



INTERNATIONAL SECURITY AFFAIRS

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ASSISTANT SECRETARY OF DEFENSE  
WASHINGTON, D. C. 20301

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11 September 1969

In reply refer to:  
I-24613/69

MEMORANDUM FOR THE SECRETARY OF DEFENSE

SUBJECT: Seabed Proposal

My staff and the General Counsel's office have worked with the Department of State and ACDA to prepare a response to the Soviet draft treaty on the seabeds. In these consultations we have taken into account the views of the Joint Chiefs of Staff as expressed in JCSM-534-69 of 28 August 1969 (Tab A).

We have participated in preparation of a new draft treaty (Tab B) based on the recent decision made at the highest level to accept the principle of a 12 mile coastal zone while at the same time protecting defense interests in the law of the sea. We have also helped draft an explanatory telegram (Tab C) for use in consultations with NATO allies. We have received the views of the Joint Chiefs of Staff (Tab D) on these new drafts.

In implementation of the White House decision, the new draft treaty describes the coastal zone as being coterminous with the contiguous zone provided in the 1958 Geneva Convention on the Territorial Sea and Contiguous Zone. According to the Geneva Convention this zone may not exceed 12 miles. It is a helpful formula for disguising the 12 mile feature since the US has always taken the view that the contiguous zone in the Geneva Convention is a nine mile zone contiguous to a three mile territorial sea. Although the JCS are still concerned that any formulation of a 12 mile limit in a seabed arms control treaty would prejudice our position on the law of the sea, they agree that the contiguous zone concept is an effort to satisfy their concern on this score and suggest no other formulation which would better protect DOD interests and be within the perimeters of the White House decision.

There are two points on which the Joint Chiefs still hold serious reservations. They believe that the treaty should prohibit only "fixed" weapon installations, thereby allowing various bottom-crawling systems. State and ACDA think that the purpose of the treaty requires exclusion of all mass destruction weapons except submarines; they are willing to accept the term "submersible" and we believe this provides sufficient flexibility to cover any device except one which is continuously in contact with the bottom.

The Joint Chiefs of Staff are also concerned over the implications of the term "right to verify", believing that this might be interpreted to imply right of access and an obligation on our part to disclose our activities and assist other nations in their efforts to verify. The Chiefs would

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declassification  
subject to STATE

concurrency.

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prefer to use the term "right to observe". State and ACDA have accepted that the negotiating history should define "right to verify" as meaning no more than the US concept of non-interfering "right to observe". It would also be clear in the negotiating history that no obligation to disclose or assist is implied. We believe this negotiating history affords adequate protection for defense interests.

We expect that the North Atlantic Council will meet tomorrow, expecting a presentation on the United States response to the Soviet proposal. I believe we should concur in the new US draft treaty and the explanatory comments (Tabs B and C).

I recommend that you sign the attached memo for the Chairman of the Joint Chiefs of Staff.

*William J. Foster*

4 Tabs:

- A - JCSM-534-69, dtd 28 Aug 69
- B - Proposed US Draft Treaty
- C - Draft Message, dtd 6 Sep 69
- D - JCSM-564-69, dtd 10 Sep 69

Coordination:

OGC(IA) - Mr. Forman concurs

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THE SECRETARY OF DEFENSE  
WASHINGTON, D.C. 20301

11 September 1969

MEMORANDUM FOR THE CHAIRMAN, JOINT CHIEFS OF STAFF

SUBJECT: Seabed Proposal

Thank you for your memorandum of 10 September (JCSM-564-69) providing the views of the Joint Chiefs of Staff concerning the proposed new United States draft treaty on the seabeds and proposed explanatory comments to be used in consultations with NATO allies.

I appreciate the reservations expressed by the Joint Chiefs of Staff; however, I believe defense interests can be adequately protected within the context of the proposed treaty, which was attached as Tab A to Mr. Ware's memorandum to you of 9 September 1969, provided that the negotiating history reflects clearly the points outlined in our explanatory comments.

As you know, DOD has been vigorously pursuing the US/USSR initiative on law of the sea and we will continue to do so. However, in view of the recent decision made at the highest level, I believe the definition of the coastal zone in terms of the contiguous zone described in the 1958 Geneva Convention on the Territorial Sea and the Contiguous Zone will not unacceptably degrade that effort.

With respect to the types of weapon systems which would be prohibited, our explanatory comments would indicate that only those systems which are by design required to remain continuously in contact with the surface of the seabed would be prohibited. We want to retain maximum flexibility to exploit our technological advantages and I believe the term "submersibles" provides such flexibility.

The concern of the Joint Chiefs of Staff over the possible implications of the term "right to verify" is valid. However, in the context of arms limitations, neither of the terms "verify" or "observe" can be considered to have an accepted definition. Therefore, careful attention to the negotiating history can preclude interpretations which might imply right of access or any obligation to disclose or assist.

In view of the foregoing considerations, I intend to concur in the draft treaty and the explanatory comments as set forth in the drafts attached to Mr. Ware's memorandum of 9 September (I-24541/69). I intend to monitor carefully the progress of negotiations on this proposed treaty and to consult with the Joint Chiefs of Staff on all issues of concern to the Department of Defense.

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