it is from within NATO. We think the principal problem is their concern with the Soviet transit in the area, but it may also relate to concerns vis-a-vis Turkey.

MR. SISCO: I think it is clearly the latter, John.

MR. MOORE: We get very different signals from time to time as to what it is. They tell us it is the former. It may well be 90 percent the latter.

MR. SISCO: I am sure you are getting mixed signals. But I am certain within my own mind it is the latter.

MR. MOORE: As to whether they will shift -- again, we get signals, particularly over the last three months, that have been interesting, suggesting from time to time they are changing their view. But that had not happened yet, and they have continued to oppose us very actively.

MR. SISCO: The Turks now are very active. They came in and left that aide memoir with me here not too long ago.

MR. SHLAUDEMANN: You mentioned the Soviet position on preferential rights. What do they mean precisely?

SECRET

DECLASSIFIED

Authority NND 989505

By ~~PKA~~ ARA Date 8/21/02

DECLASSIFIED
A/ISS/IPS, Department of State
E.O. 12958, as amended
December 18, 2008

22

MR. STEVENSON: Maybe we should move on now to this second issue -- coastal state resource jurisdiction.

MR. SISCO: We will have to come back to this, because it is related. And may I say that in the course of this conversation, Jack, I would be particularly interested if there is any facet of this -- if we are having any difficulty in terms of our own position. Because I gather from what I have seen of the documents, we are pretty far along in terms of developing a pretty good consensus in this government, which is a kudo to all of you that have been working on this. But I suspect that in in the negotiations there are a few things that are going to arise, based on from what little I know, where we are going to have to make some pretty tough decisions.

MR. STEVENSON: The deep sea bed area is where we have the most intra-government problems. But the coastal state resource jurisdiction area I think is critical to developing a consensus. And it is the area where there has been more and more of a coming together in terms of the twelve-mile territorial sea -- and then this broad coastal state control over resources beyond that -- instead of doing what the Latin Americans did in the early days, simply extending the territorial sea -- there has been

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really agreement, since about 1972, when the Caribbean Latin American states got together in Santa Domingo, and the Africans got together in Yaounde, on the part of both of those groups, to take a more sophisticated approach and stop the territorial sea at twelve miles, protect freedom of navigation beyond twelve miles, but try to establish coastal state control over resources.

Now, the most extreme version of this coastal state resource approach is the so-called exclusive 200-mile zone, which in its pure form would mean that the resources in that area were completely controlled by the coastal state at its discretion, with no responsibilities whatsoever to anybody else, as to what was done with those resources. And which, secondly, would also give the coastal state control over pollution, including vessel source pollution problems, and over scientific research in that area. So that this comes very, very close to the territorial sea, the principal exception being that they would protect freedom of navigation and overflight and related uses.

Now, I think the way the negotiation has developed, they -- at least I think the more knowledgeable ones recognize that they cannot have the 200-mile exclusive jurisdiction, that there is going to have to be negotiation with respect to certain of these aspects of it. And I

DECLASSIFIED

Authority **NND 989505**
By **RA** Date **8/21/03**

DECLASSIFIED
A/ISS/IPS, Department of State
E.O. 12958, as amended
December 18, 2008

23-A

think that is where this summer is going to be very critical, because we are now in a position where we are negotiating on the basis of this 200-mile zone. We have not accepted it. But we have said if we have an overall sea package, including straits, and more particularly if in this area we get certain limitations on coastal state jurisdiction, we have the beginnings of an overall agreement.

While we have, for at least two years, more or less indicated this, the Soviets fought it very bitterly until this spring. I think the most hopeful development towards reaching agreement was this complete shift in the Soviet position this spring, where they have in fact said "We will accept the 200-mile economic zone if we get straits," which has already been discussed. "But more important, if we get certain international elements..." and the most important from their standpoint is that the coastal states' discretion as far as controlling the fish in this area is subject to this concept of full utilization, namely, that if the coastal state itself cannot catch all the fish, that there is an obligation to let other countries, foreign fishermen, in. Then you get into a question of priorities, whether it should be the countries that have traditionally fished in that area, or only the regional countries, which is another matter to be negotiated.

SECRET

MR. SISCO: Who is in the forefront of the principle of full utilization?

MR. STEVENSON: I would say we have been.

MR. SISCO: Those who will be absolutely insistent, in addition to ourselves.

