

DECLASSIFIED
 Authority EG 12958
 By AR NARA Date 10/7/77

DECLASSIFIED
 PA/HO Department of State
 E.O. 12958, as amended
 July 12, 2005

~~CONFIDENTIAL~~

July 23, 1969

MEMORANDUM FOR AL HAIG

FROM: Bob Gogood's knowledge that HAK will get a chance to see the
 subject of the memo. The bearing will exist in the same sense as effort
SUBJECT: Law of the sea, etc. - HAK's memo to the President that the proposal of

In extension of my remarks and my memo yesterday:

1. The differences between DOD and State on the fisheries conferences, although they arise from differences of priority, now take the form of seemingly fine and esoteric points of language concerning U. S. negotiating positions at the CEP conference. In the final analysis they must be resolved by skilled draftsmen willing to reach a compromise. The chances are, this morning, about 85% that McKernan's ad hoc committee can agree to a positions paper.
2. It is doubtful that the Under Secretaries Committee can facilitate the process of agreement at this stage of the game. The delegation leaves for Buenos Aires on July 28.
3. Nonetheless, the HAK memo to Richardson has proved to be a great incentive toward compromise. All members of McKernan's committee prefer to resolve their differences in committee rather than at a higher level. All interpret the memo to mean that the formulation of negotiating positions should go to the Under Secretaries Committee only if there arise conflicts involving differences of priority that cannot be resolved in the ad hoc committee.
4. Although the delegation will leave with agreed language, the interpretation of that language in the give-and-take of the conference will inevitably raise again differences of view within the delegation.
5. Since the surveillance of the Under Secretaries Committee will at that time no longer exist, and since McKernan will be authorized to sign an agreement without the concurrence of the President or HAK, there is a real prospect that the vicissitudes of bargaining in Buenos Aires and/or compromises among the principals in Washington (who are unfamiliar with the intricacies of the issues between a law of the sea treaty and a fisheries agreement) will produce a treaty that HAK and his staff have not seen, let alone approved in terms of the criteria of HAK's memo.

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July 27, 1967

6. To guard against this possibility the easiest and most proper solution would seem to lie in my suggested memo from HAK to the Acting Executive Secretary of State.

The delegation's knowledge that HAK will get a chance to see the treaty before it is signed by McKernan will exert the same beneficial effect toward constructive compromise within our delegation that the prospect of review by the Under Secretaries Committee has exerted upon the drafting of the U. S. negotiating positions. It would greatly reduce the prospect that disagreements in Buenos Aires would have to be referred back to Washington.

If nonetheless, by some unlikely chance, HAK found himself in the position of disagreeing with State on the wisdom of McKernan's signing the treaty, he would be in a position to call the Under Secretaries Committee to resolve the difference.

The request that HAK see any agreement before it is signed seems perfectly proper and not unusual. After all, the President has a right to qualify his delegation of responsibility for signing agreements. Moreover, the request is consistent with the spirit and intention of HAK's memo to Richardson and can be regarded as a practical implementation of that memo in the absence of any meeting of the Under Secretaries Committee on the fisheries dispute.

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REO:mst