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THE WHITE HOUSE
WASHINGTON

August 11, 1976

MR PRESIDENT:

Third UN Law of the Sea Conference
U.S. Delegation Negotiating Instructions

The attached package prepared by Brent Scowcroft was reviewed and approved by Messrs. Buchen, Cannon, Marsh and Seidman.

Jack Marsh added the following comments:

"Concur in NSDM. However, I again urge we insist on the strongest possible Law of the Sea position for the United States and particularly avoid concessions on sea bed exploration and resource development."

Jim Connor

*Approved + to NSC
9/13/76*

SECRET

August 9, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: Brent Scowcroft *BS*

SUBJECT: Third UN Law of the Sea Conference
U.S. Delegation Negotiating Instructions

Introduction

Delegates to the Third UN Conference on the Law of the Sea resumed negotiations in New York on August 2 for a seven week session that is expected to determine whether or not the Conference can be brought to a successful conclusion. If progress is made at this session, a final negotiating session plus a signing ceremony could be held in Caracas early next year. The importance of gaining rapid support for U.S. positions in the Conference is highlighted by the fact that 45 countries have now declared extended fisheries protection zones of varying types and U.S. Congressional support for unilateral seabed mining legislation is mounting. This memorandum reviews the key, unresolved issues in the context of the U.S. delegation's instructions for the current negotiating session.

Background

Some progress was made during the March-May 1976 New York session. Secretary of State Kissinger, on your instructions, delivered a speech on April 8 before the U.S. United Nations Association outlining key U.S. law of the sea positions and reminding his audience of pending seabed mining legislation. At the opening of this session, Secretary Kissinger sent a message to the President of the Conference and other Foreign Ministers emphasizing the importance the United States attaches to realizing needed progress in the current session. (He also plans to attend the current session during the week of August 30).

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KL 8/17/76

The rules and institutions to regulate deep seabed mining will again be the most contentious issue at the UN Conference. At stake is U. S. access to deep seabed nickel, copper, manganese, and cobalt, for which we are now heavily import dependent. The United States has already agreed to the creation of an unprecedented supranational International Seabed Authority (ISA) with the power to exploit seabed resources on its own through its arm the Enterprise. The Enterprise would have one seabed claim banked for its future use for every claim mined by governments or private industry. In addition, the U. S. has agreed to several measures which protect land-based producers of these minerals, including 1) a 20-25 year interim production control for seabed nickel, which we believe will have no effect on market forces; 2) ISA participation in commodity agreements for seabed minerals that are non-binding on member nations; and 3) an as yet unspecified adjustment assistance scheme.

The U. S. concessions on seabed mining have disarmed the vocal land-based producers of these minerals, but radicals in the LDC Group of 77 are expected to continue to seek total control over seabed mining by ISA, which they hope to control. In addition, several industrialized countries fear U. S. competition with their land-based or potential seabed mining capabilities (Canada, France, USSR, Japan) and will press for country quotas on available seabed mine sites. Both these attempts to limit U. S. access will be strongly resisted by U. S. negotiators.

Several other major seabed mining issues must be settled in New York before a mutually acceptable final text can emerge:

- The provisions in the current Revised Single Negotiating Text guaranteeing U. S. firms non-discriminatory access to minerals under reasonable conditions with security of tenure must be strengthened;
- In return for guaranteed access, U. S. negotiators are considering proposing a UN guaranteed loan (for which the U. S. liability would be 25%) to finance initial operations of the Enterprise;
- The U. S. will seek voting protection in ISA's executive organ (the Council) commensurate with our economic interest in seabed minerals;
- Mandatory profit sharing that will allow U. S. firms to make a reasonable profit without requiring a U. S. tax credit remains to be negotiated.

No new negotiating instructions are required at this time regarding these seabed mineral issues.

U. S. negotiators are relatively satisfied with the current status of negotiations in the committees concerned with territorial seas, strategic straits, economic zones, pollution, scientific research, and dispute settlement. Our main objective during the current New York session will be to preserve and expand the security gains that we have already made. Specifically, the Delegation will:

- clarify the nature of innocent passage through the 12-mile territorial sea;
- ensure no dilution in provisions for freedom of transit through international straits;
- resist attempts to redefine the economic zone as something other than high seas with certain resource and pollution control rights reserved for the coastal state;
- finalize provisions on navigation through archipelagos;
- consider mediating between landlocked and geographically disadvantaged states who want extensive rights in their neighbors economic zones and coastal states who are resisting the granting of such rights.
- actively oppose a provision which would grant "territories under colonial domination and other dependent territories" (such as Puerto Rico) sole rights to the resources in their economic zone;
- support compulsory and binding dispute settlement for all cases involving interpretation of treaty provisions; and
- negotiate the regulations which will govern U. S. scientific research efforts in the economic zones of other coastal states.

On this last issue of scientific research (discussed below) the NSC under Secretaries Committee is in disagreement on the U. S. negotiating position.

Negotiating Instructions for the Current New York Session.

The Acting Chairman of the NSC Under Secretaries Committee has forwarded for your consideration the memorandum at Tab B which recommends that no changes to the current negotiating instructions be made at this time. All agencies on the Under Secretaries Committee, with the exception of the Department of Interior (Tab C), agree with this recommendation.

