

DECLASSIFIED

Authority

EO 12958

By

NARA Date

6/14/04

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A/ISS/IPS, Department of State

E.O. 12958, as amended

December 18, 2008

GEN SCOWCRAFT

NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20506

June 24, 1974

National Security Decision Memorandum 260

TO: The Secretary of the Treasury
The Secretary of Defense
The Secretary of the Interior
The Secretary of Commerce
The Under Secretary of State for Political Affairs
The Chairman, NSC Under Secretaries Committee

SUBJECT: Third United Nations Conference on the Law of the Sea

The President has reviewed the recommended instructions for the U. S. Delegation to the Third United Nations Conference on the Law of the Sea, forwarded under cover of the memorandum of May 14, 1974, from the Chairman, NSC Under Secretaries Committee. He has also considered the accompanying agency comments. The President has approved the recommended instructions subject to the guidance which follows.

Conference Procedures. Further to NSDM 240, the President has directed that the U. S. Delegation should press for conference rules and procedures which will promote a timely and successful law of the sea conference accommodating U. S. oceans policy interests. The Delegation is to ensure that the voting arrangements will permit the conference to proceed in a manner best suited to the attainment of U. S. interests, guarding in particular against arrangements allowing for premature substantive voting which might be harmful to those interests.

Navigation and Straits. The President reaffirms the importance attached to gaining international acceptance of provisions accommodating U. S. national security interests on freedom of navigation, unimpeded transit through and over international straits and preservation of other reasonable uses of the high seas. Subject to the consent of the senior Department of Defense representatives on the delegation, the Chairman of the U. S. Delegation is authorized to exercise the authority requested in Section C of the instructions.

Coastal Resources. The President has directed that U. S. support for revenue sharing in the coastal seabed economic area shall be dependent on support for the fundamental U. S. objectives in the Conference. Subject

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-2-

to this understanding, the U.S. Delegation is authorized to exercise the authority contained in Section E, Option 3 of the instructions. With regard to delimitation of the outer boundary of the coastal seabed economic area and recognizing the tactical desirability of maintaining a low profile, the U.S. Delegation should seek 200 miles or the edge of the continental margin, whichever is further seaward. The NSC Law of the Sea Task Force should continue its work to determine the means for locating as precisely as possible the edge of the continental margin.

Marine Pollution. The U.S. Delegation is authorized to exercise the authority contained in Section F, Option 1 of the instructions, with the understanding that there must be international acceptance of explicit exemption of military vessels and aircraft as well as international acceptance of adequate procedural protections for commercial vessels including prompt release under bond, liability for unreasonable enforcement actions and compulsory dispute settlement.

Scientific Research. The U.S. Delegation should seek international acceptance of treaty provisions assuring the maximum freedom of marine scientific research. To this end, the U.S. Delegation should continue to be guided by existing positions and negotiating authority, as summarized at Tab A of the recommended instructions.

The Deep Seabeds. The U.S. Delegation is authorized to exercise the authority contained in Section H, Option B, of the recommended instructions in the conference negotiations on international machinery for deep seabed exploitation. The delegation is authorized to continue to support the position providing for use of funds generated by licensed exploitation activity for the payment of the international authority's operational expenses. The President has approved the recommendation of the Chairman of the U.S. Delegation that from a tactical standpoint the United States should oppose the principle of direct exploitation by the authority as long as there is a reasonable chance of defeating it and, in any event, consider accepting it only as part of a final package meeting U.S. concerns on nondiscretionary access and operating rules and with necessary limitations on the authority. Accordingly, the Delegation is authorized to discuss this subject on an exploratory basis. With regard to the sharing of revenues from deep seabed (mining beyond national jurisdiction), the President has noted that continuing study is being given to the precise base and percentage of revenue to be shared. With this the case, the Delegation is authorized to discuss this subject on an exploratory basis.

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December 18, 2008

-3-

Conference Backstopping. The President has assigned responsibility to the Chairman, NSC Under Secretaries Committee for backstopping the law of the sea negotiations. The Chairman of the U. S. Delegation is requested to submit a report on the results of the negotiations, via the Chairman, NSC Under Secretaries Committee, to the President, upon conclusion of the June 20-August 29, 1974 session of the conference in Caracas.



Henry A. Kissinger

cc: The Secretary of Transportation
The Director, Office of Management and Budget
The Director, National Science Foundation
The Director, Central Intelligence
The Assistant to the President for International
Economic Affairs
The Chairman, Joint Chiefs of Staff
Counsellor to the President for Economic Policy

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