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FORM OF DOCUMENT	CORRESPONDENTS OR TITLE	DATE	RESTRICTION
1.	<u>Moore to Marsh. 9/25/75</u>		
1a. Memo	John Norton Moore to the Deputy Secretary re U.S. Oceans Policy and the Law of the Sea Negotiations (9 pp.) <i>declassified 9/6/04 dal</i>	9/25/75	A
2. Memo	John Norton Moore to T. Vincent Learson re suggestions for organization of the LOS effort (5 pp.) <i>SYS - WTHM 11/28/00</i>	6/12/75 1/28/76	A
3. Background	re Law of the Sea (6 pp.) <i>SYS - WTHM 11/28/00</i>	6/12/75	A
4. Memo	James W. Lannon to Victor H. Dikebs re interviews with DOD officials handling Law of the Sea matters	3/9/76	C

FILE LOCATION

Marsh Files
 General Subject File
 Law of the Sea Negotiations - General

Box 19

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WHM. 1/22/86

[6/12/75]

Law of the Sea

BACKGROUND

The second substantive session of the Law of the Sea Conference was held in Geneva from March 17 to May 9. Although the pace is slow the Conference is continuing to make progress toward an overall oceans treaty. The most significant development was the preparation of a "single negotiating (as distinguished from negotiated) text". This single text is an informal text prepared by the Chairman of each of the three main Conference Committees to serve as a focus for the future work of the Conference. Although the single text has no formal status, it in fact reflects an emerging political consensus on the outlines of a comprehensive treaty and in many areas on specific treaty articles.

The principal difficulty for US interests is the text in Committee I on the regime for the mining of deep seabed mineral resources. This text largely reflects the Group of 77 developing country position that deep seabed mining should be under the control of an international enterprise which would have the exclusive right to directly exploit the area. It is our view that this Committee I text is not a satisfactory basis for negotiation. On the other hand, the single text in Committees II and III, dealing with all other oceans issues, is a reasonable basis for negotiations. Most importantly, the US position on unimpeded transit of straits, including a right of submerged transit and overflight and the US position on coastal resources, including a 200-mile economic zone with protection for navigational freedom, are largely embodied in the single text.

The Conference agreed to recommend to the General Assembly that the next session of the Conference should be held for eight weeks beginning on March 29, 1976 with time set aside for an additional session in the summer of 1976 if needed.

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U.S. STRATEGY AND PRESENT SITUATION

The principal issues and the current status of each is as follows:

A. The Territorial Sea, Straits and Archipelagoes

The United States currently recognizes a 3-mile territorial sea. We have indicated that we could accept a 12-mile territorial sea provided that it is accompanied by guarantees of unimpeded transit in the more than 100 international straits which would be overlapped by this extension of the territorial sea. Unimpeded transit of straits is among our most important objectives and is necessary to ensure a continued right of freedom of navigation through straits, including submerged transit of our SSBN fleet and overflight.

The single text provides for a 12-mile territorial sea with guarantees of transit passage through over and under international straits and archipelagoes. In this respect the single text reflects a strong Conference trend and, generally, the US position. Despite the inclusion of transit passage in the single text, however, there is still a hard core of opposition to our straits position, particularly from Spain, the PRC, the Philippines, Oman and Yemen.

The single text largely reflects our position on mid-ocean archipelagoes which would enclose the islands of a few oceanic states such as Indonesia, the Philippines, the Bahamas and Fiji as "archipelagic states" subject to a transit regime of unimpeded passage through broad sealanes. Despite the single text, however, the Philippines and to a lesser extent Indonesia continue to seek a more restrictive transit regime.

B. The Economic Zone and Continental Shelf

The single text provides for a 200-mile economic zone with coastal State resource jurisdiction over coastal and anadromous (salmon) species of fish and seabed minerals. In this respect the single text largely reflects a dominant Conference trend and the US position. Principal problems in the negotiation for the economic zone are the protection of residual non-economic rights

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such as our SOSUS system for surveillance of submarines, precise definition of an outer boundary for coastal State resource jurisdiction in areas where the continental margin goes beyond 200 miles, and protection for our distant water tuna fishing interests.

C. Marine Pollution and Marine Scientific Research

The US seeks a strengthened environmental regime for the oceans which will at the same time not impair navigational freedom by an undue expansion of coastal State jurisdiction over vessel-source pollution. In this respect the single text reflects a generally satisfactory balance of interests. Principal problems remaining include developing country demands for a double standard which would recognize less stringent environmental obligations for developing nations with respect to pollution of the marine environment, the need to strengthen the right of the port state system to enforce international standards for vessel-source pollution, and the special concerns of the Canadians and the Soviets in the Arctic.

With respect to marine scientific research, the US seeks maximum freedom of research in the economic zone subject to reasonable obligations designed to protect coastal State interests. On the other hand most developing countries and many developed coastal States seek an unqualified consent regime under which no scientific research could be conducted in the economic zone without the consent of the coastal State. The Committee III single text embodies a possible compromise formula suggested by the USSR which would give coastal States a consent regime over research related to resources but which would preserve our flag state obligation approach over non-resource related research. The single text, however, contains a more sweeping provision in the Committee II text which basically adopts a consent regime and this lack of coordination must also be resolved.

D. Deep Seabed Mining

The United States seeks a regime of guaranteed access to the mineral resources (manganese nodules) of the deep seabed. This requires a decision-making structure

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within the International Seabed Resource Authority which would rely on a Council with balanced membership from developed and developing, producer and consuming nations, and a system of exploitation which would guarantee US firms access to manganese nodules under reasonable terms for development to occur. On the other hand, the Group of 77 seeks an Authority dominated by a one state one vote assembly and a system of exploitation directly and exclusively controlled by an international mining enterprise. Although some progress was made in Geneva in moving toward acceptance of a balanced Council, the single text largely reflects the Group of 77 position and is not a satisfactory basis for negotiation. This issue remains the most difficult in the negotiation.