MR. STEVENSON: Well, the Soviet Union. Also Japan, which has not moved nearly as far yet officially, although in an informal group that I have been meeting with, trying to deal with this problem, they have now indicated that perhaps they will move, too. So basically it is all the countries that in the past were saying "No, beyond twelve miles we are going to have freedom of fishing" -- that are beginning to see that the only way to get agreement is to accept coastal state management, and coastal state preference, but try to get this principle of full utilization so foreign fishing can continue on normal terms.

Now, there are other aspects that make the fishery negotiation one of the most complex aspects of the whole negotiation, and which require some deviation from the pure 200-mile economic zone. For example, we and the Canadians and the Soviets all have large salmon fisheries, and the salmon come from our streams, but they go out to the middle of the ocean. If the Japanese and the Danes catch

SECRET

DECLASSIFIED

Authority **NND 989505**

By **RR-9** ARA Date **8/21/03**

DECLASSIFIED
A/ISS/IPS, Department of State
E.O. 12958, as amended
December 18, 2008

25

them in the middle of the ocean, that completely disrupts conservation. So any acceptance by us of the 200-mile zone would require something to be done about our salmon that go beyond the 200-mile zone. And that is not so difficult, because there are not that many countries we are dealing with, and you could actually deal with it simply by having a prohibition on catching salmon.

MR. SISCO: What you need is one of those stamps saying, not "Made in Japan" but "Made in the U.S." on each one of these salmon.

MR. STEVENSON: And of course for ARA's benefit, we have almost the reverse problem, with respect to tuna, because tuna don't stay off any one country's coast very long. So a 200-mile zone is not an effective way of managing tuna. And so we are going to have to try to get some Peruvian, Ecuadorian and other coastal state agreement to some kind of rational treatment of tuna, but still within the context of satisfying their juridical and political desires to say they have a 200-mile zone.

Well, this isn't all that difficult a problem. I think there are things you can give them, such as enforcement control in this area, and possibly some kind of a fee for every tuna that is caught in the area. So I

SECRET

DECLASSIFIED
Authority **NND 989505**
By **SP-9** ARA Date **8/21/03**

DECLASSIFIED
A/ISS/IPS, Department of State
E.O. 12958, as amended
December 18, 2008

26

think that we are in the ball park as far as getting something on that.

MR. SISCO: Jack, that sounds awfully complicated to me.

MR. STEVENSON: It is complicated. But we have been dealing with it piecemeal, bilaterally, and so forth. I think the other phase of the economic zone is not so complicated, because almost everyone agrees that the coastal state should have control over the mineral resources of this area, again subject to some possible exceptions. We have suggested there should be some sharing of the revenue, because we want to get the land-locked and shelf-locked states to come along with us in this area. We have also opposed the idea of adding to the coastal state control over resources control over scientific research in this area, and have tried to suggest that the better way to deal with the scientific research problem is to obligate a scientist -- permit local scientists to participate in the scientific voyages, interpret the results for them, and to always notify them. This is going to be a tough thing, because many coastal countries continue to look at scientific research in terms of military espionage or trying to steal their resources.

Well, I think this issue is probably more important

SECRET

DECLASSIFIED

Authority **NND 929505**

By **SP-9** ARA Date **8/21/03**

DECLASSIFIED
A/ISS/IPS, Department of State
E.O. 12958, as amended
December 18, 2008

27

to more countries than any other single issue. I mean the reason that some of the basic Law of the Sea problems we have now really started was the coastal state trying to get control over their fish and their petroleum. So that it needs to be resolved, and it needs to be resolved to a large extent this summer, because of the great domestic pressures in our own country and others.

MR. SISCO: Are our private fishing industries reasonably satisfied with the posture that we have adopted on this?

MR. BLOW: The shrimp and tuna people will be hurt very badly. But the others are all for it. Alaska, the Pacific Northwest, New England, Atlantic Coast, they are all for it.

MR. STEVENSON: And of course full utilization will help our shrimp fishermen somewhat off Mexico and Brazil -- not fully.

MR. MOORE: I think I might also point out there is a major distinction here between the legislation and Congress to go unilateral to 200 miles, in which the shrimp and the tuna and the salmon industry strongly oppose it, because of their sense that it would hurt them very badly, --

MR. SISCO: That would be disastrous for them.