The existing instructions to the Delegation state that the U. S. objective is to avoid requiring coastal state consent for marine scientific research in the economic zone and on the continental shelf. Fallback authority is provided which would authorize acceptance of a regime allowing the coastal state to prohibit research which does not meet certain specified criteria, or acceptance of a regime which accepts coastal state consent but states that consent must be granted when certain criteria are met.

The United States, seeking the maximum freedom for scientific research against heavy Conference pressure for coastal state control, proposed a regime which would oblige the researching state to notify the coastal state of each scientific research project and to allow coastal state participation and access to research data. Last April, the U. S. modified this position and agreed to require coastal state consent in cases when the research related directly to exploration and exploitation of resources in the coastal state's economic zone.

Developing countries did not find this U. S. concession adequate because they could not refuse scientific research projects on security grounds. The USSR thus proposed a new approach -- now included in the Single Negotiating Text -- which would require automatic coastal state consent for all scientific research in the economic zone and on the entire continental shelf unless the research 1) bears substantially on the exploration of resources, 2) involves drilling or explosives, 3) unduly interferes with coastal state economic activities in the economic zone, or 4) involves an artificial island.

The Interior Department seeks new negotiating instructions which would allow the U. S. Delegation to accept the Soviet proposal. Specifically, Interior asks authority for the U. S. to agree that:

- coastal state consent be required for continental shelf research in cases when the economic shelf extends beyond the 200-mile economic zone; and
- that undue interference with a coastal state's economic activity in its economic zone be grounds for denying consent.

Interior argues that this would protect U.S. economic interests in our economic zone against undue interference and would establish consent regulations for the entire U.S. continental shelf.

All other members of the NSC Under Secretaries Committee disagree with the Interior position. They point out that:

- our economic interests in the U.S. economic zone would be adequately protected by other treaty provisions;
- the U. S. continental shelf extending beyond 200 miles is small and generally ice covered, thus gains for the U. S. would be minimal;
- fallback authority already exists, if needed, to agree to a limited consent regime for the entire continental shelf; and
- the provision as proposed by the Soviets could serve as a loophole allowing a coastal state to deny consent for virtually any project, thus severely limiting our freedom of the seas and jeopardizing important security interests.

In my opinion, the recommendation of the majority of the NSC Under Secretaries Committee to retain the existing negotiating instructions on scientific research is sound. I have attached a proposed NSDM (Tab A) which reaffirms existing negotiating instructions.

The NSDM also re-emphasizes other basic U. S. law of the sea objectives which are embodied in existing instructions. It emphasizes that quotas which significantly limit U. S. access to seabed minerals are inconsistent with existing instructions. It also underscores the importance of maintaining maximum high sea freedoms in the economic zone, which are consistent with and necessary for freedom of navigation.

The NSDM would also retain the designation of the Chairman of the NSC Under Secretaries Committee as the focal point for conference backstopping.

RECOMMENDATION

That you approve the NSDM at Tab A providing guidance to the U. S. Delegation for the forthcoming session on the UN Law of the Sea Conference.

APPROVE _____

DISAPPROVE _____



NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20508

~~SECRET~~

National Security Decision Memorandum

TO: The Secretary of State
The Secretary of the Treasury
The Secretary of Defense
The Secretary of Interior
The Secretary of Commerce
The Chairman, NSC Under Secretaries Committee

SUBJECT: Instructions for the August-September 1976
Session of the Third United Nations Conference
on Law of the Sea

The President has reviewed the July 30, 1976 memorandum from the Acting Chairman of the NSC Under Secretaries Committee concerning instructions for the U. S. Delegation to the August-September session of the Third UN Conference on the Law of the Sea, together with the accompanying agency comments.

The President reiterates the importance of gaining broad international acceptance during the negotiations in 1976 of U.S. oceans policy positions on freedom of the high seas, unimpeded passage through and over international straits and archipelagos, access to seabed minerals, freedom of scientific research, and peaceful settlement of disputes. Subject to the consent of the senior Department of Defense representative on the Delegation, the Chairman of the U.S. Delegation is authorized to exercise existing authority on national security issues in the negotiations.

In this context, the President reaffirms the existing negotiating instructions as prescribed in NSDMS 260, 288, and 320 and concurs with the view of the Acting Chairman of the NSC Under Secretaries Committee that there is no need for change to existing instructions.

Should the Chairman of the U. S. Delegation deem it necessary to seek additional negotiating instructions during the August-September 1976 session, such requests should be forwarded for the President's consideration via the Chairman, NSC Under Secretaries Committee, who will continue to be responsible for backstopping the U. S. Law of the Sea negotiations.

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AUTHORITY RAC nuf-046-2-12-2-1 7/30/01

BY 1181 NARA DATE 11/17/09

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Upon conclusion of the August-September 1976 session, the Chairman of the U. S. Delegation is requested to submit a report to the President via the Chairman, NSC Under Secretaries Committee on the results of the negotiations.