E. Dispute Settlement

The United States has strongly urged the adoption of machinery for the compulsory settlement of disputes arising under the new treaty. An informal working group under the chairmanship of Ambassador Harry of Australia has made significant progress toward this goal. Principal problems remaining include Soviet opposition to compulsory settlement of disputes except in fisheries and deep seabed issues, and some Latin opposition to inclusion of disputes concerning the economic zone. Despite the problems, there seems to be more general acceptance of the idea of compulsory dispute settlement than in previous sessions of the Conference.

ISSUES, CHOICES AND NEXT STEPS

The most serious problems affecting the law of the sea negotiations are as follows:

A. Increasing Pressure for Unilateral Action

Because of the slow pace of the negotiations pressures are building on the Hill for unilateral action. Bills now pending in Congress include bills to extend unilaterally United States' fisheries jurisdiction to 200 miles, a bill to authorize US firms to engage in deep seabed mining, and a bill to extend US pollution control jurisdiction out to 200 miles (contrary to our LOS position). The 200-mile fisheries bill has strong support in both Houses and absent a vigorous Administration initiative is almost certain to

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pass this session. Such unilateral action by the US would violate international law, would seriously damage US oceans interests, particularly our defense interests, and could present a dangerous confrontation with the Soviet Union, a principal nation fishing off our coasts. We are currently evaluating our options in dealing with this legislation including the possibility of an all out Administration campaign to stop the bill or working on compromise legislation which would build in an additional year's delay. To have any chance of success, opposition to the bill must be actively led by the Secretary of State and the President. An options paper is now being prepared in the State Department concerning this problem.

B. The Deep Seabeds

As stated earlier, the regime for deep seabed mining has emerged as the most difficult issue in the negotiation. Failure to resolve this issue soon could destroy the chances for overall agreement and thereby seriously harm our political and security interests. In the coming weeks we must formulate a realistic compromise and a negotiating strategy able to achieve progress in this area. There is likely to be some disagreement among the various Agencies involved on this subject.

C. Tuna Negotiations With Ecuador

We continued discussions at Geneva with the Ecuadorians and other states interested in resolution of the tuna problem in the Eastern Pacific. Ecuador is extremely sensitive about the appearance of bilateral discussions on this issue but is willing to talk in the context of the multilateral LOS consultations. We have agreed to hold further discussions with Ecuador and other interested states in New York during the upcoming General Assembly. These talks will aim at agreement on a general tuna conservation article for the LOS treaty and a regional agreement for the Eastern Pacific implementing the agreed general principles. During these talks we will make a major effort to resolve the dispute once and for all.

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Clearance:

S/P - Mr. Blaney
T - Mr. Craft

Drafted: D/LOS:JNMoore:bam
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DEPARTMENT OF STATE

Washington, D.C. 20520

September 25, 1975

UNCLASSIFIED WITH SECRET ATTACHMENT

TO: Mr. John O. Marsh, Jr.
Counsellor to the President
The White House

SUBJECT: U.S. Oceans Policy and the Law of the Sea
Negotiations

Attached is a memorandum on U.S. oceans policy
and the Law of the Sea Negotiations. I hope you
may find it of interest.

John

John Norton Moore
Chairman, the NSC Interagency
Task Force on the Law of the Sea
and Deputy Special Representative
of the President for the Law of
the Sea Conference

Attachment:

As stated

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DEPARTMENT OF STATE
BRIEFING MEMORANDUM

S/S

September 25, 1975

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TO: The Deputy Secretary
The Under Secretary for Security Assistance

FROM: D/LOS - Ambassador John Norton Moore, Deputy
Special Representative of the President for
the Law of the Sea Conference

U.S. Oceans Policy and the Law of the Sea
Negotiations

Background:

The Law of the Sea negotiations have been regularly criticized as taking too long. In recent months a few academic spokesmen have begun to urge that a treaty is unattainable and in any event that the United States has no interest in a treaty. Though the impatience to conclude a treaty is understandable, I believe that the more general skepticism is profoundly mistaken. A comprehensive law of the sea treaty is strongly in the interest of the United States and we are making solid progress toward a treaty which will protect U.S. oceans' interests. We may not, however, conclude such a treaty next year though for the first time we have a realistic possibility of doing so. As such, we should be prepared for the possibility of the negotiations continuing for another two years or possibly even longer. Moreover, we should not sacrifice our important oceans interests and should be prepared with alternative strategies while negotiating if the negotiations cannot be concluded in a reasonable time period.

The Advantages of a Comprehensive LOS Treaty:

Although it has been axiomatic within the Executive Branch that U.S. oceans and political interests are best served by a treaty, the negotiations have, I believe, taught us even more why this is so. Reasons supporting

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this include the following:

- (a) U.S. navigation interests in ensuring freedom of navigation through straits and areas of resource jurisdiction will be much better protected under a comprehensive LOS treaty. We are doing well on these issues in the negotiations and a pattern of unilateral pollution control or other claims over navigation is a formula for progressive loss of navigational freedom. To negotiate bilaterals for straits transit would create many recurring "Spanish basis negotiations" with all of their associated political and financial costs;
- (b) U.S. political interests in conflict avoidance and political stability will be far better served by a treaty. A treaty will increase stability of expectations and will provide a mechanism for the orderly resolution of oceans disputes. The increasing intensity of oceans use will in years ahead substantially increase the already occurring oceans conflicts if a treaty is not concluded;
- (c) although relatively unnoticed, the LOS negotiations are providing an opportunity for the solution of bilateral U.S. oceans disputes. Examples include the archipelago disputes with Indonesia and the Bahamas, the Arctic pollution problem with the Canadians, the salmon problem with the Japanese and the tuna problem with the CEP countries. Though these are difficult long-standing issues the LOS negotiations are providing a multilateral-- and thus politically less sensitive--cover for efforts to resolve all of these disputes. Without a treaty and its multilateral approach and trade-off possibilities this would not be possible. This may be the one of the most significant advantages of the LOS treaty process;
- (d) The U.S. will substantially benefit from the 200-mile economic zone. This increased jurisdiction over resources off our coast will

