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MEMORANDUM

THE WHITE HOUSE

WASHINGTON

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July 7, 1969

MEMORANDUM FOR DR. KISSINGER

FROM: Robert E. Osgood ROO

SUBJECT: Secretary of Defense Laird's request for a NSSM
on the law of the sea treaty and related issues (Tab C)

Secretary of Defense Laird has requested the preparation of a NSSM "on an expedited basis" in order to determine the Government's priorities concerning the law of the sea treaty and (1) resolution of the Peruvian fishing-rights dispute, (2) UN discussions on the definition of the continental shelf in a seabeds treaty, and (3) negotiations in the ENDC on a seabeds arms control agreement.

In responding to the Secretary's request you should bear in mind a difference of urgency and status among these several issues. All of them, however, could be dealt with more appropriately in the Under Secretaries Committee than in a NSSM.

1. Peru, Ecuador, and Chile have confidentially agreed with the U.S. to submit the fishing-rights dispute to a conference to take place in about three weeks. Meanwhile, the interdepartmental group charged with preparing for the conference will be formulating the U.S. negotiating position. It will be essential during this period to see that our negotiating position is coordinated with our policies toward the law of the sea treaty; that, in the event of a conflict between the two, U.S. policies should reflect a deliberate judgment about priorities that is acceptable to DOD as well as to the Departments of State and Interior; and that if the departments cannot agree upon policies and priorities the matter should be referred to a higher level for resolution. For assuring the attainment of these objectives, the Under Secretaries Committee is an appropriate forum, considering the operational stage of the Peruvian issue and the nature of the task of coordination.

2. Coordination of U.S. policies on the law of the sea treaty and a definition of the boundary between the deep seabeds and the continental shelf will require, first, a determination of American policy toward the latter. Evidently, existing procedures have not been able to resolve policy differences between Defense, Interior, and State on this question. The policy issue,

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however, is not so complicated or profound as to require a NSSM. Rather, the Under Secretaries Committee would be appropriate to determine the American position in the UN on a definition of the continental shelf, taking into account the possible conflicts between the definition and the U. S. position on the law of the sea treaty.

3. The possible conflict between the U. S. position on a seabeds arms control agreement and the law of the sea treaty is more tactical than substantive. It arises from the prospect that the U. S. may concede a 12-mile limit to the seabed arms control zone instead of the present 3-mile limit. This would undermine the U. S. position in favor of a 3-mile limit to territorial seas, which is our bargaining lever for attaining a suitable agreement on narrow straits in the law of the sea treaty. Since there are no substantive policy differences on these questions, the coordination of our negotiating positions should be handled by the Under Secretaries Committee.

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In order to implement these recommended actions I have attached a memorandum from you to Secretary of Defense Laird (Tab A) and a memorandum from you to Under Secretary of State Richardson (Tab B) requesting reference of these issues to the Under Secretaries Committee.

I have coordinated this recommendation with Vaky, Halperin, Sonnenfeldt, and Lynn.

RECOMMENDATION

That you sign the attached memoranda to Laird and Richardson.

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