Brent Scowcroft

cc: The Secretary of Transportation
The Director, Office of Management and Budget
Counsellor to the President for Economic Policy
The Chairman, Joint Chiefs of Staff
The Director of Central Intelligence
The Director, National Science Foundation

7616387

DEPARTMENT OF STATE
WASHINGTON

NSC UNDER SECRETARIES COMMITTEE

~~SECRET~~
NSC-U/DM-109L

July 30, 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Instructions for the August-September
Session of the Law of the Sea Conference

On June 23, 1976 you directed the Chairman of the Under Secretaries Committee to submit for your consideration any recommended changes to the current instructions to the United States Delegation for the August-September Session of the Law of the Sea Conference.

The NSC Interagency Task Force on the Law of the Sea has reviewed the existing instructions, and the Department of the Interior has raised two specific points on which they desire a change in the instructions. In general, the US has opposed any right of coastal State consent for scientific research in the economic zone or on the continental shelf. However, as a compromise, Secretary Kissinger indicated in an April 8 speech that we would accept a right of coastal State consent for scientific research in the economic zone that was directly related to the exploration and exploitation of resources, with compulsory dispute settlement procedures to settle disagreement.

The Department of the Interior feels we should accept the same compromise for scientific research related to resources of the continental shelf beyond 200 miles under coastal State jurisdiction. In

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E.O. 13526 (as amended) SEC 3.3

NSC Memo, 3/30/06, State Dept. Guidelines

By HR NARA, Date 8/27/12

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GDS

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-2-

addition, Interior feels that we should accept a provision in the revised text which allows a coastal State to refuse consent if it determines that a project may interfere with a coastal State economic activity. Interior argues on the first point that since this compromise would apply to the continental margin within 200 miles, it should also apply to the margin beyond so that we can prevent others from doing research related to resources over which we would have jurisdiction under the Law of the Sea Treaty. On the second point, Interior argues that we should have direct authority to prevent interference with our economic activities so that we can act to prevent any interference in fact.

All other Members of the Under Secretaries Committee believe we should continue to object to coastal State consent of any kind (except actual drilling) on the continental margin beyond 200 miles. It should be noted that existing authority will allow, as a fallback, acceptance of a consent right for scientific research on the continental margin beyond 200 miles for projects directly related to exploration and exploitation of shelf resources as part of an overall compromise on the issue. They believe that US scientists should have access to this scientifically important area off other coasts and that we will be little affected since most of our shelf area beyond 200 miles is ice-covered and thus not likely to be utilized scientifically. Also they believe that the requirements of notification and coastal (US) participation, which will apply, are sufficient safeguards for our resource interests. On the second point, they feel that the consent requirement for possible interference with coastal State economic activities must be deleted. They argue that interference is unlikely to happen in fact but that this could be utilized as an excuse by other States to refuse projects. The individual agency comments are attached.

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-3-

I agree with the majority of the Members of the Under Secretaries Committee that the present instructions should remain in effect and that there is no need to change our position on this issue.

The scientific research issues will be discussed at an early stage in the coming New York session and thus your decision on this matter is needed as soon as possible. If any other issues arise which require your decision, these issues, together with options and the recommendations of the Under Secretaries Committee will be forwarded to you.



Philip C. Habib
Acting Chairman

Attachments:

Marine Scientific Research
Options Paper
Individual Agency Comments

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LAW OF THE SEA: MARINE SCIENTIFIC RESEARCH

I. Background

The existing instructions to the United States Law of the Sea Delegation state that the U.S. objective is to avoid requiring coastal State consent for marine scientific research in the economic zone and on the continental shelf. Fallback authority is provided which would authorize acceptance of a regime allowing the coastal State to prohibit research which does not meet certain specified criteria, or acceptance of a regime which accepts coastal State consent but states that consent must be granted when certain criteria are met (NSDM 288, March 24, 1975).

The U.S. originally proposed that research in the economic zone should be subject to certain obligations on the researching State, including notice to the coastal State, a right for the coastal State to participate, sharing of data and results, and assistance to the coastal State in interpreting the data. We opposed a right of coastal State consent (except for drilling into the seabed), while the large majority of coastal States sought a right of consent for all scientific research. In Secretary Kissinger's April 8 speech on Law of the Sea, we agreed to a compromise which would include the U.S. obligations regime, but would also give the coastal State a right of consent for scientific research directly related to the exploration and exploitation of the natural resources of the economic zone, with compulsory dispute settlement procedures to make final determinations in case of disagreement. Negotiation of this approach bogged down in New York in part because certain coastal States insisted that it did not protect their security interests; we refused to agree to a coastal State right to deny consent on security-related grounds.