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be more easily accepted with less cost to our bilateral relations with the Soviets, Japanese and others, and our own distant water fishing interests if we have a treaty;

- (e) the multilateral negotiation leading to a global convention provides an opportunity for many countries to overcome strong internal political problems in accepting a good oceans regime. For example a widely accepted treaty adopting a 200-mile economic zone is, I believe, highly likely to permit eventual acquiescence in the economic zone and abandonment of the 200-mile territorial sea claims of countries such as Ecuador and Chile. Without a treaty this would be extremely unlikely. Another example is the problem of transit through the Japanese straits and its interaction with the politically sensitive "three nuclear principles." The Japanese have signaled that a treaty could enable them to permit free transit of nuclear ships through straits overlapped by Japanese territorial waters, whereas this would be much more difficult if not impossible for them in the absence of a treaty;
- (f) the marine environment will be better protected with a treaty than with a pattern of unilateral claims. A multilateral treaty in which States have other interests at stake is probably the most effective forum to insist on tough environmental standards as a condition to satisfaction of other resource interests and this is being borne out in the negotiations even though attainable environmental standards are still not high;
- (g) from the standpoint of U.S. interests in the United Nations and encouraging cooperative relations between developed and developing countries the LOS treaty may be the most significant negotiation today. Failure would be costly to our political relations in these forums;

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- (h) the negotiations have been helpful in coordinating oceans policy among the major industrialized states and particularly in enabling close cooperation with the Soviets on oceans policy. It will become increasingly important that we maintain this cooperation in oceans policy. Without it, U.S. oceans interests would be far less protected. Incidentally, the criticism of detente, that it has been a one-way street, it particularly wrong in terms of US-Soviet cooperation in the Law of the Sea. Such cooperation has been a clear two-way street with both nations giving to coordinate policy and both gaining substantially vis-a-vis other nations after their policy has been coordinated;
- (i) though we must obtain a good deep seabed regime, a breakdown of the LOS negotiations would be accompanied by high costs for deep seabed mining. Efforts to mine unilaterally would trigger a massive political protest against U.S. interests and could result in a multiplicity of law-suits and expropriation of U.S. corporate holdings abroad;
- (j) although the negotiations on marine scientific research are difficult, such research will be better protected with a treaty than without it.

These are only some of the reasons supporting a good comprehensive treaty on the law of the sea as the best strategy for U.S. oceans policy. In short our present policy is correct and we should strongly persevere. This does not mean a treaty at any price, but that is not the issue, since most U.S. interests are doing well in the negotiation.

Signs of Progress in the LOS Negotiation:

There are a variety of tangible signs of progress in the LOS negotiation all pointing to a treaty in the reasonable future. These include:

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- (a) preparation of the single negotiating text which provides a focus for negotiations and which, with the exception of the texts on deep seabed mining and scientific research, reasonably protects our interests. Indeed, the U.S. view clearly prevailed on the breadth of the territorial sea, baselines, innocent passage in the territorial sea, transit passage of straits, the economic zone, marine pollution, salmon, dispute settlement, archipelagoes, and many other vital oceans issues;
- (b) a broad consensus on the outlines of a new oceans agreement as evidenced in the single text including a 12-mile territorial sea, a 200-mile economic zone, unimpeded transit of straits, dispute settlement machinery, an appropriate environmental and research regime within the economic zone, and a new international organization for deep seabed mining. Such a consensus was nonexistent as late as a year ago;
- (c) an increasing will to negotiate, as evidenced by a number of concluded negotiations such as salmon and the stepped up pace of other negotiations such as tuna, the deep seabeds, scientific research, archipelagoes and the Arctic pollution problem. It can be said for the first time that solutions are in sight for all of these problems; and
- (d) an increasing impatience with the slow work program of the Conference as evidenced by recent statements of Norway, Chile, Iceland and many other participants.

The Law of the Sea negotiations are among the most complex and difficult in history. We cannot reasonably expect that they will be concluded exactly on the timetable we set. The International Law Commission took fifteen years to elaborate the articles which served as the basis for the First and Second UN

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Conferences on the Law of the Sea. The UN Seabed Committee and the Conference are close to a workable political consensus on a far broader range of issues after only five years. It is quite possible that future historians will view these negotiations as proceeding rapidly in the light of the issues at stake.

Although we are right to be dissatisfied with the Conference work program, we should not let our dissatisfaction turn to disaffection as long as good progress is being made. Similarly, we should not be in such a rush that we sacrifice U.S. and global oceans interests for a quick treaty. The key is to encourage a vigorous Conference work program while remaining firm on vital issues such as straits and deep seabed mining and avoiding unilateral action which can be extremely damaging to U.S. oceans interests.

Interim Problems:

The most serious problem facing the LOS negotiation is that increasing impatience will lead to an explosion of unilateral claims. Such claims could seriously damage U.S. oceans interests and undermine the incentive to conclude a comprehensive treaty. U.S. unilateral claims such as the 200-mile fishing bill or the deep seabed mining bill would be particularly destructive because of the enormous influence of the United States on oceans policy. As such, it is extremely important that we avoid any U.S. unilateral claims as long as we are making reasonable progress toward a comprehensive LOS treaty which will protect our interests.