MR. MOORE: And our species approach, in which

SECRET

DECLASSIFIED

Authority NND 989505

By KARA Date 8/21/03

DECLASSIFIED
A/ISS/IPS, Department of State
E.O. 12958, as amended
December 18, 2008

28

basically we have had fairly good support from all segments of the industry, because it really is tailored for each of them.

MR. SISCO: Okay. Let's see if we can't move this along. I wish we had more time on this.

MR. STEVENSON: I think politically, Joe, it is going to be critical to negotiate directly very early on with the Ecuadorians and Peruvians this summer. And we intend to do that.

MR. SISCO: Of course you get started here fairly soon, don't you? When is the date of the conference?

MR. STEVENSON: We leave Wednesday.

MR. SISCO: Okay. Do you want to move on to the --

MR. STEVENSON: John, do you want to say anything more -- one related problem is the marine pollution problem, which affects the coastal --

MR. SISCO: Just a word on that. And then perhaps --

MR. MOORE: Let me touch on it very briefly. I think if there is any fundamental underlying conception of the negotiation, it is that coastal states are going to have a substantial extension of coastal state resource jurisdiction, but that everything else, and particularly navigation, is going to remain free in that area. The

SECRET

DECLASSIFIED

Authority **NND 989505**
By **RRG** ARA Date **8/21/03**

DECLASSIFIED
A/ISS/IPS, Department of State
E.O. 12958, as amended
December 18, 2008

29

only real threat to that principle in the negotiation, other than straits, is a claim to lump general jurisdiction over vessel source pollution out to 200 miles in with the coastal state economic jurisdiction in this zone. Were to states to have that, it would mean they could again -- the same problem as in straits -- any kind of standards for ship construction in the area, for the manning of ships, for a whole variety of standards that could very realistically appear in navigation. The Canadians have been very active in pursuing this. As you know, they went unilateral with their 100-mile Arctic pollution control zone. Their own domestic law is a very thorough-going kind of example of what could happen all over the world. We have urged that there should be only international standards, no coastal state standard setting authority in this area. And I think the trend of the negotiation here is in our favor. We pointed out last summer that a majority of all coastal states would be totally zone locked if they had that kind of jurisdiction. In other words, there would be no access in and out of any ocean on which they face for 65 out of 119 coastal states if they accepted that kind of jurisdiction without subjecting themselves in essence to the sovereignty of another coastal state.

I think this part of the negotiation is going

SECRET

fairly well. Though there is a substantial demand for enforcement authority in the zone to some extent. And I think we will be able to work out some compromise that avoids the more extreme standard setting authority in the area.

MR. SISCO: I wonder if we could kind of bring this to crystallization. Perhaps you might say a word --

MR. STEVENSON: I think we should say a word about the deep sea bed.

MR. SISCO: Then if we could kind of put together a little summation in terms of attitudes perhaps of other agencies, the Congress, and the private sector -- just kind of crystallize this -- I think it might help.

MR. STEVENSON: The deep sea bed relates basically to a regime for the exploitation of the manganese nodules of the deep sea bed. Probably by 1980 at least three U.S. firms will be in commercial production, producing nickel and copper and possibly cobalt and manganese. It is primarily with respect to this resource, which will take place well beyond any coastal state jurisdiction, that presents the deep sea bed problem. No one today is seriously backing Pardo's original proposal for an oceans authority that will control all uses of the ocean beyond coastal state jurisdiction. We are probably going to have something pretty

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DECLASSIFIED

Authority **NND 999505**

By **RRARA** Date **8/21/03**

DECLASSIFIED
A/ISS/IPS, Department of State
E.O. 12958, as amended
December 18, 2008

31

close to the existing freedom of the seas regime for the waters. And so it is primarily this question of what you do with the exploitation of the nodules of the deep sea bed.

The two opposing points of view with respect to the critical issue, which is how you regulate the exploitation of that resource, is on the one hand our point of view, which has been that you should have an international licensing authority which should license on a non-objective first-come-first-served basis -- those, whether they be countries or private enterprise that have the capacity and responsibility to carry on this activity.

MR. SISCO: Which would be relatively few, wouldn't they?

