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 TAGS: PLOS

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SUBJECT: DRAFT OF OUTER BOUNDARY OF CONTINENTAL MARGIN PER TEECON, FOLLOWING IS DRAFT PREPARED BY EXPERTS FROM AUSTRALIA, CANADA, NORWAY AND UK ON SUBJECT OF OUTER BOUNDARY OF CONTINENTAL MARGIN:
 QUOTE

1. FOR THE PURPOSE OF THIS CONVENTION, THE CONTINENTAL SHELF OF A COASTAL STATE EXTENDS BEYOND ITS TERRITORIAL SEA TO A DISTANCE OF 200 MILES FROM THE APPLICABLE BASELINES AND THROUGHOUT THE NATURAL PROLONGATION EXTENDS BEYOND 200 MILES UP TO THE OUTER EDGE OF THE CONTINENTAL MARGIN.
2. THE COASTAL STATE SHALL DELIMIT THE SEAWARD BOUNDRY OF ITS CONTINENTAL MARGIN BEYOND 200 MILES BY STRAIGHT LINES NOT EXCEEDING 60 NAUTICAL MILES IN LENGTH, CONNECTING FIXED POINTS WHICH SHALL BE DEFINED BY COORDINATES OF LATITUDE AND LONGITUDE.
3. THE COASTAL STATE SHALL SUBMIT THE GEODETIC DESCRIPTION OF THE SEAWARD BOUNDARY BEYOND 200 MILES, TOGETHER WITH LARGE-SCALE SHARTS AND SUPPORTING DATA, INCLUDING BATHYMETRIC, GEOLOGICAL OR GEOPHYSICAL DATA, TO THE INTERNATIONAL SEABED BOUNDARY REVIEW COMMISSION ESTABLISHED PURSUANT TO ARTICLE --- WITHIN FIVE YEARS OF THE ENTRY INTO FORCE OF THIS CONVENTION FOR THAT STATE.
4. THE COMMISSION SHALL EXAMINE THE DETERMINATION BY A STATE OF THE OUTER BOUNDARY OF ITS CONTINENTAL SHELF BEYOND 200 MILES WITH A VIEW TO DECLARING ITS CONFORMITY WITH THE CONVENTION. IN ITS EXAMINATION OF A BOUNDARY DETERMINATION, THE COMMISSION SHALL TAKE AS A BASIS THAT DATA SUBMITTED BY THE STATE. THESE DATA MAY INCLUDE BUT ARE NOT LIMITED TO BATHYMETRIC, GEOLOGICAL AND GEO-

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PHYSICAL DATA, WHATEVER IS APPROPRIATE.

5. WITHIN 90 DAYS OF THE RECEIPT OF THE DETERMINATION BY A STATE, THE COMMISSION SHALL NOTIFY THE STATE THAT EITHER IT:

- (A) ACCEPTS THE DETERMINATION IN FULL OR IN PART, OR
- (B) REJECTS THE DETERMINATION.

6. THE CONFIRMATION OF A SEAWARD BOUNDARY BY THE COMMISSION SHALL BE IRREVOCABLE.

7. IN THE EVENT THAT THE COMMISSION ONLY ACCEPTS THE DETERMINATION IN PART, OR REJECTS THE DETERMINATION, NEGOTIATIONS BETWEEN THE COMMISSION AND THE STATE MAY BE OPENED WITH THE OBJECT OF REACHING AN AGREED DETERMINATION.

8. THE COMMISSION IN ITS EXAMINATION OF THE DETERMINATION SUBMITTED BY A STATE WILL, SUBJECT TO THE PROVISIONS OF PARAGRAPH 1, TAKE AS A BASIS THE FOLLOWING:

- (A) THE OUTER EDGE OF THE CONTINENTAL MARGIN IS THE SEAWARD EDGE OF THE SUBMERGED PROLONGATION OF THE ROCKS OF THE LAND MASS.
- (B) THE CONTINENTAL MARGIN INCLUDES THE ROCKS UNDERLYING THE PHYSIOGRAPHIC CONTINENTAL SHELF, UNDERLYING THE CONTINENTAL SLOPE, AND UNDERLYING THE CONTINENTAL RISE.
- (C) THE ROCKS OF THE DPPE OCEAN FLOOR INCLUDING THE SEDIMENTS OF THE DEEP OCEAN FLOOR ARE NOT PART OF THE CONTINENTAL MARGIN. UNQUOTEDALE

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PAGE 01

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R 151310Z APR 75
 FM USMISSION GENEVA
 TO RUEHC/SECSTATE WASHDC 2079
 INFO RUEHDT/USMISSION USUN NEW YORK 1573
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*Geneva
 Committees
 I, II & III
 Many Countries*

BT
 CONFIDENTIAL SECTION 1 OF 2 GENEVA 2588
 DEPT PASS ALL DIPLOMATIC POSTS EXCEPT GENEVA, USUN
 AND USIA
 FROM USDEL LOS
 E.O. 11652: GDS

TAGS: PLOS
 SUBJ: LOS: CLASSIFIED MID-SESSION SUMMARY FOR ENDING
 APRIL 10

57

1. SUMMARY: THIS CABLE SHOULD BE READ IN CONNECTION WITH THE ACCOMPANYING UNCLASSIFIED SUMMARY. CLASSIFIED PART OF THE REPORT WILL BE CONFINED TO AN ASSESSMENT OF PRINCIPAL TRENDS IN THE NEGOTIATION, OUTSTANDING DIFFERENCES, AND PROSPECTS FOR THE REMAINDER OF THE SESSION. IN BOTH COMMITTEE I AND COMMITTEE II THE NEXT WEEK OR TEN DAYS ARE LIKELY TO BE THE CRITICAL MOMENTS OF THE CONFERENCE IN DETERMINING WHETHER OR NOT GENERAL AGREEMENT IS POSSIBLE ON REASONABLE PERCENTAGE OF BASIC DIFFERENCES WHICH WILL PERMIT THE EMERGENCE AT THIS SESSION OF SINGLE TEXTS AT THE COMMITTEE LEVEL ON ESSENTIAL ELEMENTS OF THE PACKAGE. SUCH A RESULT WOULD IN JUDGMENT OF USDEL REPRESENT AN ACCEPTABLE AND INDEED OPTIMUM MEASURE OF SUBSTANTIAL PROGRESS. WHILE THERE IS OBVIOUSLY A GENERAL WILL TO MAKE SUFFICIENT PROGRESS TO SUPPORT A FURTHER FINAL EFFORT, THERE REMAIN A NUMBER OF ISSUES ON WHICH FUNDAMENTAL DIFFERENCES EXIST, AND THE POSSIBILITY THAT THOSE STATES WHICH FORESEE NO SUBSTANTIAL BENEFITS FROM THE MAIN TREND OF THE NEGOTIATION WILL EXERCISE THEIR POWERS TO DELAY AND OBSTRUCT THOSE AGREEMENTS WHICH ARE WITHIN THE REALM OF ATTAINMENT.