I cannot overemphasize the importance of defeat of the 200-mile fishing bill and it seems virtually certain that this will require a Presidential veto. Defeat of the bill is among the most important issues in the history of U.S. oceans policy and failure would be profoundly harmful to long run U.S. oceans and political interests. In recent years we have fallen into a syndrome of urging the Congress to hold off for only one more year or one more session of the Conference. If we are in a protracted negotiation, as seems to be the case, this is extremely harmful and creates a credibility gap for the Administration. We should as a result, tell Congress like it is, that the LOS negotiations are difficult and protracted, we cannot say precisely when we will sign a treaty, but as long

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as we are making good progress toward a treaty we will strongly oppose unilateral action such as the 200-mile fishing bill.

In the meantime we must more vigorously move both to work with the Hill in explaining our problems and in meeting our genuine interim problems without unilateral action. We must particularly take more effective action to protect our coastal fish stocks during the negotiation and with an appropriate high level political initiative I believe this can be done. Similarly, our deep seabed industry has a genuine interim problem in that they want to make the investment decisions required but do not yet have a stable legal climate. We can, I believe, meet this problem in a variety of ways such as an appropriate insurance program or investment tax incentives. We should not, however, destroy the LOS negotiation by supporting unilateral action in deep seabed mining while the negotiations are making good progress. The real need is for sufficient imagination to meet genuine interim needs during the course of negotiations without sanctioning harmful unilateral action. In this respect we should take heart from the courageous Canadian action holding off extension of their fisheries jurisdiction this year.

Contingency Planning for Alternate Means of Protecting U.S. Oceans Interests:

A comprehensive law of the sea treaty is strongly in the U.S. interest and is far preferable to a pattern of unilateral claims in terms of protection of U.S. oceans interests and U.S. bilateral and multilateral political interests. Moreover, based on the present situation it seems likely that a good law of the sea treaty can be concluded within the next several years. As such, we should continue to have a strong commitment to a treaty. Nevertheless, the LOS negotiation is one of the most difficult and complex in our history and we should not ignore the possibility of Conference failure or protracted negotiations without real progress (i.e., three more years of negotiations with no progress). Under these circumstances we may wish to examine alternative policies for protecting U.S. oceans interests.

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Under such a scenario we may wish to begin deep seabed mining and to declare a 200-mile fisheries or economic zone, not as an alternative to a treaty but as an interim step until a comprehensive treaty can be concluded.

The key to a successful fallback on deep seabed mining would not seem to be unilateral U.S. action but rather at least a negotiated understanding and possibly even a treaty between the principal industrialized countries. Such an agreement would not be possible unless all of the industrialized countries agreed we had exhausted all reasonable efforts at compromise on a multilateral treaty.

With respect to a 200-mile fishing or economic zone, it is highly likely that Conference failure or protracted negotiations without real progress would result in many nations declaring a 200-mile economic zone. Under those circumstances U.S. action in declaring a carefully circumscribed zone may actually be desirable to control rampant broader claims. Once again, however, we would want to carefully coordinate our action and perhaps have it accompanied by a joint maritime power or regional nations statement concerning the protection of navigation and the parameters of such claims which would be recognized. Certain other problems could be worked out on a limited multilateral basis, the Canadian Arctic pollution claim, the salmon problem, the tuna problem, and possibly even the archipelago problem. In short, in the event of Conference failure, which does not now seem to be likely, alternative strategies would, to be most effective, need to be based on at least industrialized and maritime state cooperation rather than unilateral U.S. action. Unilateral action of the kind now being considered by the Congress is not only seriously wrong in undercutting the LOS negotiations which are the best way to protect our oceans interests, but they are simplistic even as a fallback in the event of Conference failure.

In the event of complete Conference failure we might also consider concluding a comprehensive LOS treaty with reasonable like minded states. It is not inconceivable in event of complete failure that

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we could prepare a treaty starting from the single text and negotiate a large number of signatories, including the principal industrialized nations. Through time such an agreement could attract greater support or provide the basis for the growth of customary international law.

It should be emphasized that none of these fallbacks is good, that a comprehensive treaty is much better, and that they should be considered only in the event of protracted negotiations without progress or complete Conference failure. At this writing we are moving strongly toward a good LOS Treaty in the interest of the United States and the international community as a whole and such action would be wholly inappropriate.

Conclusion:

The United States is correct in strongly pursuing a comprehensive LOS treaty. Such a treaty is the best way to protect U.S. oceans and political interests and we are making good progress toward such a treaty. Nevertheless, concluding a treaty could take two more years or even longer. As such we must be prepared to stay the course and to provide strong leadership domestically and internationally to avoid unilateral action. We must also make it clear that we will not sacrifice our vital interests. And on the domestic front, we must not succumb to the temptation to tell Congress to delay for only one more session but rather we must meet the issue squarely, strongly opposing unilateral action as long as we are making good progress in the negotiations.

ccs: M - Larry Eagleburger
C - Helmut Sonnenfeldt
Rozanne Ridgway
L - Bernard Oxman
H - Robert McCloskey

ARA - William Rogers
S/P - Winston Lord
EUR - Arthur Hartman
EA - Philip Habib

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DEPARTMENT OF STATE

Washington, D.C. 20520

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January 28, 1976

MEMORANDUM

TO: S/AL - T. Vincent Learson
Special Representative of the
President for the Law of the Sea
Conference

FROM: D/LOS - John Norton Moore^{comm}
Deputy Special Representative of
the President for the Law of the
Sea Conference

Suggestions for Organization of the
LOS Effort

As you know, the Law of the Sea negotiation is one of the most difficult and important in the Nation's history. Despite the difficulties, however, we are on track for a comprehensive treaty which will serve well the interests of the United States and all nations. Under your leadership we will be entering the critical final phase of the negotiation this year and quite possibly next year as well. I believe that during this critical phase it is particularly important that we have the strongest possible team. It is a time to set aside differences and to work harmoniously toward a common goal. It is also a time to fully utilize the able and experienced team which has been working on these issues and to even more actively involve the concerned agencies in a common effort. The need is to forge a common goal and team which will have the confidence and dedication of all. I pledge myself to that effort.