MR. STEVENSON: Well, that depends. Over time I think you would get more and more -- the same thing you have done in shipping, flags of convenience and so forth. But the developing country point of view has been basically that this is really the common property of mankind, and that therefore all countries should participate in exploiting this resource, and that the only way that can be done was to have the international authority itself conduct the exploitation. That was their first position. They have become more sophisticated, have moved off that, and now take

SECRET

DECLASSIFIED

Authority **NND 989505**

By **RE-9** ARA Date **8/21/03**

DECLASSIFIED
A/ISS/IPS, Department of State
E.O. 12958, as amended
December 18, 2008

32

the position that the international authority should be the sole determinant of the terms and other conditions of contracts to carry on this licensing. And it should be essentially discretionary. So you really have this conflict between our proposal, largely non-discretionary licensing, with the international community benefitting by substantial revenue-sharing and technical assistance, as opposed to this other approach.

MR. SISCO: How do you see the support on this?

MR. STEVENSON: Well, this is the area where we are very, very much isolated on this issue.

MR. SISCO: Because this came up in the First Committee, when Pardo floated a lot of this, and we were in a minority then. I would have been very surprised if the situation had improved since then.

MR. STEVENSON: No. The trips that recently were made and our discussions show that not only most developing countries, but even some of the developed countries that are somewhat concerned about our technological lead are not as strong on this issue as we would like.

Now, I think that they have been impressed, though, by the fact that particularly as a result of the energy crisis we have indicated that politically the facts of life

SECRET

in the United States are very, very strong in terms of having something that does provide for free access and doesn't give an international agency the right to possibly manipulate our access to a fundamental resource the same way that this has been done in the oil situation. I think some of the developing countries are beginning to distinguish their position as consumers from the producing countries, and to wonder whether they want a completely monopolistic type of operation. But this is a very tough part of the negotiation.

On the other hand, I think it shows why a package deal is the only solution. If we had to negotiate this issue alone, we would be in a very difficult position. But it is not nearly as important, except ideologically, in the final analysis, to most coastal countries as getting control over the coastal resource.

Now, John might tell you a little bit about the interagency problems on this particular issue, because this is where our interagency problems have really been most acute.

MR. MOORE: I think we should say initially that we have had the strength of the process which I think had helped a great deal, and that is having this within the structure of the Under Secretary's Committee, so there was an

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DECLASSIFIED
Authority **NND989505**
By **RRG** ARA Date **8/21/03**
SECRET

DECLASSIFIED
A/ISS/IPS, Department of State
E.O. 12958, as amended
December 18, 2008

orderly process for the resolution of interagency disputes, and in fact the present instructions that do reflect these differences in agency viewpoints have gone forward to the President in the normal course of that machinery. So there is nothing unusual in terms of inability to resolve the disputes.

But there have been, particularly on this question of the deep sea beds, very substantial differences among agencies, with the Treasury Department, the Office of Management and Budget, CIEP, and to a lesser extent the Commerce Department -- very concerned with this issue of deep sea bed mining, and very concerned that there should be a non-discretionary access system with a minimum of discretion in the international authority. And I think those views continue essentially as they were initially, though the differences have been narrowed. It also takes the form now in terms of support for domestic legislation that has been introduced in Congress to proceed unilaterally prior to the conference to authorize deep sea bed mining. And there is predictably greater support within these agencies to proceed to develop domestic legislation to achieve these ends as opposed to relying on the international negotiation.

I think these problems have been dealt with largely by virtue of the strength of this process. I think

SECRET

DECLASSIFIED

Authority **NND 989505**

By **SP-9** ARA Date **8/21/03** **SECRET**

DECLASSIFIED
A/ISS/IPS, Department of State
E.O. 12958, as amended
December 18, 2008

35

as Ambassador Stevenson has indicated, our hardest problem is going to be the deep sea beds. And I think we should keep the issue in perspective with all of the other interests the United States has at stake in the negotiation.

And my own feeling is that if we run any risk at the present time, it is that we are taking this issue, which is an important issue, and perhaps placing it out of perspective in terms of the overall range of issues we have at stake, including particularly the security issue.

MR. SISCO: It seems to me you have two kinds of risks in the conference on this one. I suppose the worst risk is getting a huge majority against us really of the kind that we have seen in the General Assembly, and which is really isolated, so that we may very well be faced not only with not being able to live with what would come out of the conference on this substantively, but it would obviously relate to and affect our overall position in terms of whether we could accept the results -- plural -- of the Law of the Sea Conference. The second possibility is that the majority that is against you might want to be relatively silent on this particular issue, and by that I mean not endorse our particular position, but not necessarily press their own.