A. COMMITTEES: COMMITTEE I PAPER ON BASIC CONDITIONS PRESENTED BY THE WORKING GROUP CHAIRMAN OF C-I, WHILE GROUP OF 77 ORIENTED, DOES, HOWEVER, MAKE CERTAIN MOVES TOWARD THE FUNDAMENTAL NEEDS OF DEVELOPED COUNTRIES

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AND IF LDC'S PROVE PREPARED GENUINELY TO NEGOTIATE ON ITS BASIS COULD PRODUCE AGREED TEXT ON BASIC CONDITIONS AND OTHER PARTS OF COMMITTEE I PACKAGE. ON COMMITTEE II ISSUES, THE KEY PROBLEM IS HOW AND WHEN THE CAREFULLY BALANCED ARTICLES ON THE ECONOMIC ZONE AGREED UPON IN THE EVENSEN GROUP WILL BE INTRODUCED IN COMMITTEE II AND WHETHER OR NOT THEY CAN BE RECONCILED INTO A SINGLE COMMITTEE TEXT WITHOUT DISTORTION BY THE ESSENTIALLY COASTAL-LANDLOCKED ACCOMMODATION REFLECTED IN NJENGA DRAFT EXT.

B. OTHER CONFERENCE CONCERNS: INCONCLUSIVE CORRIDOR CONVERSATION CONTINUES WITH REGARD TO TIMING AND LOCATION OF SUBSEQUENT SESSION OR SESSIONS. US IS NOT ENCOURAGING SUCH SPECULATION AT THIS TIME. DURING PAST WEEK GROUP OF 77 HAD BEEN CONSIDERING A NEW MORATORIUM RESOLUTION; HOWEVER, ON FRIDAY THE CONFERENCE PRESIDENT ADVISED CHAIRMAN OF THE GROUP OF 77 THAT HE WOULD CONSIDER SUCH AN EFFORT OUT OF ORDER AND THE GROUP, AFTER SOME DISCUSSION, AT LEAST FOR THE MOMENT, HAS AGREED TO SUSPEND DISCUSSION. END SUMMARY.

2. COMMITTEE I - DEEP SSEABEDS:

A. GENERAL- THE CONTENTIOUS QUESTION OF DIRECT EXPLOITATION BY THE AUTHORITY HAS BEEN TO A LARGE DEGREE SIDESTEPED BY FOCUS OF DISCUSSIONS ON BASIC CONDITIONS, AND ON JOINT VENTURES AS THE PRIMARY FORM OF EXPLOITATION. HOWEVER, THE GROUP OF 77 POSITION ON THE ISSUE OF DIRECT EXPLOITATION BY THE AUTHORITY IS LIKELY TO EMERGE AGAIN WHEN COMMITTEE ADDRESSES QUESTION OF MACHINERY ARTICLES. WE BELIEVE THAT THERE IS A GOOD CHANCE THAT AGREEMENT ON BASIC CONDITIONS, IF ACHIEVED, CAN BE ACCOMPANIED BY A COMMITMENT IN PRINCIPLE TO REQUIRE EARLY DEVELOPMENT OF DETAILED PROVISIONAL REGULATIONS, BY PROVISIONAL MACHINERY. AT THIS MOMENT, THE MODERATES APPEAR TO BE IN CONTROL OF THE MAIN THRUST OF C-I NEGOTIATIONS AND WE HAVE HOPES FOR A SUCCESSFUL NEGOTIATION IN NEXT TWO WEEKS ON CHAIRMAN'S PAPER. HOWEVER, IT IS IMPORTANT TO KNOW THAT PERU AND BRAZIL MAINTAIN A FIRM HOLD ON THEIR POSITIONS AS LDC SPOKESMEN AND LEADERS.

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B. WITH RESPECT AREAS RESERVED FOR FUTURE DEVELOPMENT, THE US HAS EXPLORED IN INFORMAL CONSULTATIONS SYSTEM THAT WOULD PRESERVE THE FIRST COME, FIRST SERVE CONCEPT AND SUBJECT EXPLOITATION IN RESERVED AREAS TO THE SAME TERMS AND CONDITIONS AS IN NON-RESERVED AREAS WITH EXCEPTION OF FINANCIAL ARRANGEMENTS AND TECHNOLOGY TRANSFER. CONCEPT HAS BEEN WELL RECEIVED, ALTHOUGH WE EXPECT GROUP OF 77 TO PROPOSE THAT RESERVED AREAS BE SUBJECT TO DIRECT EXPLOITATION BY THE AUTHORITY. USSR PROPOSAL FOR RESERVATION OF AREAS EXCLUSIVELY FOR CONTRACTING STATE USE WHILE LEAVING REMAINDER SUBJECT TO DIRECT EXPLOITATION IS CLEAR EXPRESSION OF PARALLEL EXPLOITATION SYSTEM WHICH HAS BEEN LARGELY IGNORED BY LDC'S. SOVIET INSISTENCE THAT THIS PROPOSAL BE INCLUDED IN CHAIRMAN'S DRAFT, HOWEVER, IS MAKING NEGOTIATION OF OUR OWN APPROACH WHICH SIDESTEPS DIRECT EXPLOITATION ISSUE VERY DIFFICULT.

C. IF C-I NEGOTIATIONS CAN LEAVE ASIDE ISSUE OF AUTHORITY'S POWER TO EXPLOIT ON ITS OWN BEHALF, AND PRICE AND PRODUCTION CONTROLS, WE BELIEVE CONCLUSION OF WORK ON BASIC CONDITIONS WILL BE FOLLOWED BY NEGOTIATION OF KEY ARTICLES ON COUNCIL, ASSEMBLY, AND DISPUTE SETTLEMENT ORGAN. WITH EXCEPTION OF BRAZIL AND PERU, MOOD AMONG LDC'S SUGGESTS REAL DESIRE TO WRAP UP AS MANY MAJOR ISSUES AS POSSIBLE THIS SESSION.