In the closing days of the spring session, the USSR informally proposed a new approach which the Bulgarian chairman of the Committee incorporated into the revised SNT despite strong U.S. objections. Under this approach, the researching State notifies the coastal State in advance of any project and is required to fulfill the obligations proposed originally by the United States. The consent of the coastal State is required for all scientific research in the economic zone and on the continental shelf, but

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E.O. 13526 (as amended) SEC 3.3
NSC Memo, 3/30/06, State Dept. Guidelines
By HR NARA, Date 8/27/12



consent shall not be withheld unless the research (1) bears substantially on the exploration for and exploitation of natural resources; (2) involves drilling or the use of explosives; (3) unduly interferes with coastal State economic activities in the economic zone; or (4) involves an artificial island or installation under coastal State jurisdiction. There is also a provision that the project can go forward if the coastal State does not respond to the notification by the researching State at least 2 months before the project is due to begin. Finally, the text provides that binding third-party dispute settlement procedures will apply to all cases of disagreement between the researching and coastal States. However, the scientific research project may not go forward while dispute settlement is underway.

II. U.S. Position

The Interagency Task Force on the Law of the Sea agrees that the United States should strongly oppose the approach in the Revised Single Negotiating Text which requires coastal State consent for all marine scientific research in the economic zone. The Delegation would work to move the scientific research regime back to the compromise set out by Secretary Kissinger which would eliminate the overall consent requirement and limit coastal State consent to scientific research oriented toward the exploration for and exploitation of resources (and a few other very specific types of research).

III. Department of the Interior Position

The Department of the Interior has raised two issues with regard to the actual implementation of the above position. First, they wish to have the consent regime apply to scientific research concerning the resources of the continental shelf under coastal State jurisdiction beyond 200 miles. Under the present position the U.S. has argued that there should be no coastal State consent beyond 200 miles (except for drilling and the use of explosives) but only notification to the coastal State and a coastal State right to participate in the project and share in the data. Second, the Department of the Interior wants to retain subparagraph 2(c) of Article 60 of the revised text which provides that the coastal State may refuse consent if the project unduly interferes with coastal State economic



activities. The U.S. has opposed this type of provision, arguing that it should be a flag State duty not to interfere but that the coastal State should not be able to stop activities based on its own determination of potential interference.

IV. Options

There are two sets of options set out below, one set for each point raised by the Department of the Interior.

A. Application of the Scientific Research Regime to the Continental Margin Beyond 200 Miles

Option 1. Accept the same scientific research regime for the entire continental shelf including the shelf beyond 200 miles under coastal State jurisdiction.

Option 2. Oppose any right of coastal State consent for scientific research beyond 200 miles except for drilling into or the use of explosives on the continental shelf under coastal State jurisdiction.

Discussion

Option 1. provides a single regime for the entire continental shelf under U.S. jurisdiction for resource purposes and would thus be considerably easier to administer. It gives the U.S. clear authority to prevent or control scientific research aimed at discovering or increasing information available to foreign governments regarding U.S. resources. It is more negotiable since the existing Continental Shelf Convention gives the coastal State a consent right for all scientific research concerning the shelf and undertaken there and since some countries assert continental shelf jurisdiction to the outer edge of the margin (the U.S. has not recognized continental shelf jurisdiction to that depth and distance).

Option 2. would significantly advance U.S. interests in marine scientific research by narrowing the area in which coastal State consent would be required. The area of continental margin beyond 200 miles off other countries is large while ours is relatively small and mostly covered with thick ice (consequently of little interest to foreign researchers). Since we have the largest marine scientific research capability in the world, we would gain considerable knowledge about foreign continental shelves and their



resources. However, we would also gain by any foreign research on our shelf beyond 200 miles since the treaty would authorize us to participate in each cruise and require that all data be shared with us. Research unrestricted by a consent requirement would provide an additional legal protection for certain U.S. research with a military end-product. Finally, this would discourage coastal States from expanding their jurisdictional claims to activities taking place on the water column beyond 200 miles.

B. Consent Requirement based on Interference with Economic Activities

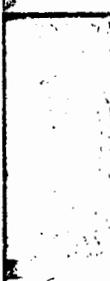
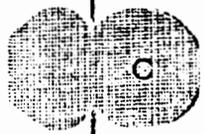
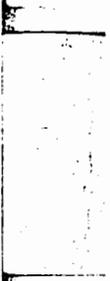
Option 1. Accept a coastal State right to deny consent if it determines that the project will interfere with a coastal State economic activity.

Option 2. Oppose such a coastal State right.

Discussion

Option 1. gives the U.S. direct authority to prevent foreign interference with U.S. economic activities including petroleum exploitation. While any U.S. action would be subject to challenge through binding third-party dispute settlement procedures, the U.S. would be able to immediately halt any project if we felt it might interfere.

Option 2. would eliminate the vague and subjective provision allowing coastal States to deny research due to its own determination of potential interference with economic activities. In practice, a coastal State could use such a provision to deny almost any project it wishes, thus undercutting the other protections for scientific research in the text. Finally, it is unlikely that any other country would use scientific research as a means of interfering with U.S. economic activities.



00878
UNDER SECRETARY OF STATE
FOR SECURITY ASSISTANCE
WASHINGTON

July 30, 1976

~~SECRET~~

TO: D - Mr. Robinson

FROM: T - Carlyle E. Maw *enter*

Law of the Sea: Marine Scientific Research

The Department of State has reviewed the Chairman, Undersecretaries Committee memorandum NSC-U/SM 137N of July 13, 1976 dealing with the Department of the Interior's proposals concerning marine scientific research in the Law of the Sea conference.

