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 Authority EO 12958
 By AR NARA Date 10/77

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 E.O. 12958, as amended
 July 12, 2005

MEMORANDUM

NATIONAL SECURITY COUNCIL

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June 9, 1972

MEMORANDUM FOR MR. KISSINGER

FROM: Helmut Sonnenfeldt (Denis Chift)

SUBJECT: Report on February/March 1972 U. N. Seabed Meeting

NSDM 157 requested the Interagency Law of the Sea Task Force to submit:
 1) a report on the U. N. Seabed Committee's February/March session, and
 2) suggested instructions for the US Delegation to the July/August 1972 session.

With the memorandum at Tab A, State forwards the report of the Task Force Chairman, State's Legal Adviser Jack Stevenson, on the February/March meeting, including as an addendum a summary of the more significant bilateral discussions with other delegations during the meeting. (NOTE: As reported below, progress was slight; the suggested instructions for the July/August session are due for White House review by June 20.)

Summary

The Task Force report reveals the fluid status of negotiations at the preparatory sessions for the LOS Conference. The following are the highlights of the February/March meeting:

-- Kuwait, supported by the PRC and 12 LDC's, sought to revive the moratorium issue, which would bar commercial exploitation of the deep seabed prior to the establishment of an international regime. This proposal is to be considered at Geneva this summer.

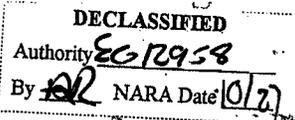
-- A majority of States continue to favor an exclusive coastal State resource zone.

-- The African/Asian/Latin American "Group of 77" introduced a list of issues for the LOS Conference agenda with a formulation of the straits and resource zone agenda items unfavorable to US interests.

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-- In bilateral discussions with the US Delegation, the Norwegians suggested the need for high level briefing on US security objectives related to free transit of straits.

Meetings of the Main Committee

Progress on substantive issues was modest, with the 91-member committee largely preoccupied with procedural problems. In its maiden address to the Main Committee, the People's Republic of China announced it would seek leadership of the "third world" against the US and USSR super-powers. The PRC also endorsed the right of all states to determine the limits of their territorial seas including the right of Latin American countries to claim 200 miles.

On the final day of the session, Kuwait, supported of 12 LDCs and the PRC proposed a decision by the Committee which would call for a moratorium on any operations aimed at commercial exploitation in the deep seabed before the establishment of an international regime. This revival of the issues inherent in the 1969 UNGA "Moratorium Resolution" came about as a result of two factors: the alarm sounded by Chile over deep-seabed dredging tests planned by a 25-company consortium in the Pacific this summer, and the interim policy Metcalf Bill (S. 2801) introduced in the US Congress which would authorize exploitation activities in the deep seabed prior to the establishment of a regime.

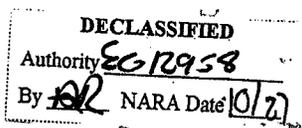
The Seabed Committee will consider the Kuwait proposal at the start of the Geneva session this summer. (The Executive Branch is avoiding comment on the Metcalf Bill at this time, having informed the Congressional Committees involved that we will wish first to see what develops at the summer Geneva Session, and that we will report again to the committees this fall.)

Sub-Committee I

Debate in Sub-Committee I on the seabed regime indicated that:

-- There is a wide difference of opinion among countries on the meaning of "common heritage," with some LDCs urging that the concept is the foundation of international community ownership of the deep seabed and its resources with activities in this area requiring authorization by the international machinery to be established.

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-- The LDCs are pushing for a strong international regime based on a one-nation/one-vote principle for decision-making within the Council (as opposed to the US proposal which would require that a majority of the six most technologically advanced states on the 18-member Council also be in favor of any proposal).

-- A majority of States continue to favor an exclusive coastal state resource zone, while the United States continues to favor an intermediate zone with a mixture of national and international jurisdiction.

A 33-member working group, with the US included, has been established to prepare draft articles on principles for a seabed regime.

Sub-Committee II

This sub-committee, charged with developing draft articles on the territorial sea, international straits and fisheries, made little progress "while manifesting the worst sort of regional bloc politics." The sub-committee debated the contents of the list of substantive issues that would form the basis for the agenda of the conference, and the African/Asian/Latin American "Group of 77" introduced a list which the US objected to because of its prejudicial formulations on straits and resource zone. Amerasinghe, the Seabed Committee Chairman, is attempting to negotiate general agreement on this list before the summer session.

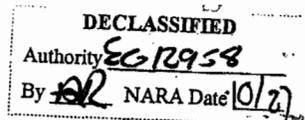
Sub-Committee III

Sub-Committee III began a general debate on the problems of marine pollution and scientific research; no drafting was begun on treaty articles; the sub-committee did, however, agree on a program of work which can be undertaken at the July/August session. (NOTE: The Law of the Sea Task Force has been directed by NSDM 157 to prepare recommended US positions on marine pollution and scientific research.)

Conclusion

As is evident from Jack Stevenson's report, the negotiating situation in the preparatory sessions for the LOS conference remains very fluid, with progress in some areas and considerable opposition to US positions on several issues. If substantial progress can be made at this summer's session of the Committee, it is probable that the UN General Assembly will decide this fall to go ahead with the LOS Conference in 1973. If,

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however, the work of the Committee continues to be hampered by regional bloc tactics and related committee procedural problems, there is the possibility that a growing number of nations may decide that the General Assembly should postpone the LOS Conference until preparations are satisfactory.

The US position is to push for convening of the conference in 1973 with a view to reaching multilateral agreements that will protect US interests on the principal LOS issues. We can expect the Task Force's recommended instructions for the US Delegation to the summer session to reflect this position. In my opinion, this will be the correct position for the US to take at the summer session. Mel Levine and Dick Kennedy concur.

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