3. COMMITTEE II ISSUES - TERRITORIAL SEA, STRAITS, ECONOMIC ZONE:

A. GENERAL: IF AGREEMENT CAN BE REACHED ON DIFFICULT BALANCE OF RIGHTS AND OBLIGATIONS IN ECONOMIC ZONE, BASIC ELEMENTS OF SINGLE PACKAGE ON COMMITTEE II ISSUES COULD EMERGE. DESPITE SOME CONTINUING EFFORTS OF TERRITORIALISTS THERE IS LITTLE EFFECTIVE OPPOSITION TO 12 MILE TERRITORIAL SEA IF OTHER ISSUES ARE SATISFACTORILY RESOLVED. DIRECT OPPOSITION TO STRAITS OBJECTIVES REMAINS LARGELY CONFINED TO RELATIVELY SMALL NUMBER OF STRAITS STATES AND WE ARE CONTINUING OUR EFFORTS TO RESOLVE PARTICULAR PROBLEMS.

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B. EVENSEN GROUP: RECEPTION OF RESULTS OF PRIVATE NEGOTIATIONS ON THE ECONOMIC ZONE WITHIN THE EVENSEN GROUP LIE AT THE HEART OF CONFERENCE OUTCOME. EVENSEN IS UNDER GREAT PRESSURE TO SURFACE A DRAFT IN ORDER TO SPEED NEGOTIATION AND OFFSET RISING CURRENT OF UNREST IN GROUP OF 77. THE EVENSEN GROUP HAS COMPLETED WORK ON MAIN ARTICLES AND ON A NUMBER OF FISHERIES ARTICLES WITH MAJOR EXCEPTION OF THOSE ON TUNA WHICH ARE STILL BEING NEGOTIATED. THE OVERALL BALANCE CONSTRUCTED IS ESSENTIALLY ONE BETWEEN COASTAL AND MARITIME INTERESTS, AND THE GROUP HAS BEEN UNABLE TO AGREE ON INCREASINGLY INSISTENT QUESTION OF ACCESS OF LANDLOCKED AND GEOGRAPHICALLY DISADVANTAGED STATES TO FISHERIES IN ECONOMIC ZONE OF THEIR NEIGHBORS. HOPEFULLY COMMITTEE I BUREAU TEXT WILL PROVIDE MEANS OF INCLUDING EVENSEN TEXTS WITHOUT INCURRING RESENTMENT AT THEIR AUTHORSHIP AND HOPEFULLY WITHOUT DISTORTING CAREFUL COMPROMISES THAT HAVE BEEN REACHED. IN VIEW OF CIRCULATION OF AFRICAN TEXT WHICH MOVED STRONGLY TOWARD ACCOMMODATION OF LANDLOCKED AND GEOGRAPHICALLY DISADVANTAGED STATES, BUT IS OTHERWISE STRONGLY COASTALLY ORIENTED, KEY TO OUTCOME WILL BE DEGREE TO WHICH CHAIRMAN WILL ADOPT AS HIS OWN THE EVENSEN TEXT OR MOVE TOWARD GROUP OF 77 POSITION. SINCE FORTHCOMING AFRICAN APPROACH TO LANDLOCKED INTERESTS IS NOT LIKELY TO BE ACCEPTABLE TO A NUMBER OF LATINS, CHAIRMAN COULD WELL ADOPT EVENSEN TEXT ALONG WITH A MORE MODERATE ARTICLE ON THIS ISSUE WITH WHICH SOME EUROPEANS ALSO HAVE EXTREME DIFFICULTIES. IF THIS SCENARIO IS FOLLOWED, CHAIRMAN OF C-II WOULD NEGOTIATE TEXT PRIVATELY WITH CONFERENCE LEADERS AND

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THEREAFTER ON A BROADER BUT STILL INDIVIDUAL AND PRIVATE BASIS WITH MEMBERS OF REGIONAL GROUPS. APART FROM THE GENERAL PROBLEM OF BALANCE OF MARITIME, COASTAL, AND LANDLOCKED INTERESTS, A NUMBER OF KEY ISSUES ARE UNRESOLVED, INCLUDING ARTICLES ON TUNA AND JURISDICTION OVER THE MARGIN BEYOND TWO HUNDRED MILES.

B, ANADROMOUS AND HIGHLY MIGRATORY PROVISIONS: THE DRAFT IN THE EVENSEN GROUP ON ANADROMOUS SPECIES WHICH IS THE RESULT OF EXTENSIVE NEGOTIATIONS BETWEEN SALMON PRODUCING AND SALMON FISHING STATES SHOULD BE RELATIVELY NONCONTENTIOUS IF NOT OPPOSED ON DOCTRINAL GROUNDS BY AFRICANS. THE ARTICLE ON HIGHLY MIGRATORY SPECIES IS MORE DIFFICULT. EVENSEN'S STAFF HAS INDICATED THAT THEIR INCLINATION IS TOWARD A MORE COASTALLY ORIENTED ARTICLE. INTENSIVE NEGOTIATIONS CONTINUE.

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C, CONTINENTAL MARGIN: BROAD MARGIN STATES HAVE MADE CLEAR THAT JURISDICTION OVER THE MARGIN IS AN ESSENTIAL OBJECTIVE AND WHILE SUBSTANTIAL OPPOSITION REMAINS TO ANY EXTENSION OF JURISDICTION BEYOND 200 MILES, A COMPROMISE INVOLVING REVENUE SHARING BEYOND 200 MILES APPEARS TO BE ONLY WIDELY SUPPORTED COMPROMISE TEXT THAT CAN BE ACHIEVED. TECHNICAL DISCUSSIONS ON MEANS OF DETERMINING EDGE OF MARGIN HAVE GONE AS FAR AS THEY CAN GO WITHOUT POLITICAL ACCOMODATION.

4, COMMITTEE III: MARINE SCIENTIFIC RESEARCH: QUESTION OF CONSENT REGIME VS OBLIGATION IS FOUNDERING TO SOME EXTENT ON DOCTRINAL PERCEPTION OF NATURE OF COASTAL STATE RIGHTS IN ECONOMIC ZONE. MAIN EVENT IN SCIENCE NEGOTIATIONS THUS FAR HAS BEEN A NEW SOVIET PROPOSAL WHICH ABANDONS CONSENT REQUIREMENT FOR SHELF RESEARCH AND REQUIRES CONSENT FOR "RESEARCH RELATED TO THE EXPLORATION AND EXPLOITATION OF THE LIVING AND NON-LIVING RESOURCES OF THE ZONE" AND PROVIDES FOR AN OBLIGATION REGIME FOR NON-RESOURCE RELATED RESEARCH. THIS DISTINCTION HAS ELICITED A GREAT DEAL OF INTEREST AND ADDITIONAL INFORMAL TEXTS WHICH DRAW UPON THE SOVIET DISTINCTION WITH VARIABLESM INFORMAL REPORTS INDICATE THAT THE GROUP OF 77 HAS NOT AS YET EITHER ACCEPTED OR REJECTED SUCH A DISTINCTION, ALTHOUGH THE AFRICAN DRAFT ON THE ECONOMIC ZONE GIVES TO COASTAL

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STATE AUTHORITY TO REGULATE SCIENTIFIC RESEARCH IN ECONOMIC ZONE. WE BELIEVE THAT WE MUST BE PREPARED TO NEGOTIATE ON THE BASIS OF SUCH A DISTINCTION IF WIDESPREAD SUPPORT DEVELOPS FOR IT.