The Department believes that the United States should strongly oppose the approach in the Revised Single Negotiating Text which requires coastal state consent for all marine scientific research in the economic zone, and that this position should be pursued vigorously. The U.S. delegation should make every effort to maintain the maximum possible freedom of scientific research, and any coastal state right of consent in the economic zone should be limited to scientific research directly related to exploration and exploitation of living or non-living resources, or which involves drilling or the use of explosives, or an artificial island or installation under coastal state jurisdiction.

As regards the application of the scientific research regime to the continental margin beyond 200 miles, the Department believes the U.S. delegation should continue to oppose any right of coastal state consent for scientific research on the shelf beyond 200 miles except for drilling into it or the use of explosives. Although the Department understands the theoretical advantages of a single scientific research regime for the shelf, limitation of coastal state jurisdiction beyond 200 miles would increase the possibility that U.S. scientists could gain access to very extensive and important areas off the coasts of other nations. Such limitation on

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BY lh NARA, DATE 11/17/09

coastal state jurisdiction would also tend to diminish the likelihood of future expansion of jurisdiction by coastal states in areas beyond 200 miles. Moreover, as a practical matter a right to require consent for scientific research beyond 200 miles would, except in very limited cases, seem to offer little benefit to us in managing the resources of our own continental shelf. It should be noted that existing instructions would allow, as a fallback and as part of an overall acceptable compromise on scientific research, the following: coastal state consent for scientific research on the continental margin under coastal state jurisdiction beyond 200 miles for projects directly related to the exploration and exploitation of shelf resources.

The Department feels strongly that the language of the RSNT relating to a coastal state right of consent based on interference with economic activities is too broadly worded and must be changed. The Department, therefore, has selected option B-2. We feel that the possibility of actual and intentional interference with economic activities is remote. The RSNT provision relating to this subject is so vaguely worded that it could provide a mechanism for coastal states to deny consent to almost any research project. Furthermore, the requirement that scientific research shall be conducted with due regard to the rights and duties of the coastal state provides sufficient protection for U.S. interests on our shelf. Moreover, the obligations of the flag state to provide us with advance notification and a right to participate, and to share data regarding research on our shelf beyond 200 miles provides additional protection for our interests. Finally, if we achieve acceptance of compulsory settlement of dispute regarding scientific research our interests would be further safeguarded.

Drafted: OES/OFA: ^{MB}MBusby:bb
x23262 7-27-76

Clearances: L/OES - Mr. Leitzel
S/P - Mr. Blaney
D/LOS - Mr. Taff

L - Mr. Feldman
D/LOS - Amb. Brewster
OES - Amb. Irving



United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

JUL 21 1976

Memorandum

To: Chairman, NSC Under Secretaries Committee

From: Under Secretary of the Interior

Subject: Law of the Sea: Marine Scientific Research

The Department of the Interior has reviewed the discussion paper concerning the U.S. position at the Law of the Sea Conference on coastal State control over marine scientific research in the economic zone and on the continental shelf. Our views on this issue were elaborated in a letter to the Secretary of State from Secretary Kleppe, dated July 13, 1976 (copy attached), and remain unchanged.

With respect to the first issue raised in the subject discussion paper, the application of the scientific research regime to the continental margin beyond 200 miles, I do not believe the arguments in support of Option 1 have been sufficiently explained. The U.S. has adopted internally a firm, substantive position that the law of the sea treaty must recognize our resource jurisdiction over the entire continental shelf. We have agreed to qualify that resource jurisdiction over the shelf where it extends beyond 200 miles in only one respect--a commitment to share with the international community a portion of the revenues derived from exploitation in that area. The law of the sea convention will, in all likelihood, recognize the coastal state's right to consent to scientific research related to the resources of the economic zone and of the continental shelf within the 200-mile limit. If, as some agencies propose, that convention does not similarly recognize coastal State consent for resource-related research on the shelf beyond 200 miles, the scope of U.S. resource jurisdiction in this area will be to some degree compromised.

The Department of the Interior believes this result is inconsistent with our agreed policy of securing national resource jurisdiction over the entire shelf under a new law of the sea convention. Not only is the consent regime substantively

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desirable for resource-related research on all of the shelf within national jurisdiction, but failure to protect this interest will be very difficult to justify politically at such time as a convention is submitted to the Senate for ratification.

The subject paper, in our view, does not adequately describe the relationship of binding, third-party dispute settlement to the second issue discussed, a consent requirement based on interference with economic activities. It is understood that U.S. agreement to any coastal State consent over scientific research is conditioned upon provision for satisfactory dispute settlement procedures. Consequently, the real question raised in respect of the right to veto research which would interfere with coastal State economic jurisdiction is which entity should have the burden of invoking the dispute settlement provisions, the United States Government or the researching institution. If a situation were to arise in which planned research activities would interfere with the operation of an offshore energy facility, for example, the potential costs associated with this interference appear to justify a U.S. right to prevent such research, pending settlement of the dispute. On the other hand, the disadvantages for our scientific interests of granting the coastal State this right are substantially diminished by the availability of dispute settlement procedures.

