OUTGOING TELEGRAM

Department of State

ACTION: US Mission GENEVA IMMEDIATE
        US Mission NATO IMMEDIATE
        Ambassadors TOKYO IMMEDIATE

INFO: USUN NEW YORK PRIORITY
        Ambassadors MOSCOW PRIORITY
        ALL NATO CAPITALS PRIORITY

STATE

DISTO/LIMDIS

SUBJECT: Seabed Treaty

REF: GENEVA's 3531 of 3-5

You should seek meeting with Soviet Co-Chairman October 3
to make following presentation:

1. We appreciate prompt Soviet response to proposals made
by us on September 15 and we share objective of tabling Co-Chairmen
draft treaty to CCD at earliest possible moment. Subject to
concurrence by our allies and final Co-Chairman agreement on
remaining differences we would hope to table such draft on
October 7. We also appreciate that Soviet side does not
object to our understanding of Articles I and III (paragraphs I-D
and E reftel)
2. Our proposal presented to Soviet Co-Chairman Sept. 15 was designed to assure equitable balance of obligations and we continue to believe that any effective and durable arms control measure must reflect this key provision of 1961 Joint Statement of Principles.

3. We believe formulation suggested by Soviet Co-Chairman on Oct 2 for paragraph 1 of Art II is ambiguous in its reference to "outer limit" and failure to mention baselines. Having in mind the provision of paragraph 2 of XXXX this article (on which we believe there already is agreement) we would suggest formulation as follows: "For the purpose of this Treaty the outer limit of the contiguous Zone referred to in Article I shall be measured from baselines drawn as specified in the 1958 Geneva convention on the Territorial Sea and the Contiguous Zone and in accordance with international law." The formulation is designed...
to facilitate international agreement on a significant arms control measure which would be responsive to Article VI of the NPT, but which would not prejudice the existing rights or claims of potential parties to a seabeds treaty with respect to waters whose juridical status in international law is in dispute.

4. As Soviet Government is aware, US does not accept claims asserted by Soviet spokesmen or writers in past regarding marginal waters off Soviet coasts. Thus we are adopting the provisions of the Geneva Convention as the basis for drawing baselines for the purposes of this treaty, with the understanding that, where there is any question as to how that Convention should be applied, or as to situations that are not clearly covered by that Convention, including disputed waters of any description such as waters claimed on the basis of so-called "historic title" or under an archipelago theory of baselines, the baselines shall be drawn in accordance with international law. We will use baselines drawn in this manner to determine the area in which the treaty applies, and to govern our behavior under the treaty. If other
parties act inconsistently with the treaty as so understood and if consultations between the parties concerned are unavailing, US might have to go so far as recourse to withdrawal from the treaty.

5. We have carefully noted Co-Chairman statement that Soviet Government does not contemplate making statement that USSR would not violate purposes of treaty to seabed underlying disputed waters. US Government 
believes that it would/better to 
not make such statement if no statements are made affecting the coverage of seabeds with respect to disputed waters, because such statements would require counter-statements.

6. Regarding Soviet objection to our emission of preambular reference to further negotiations on complete demilitarization of seabed, you should say US does not envision possibility of negotiating such an agreement except in context of GCD. You authorized accept Oct 2 suggestion of Co-Chairman (para C Geneva 3531) on additional preambular paragraph covering this point or to suggest combining it with third para of US Sept. 15 proposal as follows:
ACTION:

"Convinced that this treaty constitutes a step towards the exclusion of the seabed, the ocean floor and the subsoil thereof from the arms race, pursuant to a treaty on general and complete disarmament under strict and effective international control, and determined to continue negotiations to this end."

7. US prefers not to delete para 2 of Art I in US draft in earlier US and Soviet drafts, since it clarifies ambiguity. US, however, prepared to table Co-Chairmen draft without this provision to expedite tabling and consideration of treaty draft this or some similar by other CCD members, with understanding that provision can be reintroduced, if desired, during later stage of negotiations.

8. Regarding point raised informally in paragraph 3 of Geneva 3329, you may say, if it is raised again, that emplacement or implanting of nuclear mines on seabed would be prohibited.

9. After making above presentation you should inform Western Five plus Japan of presentation and, in your discretion, initial Soviet reaction. You should inform allies that we believe that..."

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Drafted by:          Tel. Ext. Telegraphic transmission and classification approved by:

Clearance:
our position is consistent with what we believe represents interests of our allies and assume that if Soviets agree to table treaty seabeds on basis of our compromise suggestions, there will be no objection. We plan NAC consultation on Oct. 6 and would appreciate expression Japanese views through Japanese CCD del.

10. FOR USNATO: You should circulate letter on Oct. 3 drawing on above and Geneva ref tel for your presentation. You should also propose special NAC meeting on Oct. 6 at which time we would like "green light" to table draft at CCD if Soviets agree to our proposal for resolving remaining differences over formulation of para 1 of Art II. You should say we have had difficulty in reaching decision over problem presented by claims of various states, including USSR, to marginal waters which US regards as high seas. We believe that formulation suggested by us is most consistent with disclaimer clause (para 2 of Art II) and therefore should be acceptable to our allies.
Per para 7 above, although we prefer retain Art I, para 2 in
order provide explicit coverage of points discussed paras
1-F and 2 ref tel, we prepared accept deletion this paragraph
with understanding these points implicitly covered under
Art I, and under proviso Soviets prepared be receptive
suggestions for meeting these points if others wish pursue
matter in CCD.

11. We regret necessity for requesting special NAC meeting to deal
with draft seabeds treaty but believe it desirable to table draft
as soon as possible to permit next stage of negotiation to start
within CCD which has been standing by almost one month beyond
normal adjournment time in anticipation of Co-Chairmen
agreement.

12. FOR TOKYO: You should fill in Fonoff soonest on
above and say we hope GOJ will not object to our tabling draft
treaty at CCD if Co-Chairmen agreement reached.

END

[Classified]

[Classification]

[Classification]

[Classification]
12. NATO CAPITALS: You should draw on above in explaining Fonoff
US position to appropriate/officials to facilitate their in-
structing NATO dels for October 6 special NAC.

GP-3

END

RICHARDSON

SECRET/LIMITED

DECLASSIFIED
PA/HO Department of State
E.O. 12958, as amended
August 6, 2007