5. COMMITTEE III - MARINE POLLUTION:

A. IN GENERAL, COMMITTEE III HAS WORKED ON LESS CONTROVERSIAL ENVIRONMENTAL ISSUES WHILE AWAITING EVENSEN GROUP NEGOTIATIONS ON CRITICAL VESSEL POLLUTION AND DOUBLE STANDARD ISSUES WHICH ARE EXPECTED TO BEGIN APRIL 16. ALTHOUGH NO SUBSTANTIAL NEGOTIATIONS HAVE YET TAKEN PLACE ON ISSUE OF VESSEL SOURCE POLLUTION STANDARD SETTING AND ENFORCEMENT, THE TREND APPEARS TO BE IN FAVOR OF ACCEPTANCE OF INTERNATIONAL STANDARD SETTING WITH COASTAL STATE ENFORCEMENT IN AT LEAST PORTION OF THE ECONOMIC ZONE AS WELL AS PORT STATE-FLAG STATE ENFORCEMENT, COUPLED WITH SOME "HAZARDOUS AREA" EXCEPTION. NJENGA (KENYA) HAS SAID THAT HE DOES NOT FAVOR COASTAL STATE STANDARD SETTING AND IS CONCERNED WITH COASTAL STATE ENFORCEMENT RIGHTS.

B. GROUP OF 77 CONTINUES TO MEET PRIVATELY IN ATTEMPT TO PRODUCE THEIR TEXT ON ENVIRONMENTAL ISSUES. POSSIBILITY OF COMPLETING POLLUTION TEXT AT COMMITTEE LEVEL BY MAY 10 HINGES ON OUTCOME OF EVENSEN GROUP DISCUSSIONS. WITHIN COMMITTEE, CANADA CONTINUES TO PUSH FOR BROAD AUTHORITY BUT APPEARS TO BE MAKING LITTLE HEADWAY IN GROUP OF 77. PRIVATE DISCUSSIONS WITH DEVELOPING COUNTRIES INDICATE CONSIDERABLE WILLINGNESS TO AVOID COASTAL STATE STANDARD-SETTING IN THE ECONOMIC ZONE EXCEPT IN CERTAIN AREAS WHERE SPECIAL PROBLEMS EXIST AND THERE APPEARS TO BE WIDE DEVELOPING COUNTRY SUPPORT FOR COASTAL STATE ENFORCEMENT OF INTERNATIONAL STANDARDS IN ECONOMIC ZONE. RECENT PUBLIC AND PRIVATE STATEMENTS INDICATE GROWING SUPPORT FOR US PORT STATE ENFORCEMENT ARTICLE AMONG GROUP OF 77 SO LONG AS IT IS A SUPPLEMENT TO AND NOT AN ALTERNATIVE TO COASTAL STATE ENFORCEMENT.

C. ON OCEAN DUMPING, ALMOST ALL STATES FEEL THIS IS A SEPARATE ISSUE AND THAT COASTAL STATE MUST BE ABLE TO CONTROL IT IN ITS ECONOMIC ZONE.

D. DOUBLE STANDARD: SOME PRIVATE DISCUSSIONS

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INDICATE A DESIRE TO APPROACH QUESTION USING CONCEPT OF DUE DILIGENCE AND ISSUE WILL BE DISCUSSED IN EVENSEN GROUP,

E, CONTINENTAL SHELF STANDARDS: PRIVATE DISCUSSIONS INDICATE WIDE-SPREAD POSITION THAT STATES WILL NOT AGREE TO BE FORCED IN ADVANCE TO COMPLY WITH INTERNATIONAL STANDARDS SET BY A SUBSEQUENT CONFERENCE. US INTENDS, IF NECESSARY, TO ATTEMPT TO ACHIEVE AGREEMENT TO COMPLY WITH "GENERALLY ACCEPTED" INTERNATIONAL STANDARDS.

F, ENVIRONMENTAL ASSESSMENT: US PROPOSAL URGING ENVIRONMENTAL ASSESSMENTS AND CONSULTATIONS ON PLANNED ACTIVITIES WITH SIGNIFICANT POLLUTION RISK WERE AGREED AT SMALL PRIVATE NEGOTIATING GROUP OF COMMITTEE II BUT STILL REQUIRES CONSIDERATION IN WORKING GROUP ON POLLUTION.

6, DISPUTE SETTLEMENT: COMPULSORY DISPUTE SETTLEMENT PROCEDURES ARE CONTEMPLATED BY MANY IN GROUP (INCLUDING US) AS APPLYING TO ALL ASPECTS OF FINAL TREATY SUBJECT TO CERTAIN EXCEPTIONS WITH POSSIBILITY OF SPECIAL PROCEDURES FOR FISHING AND FOR DEEP SEABEDS EITHER AS PRELIMINARY OR ALTERNATIVE MEANS. ON THE OTHER HAND OTHERS FAVOR A "FUNCTIONAL APPROACH": SPECIFIC PROCEDURES FOR SPECIFIC ARTICLES WITH NO REPEAT NO AGREEMENT ON BLANKET CDS. THE USSR FAVORS A TRIBUNAL FOR DEEP SEABEDS ONLY, ARBITRATION FOR FISHERIES AND NOTHING ELSE AT THIS STAGE. FRANCE HAS PROPOSED SEPARATE COMMISSIONS FOR FISH, POLLUTION AND SCIENTIFIC RESEARCH MATTERS. A TRIBUNAL FORM OF DISPUTE SETTLEMENT IN ECONOMIC ZONE IS OPPOSED BY TANZANIA AND INDIA AND SOME OTHER LDC'S WHILE OPPOSITION TO BINDING DISPUTE SETTLEMENT IN GENERAL IN ECONOMIC ZONE CONTINUES FROM ARGENTINA, BRAZIL AND HONDURAS. IT IS HOPED THE ACTIVE ROLE OF ADEDE (KENYA) WHO HAS REPLACED GALINDO POHL AS CO-CHAIRMAN OF GROUP, WILL HELP SOLIDIFY AFRICAN SUPPORT. IN AN EFFORT TO REACH A COMPROMISE ON FORM OF CDS, WORKING GROUP TENTATIVELY AGREED ON PROCEDURES WHICH WOULD ALLOW CONTRACTING PARTY TO DECLARE WHETHER IT ACCEPTS THE JURISDICTION OF AN ARBITRAL TRIBUNAL, LOS TRIBUNAL, OR ICJ, OR ANY TWO OR THREE OF THEM, COMPROMISE ARTICLES HAVE NOT BEEN DISCUSSED IN DETAIL AND ARE BEING REVISED.