In building the most effective team there are, I believe, a number of important points which I hope you will consider.

First, I believe that we should assign overall responsibility in Committee I (the deep seabeds) to a more senior representative, both during sessions of the Conference and in the intersessional period. The

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State Dept. Guidelines

By WHTM, NARA, Date 11/28/00

deep seabed negotiation is the most difficult remaining problem in the negotiation and in this area progress has lagged behind the negotiation as a whole. Progress or lack thereof on this issue may well control the success or failure of the Conference as a whole. As such it is critically important that we have the most effective Committee I team. I believe that assigning overall responsibility in Committee I to a more senior representative would be welcomed by agencies principally concerned with the deep seabed negotiation and would go far toward creating the needed climate of mutual cooperation and trust. If you so decide there would be a variety of senior experienced persons available to lead the Committee I team. Illustrative possibilities include Tom Clingan (formerly Deputy Assistant Secretary for Oceans), Covey Oliver (formerly an Assistant Secretary for Latin American Affairs), Richard Gardner (formerly a Deputy Assistant Secretary for International Organization Affairs), or Myres McDougal (one of the foremost international lawyers in the world) or any of the Deputy Legal Advisers or the Deputy Assistant Secretaries in the Bureau of Economic and Business Affairs.

Second, I believe there should be a single Deputy Chairman on the delegation and Task Force. It is important, as you know, that there be clear lines of responsibility and a clear understanding as to who is performing the functions of the Deputy. In addition, I believe that it is important that the Deputy Chairman as well as the Chairman should maintain general oversight of all Committees even though the Deputy Chairman would be concentrating in particular areas. This is an organization which has worked well under Ambassador Stevenson.

One of the historic problems of the Law of the Sea effort has been too great a diffusion of responsibility and authority. More than one Deputy of the Delegation or Task Force would, I believe, foster potential confusion rather than aiding management of a difficult process. This question of a single Deputy of the delegation and Task Force, clearly understood and functioning as such, is also an opportunity to meet some of the important concerns of other agencies and I am sure they would welcome your discussion of this question with them.

Third, if you believe it would be useful for me to do so, I would be pleased as the Deputy Chief of Delegation reporting directly to you to concentrate heavily during the Conference on Committee II issues. Because of the strong interrelation between the Committee II issues and the marine environmental aspects of Committee III, however, I would strongly recommend that I continue to concentrate heavily on these issues as well. The marine pollution aspects of Committee III function quite independently of the other items in Committee III (scientific research and technology transfer) and can be easily separated. The Committee II negotiations on innocent passage in the territorial sea, the contiguous zone, straits, archipelagoes, the economic zone, the continental shelf, and the high seas, on the other hand, all substantially interrelate with the Committee III marine pollution issues and cannot be effectively separated. Similarly, the Committee III marine pollution negotiations are heavily interrelated with the Committee II issues. Examples of such negotiations include the archipelago negotiations with Indonesia, the Philippines, Fiji and the Bahamas (and in a negative sense Canada), the straits passage and territorial sea passage negotiations with many nations, and the Arctic "vulnerable area" negotiations with the Soviet Union and Canada. I have been personally handling the Committee III marine pollution issues and these negotiations for the past three years and I believe it would be unwise for me to step away from them at this critical time. There might also be an advantage in having the Committee III representative be free of the marine pollution responsibility in order to focus on the difficult marine scientific research issue. Like the deep seabeds negotiation scientific research is an area where positions are still far apart and great attention is required.

Fourth, D/LOS, the office created for the Law of the Sea negotiation under the direction of the Deputy Secretary has, I believe, served well as the coordinating office for the negotiation. This conclusion is underlined by an independent study of the office by the Inspector General which concludes that D/LOS "has been effective as the action office" and that it "performed important tasks which might well have lagged under previous organizational arrangements." You might want to look at this report sent to the Acting Secretary on May 23, 1974.

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The purpose of D/LOS has been to ensure a single mechanism within State and the NSC-USC system to coordinate the State Department and Interagency LOS positions, and to serve as the principal action office for LOS issues. To the extent that D/LOS is given clear authority as the single action office on LOS issues, jurisdictional disputes can be set aside and orderly planning facilitated. If it is not used in this fashion I believe that the resulting diffusion of responsibility, whether within State or deferring to other agencies as action offices, is harmful to the effort and bypasses the check provided by the office in ensuring that the views of all bureaus and agencies will be represented. This is not to say that the officers within D/LOS should do all the work. The most effective team requires utilization of the full talents of T, L, OES, S/P, IO, ARA, E and all the bureaus and agencies. Centralization of responsibility in an office which serves you, however, facilitates more effective utilization rather than having every issue escalated as a jurisdictional problem. In short, I believe that the whole process would be more relaxed and function more effectively if D/LOS were given the responsibility as the coordinating, backstopping, and action office on LOS issues which it was intended to have.