Now, I think we face a very serious dilemma in that particular situation, because then you have really got

SECRET

DECLASSIFIED

Authority **NND 989505**

By **RE-ARA** Date **8/21/01** **SECRET**

DECLASSIFIED
A/ISS/IPS, Department of State
E.O. 12958, as amended
December 18, 2008

36

to assess the results of the remaining elements of the Law of the Sea Conference, and to say to ourselves and ask ourselves the question -- do we have what we want on its merits as it relates to the straits and the whole coastal state resource jurisdiction problem, and so on. So that I really foresee some extremely difficult decisions back here on this, based on what your negotiations are going to bring out. Which leads me to the other point. I want to be very sure that we are well staffed on this end and not everybody is off to the conference. Because this is --

MR. STEVENSON: We want you to be, too, believe me.

MR. SISCO: I can just dump it into the Under Secretary's Committee. But nevertheless, I am sure that Bob would endorse what I just had to say in this regard.

MR. MOORE: I might add on that, that Ambassador Blake will be our principal back-up when we are in Caracas, and we will at all times have at least two substantive Foreign Service Officers in our office for coordinating the international or the inter-agency --

MR. SISCO: It is going to involve a lot of other agencies; it is going to involve other agencies at a very high level. So this is really going to be quite difficult, again. I remember the difficulties we ran into at the last

SECRET

DECLASSIFIED

Authority **NND 989505**

By **989ARA** Date **8/21/08** **SECRET**

DECLASSIFIED
A/ISS/IPS, Department of State
E.O. 12958, as amended
December 18, 2008

37

Law of the Sea Conference in this regard.

Well, any other questions?

I know we have taken a good deal of time. But I think it has been very useful, because this is a very complicated subject.

How about a one-minute wrap-up? Who wants to do it?

MR. STEVENSON: Just one minute. I think looking at the prospects for the summer, the most favorable prospects are really to build on this consensus on the 12-mile territorial sea, and on coastal state control over resources. If we can get that pretty close to being wrapped up this summer, I think we will make it easier to deal with the very difficult deep sea beds question. I think it will continue to reinforce the trend in our direction on the straits issue. Because many less states are as much concerned with those issues as they are with the coastal state resource control issue. And we also need to show progress on that, to deal with our own domestic situation.

MR. SISCO: Do you assume this whole conference -- and by "whole" I mean covering all the principal aspects of the agenda -- with some kind of a conclusive result will in fact be reached by the end of August, or do you assume that this is going to be kind of a continuing conference over the next year or two before you adopt your

SECRET

DECLASSIFIED

Authority **NND 989505**

By **RA** Date **8/21/03**

DECLASSIFIED
A/ISS/IPS, Department of State
E.O. 12958, as amended
December 18, 2008

38

overall package?

MR. STEVENSON: I think realistically we will not reach final agreement this summer. But I also feel it is very important that we reach agreement next year in Vienna. I think it could go on year after year, unless there is a very strong push to get it resolved in two years. I think that is critical. Because the unilateral pressures are just going to be too much. But we do have one moderating thing, Joe, in this area, and that is we are not dealing with a UN resolution. We are dealing with a treaty. And the responsible developing country leaders know if they produce the result you are talking about and prohibit us from participating, the treaty is not going to be worth --

MR. SISCO: Of course. How much congressional consultation have we done? Are we satisfied in terms of at least where we are on the eve of the conference?

MR. HOLTON: Yes.

MR. STEVENSON: We are going to have about sixteen on the delegation.

MR. MOORE: We have worked closely with nine committees of Congress that follow it on a day-to-day basis. We have had resolutions passed including one unanimously by the Senate, endorsing the President's ocean

SECRET

DECLASSIFIED

Authority **NND 989505**

By **RRG** ARA Date **8/21/03**

DECLASSIFIED
A/ISS/IPS, Department of State
E.O. 12958, as amended
December 18, 2008

39

policy. We have them on the Advisory Committee for the first time in the history of the Department of State.

We have them on the delegation very strongly. We have congressional problems, though. And the greatest problem is the 200-mile bill. And we are very worried it is going to pass, possibly even this summer while we are in Caracas.

MR. SISCO: Thank you very much.

(Whereupon at 4:00 p.m. the meeting was adjourned.)

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