

September 3, 1969

TALKING POINTS FOR DISCUSSION OF SEABEDS  
TREATY WITH SECRETARY LAIRD

A. It is important that we respond quickly and positively to the Soviet August 19 proposal on a seabeds treaty.

1. The Soviet draft, by focusing on denuclearization rather than demilitarization of the seabed, is a substantial move in our direction. In making this shift, they have given up a strong propaganda advantage over us.
2. The Soviet draft is in the hands of our Allies and presumably theirs; the non-aligned members of the Geneva Disarmament Committee have presumably learned of its contents; and press leaks out of Geneva have made known its general nature. Our reply is awaited eagerly in Geneva and (Bob Ellsworth has just cabled) in NATO, where discussion is to be scheduled September at Brosio's initiative.
3. The Geneva Conference was to have recessed last week. It is held in session in hopes that the US and Soviet Co-Chairmen can make rapid progress in a draft to be submitted this month.
4. It would be useful to produce a joint draft, not only for the Geneva Disarmament Conference but also for tabling in the forthcoming United Nations General Assembly--or at least be able to report substantial progress. The Geneva Conference needs evidence of success, or this forum, with its limited membership and US/Soviet control, may be challenged by the impatient and excluded majority in the United Nations. For us in the UNGA, this could represent a positive achievement in disarmament where the status of action on other matters such as chemical and biological warfare (CBW) and perhaps even SALT will be equivocal. The President is on public record in his July 3 message to the Geneva Conference where he called for priority

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for the Seabeds Treaty and said that "our goal should be to present a sound seabed arms control measure to the 24th General Assembly of the United Nations."

5. Failure to respond in a prompt and business-like way to the very forthcoming Soviet proposal could lead them to reconsider their acceptance of our narrow seabeds approach and return to their propagandistically rewarding stance of pressing for complete demilitarization of the seabed. Other countries in Geneva and at the UN can be expected to press for still stricter verification provisions.

B. The key is acceptance of a 12-mile zone as the negotiating basis.

1. Soviet insistence on a 12-mile zone (which is the width of the territorial sea we and they seek in general Law of the Sea negotiations, and the width they now claim) matches the views of most of our Allies and of the Geneva Committee members, who strongly prefer a 12-mile zone to a 3-mile zone. Indeed the 3-mile zone appears on the record to date to be non-negotiable, and it seems unlikely that any other number than 12 could be the basis for a consensus.
2. We understand and have reflected on the Defense argument that abandoning our 3-mile proposal now would weaken U.S. efforts to assure free passage through straits for ships and aircraft in Law of the Sea negotiations. But the 12-mile zone here is related to a special arms control purpose, and both the U.S. and Soviet drafts have sweeping disclaimer provisions. Sticking rigidly to a 3-mile proposal here might slow down our efforts on a Law of the Sea agreement and hamper US/Soviet cooperation. It is significant

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in this regard that the Soviets have just come in with an Aide Memoire on August 28 calling for US-Soviet cooperative efforts looking to a Law of the Sea Convention on bases satisfactory to us. The State Department Legal Adviser believes that a 12-mile zone here would not prejudice our broader Law of the Sea efforts. (His views are expanded more fully in the inclosed memorandum.)

3. As a result of a memorandum by Secretary Laird on July 1, Henry Kissinger on July 12 asked the Under Secretaries Committee to see that US negotiating positions on the 3 and 12 mile limits in the Law of the Sea Convention and the seabeds treaty be coordinated. As these two matters now stand, the most effective way to achieve such coordination in a timely manner is directly among Defense, State and ACDA as the agencies principally concerned.

C. A number of other points need not be settled at the Secretary level. We need to move quickly however, and to recognize that what is involved is not just being tough in negotiations with the Soviets; they have adopted positions, where they differ from our draft, which will have wide support among our Allies as well as theirs and the non-aligned. The US will bargain as long and as hard as necessary to protect substantial US national security interests-- but we must be sure when we stand on positions receiving little support that there are indeed valid national security reasons for doing so.

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1. The Soviets, in relinquishing their treaty draft prohibiting all military activities on the seabed, propose a preamble calling for continued negotiations to this end. We would take the sting out of this by putting such negotiations in the context of general and complete disarmament--but they will have wide support for their position; and we should recognize that they need some reference to their previous position as a face-saver.
2. They have asked that the term "fixed" be omitted in characterizing the facilities to be prohibited, but will join us in making a legislative history that submarines are not affected. We cannot expect much support for an effort to restore "fixed", or to create a negotiating history that "bottom crawlers" are permitted.
3. They have substituted a "right of verification" for our "right of observation", pointing out that most states who have gone on record have urged movement in this direction. Their language guards against interference with underseas activities, and they concede that access to such facilities would not be permitted. We will not have much support for arguing against the word "verification", particularly when so narrowly defined.
4. A difficult problem will be dealing with Soviet claims to historical waters, and devising a proper treatment in the treaty.

D. In sum, we need by the end of this week to authorize Ambassador Leonard in Geneva and Ambassador Ellsworth at NATO to indicate that we are prepared to negotiate in a

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"give and take" spirit with the Soviets, in an effort to work out a draft seabed treaty for this session of the Geneva Disarmament Committee and for tabling at the United Nations General Assembly this fall, if possible. We should be prepared to say we will negotiate on the basis of a 12-mile zone. Other matters on which State-Defense-ACDA agreement is not at hand should be worked out just as quickly as possible. Hopefully, Secretaries Rogers and Laird might report agreement on the above line to the President, get out such instructions by the end of this week, and charge State-Defense-ACDA staffs with working out remaining matters on a priority basis.

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