In conclusion, I would repeat the request of Secretary Kleppe in his July 13 letter that this issue be referred to the President for decision, if the Under Secretaries Committee cannot reach agreement.

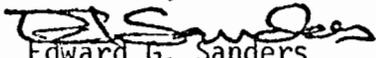
Kent Duggell



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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

JUL 30 1976

MEMORANDUM FOR: MR. CHARLES ROBINSON
Chairman, NSC Under Secretaries Committee

FROM: 
Edward G. Sanders

SUBJECT: OMB position re Interior amendments to instructions
concerning Marine Scientific Research

OMB opposes Interior's proposed amendments to the U.S. negotiating instructions concerning marine scientific research for the following reasons:

- the amendments are inconsistent with past and present U.S. positions on the principle of maximum freedom of scientific research in the economic zone and on the continental shelf;
- the amendments might restrict or complicate U.S. scientific research within large areas off foreign coasts while achieving little in return as a trade-off.

OMB recommends that the existing instructions which oppose the Revised Single Negotiating Text approach and authorize the delegation to move toward the compromise announced by Secretary Kissinger should be maintained.

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THE DEPUTY SECRETARY OF DEFENSE
WASHINGTON, D. C. 20301

30 JUL 1976

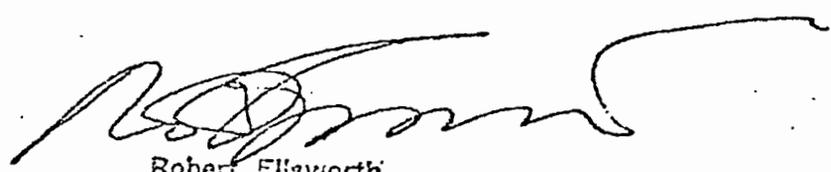
MEMORANDUM FOR THE CHAIRMAN, NSC UNDERSECRETARIES COMMITTEE,
DEPARTMENT OF STATE

SUBJECT: Law of the Sea: Marine Scientific Research (NSC-U/SM/137N)

(U) The request for change of position on marine scientific research for the U.S. Delegation to the 1976 summer session of the Law of the Sea Conference has been reviewed within the Department of Defense.

(S) The Department of Defense, in reaffirming its position for maximum freedom of marine scientific research, is opposed to the Department of Interior position on marine scientific research. Accordingly, the Department of Defense supports option 2 with respect to each of the two issues under consideration.

(S) The Chairman, Joint Chiefs of Staff, concurs in these views.


Robert Ellsworth

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AUTHORITY DoD Directive 5200.30

BY HR NARA, DATE 8/27/12

DepSecDef Ellsworth

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EXEMPT FROM GENERAL DECLASSIFICATION SCHEDULE OF
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DEPARTMENT OF THE TREASURY

WASHINGTON, D.C. 20220

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DEPUTY ASSISTANT SECRETARY

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(Derived)

July 22, 1976

Dear Mr. Robinson:

During Assistant Secretary Parsky's absence, he has asked me to respond to the paper on "Law of the Sea: Marine Scientific Research." Treasury believes that a liberal scientific research regime would be in the best interest of the United States and other nations. The economic development of the world's continental shelves depends on increasing our scientific knowledge about them and making that knowledge available to all nations. Therefore, we conclude that a restrictive scientific research regime such as that now set forth in the Revised Single Negotiating Text, would interfere with this economic development. For this reason, Treasury supports option 2.

With best wishes,

Sincerely,

J. Robert Vastine
J. Robert Vastine

Mr. Charles W. Robinson
Deputy Secretary of State
State Department
Washington, D. C.

CLASSIFIED BY State cable 66704
EXEMPT FROM GENERAL DECLASSIFICATION
SCHEDULE OF EXECUTIVE ORDER 11652
EXEMPTION CATEGORY 5(B)(3)
AUTOMATICALLY DECLASSIFIED ON upon
subclassification by State

DECLASSIFIED

E.O. 13526
Treas. Ltr. 8/22/06

~~SECRET~~

By LR TARA, Date 8/27/12





JUL 21 1976

MEMORANDUM FOR Charles W. Robinson
Chairman
NSC Under Secretaries Committee

SUBJECT: Request by the Department of Interior to
Change the Instructions Concerning Marine
Scientific Research

After careful study of the issues, the Department of Commerce has concluded that it cannot support the proposals of the Department of the Interior for changes in the instructions concerning marine scientific research. This Department strongly favors the current United States policy of seeking maximum freedom of scientific research. The Interior proposals are totally inconsistent with this policy and should not be accepted.

Specifically, Commerce opposes Interior's proposal to apply to the continental margin beyond 200 miles a regime requiring the consent of the coastal nation for marine scientific research which is resource-oriented. This Department wishes to stress that the United States has a marine scientific research capability which is second to none. We cannot accept a change in the instructions which would unnecessarily and unreasonably restrict the exercise of that capability in important areas of the foreign continental margins beyond 200 miles.