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INTRODUCTION BY AUSTRALIAN DEL LAUTERPACHT OF IDEA OF
 COMPULSORY CONCILIATION WHICH INITIALLY RECEIVED
 SUBSTANTIAL SUPPORT CAUSED SLOWDOWN IN PROGRESS OF
 GROUP AND REPRESENTED MAJOR THREAT THAT ONLY CONCILIA-
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 TO RUEHC/SECSTATE WASHDC 2065
 INFO RUFHOL/AMEMBASSY BONN 4588
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TAGS: PLOS
 SUBJECT: LOS: STRAITS
 1. AMB. KNOCKE, FRG REP TO LOS CONFERENCE, INFORMED US THAT HE HAD RECOMMENDED THAT BONN CALL IN SPANISH AMBASSADOR ON ISSUE OF STRAITS.
 2. IT WOULD BE USEFUL FOR AMEMBASSY BONN TO FOLLOW THIS UP TO ENSURE DEMARCHE IS MADE AT APPROPRIATELY HIGH LEVEL AND TO ASCERTAIN RESULTS OF CONVERSATION. SPAIN HAS BEEN MOST DIFFICULT OF STRAITS STATES ON ISSUE AT GENEVA. DALE

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NC 33811

TOR:141619Z APR 75

R 141045Z APR 75
 FM USMISSION GENEVA
 TO RUDKSNQ/AMEMBASSY OSLO 931
 INFO RUFHOL/AMEMBASSY BONN 4584
 RUDKPNQ/AMEMBASSY COPENHAGEN 1038
 RUDTC/AMEMBASSY LONDON 6560
 RUDI SDF/AMEMBASSY REYKJAVIK 192
 RUEHC/SECSTATE WASHDC 2043
 RUFHNA/USMISSION NATO BRUSSELS 3042
 BT

Geneva
Comm III
Iceland
Denmark
UK

55

CONFIDENTIAL GENEVA 2544
 EO 11652: GDS
 TAGS: PLOS

SUBJ: ICELANDIC POSITION VIS-A-VIS BOUNDARY WITH JAN MAYEN AT AL

1. INFORMAL CONVERSATIONS WITH HEAD OF ICELANDIC DELEGATION TO GENEVA LOS CONFERENCE INDICATE THAT GOI CONSIDERING POSITION OF BOUNDARIES VIS-VIS THE CONTINENTAL SHELF WITH ADJACENT TERRITORIES, HEAD OF DELEGATION ANDERSEN REPORTED TO DELOFF THAT HE HAD RECOMMENDED THAT GOI CONCENTRATE AT THIS TIME ON EXTENSION OF FISHERIES LIMITS AND AWAIT OUTCOME OF THE LOS CONFERENCE ON QUESTION OF NATIONAL LIMITS FOR ECONOMIC ZONE AND FOR SEABED, IF LATTER GOES BEYOND TWO HUNDRED MILE LIMIT.
2. NEVERTHELESS ANDERSEN REQUESTED "PROFESSIONAL ADVICE" OF DEPARTMENT'S GEOGRAPHER WHO GENTLY REFUSED OFFER AS POSSIBLE CONFLICT WITH U.S. INTEREST. PRESSING DELOFF WITH "THEORETICAL" QUESTIONS, IT BECAME OBVIOUS THAT ICELANDIC THINKING IS BASED UPON QUESTION OF "SPECIAL CIRCUMSTANCES" IN RELATION TO SMALL UNINHABITED ISLANDS, E.G. JAN MAYEN AND PERHAPS ROCKALL, AND "NATURAL PROLONGATION" OF ICELANDIC LAND MASS IN RELATION TO OTHER AREAS.
3. IT WOULD APPEAR THAT BASIC GOI POSITION ON BOUNDARIES WITH OTHER STATES IS UNDER ACTIVE CONSIDERATION, WITH ANDERSEN STRESSING THAT GOI SHOULD, AT PRESENT, CONCENTRATE ON ISSUE OF FISHERIES JURISDICTION WITH A STRONG RECOMMENDATION NOT TO GET INVOLVED IN "CONTINENTAL SHELF" QUESTIONS PENDING EITHER COMMITTEE II PACKAGE AT GENEVA OF FINAL TREATY ON ALL LOS

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QUESTIONS, SPECIFIC ISSUES RAISED, HOWEVER, INDICATE THAT GOI AT LEAST CONSIDERING OTHER BOUNDARIES THAN EQUIDISTANCE BOUNDARIES BETWEEN ICELAND AND CERTAIN NEIGHBORING TERRITORIES.

4. ANDERSEN INDICATED HE MIGHT MAKE A MAP AVAILABLE TO DELOFF WHICH IF INDICATIVE OF GOI POSITION, WILL BE REPRODUCED AND SENT TO EMBASSIES CONCERNED ON CLASSIFIED BASIS.

