

DECLASSIFIED	
Authority	EO 12958
By	MM NARA Date 05/25/04

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

MEMORANDUM

THE WHITE HOUSE

3871

WASHINGTON

ACTION

MEMORANDUM FOR: THE PRESIDENT

FROM: HENRY A. KISSINGER *HK*

SUBJECT: July-August 1973 Preparatory Meeting
for Law of the Sea Conference

I. Introduction and Summary

The eight-week July-August session of the U. N. Seabed Committee will be the final preparatory session before the first organizational session of the Law of the Sea Conference is convened in New York late this fall in conjunction with the meetings of the U. N. General Assembly. (The first substantive session of the Conference is scheduled for Santiago, Chile, April, 1974.)

The NSC Under Secretaries Committee has recommended approval of the U. S. Delegation's recommended instructions, subject to the understanding that a comprehensive review of the economic issues raised in the law of the sea negotiations will be undertaken under the direction of the Chairman of the Under Secretaries Committee. (Memorandum from Deputy Secretary Rush at Tab 2.) I concur with that recommendation.

II. Recommended U.S. Position

The recommended instructions for the July-August meeting, developed by the Law of the Sea Task Force, build on guidance set forth in earlier NSDMs rather than recommending changes to approved U.S. policy. The main points of the Delegation's proposed instructions are summarized at Tab 3. Of particular importance, the Delegation will continue to seek support for the broadest possible navigational freedoms -- a 12 mile territorial sea, linked to freedom of transit through and over international straits. On coastal state resource jurisdiction, the Delegation will continue to indicate that the United States can accept virtually complete coastal state resource management jurisdiction over resources in adjacent seabed areas if this jurisdiction is subject to international treaty limitations.

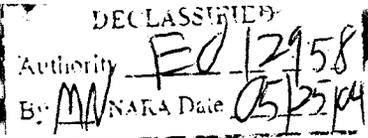
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III. Next Step

With your approval, I will sign the memorandum to the Agencies at Tab 1 approving the negotiating instructions for the July-August session, with the understanding that a review of the economic policy aspects of our negotiating position will be conducted and taken into consideration in the further development of the U.S. position.

Approve *R. J. [Signature]* Disapprove _____



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Tab 3

Summary of U. S. Delegation's Proposed
Positions for July-August Meeting of the
U. N. Seabed Committee

At this summer session, the U. S. Delegation will endeavor to produce the outlines of a broad consensus compatible with U. S. law of the sea interests, and, in the process, to form a common front with a sufficient number of states to demonstrate well in advance the futility of attempting to outvote the U. S. during the Conference.

To further the U. S. position on a 12-mile territorial sea, linked to freedom of transit through and over international straits, the Delegation will continue to press for support from other states and will maintain strong opposition to the innocent-passage-through-straits proposals being made by straits states such as Spain.

On the issue of coastal state resource jurisdiction, the Delegation will continue discussions with the coastal state majority -- in particular with the moderate developing states favoring a 200-mile resource zone, not 200 miles sovereignty -- aimed at moving toward a consensus on law of the sea provisions for coastal state jurisdiction that takes into account over-all U. S. law of the sea interests. In so doing, the U. S. Delegation will build on the position stated in Geneva last August: Namely, that the United States can accept virtually complete coastal state resource management jurisdiction over resources in adjacent seabed areas if this jurisdiction is subject to international treaty limitations in five respects:

- international treaty standards to prevent unreasonable interference with other uses of the ocean;
- international treaty standards to protect the ocean from pollution;
- international treaty standards to protect the integrity of investment;
- sharing of revenues for international community purposes; and
- compulsory settlement of disputes.

With regard to pollution, the Delegation will continue to advance the position that vessel-source pollution standards should be exclusively international, and should be developed by the Intergovernmental Maritime Consultative

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Organization (IMCO). As in the case of the ocean dumping convention, military vessels and aircraft would be exempt from the law of the sea treaty's pollution control provisions.

On scientific research, the Delegation will present draft articles aimed at supporting the U.S. position on maximum freedom for bona fide scientific research.

Finally, the Delegation will seek further support for the U.S. proposal advanced during the March 1973 meeting of the committee that it should be agreed internationally that the law of the sea treaty will be provisionally applied during the possibly lengthy period between signature and entry into force. (This would, for example, permit U.S. companies to exploit deep seabed resources in accordance with the Treaty's provisions as soon as the Treaty is signed, rather than having to wait for the Treaty's entry into force.)