Moreover, with respect to foreign research on our own margin beyond 200 miles, we see little difficulty. The area of our continental margin beyond 200 miles is relatively small and is mostly covered with ice. We could, therefore, expect little interest on the part of other nations in that area. In any event, we would have the right to participate in and benefit from foreign research on our margin under an obligations regime. We are not persuaded by the argument that the United States should have the clear authority to prevent scientific research aimed at discovering information concerning U.S. resources. We have more to gain than we have to lose from additional information about the resources over which we have absolute control.

Also, we oppose Interior's proposal that there be a consent requirement where research might interfere with economic activities of the coastal State. Article 60, paragraph 2,

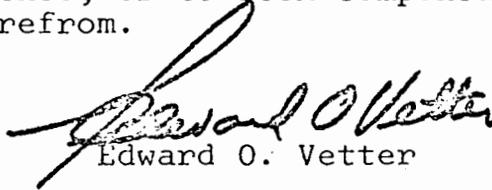
DECLASSIFIED

AUTHORITY DOC n/c PHE-2-12-7-6 7/30/87
nsc/stk/grundman
BY lwh NARA, DATE 4/17/09

~~SECRET~~

CLASSIFIED BY David J. [Signature]
SUBJECT TO GENERAL DECLASSIFICATION
SCHEDULE OF EXECUTIVE ORDER 11652
AUTOMATICALLY DOWNGRADED AT TWO YEAR
INTERVALS AND DECLASSIFIED ON
DEC 4 1984

subparagraph c, of the marine scientific research negotiating text which embodies such an approach, is totally unacceptable. As a practical matter, it could be used by foreign nations as a basis upon which to prevent virtually any sort of research. Moreover, we do not view as realistic the suggested possibility of interference by foreign States with U.S. economic activities in the zone or on the shelf beyond. In any event, under general international law, the United States would clearly have the right to take measures to prevent such interference, or to seek compensation for any damage resulting therefrom.


Edward O. Vetter

ITEM WITHDRAWAL SHEET
WITHDRAWAL ID 00882

Collection/Series/Folder ID No. : 004700258
Reason for Withdrawal : NS,National security restriction
Type of Material : MEM,Memo(s)
Creator's Name : John Barnum
Receiver's Name : Charles Robinson
Description : re marine scientific research
Creation Date : 07/20/1976
Volume (pages) : 1
Date Withdrawn : 05/23/1988

ITEM WITHDRAWAL SHEET
WITHDRAWAL ID 00883

Collection/Series/Folder ID No. : 004700258
Reason for Withdrawal : NS,National security restriction
Type of Material : MEM,Memo(s)
Creator's Name : Harold Tyler
Receiver's Name : Charles Robinson
Description : re marine scientific research
Creation Date : 07/20/1976
Volume (pages) : 3
Date Withdrawn : 05/23/1988

ITEM WITHDRAWAL SHEET
WITHDRAWAL ID 00884

Collection/Series/Folder ID No. : 004700258
Reason for Withdrawal : NS,National security restriction
Type of Material : MEM,Memo(s)
Creator's Title : Acting Deputy Director for Intelli
gence
Receiver's Name : Charles Robinson
Description : re marine scientific research
Creation Date : 07/22/1976
Volume (pages) : 1
Date Withdrawn : 05/23/1988

July 23, 1976

MEMORANDUM TO: Otho E. Eskin, Staff Director
NSC Interagency Task Force on
Law of the Sea

FROM: Michael Granfield

SUBJECT: Law of the Sea: Marine Scientific
Research

Pursuant to telephone conversation of July 22, 1976 with Mr. Chemtob of your staff, below are CIEP's written comments which were given verbally to Mr. Chemtob.

IV. Options

A. Application of the Scientific Research Regime to the Continental Margin Beyond 200 Miles

CIEP strongly supports Option 2.

B. Consent Requirement based on Interference with Economic Activities

CIEP strongly supports Option 2.



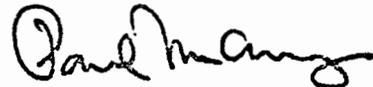
THE CHAIRMAN OF THE
COUNCIL OF ECONOMIC ADVISERS
WASHINGTON

July 21, 1976

Dear Mr. Poats:

The Council of Economic Advisers favors Option 2 on issue A and Option 2 on issue B in the July 13 memorandum on "Law of the Sea: Marine Scientific Research."

Sincerely,



Paul W. MacAvoy
Acting Chairman

Mr. Rutherford M. Poats
Acting Staff Director
NSC Under Secretaries Committee
Department of State
Washington, D. C. 20520





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

July 28, 1976

OFFICE OF THE
ADMINISTRATOR

MEMORANDUM

TO: The Chairman, NSC Interagency Task Force on the
Law of the Sea and its Executive Group

FROM: Robert J. McManus, Director, Oceans Division,
Office of International Activities (A 106) *RM*

SUBJECT: Marine Scientific Research

With respect to your memorandum of July 13, 1976, please be advised that EPA favors both Options 2.