In reinforcing D/LOS as the principal action office I think it would be particularly helpful if you would at an early time meet with members of the D/LOS staff to obtain their views of individual responsibilities and the organization which they believe would be most useful. The officers and personnel of D/LOS are among the most important assets in the LOS effort. They have labored long and hard with little recognition and I believe everything should be done to ensure their continued participation in the negotiation. This includes a number of promotions which are long overdue and which would parallel the contemplated advancement of other participants in the LOS process. I believe also that in view of the need for D/LOS to fairly serve all agencies it is important to have in D/LOS only personnel who have a broad vote of confidence from those agencies. As such, I believe that it would be useful for you to consult the other agencies before considering new personnel for D/LOS.

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In summary, at this critical time in the negotiation we must have the strongest possible team: one which utilizes the talents of the present experienced team and brings together all bureaus and agencies in a common effort. It is time to end factions which have divided and to move forward to cooperation based on mutual respect and confidence that all interests; economic, strategic, political, environmental and scientific will be fully protected. In this effort you will have my full support.

I would welcome an early opportunity to meet with you at your convenience both individually and with the staff of D/LOS to discuss these proposals and other organizational questions.

CC: The Deputy Secretary and Chairman,
the NSC Under Secretaries Committee

Under Secretary Maw

~~Cybernetic~~
~~to the Director~~

DEPARTMENT OF STATE
AMBASSADOR AT LARGE
WASHINGTON

March 5, 1976

Dear General Scowcroft:

Yesterday, I visited Mr. Braswell, Legal Counsel for the Armed Services Committee. Unfortunately, Mr. Marsh had to cancel out because of Presidential demands that were suddenly placed upon him. I had a long and frank discussion with Mr. Braswell. To state his position as simply as I can, it is as follows.

Reports have reached either him or Committee members from Department of Defense officials that the resignation of Mr. Moore and the proposed re-assignment of Admiral Morris by the Joint Chiefs endangers the Department of Defense interests in the LOS Conference. He would not identify the source of this concern.

I am not surprised at these comments. It has been reported to me that Mr. Moore and Admiral Morris jointly visited at least one Congressman, a result of which was a report back that this thought had been explicitly expressed to the Congressman.

Of course, I believe this is completely an erroneous concern because I know my teams instructions, their attitude, not to mention my own, that a Law of the Sea treaty that in any way endangers the Department of Defense vital requirements is absolutely unacceptable to them not to mention the President of the United States and the U.S. Senate.

If the White House shares Mr. Braswell's concern, I would like to make the following two recommendations:

Lt. General Brent Scowcroft
Assistant to the President for
National Security Affairs,
The White House,
Washington, D.C.

1. That Admiral Robertson, Judge Advocate General of the Navy, be appointed Deputy Special Representative of the President for the Law of the Sea Conference and work directly with me and the LOS team. Certainly it is not necessary to discuss his eminent qualifications, but I would like to mention just one. He is experienced in the Law of the Sea matters. ✓

2. Cdr. DeRocher, who has been working with the NSC Interagency Task Force on the Law of the Sea for sometime, be appointed my Administrative Assistant for the period of the Conference. As such, he would attend any meetings I am present at.

If either of the above gentlemen are deemed unavailable or unwise, I am open to any suggestions from the Department of Defense of similar qualified officials.

May I suggest that Mr. Clements, Mr. Eagleburger, and Mr. Marsh meet with you and me immediately to resolve this matter.

My schedule requires me to leave for New York on Thursday for the Group of 5 meeting on Friday and for bilaterals with the Soviet Union on Saturday. The Conference starts Monday, March 15 and an accredited list should have been mailed today, but we will hold it until Monday.

Mr. Moore's resignation must be accepted this weekend. If the White House and or the Department of Defense shares the concern expressed by Mr. Braswell, then this urgent meeting that I request is in fact an absolute necessity.

This matter must be resolved. If it cannot, then I humbly request a meeting with the President as early as possible next week, preferably Monday. That I do not agree with Mr. Braswell is really beside the point. The long delay, with all the acrimony that it has developed, has elevated this situation

- 3 -

to the point that our ability to hold together an effective and experienced team for the LOS Conference is in question. In summary, I do believe our national security is at stake by this delay. I sincerely hope I can hear from you today.

Best regards.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Vincent Learson', with a stylized flourish at the end.

T. Vincent Learson

cc: Mr. Eagleburger

[ca. 3/5/76]

DEPARTMENT OF STATE
WASHINGTON

The President
The White House

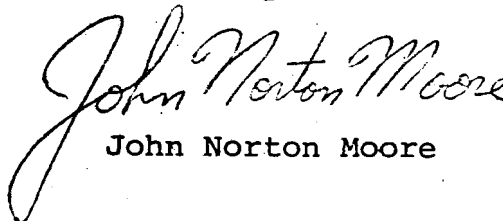
Dear Mr. President:

The Third United Nations Conference on the Law of the Sea is among the most important negotiations in the history of our Nation. I believe major progress has been made in the negotiations and that we are on track for a sound treaty in the interest of the United States and the world community.

It has been a pleasure and a privilege to have served over the past several years as the Deputy Special Representative of the President for the Law of the Sea Conference and Chairman of the National Security Council Interagency Task Force on the Law of the Sea. It is with particular regret that I submit my resignation at this time. I feel that proposed organizational arrangements, however, would make it impossible effectively to do the job for which I was appointed.

Because we are on the eve of a major session of the Conference, I am submitting my resignation, effective either immediately or following the upcoming session, whichever you prefer.

Sincerely,


John Norton Moore

Dear Mr. Moore:

I am informed that you are leaving your post as Deputy Special Representative to the Third United Nations Conference on the Law of the Sea and Deputy Chief of Delegation effectively immediately.

I deeply appreciate your valuable contribution to the Law of the Sea negotiations. Your dedicated efforts have produced substantial progress toward a successful conclusion of these negotiations, which are of such vital concern to our national interest and the international community.