DALE

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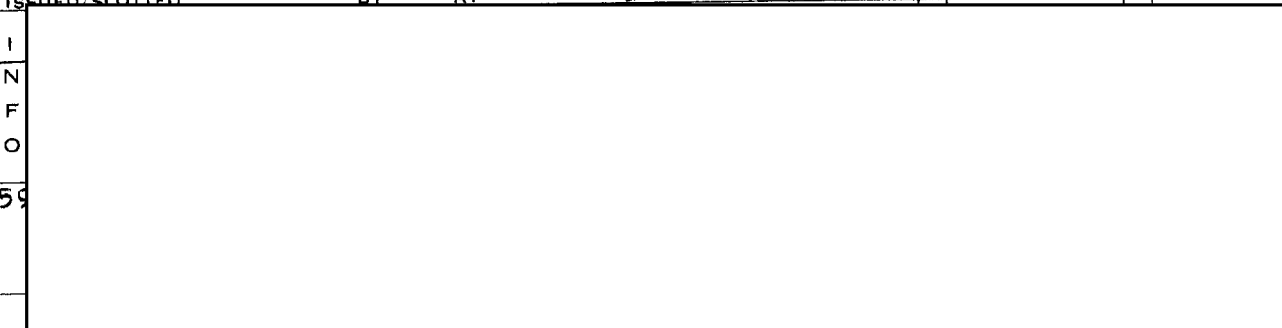
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TO RUEHC/SECSTATE WASHDC 2042
INFO RUEHOT/AMEMBASSY OTTAWA 2362
RUMJPG/USLO PEKING 0025
RUEHDT/USMISSION USUN NEW YORK 1568
BT

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59

CONFIDENTIAL GENEVA 2543
FROM USDEL LOS
EO 11652: GDS
TAGS: PLOS

SUBJ: LOS: STRAITS

1. AMB. BEESLEY (CANADA) INFORMED OXMAN THAT IN CONVERSATION WITH PRC REP, PRC REAFFIRMED OPPOSITION TO US AND SOVIET POSITIONS ON STRAITS. BEESLEY SAID HE TOLD HIM CANADA HAD A SPECIAL PROBLEM ON STRAITS AND HAD SPOKEN ON BOTH SIDES OF ISSUE, BUT DID NOT BELIEVE US AND USSR WERE MERELY STATING BARGAINING POSITIONS ON THE ISSUE. IT WOULD BE TRAGIC TO HAVE A TREATY THEY DID NOT RATIFY.

2. BEESLEY ADDED THAT THIS IS THE GENERAL LINE HE IS TAKING ON STRAITS WITH OTHER DELS, I.E., QTE NOT EITHER HELPING OR HURTING YOU UNQTE.

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TOR:110909Z APR 75

R 110502Z APR 75
FM AMEMBASSY CANBERRA
TO RUEHC/SECSTATE WASHDC 5466
INFO RUFHGV/USMISSION GENEVA 436
ZEN/AMCONSUL SYDNEY
RUEHBAM/AMCONSUL MELBOURNE 2641
BT

SECRET CANBERRA 2238

E.O. 11652: GDS

TAGS: PLUS

SUBJECT: LOS: AUSTRALIAN POSITION ON VESSEL SOURCE POLLUTION
REF: STATE 076717

1. EMBOFF DISCUSSED POINTS RAISED IN REFTEL WITH DFA'S
MIKE LANDALE, CANBERRA COORDINATOR FOR GOA'S LOS TASK
FORCE. LANDALE WILL CONVEY POINTS TO GOA LOS DELEGATION
IN GENEVA AND TO CANBERRA TASK FORCE AND WILL INFORM EM-
BASSY WHEN GOA DECISION IS MADE. LANDALE THOUGHT GOA
WOULD BE FORTHCOMING ON THIS ISSUE.

2. WHILE EMBASSY IS ANXIOUS TO ASSIST LOS DELEGATION IN
EVERY POSSIBLE WAY WE SHOULD POINT OUT THAT THE GOA'S
PROFESSIONAL, FIRST TEAM ON LOS MATTERS IS IN GENEVA. RE
PRESENTATIONS TO THE AUSTRALIANS IN GENEVA WILL GET A
QUICKER RESPONSE THAN SIMILAR REPRESENTATIONS IN CANBERRA
AS THE GENEVA GROUP CAN GET RECOMMENDATIONS TO THEIR RE-
SPECITIVE MINISTERS FASTER THAN THE SECOND-LEVEL BUREAUCRATS
WORKING ON LOS IN CANBERRA. GREEN

Geneva
Comm III
Australian

51

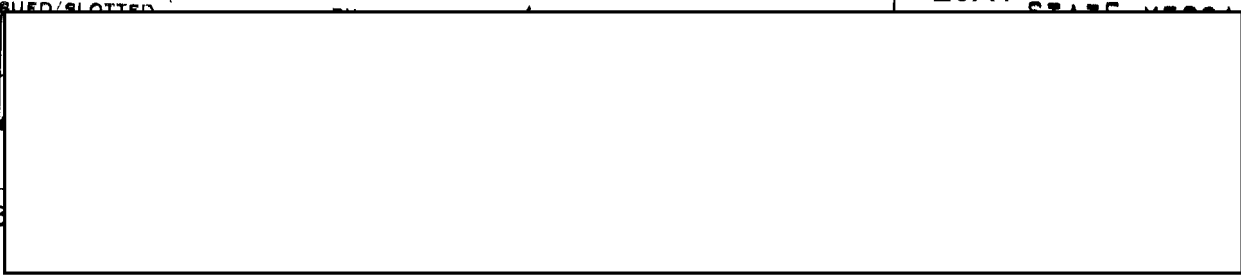
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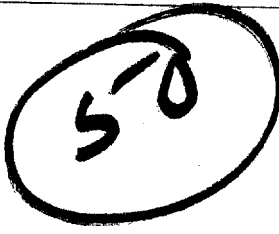
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TOR:101245Z APR 75

R 091530Z APR 75
FM AMEMBASSY CAIRO
TO RUFHGV/USMISSION GENEVA 351
RUEHC/SECSTATE WASHDC 3255
INFO RUDKBT/AMEMBASSY RABAT 879
RUQMNS/AMEMBASSY SANAA 197
BT
C O N F I D E N T I A L CAIRO 3614
EO 11652: GDS
TAGS: PLOS

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Egypt ✓*



SUBJECT: LOS; SUPPORT FOR UNIMPEDED TRANSIT OF STRAITS
REF: A) GENEVA 2287; B) SANAA 788
SUMMARY: EGYPTIAN SUPPORT OF REGIME OF INNOCENT PASSAGE IN STRAITS
ISSUE IS OUTGROWTH OF ARAB/ISRAELI CONFLICT; DESIRE TO SUPPORT OTHER
ARAB COASTAL STATES WITH STRAITS PROBLEMS; AND GENERAL POSITION OF
EGYPT AS THIRD WORLD NATION VIS-A-VIS MAJOR POWERS. SUGGESTION
HAS BEEN MADE BY AN EGYPTIAN OFFICIAL THAT TIME BETWEEN CURRENT
AND NEXT LOS CONFERENCE BE USED TO FIND FORMULA FOR EXPANDING REGIME
OF INNOCENT PASSAGE TO ACCOMMODATE, AT LEAST TO SOME EXTENT,
REQUIREMENTS OF MAJOR NAVAL POWERS. HOWEVER, NO CONCRETE
PROPOSALS AS TO HOW SUCH A FORMULA MIGHT BE ARRIVED AT WERE
PUT FORWARD. NOTHING REALLY INNOVATIVE SHOULD BE EXPECTED
FROM GOE DEL TO GENEVA LOS CONFERENCE IN COMING WEEKS. BUT, IF DEPT
DESIRES, EMBASSY WILLING TO TAKE UP STRAITS QUESTION WITH GOE
HEAD OF DELEGATION WHOSE DEPARTURE FOR GENEVA HAS BEEN DELAYED.
END SUMMARY

