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By AR NARA Date 10/27DECLASSIFIED  
PA/HO Department of State  
E.O. 12958, as amended  
July 12, 2005

MEMORANDUM

NATIONAL SECURITY COUNCIL

~~SECRET~~INFORMATION

April 8, 1970

MEMORANDUM FOR DR. KISSINGER

FROM: Robert E. Osgood ROO

SUBJECT: Seabeds

I want to add a footnote to two aspects of the seabeds issue, in preparation for our next talk with Ehrlichman and Whitaker. Both pertain to the effect of DOD's position on U. S. commercial interests.

U. S. Commercial Interests

The "giveaway" argument against a narrow shelf boundary is not convincing, but it is the argument that has convinced Ehrlichman -- and in its simplest form. In our meeting on Tuesday, the 7th, I gave Ehrlichman a brief memorandum on the implications of the shelf boundary for U. S. commercial interest, with the thought that it would at least fill in some of the gaps left in the Interior Department's 25-minute presentation to him. I attach a copy (Tab A).

One might add to this brief some common views of why the oil industry really prefers a broad boundary. I have heard their spokesmen argue that they get better deals when they can play off one state against another in bidding for drilling rights. Others charge that oil companies have become masters at personal diplomacy and bribery. Still others believe that the oil industry is concerned about the tax on imports from beyond the boundary of national sovereignty, although oil spokesmen deny this. But only an impartial expert on the oil industry would know the accuracy of these views, and they are not essential to forming an opinion on the policy issues in any case.

An International Authority's Effect on U. S. Commerce

Whatever restrictions coastal states may impose on U. S. companies operating off their shores, there is also some indefinable prospect that an international regime would impose restrictions too. It is difficult to predict precisely how an international authority would operate, whereas

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we know how coastal states have operated -- at least in the past. Nonetheless, the following considerations may provide clues.

1. Many international organizations are inefficient and unimaginative. Some are not -- perhaps the International Civil Aviation Organization would be the closest analogue to an international sea authority, and it is quite efficient. The main question, however, is not whether such an authority would be inefficient but whether it would be discriminatory and otherwise disadvantageous from the standpoint of U.S. commercial interests. Since coastal states are capable of cutting off their economic noses to spite the U.S., one cannot rely entirely on an international authority's economic advantage in attracting U.S. exploitative industry to check discrimination. Although a multilateral organization provides some restraint against the rapacity of any particular member, a multilateral organization, like nationalistic coastal states, might be tough to deal with if it favored a particular bloc of states, baited U.S. industry, or squeezed profits unreasonably for the sake of collective economic aggrandizement.

2. Since the LDCs' recent discovery of the great wealth on the continental margins they have seen two paths toward securing what they conceive to be their just share of this wealth. One is for coastal states to stake out unilateral claims of sovereign rights. The other is to bring this wealth under control of an international regime that would redound to their benefit. Conceivably, the latter course could result in collective greed no less disadvantageous to our industry than the individual greed of coastal states.

3. Probably, oil companies can make bigger profits by dealing bilaterally with familiar governments than by dealing with an international authority.

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Thus, there is a certain element of commercial danger in an international authority. The policy questions, however, are (a) whether this danger exceeds that which would be posed by coastal states with internationally agreed sovereign rights over the whole continental margin -- which is quite unlikely, I think -- and (b) whether the danger from an international authority can be minimized.

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Several considerations have a bearing on the second question:

1. Since pressure for an international authority is building up, there may be some such authority no matter what position the U. S. takes. Already it is generally accepted that the deep seabeds seaward of the continental margins should be under an international regime. The policy question, then, is whether the U. S. can shape the nature of this authority. (Of course, there is no doubt that we could defend our margins from encroachment by any authority.)

2. If the U. S. supports a broad boundary or otherwise fails to respond to the LDCs' interests, an international authority might be organized according to an alignment of LDC's against the U. S. and other developed states.

3. If the U. S. takes the initiative in advocating an international authority, it would certainly have a dominant role in determining its charter and its mode of operating. The organization would be established on the basis of a working partnership in which the technological advancement of the U. S. would command cooperation on a basis of mutual advantage.

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