Sincerely,

Gerald R. Ford

DEPARTMENT OF STATE
AMBASSADOR AT LARGE
WASHINGTON

MAR 5 1976

captured
to Denis Clift

March 5, 1976

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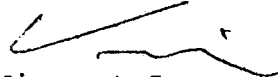


- 3 -

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Best regards.

Sincerely,



T. Vincent Learson

cc: Mr. Eagleburger

GERALD R. FORD LIBRARY

This form marks the file location of item number 4
listed on the pink Withdrawal Sheet found at the front of this folder.

March 11, 1976

Dear Senator:

This will acknowledge receipt of your letter to the President of today's date, expressing your concern over the handling of the United States' negotiations with respect to the Law of the Sea Conference.

Please be assured I shall call your letter to the President's attention at the earliest opportunity.

With kindest regards,

Sincerely,

William T. Kendall
Deputy Assistant
to the President

The Honorable Barry Goldwater
United States Senate
Washington, D. C. 20510

bcc: w/incoming to General Scowcroft for further direct reply
to the Senator - ASAP

~~bcc: w/incoming~~ to John Marsh - FYI

WTK:JEB:VO:vo



United States Senate

WASHINGTON, D.C. 20510

March 11, 1976

MP
The President
The White House
Washington, D. C.

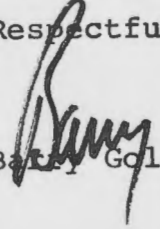
Dear Mr. President:

What is going on at the Law of the Sea negotiator's office? Some highly disturbing reports have reached me as to the handling of U.S. negotiations at the Law of the Sea conference, which if true, would seriously endanger our ability to ever reach an acceptable agreement.

Among other things, it is being said that national security and defense positions are not being understood or adequately considered, and that there is a definite lack of negotiating skill, at the top of our delegation.

Having a great concern for the success of these negotiations as a means of strengthening our chances to keep the Free World's sea lanes open, I would welcome hearing from you as to how serious this matter really is and what is being done to correct it, if the problem does exist.

Respectfully,


Barry Goldwater



March 11, 1976

MEMORANDUM FOR: DICK CHENEY

FROM: JACK MARSH

In reference to the most recent problem on the Law of the Sea, Breat reports there has been for some time an United Nations Association which apparently receives contributions, some of which have gone to support the United States Ambassador to the United Nations.

Breat advises that Learson did obtain funds from the Association for the purpose of supporting the Law of the Sea. However, when this was learned by those in authority here, such use was vetoed and it was directed that funds so received be returned to the Association which has been accomplished.

Breat did not indicate when this procedure was ascertained nor who vetoed it or when the funds were returned.

Breat expects to talk with Don about this this afternoon. I am of the view that this matter should be run by Buchen's office to be sure that the refund gets out of the woods.

JOM/dl



March 11, 1976

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JOM/dl



THE WHITE HOUSE
WASHINGTON

Date: 3-13-76

TO:

Jack Marsh

FROM: Max L. Friedersdorf

For Your Information



Please Handle _____

Please See Me _____

Comments, Please _____

Other

THE WHITE HOUSE
WASHINGTON

March 12, 1976

MEMORANDUM FOR:

BRENT SCOWCROFT

FROM:

MAX FRIEDERSDORF *M.F.*

SUBJECT:

Law of the Sea Conference

Has Admiral Max Morris been firmed up for assignment
to the Law of the Sea Conference?

3/12/76

YES


BO

MAY 13 1976

THE WHITE HOUSE

WASHINGTON

May 13, 1976

MEMORANDUM FOR: JACK MARSH
FROM: JOE JENCKES 
SUBJECT: Law of the Seas

I talked this afternoon with Dave Stang, Assistant Minority Counsel, Senate Interior Committee, who is an expert on the Law of the Seas. Joint hearings will be held on S. 713 on Monday, May 17, in Room 5110DSOB by Senate Commerce, Foreign Relations and Armed Services Committees. Interior has already completed work on this bill and that is why they are not involved on the 17th. The Departments of State, Commerce, Defense, Interior and Treasury have been invited to testify. Dave believes Richardson and Kleppe will testify but is unsure about who will testify for Treasury, State and Defense.

Pressure to oppose the bill is coming from the U.S Delegation to the U.N. Law of the Seas negotiation team -- Ambassador Learson (632-7575) -- because of concern by less developed countries.

There are definite political problems. If the Administration testifies, it is Dave's opinion that we should say the following:

1. The Administration is pleased with the progress of the Spring negotiations of the Law of the Sea Conference.
2. It is the Administration's hope that this August and September Law of the Seas negotiations will produce a treaty that the Senate can ratify.
3. However, the U.S. is concerned about its citizens' rights to mine the ocean deep-sea beds.
4. The Administration hopes that Congress will not complete final action on the bill until after the August/September meetings.

In this way, Stang believes we will avoid any political embarrassment.

cc: Mike Duval

*** See Addendum (attached)

5. If the Law of the Seas Conference fails, the Administration should urge Congress to complete action on the bill.

THE WHITE HOUSE
WASHINGTON

September 14

Mr. Marsh:

Per your request, attached
is a copy of the letter to
the President concerning
the Law of the Sea Conference.

Donna

September 13, 1976

Dear Senator:

This will acknowledge receipt and thank you for the September 9 letter to the President, in which you and 19 of your colleagues raise points of concern over treaty negotiations at the United Nations Law of the Sea Conference.

Please be assured that I shall call your letter promptly to the attention of the President and the appropriate advisers. I am confident your views will be studied very carefully.