1. DURING DISCUSSIONS WITH VARIOUS EGYPTIAN OFFICIALS
OVER THE PAST YEAR EMBASSY UNDERSTANDING IS THAT GOE POSITION ON
STRAITS ISSUE SUPPORTING RIGHT OF INNOCENT PASSAGE IS GOVERNED
BY 3 FACTORS:
A. OVERALL REQUIREMENTS GROWING OUT OF ARAB/ISRAELI CONFLICT.
ISSUE OF PRIMARY CONCERN IS NOT ONLY STRAITS OF TIRAN, BUT
MORE IMPORTANTLY BAB EL-MANDEB AT ENTRY TO RED SEA FROM INDIAN
OCEAN. EGYPTIANS ARE OF VIEW THAT BAB EL-MANDEB MUST BE
UNDER CONTROL OF COASTAL STATES AND INNOCENT PASSAGE APPLIED
TO LIMIT TRANSIT STRAITS BY VESSELS IN SUPPORT OF ISRAEL.
EGYPTIANS, WITH WHOM WE HAVE TALKED, HAVE ALWAYS SPOKEN IN
TERMS OF STRAITS OF TIRAN AS CONNECTING HIGH SEAS TO
TERRITORIAL SEAS (GULF OF AQABA), TO WHICH THEY ALSO APPLY
DOCTRINE OF HISTORICAL WATERS. MFA OFFICIALS ARE AWARE OF

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TOR:101245Z APR 75

US READINESS TO ACCEPT REGIME OF UNIMPEDED TRANSIT APPLIED ONLY TO STRAITS CONNECTING HIGH SEAS AND US WILLINGNESS TO ALLOW PARTIES TO RESERVE POSITION ON STRAITS CONNECTING HIGH SEAS TO TERRITORIAL SEAS (TIRAN).

B. RELATIONSHIP WITH OTHER ARAB COUNTRIES HAVING STRAITS' PROBLEM. EGYPTIAN OFFICIALS HAVE EXPRESSED NEED ON GOE'S PART TO SUPPORT OTHER ARAB COUNTRIES ON RIGHT OF COASTAL STATE TO EXERCISE CONTROL OF STRAITS CONNECTING HIGH SEAS TO HIGH SEAS (I.E. MOROCCO, YEMEN ARAB REPUBLIC (YAR) AND OMAN). EGYPTIANS FEEL THAT MOROCCO, PARTICULARLY IS ENCOUNTERING DIFFICULTY THESE DAYS ON STRAITS ISSUE AND TERRITORIAL DISPUTE WITH SPAIN AND SHOULD BE SUPPORTED. IN CASE OF YAR, GOE NOT ONLY WISHES TO SUPPORT FELLOW ARAB STATE, BUT TO MAKE SURE THAT BAB EL-MANDEB WILL NEVER BE PERMITTED TO BE USED AGAINST ARAB CAUSE/EGYPT'S VITAL INTERESTS. ONE SENSES READINESS TO BOLSTER UP A "FLEXIBLE" YARG (SANAA 788), SHOULD THERE BE A NEED TO DO SO. WITH REGARD TO OMAN, EGYPTIANS HAVE INDICATED THAT SUPPORT FOR OMAN POSITION ON INNOCENT PASSAGE IS SIMPLY IN GOE'S INTEREST. AT SAME TIME, HOWEVER, WE HAVE NOT HEARD CRITICAL COMMENT CONCERNING IRAQ, WHICH SUPPORTS UNIMPEDED PASSAGE (I.E. THROUGH STRAITS OF HORMUZ). IRAQ'S POSITION IS JUST PASSED OFF AS FACT OF LIFE AND AN OUTGROWTH OF GEOGRAPHIC SITUATION.

C. GOE POSITION VIS-A-VIS THIRD WORLD AND MAJOR POWERS. THERE APPEARS TO BE ALMOST AN INSTINCTIVE TENDENCY ON PART OF EGYPTIANS TO POSTURE WHEN IT COMES TO A SITUATION IN WHICH MAJOR POWERS (U.S., JSSR, UK AND ALSO FRANCE) WITH THEIR NAVAL FORCES APPEAR TO BE ARRAYED AGAINST THIRD WORLD COUNTRIES. THUS, THERE IS A TENDENCY TO EXPRESS AN AFFINITY WITH INDONESIA AND EVEN SPAIN WHEN IT COMES TO STRAITS' ISSUE.

2. WITH REGARD TO QUESTION AS TO HOW GOE MIGHT BE INFLUENCED TO ALTER ITS POSITION, OR AT LEAST TO MOVE FORWARD SOME ACCOMMODATION, IMPRESSION WE HAVE GAINED FROM EGYPTIANS IS THAT THEY DO NOT CONSIDER CURRENT MEETING IN GENEVA A HIGH-POWERED FORUM. IT IS REGARDED AS A ROUTINE FOLLOWUP OF CARACAS WHICH IS NOT EXPECTED TO COME TO GRIPS WITH MAJOR ISSUES. SUGGESTION HAS BEEN MADE BY ONE MFA OFFICIAL THAT SOME FORMULA SHOULD BE SOUGHT TO EXPAND REGIME OF INNOCENT PASSAGE TO ALLOW FOR TRANSIT OF WARSHIPS AND SUBMERGED SUBMARINES IN A FASHION SATISFACTORY TO BOTH NAVAL POWERS AND COASTAL

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TOR:101245Z APR 75

STATES. PERIOD BEEN CONFERENCES, I.E. AFTER GENEVA, MIGHT BE USED TO ARRIVE AT AND FLOAT FORMULA WITH INTERESTED STATES. GENEVA, HOWEVER, MIGHT BE PLACE TO START SUCH AN EXERCISE. WHEN POINT WAS MADE BY EGYPTIANS THAT REGIME OF INNOCENT PASSAGE COULD BE EXPANDED, NO ONE WAS ABLE TO SUGGEST HOW THIS MIGHT BE DONE.

