

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

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March 24, 1975

National Security Decision Memorandum 288

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

SUBJECT: Instructions for the U. S. Delegation to the Geneva
Session of the Third United Nations Conference on
the Law of the Sea

The President has reviewed the recommended instructions for the U. S. Delegation to the Geneva session of the Third United Nations Conference on the Law of the Sea, together with the formal agency comments relating thereto, and the Chairman, NSC Under Secretaries Committee's forwarding memorandum of March 4, 1975.

The President affirms the importance attached to gaining broad international acceptance of U. S. oceans policy positions on freedom of navigation, marine resources, marine pollution, scientific research and peaceful resolution of disputes. Subject to the following guidance, the President approves the recommended instructions for use by the U. S. Delegation.

Freedom of Navigation: The President underscores the importance attached to gaining international acceptance of law of the sea provisions accommodating U. S. interests on freedom of navigation; unimpeded transit through, under and over international straits; archipelagoes and 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.

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E.O. 12356, Sec. 3.4.

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Economic Zone: In implementing instructions on this issue, the Chairman of the U. S. Delegation is directed to bear in mind the U. S. preference for delimitation of the outer boundary of the economic zone at 200 miles or the edge of the continental margin, whichever is further seaward. With this understanding, the recommended instructions on the economic zone and the continental shelf are approved.

Protection of the Marine Environment: The President approves the basic objectives of the United States regarding the negotiations on the control of vessel-source pollution as set forth in the recommended instructions. If necessary to the attainment of these objectives, the Delegation is authorized to exercise the authority contained in Section 7, Options I, II and IV of the recommended instructions.

Marine Scientific Research: The authority requested in Section 8 of the recommended instructions is approved. The Chairman of the U. S. Delegation is directed to bear in mind the importance attached by the United States to the avoidance of any system which would require the consent of the coastal state for marine scientific research.

The Deep Seabeds: The President affirms the basic U. S. objectives in negotiations on the intended organization and system for deep seabed mining in the ocean beyond national jurisdiction: an organization and system guaranteeing non-discriminatory access by U. S. firms to deep seabed minerals under reasonable conditions coupled with security of tenure, and with fair and reasonable profit or rate of return to deep seabed mining operators. Within this framework, the following guidance is provided on specific issues that may be the subject of negotiation relating to the regime for the deep seabeds:

-- Parallel System of Exploitation. The proposed instructions are amended to authorize the U. S. Delegation to agree to a parallel system of exploitation on the condition that the treaty contains provisions adequately safeguarding U. S. interests in guaranteed access to deep seabed resources.

-- Commission to License Complaints. The U. S. Delegation should seek to limit any regulatory authority of such a commission, particularly in areas of tariffs, prices and production.

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-- Training Program. The U. S. Delegation should seek to avoid any agreement on training involving unwanted transfer of technology in any joint ventures involving developing countries.

-- Joint Ventures with Developing Countries. In considering the possibility of developing nation participation in joint ventures, the U. S. Delegation's objective should be to limit any such participation along lines as recommended by the Chairman, NSC Under Secretaries Committee, in his forwarding memorandum.

-- Tax Credits or Exemptions. The recommended instructions are amended to delete authority for the U. S. Delegation to agree to a treaty provision obligating states not to levy national taxation or to grant tax credits with respect to deep seabed mining operations.

The President approves the recommendation of the Chairman, NSC Under Secretaries Committee, that the Chairman of the U. S. Delegation inform the Chairman, NSC Under Secretaries Committee, concerning the entire package of proposed deep seabed measures before any final agreement.

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 March-May, 1975 session of the Conference.


Henry A. Kissinger

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

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