ITEM WITHDRAWAL SHEET
WITHDRAWAL ID 00885

Collection/Series/Folder ID No. : 004700258
Reason for Withdrawal : NS,National security restriction
Type of Material : MEM,Memo(s)
Creator's Name : H. Guyford Stever
Receiver's Title : Chairman,NSC Under Secretaries Com
mittee
Description : re marine scientific research
Creation Date : 07/21/1976
Volume (pages) : 1
Date Withdrawn : 05/23/1988



DIRECTOR

~~SECRET~~

July 21, 1976

MEMORANDUM FOR: Mr. Rutherford M. Poats
Acting Chairman
Under Secretaries Committee
Department of State

FROM: James Keogh *JK*

SUBJECT: Law of the Sea: Marine
Scientific Research

REFERENCE: NSC-U/SM-137N

Regarding the first issue raised by the Department of the Interior -- application of the scientific research regime to the continental margin beyond 200 miles -- we perceive no serious public affairs problems resulting from either option. The substance of the issue does not relate to the United States Information Agency's primary activities and we will not, therefore, enter a preference for either option.

The second issue -- consent requirement based on interference with economic activities -- does have potential psychological and public affairs implications. Acceptance of Option 1 (the coastal State's right to deny consent for research if it determines that the project will interfere with that State's economic activity) raises the prospect that we could become involved in several high visibility disputes, some for legitimate economic reasons but others because the U.S. would be a convenient "whipping boy" on charges

~~SECRET~~

CLASSIFIED BY STATE/NSC-U/SM-137N 7/13/76
SUBJECT TO GENERAL DECLASSIFICATION SCHEDULE
OF EXECUTIVE ORDER 11652. AUTOMATICALLY
DOWNGRADED AT TWO-YEAR INTERVALS AND
DECLASSIFIED ON DECEMBER 31, 1984.

DECLASSIFIED

E.O. 13526 (as amended) SEC 3.3
NSC Memo, 3/30/06, State Dept. Guidelines
By HR NARA, Date 8/27/12

FOIA

of economic imperialism. It would probably be very tempting for some insecure political leaders, especially in less developed countries, to raise the specter of the U.S. "giant" further threatening the economic lifeblood of a smaller nation. Multi-national corporations have been in this position rather often. We believe U.S. interests would be best served by minimizing such problems through Option 2 (opposing a coastal State's right of consent on marine research based on interference with economic activity). This is particularly true if, as argued in the discussion, it is unlikely that any other country would use such scientific research to interfere with U.S. economic activities. It should be noted that our comments are based solely on public affairs aspects of the issue and are not intended to address technical concerns which are not within this Agency's mandate.



STAFFING

THE WHITE HOUSE
WASHINGTON

TO: BOB LINDER

FROM: TRUDY FRY

The attached is sent to you for review before it is forwarded to the President.

I plan to staff after your review.

*The reason is not clear ^{8.9.74} why the
Chr. of US Delegation must fwd requests
and the final report to the President
through the NSC Under Sec's. Cmt. RSD*

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: August 9, 1976

Time:

FOR ACTION:

cc (for information):

✓ Phil Buchen
✓ Jim Cannon

✓ Jack Marsh
✓ Bill Seidman

FROM THE STAFF SECRETARY

DUE: Date: Wednesday, Aug. 11

Time: 10 A.M.

SUBJECT:

Scowcroft memo 8/9/76 re Third UN
Law of the Sea Conference U.S. Delegation
Negotiating Instructions

ACTION REQUESTED:

___ For Necessary Action

X For Your Recommendations

___ Prepare Agenda and Brief

___ Draft Reply

X For Your Comments

___ Draft Remarks

REMARKS:

SECRET ATTACHMENT

*Marsh - see comments
Buchen - OK
Cannon (Humphreys) - OK*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Jim Connor
For the President

Date: August 9, 1976

Time:

FOR ACTION:

cc (for information):

Phil Buchen
Jim CannonJack Marsh
Bill Seidman

FROM THE STAFF SECRETARY

DUE: Date: Wednesday, Aug. 11

Time: 10 A. M.

SUBJECT:

Scowcroft memo 8/9/76 re Third UN
Law of the Sea Conference U.S. Delegation
Negotiating Instructions

ACTION REQUESTED:

 For Necessary Action For Your Recommendations Prepare Agenda and Brief Draft Reply For Your Comments Draft Remarks

REMARKS:

SECRET ATTACHMENT

Approve
Scowcroft Recommendation
RCD

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Jim Connor
For the President

Date: August 9, 1976

Time:

FOR ACTION:

cc (for information):

*See: 8/11
10:00*

Phil Buchen
Jim Cannon

Jack Marsh
Bill Seidman

FROM THE STAFF SECRETARY

DUE: Date:

Wednesday, Aug. 11

Time:

10 A.M.

SUBJECT:

Scowcroft memo 8/9/76 re Third UN
Law of the Sea Conference U.S. Delegation
Negotiating Instructions

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

SECRET ATTACHMENT

*Concern in NSDM. However, I again
urge we insist on the strongest possible LOS
position for the U.S., and particularly avoid
concessions on Sea bed exploration and
resource development.*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a
delay in submitting the required material, please
telephone the Staff Secretary immediately.

Jim Connor
For the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

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Negotiating Instructions

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

SECRET ATTACHMENT

No objection

Ed Schultz 8/10

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Jim Connor
For the President