With kind regards,

Sincerely,

William T. Kendall
Deputy Assistant
to the President

The Honorable Lee Metcalf
United States Senate
Washington, D.C. 20510

bcc: w/incoming to General Scowcroft for appropriate handling (xerox copy of letter sent to you 9/10)

WTK:JEB:VO:mvm

WTK letter sent to each of the 20 cosigners



9-10

JACKSON, WASH., CHAIRMAN
 PAUL J. FANNIN, ARIZ.
 CLIFFORD P. HANSEN, WYO.
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 ...HARD STONE, FLA.
 ...DALE BUMPERS, ARK.
 GRENVILLE GARSIDE, SPECIAL COUNSEL AND STAFF DIRECTOR
 WILLIAM J. VAN NESS, CHIEF COUNSEL

United States Senate

COMMITTEE ON
 INTERIOR AND INSULAR AFFAIRS
 WASHINGTON, D.C. 20510

September 9, 1976

1976 SEP 10 AM 11 23
 HAND DELIVERED
 RECEPTION AND SECURITY UNIT
 THE WHITE HOUSE
 WASHINGTON

The President
 The White House
 Washington, D. C.

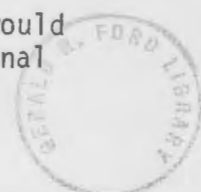
Dear Mr. President:

We are concerned by the surprising concessions made by the United States delegation in connection with the U.N. Law of the Sea treaty negotiations in New York, the "Revised Single Negotiating Text" released by the Conference May 7, which incorporates these concessions, and by subsequent adverse developments.

The overall effect appears to be to put an end to the freedom of the seas, which now permits anyone to mine the "nodules" of the deep seabed and instead substitute stringent controls by a complex international bureaucracy. The Interior Department has told Congress that within 15 years our mining of seabed minerals could make the United States wholly independent of foreign sources of copper, cobalt, and nickel, and reduce our dependence on manganese from its present 100 percent to less than 25 percent. These hopes would be dashed if the language of the "Revised Single Negotiating Text" were to become treaty law.

The proposed controls would be keyed to the demand for nickel, but they would affect production of all minerals. The proposed International Seabed Resources Authority could regulate prices so as to stabilize markets for the benefit of foreign on-shore producers. The Authority would have power to borrow money, presumably from governments, or the Authority could levy whatever assessments it would choose on the United States and other governments to meet expenses. It could impose profit sharing or royalties, high enough to provide funds to compensate mineral-producing countries for any adverse economic effects of the new competition. (An analogy would be an agreement by the United States to pay the OPEC countries compensation to the extent that we become self-sufficient in petroleum.)

A further facet of this proposal provides that the ocean miner must discover and offer two mine sites to the Authority, free. The Authority would keep one, to be mined by its "Enterprise." This would be a supra-national "State"-owned mining company, a free beneficiary of the miner's heavy



September 9, 1976
The President
Page two

prospecting expense, and free of all production controls. The Authority would thus be both the regulator of private miners, and through its "Enterprise", their privileged competitor.

It would be hard to imagine a scheme better designed to throttle free-enterprise competition, keep minerals in short supply and high in price, and generally thwart the interests of American consumers.

American industry has testified that it could not invest or borrow the hundreds of millions required to put its well-tested technology into commercial production mining the ocean floor faced with these political risks.

The U.N. Conference on the Law of the Sea resumed August 2 in New York. Should the "Revised Single Negotiating Text" become treaty law, the United States would be confronted by a maritime OPEC, controlling production of the last reserve of hard minerals freely available to us. Attitudes of less developed nations seem to have become daily more belligerent.

We respectfully suggest that it would be appropriate for you to direct the U.S. delegation to the Law of the Sea Conference, that the United States will not sign a treaty which would create any cartels, governmental or private, which would unreasonably limit our existing access to these resources; and that our country will not agree to the exercise of production controls, price-fixing, or restrictions on competition, or to the imposition of discriminatory financial terms which unreasonably increase costs of the sea's minerals to the world's consumers.

We believe, Mr. President, that a treaty incorporating the provisions of the "Revised Single Negotiating Text", would have very great difficulty in obtaining the Senate's advice and consent to ratification.

Respectfully,

20

1. Lee Metcalf



September 9, 1976
The President
Page two

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Respectfully,

20

1. Lee Metcalf



RL

Senate

1S Senators Metcalf, Fannin, Hruska, Laxalt, Buckley, McClure, Helms, Garn, Case, Goldwater, Thurmond, Brock, Domenici, Stevens, Bartlett, Bellmon, Johnston, Moss, Cannon and Stone

called
9/13/76
at 8:45 a.m.

Send detailed letter expressing surprise over the concession made by the U.S. delegation in connection with the U.N. Law of the Sea Conference treaty negotiations and by subsequent adverse developments. Say the treaty as it stands now "would have very great difficulty in obtaining the Senate's advice and consent to ratification."

2S Charles Mathias Sends detailed letter about the Federal Pay Agents' wage plan submitted to the President on August 25. Believes it is unfair and that there should be a re-evaluation of "the way in which the Bureau of Labor Statistics surveys the private sector." Also recommends that the President "reconsider the August 25 recommendations of your Pay Agents and give careful attention to the alternative recommendations now before you, which you have discretion to adopt."

3S Frank Church Urges relief for the sugarbeet growers in Idaho through an increase in tariffs and a lowering of the import quotas for foreign sugar.

4S Wendell Ford Requests greetings for Mrs. Dora Reese Beatly on her 100th birthday September 16.

5S Herman Talmadge Requests message for the Butler High School Marine Corps Junior ROTC Unit, which has won the National Championship and will be honored on October 1.

6S Hugh Scott Sends suggestions regarding the debates.