3. IT IS INTERESTING TO NOTE THAT, WHEN MATTER OF AIRCRAFT OVERFLIGHT OF STRAITS IS MENTIONED, EGYPTIANS EMPHATICALLY MAKE POINT THAT LAW OF SEA HAS NOTHING TO DO WITH AIRCRAFT. CHICAGO CONVENTION IS CONSIDERED APPLICABLE INTERNATIONAL LEGAL FRAME OF REFERENCE.

4. IN FINAL ANALYSIS, THERE DOES NOT SEEM TO BE GREAT DEAL OF ROOM FOR MOVEMENT ON STRAITS ISSUE AS FAR AS EGYPT IS CONCERNED. EGYPT IS COMMITTED IN THE EYES OF OTHER, ESPECIALLY ARAB, STATES ON THE STRAITS ISSUE. GOE DEL TO GENEVA IS NOT HIGHPOWERED. WE LEARNED ONLY RECENTLY (AND THEN BY CHANCE) THAT AMB OSMAN, WHO WAS TO HAVE HEADED LOS DEL, IS STILL IN CAIRO. FONMIN FAHMY, REPORTEDLY HAS HIM WORKING ON SOME SPECIAL PROJECT. HE IS, HOWEVER, SUPPOSED TO DEPART FOR GENEVA IN A WEEK OR SO. EVEN THEN GOE DEL STILL WILL NOT HAVE MUCH FREEDOM OF ACTION, ACCORDING TO OUR MFA CONTACTS, AND WILL RELY LARGELY ON INSTRUCTIONS FROM CAIRO. CONSEQUENTLY, ONE SHOULD NOT EXPECT ANYTHING INNOVATIVE TO COME FROM THEM IN COMING WEEKS.

5. IF DEPT FEELS THAT IT MIGHT BE USEFUL, HOWEVER, FOR EMBASSY TO MAKE REPRESENTATION TO AMB OSMAN BEFORE HIS DEPARTURE FOR GENEVA, WE WOULD BE PREPARED TO DO SO, PROVIDED THAT LINES OF POSSIBLE APPROACH ARE FURNISHED. MAESTRONE

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 C O N F I D E N T I A L GENEVA 2390
 FROM USDEL LOS
 E.O. 11652: GDS
 TAGS: PLOS

*Geneva
Comm III*

49

SUBJECT: INFORMAL MEETING ON MARINE SCIENTIFIC RESEARCH
 REF: GENEVA 2316

1. IN SMALL INFORMAL MEETING ON MARINE SCIENTIFIC RESEARCH CHAIRED BY METTERNICH, REPRESENTATIVES OF FOUR MAIN TRENDS AGREED TO PUT ASIDE QUESTION OF STATUS OF SCIENTIFIC EQUIPMENT AND TO FOCUS EFFORTS ON FOUR PILLARS. COMPROMISE PROPOSAL ON SCIENTIFIC EQUIPMENT WILL BE INTRODUCED AS CRP PAPER BY METTERNICH AS CHAIRMAN'S COMPROMISE AND WORKING GROUP WOULD THEN END DISCUSSIONS ON SUBJECT.
2. METTERNICH ASKED REPRESENTATIVES OF TRENDS TO EXPRESS VIEWS ON WORK THAT HAS BEEN DONE TO MERGE PILLARS. AUSTRALIA STATED THAT IT HAD SHIFTED POSITION TO CONSENT FOR RESOURCE-ORIENTED RESEARCH AND NOTIFICATION FOR NONRESOURCE-ORIENTED RESEARCH, ALTHOUGH CONSENT WOULD BE REQUIRED IF RESEARCH QUOTE CONCERNS CONTINENTAL SHELF AND IS UNDERTAKEN THERE UNQUOTE.
3. USSR ADVISED GROUP IT HAD INTRODUCED L.26. AS REPORTED REFTTEL, PROPOSAL DROPS SOVIET REQUIREMENT OF CONSENT FOR SHELF AND MAKES RESOURCE-NONRESOURCE DISTINCTION.
4. DUTCH INDICATED THAT ITS GROUP WAS WORKING ON DEFINITION, ADDITIONAL OBLIGATIONS, AND COMPULSORY DISPUTES SETTLEMENT PROVISION.
5. UK ALSO INDICATED SUPPORT FOR DISTINCTION BETWEEN RESOURCE-NONRESOURCE ORIENTED RESEARCH WITH EXCEPTION OF SHELF. UK REP EXPLAINED, HOWEVER, THAT UK WAS TRYING TO RESOLVE QUESTION OF SHELF RESEARCH AND TO PUT IT IN LINE WITH RESOURCE-NONRESOURCE DISTINCTION. UK SUGGESTED ONE POSSIBLE WAY TO DIFFERENTIATE RESOURCE FROM NON-RESOURCE RESEARCH WAS THAT RESEARCH WHICH IS NECESSARY FOR RESOURCE

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MANAGEMENT IS RESOURCE-ORIENTED AND THEREFORE REQUIRES
CONSENT.

6. INDIA STATED THAT GROUP OF 77 HAD REVISED L.13 (COPY
NOT YET AVAILABLE -- WE UNDERTAND THE ONLY CHANGE IS
INCLUSION OF A REFERENCE TO LANDLOCKED STATES). SPEAKING
FOR INDIA AND NOT GROUP 77, INDIA REP ADDED THAT COMPROMISE
SOLUTION MIGHT WELL EXIST ALONG DEFINITIONAL (RESOURCE-
NONRESOURCE ORIENTED) APPROACH WITH COASTAL STATE MAKING
DETERMINATION IN EACH INSTANCE.

7. MEXICO SUPPORTED RESOURCE-NONRESOURCE DISTINCTION,
PROVIDED THAT CERTAIN CONDITIONS (INCLUDING INVOLVEMENT IN
PLANNING AND IMPLEMENTATION STAGES AND DISPUTE SETTLEMENT
PROCEDURE) MET. MEXICO WAS UNCLEAR AS TO WHETHER NON-
RESOURCE RESEARCH WOULD BE SUBJECT TO AN OBLIGATION
APPROACH OR SOMETHING ELSE.

8. CANADA VISIBLY ANNOYED WITH FORTHCOMING MEXICAN
POSITION, REITERATED SUPPORT FOR TEXT IT HAD FORMALLY
CIRCULATED AND SUUD IT WOULD LOOK AT THE DEFINITIONAL
APPROACH (ALTHOUGH CANADA WAS SKEPTICAL ABOUT ITS
ACCEPTABILITY) AND SUPPORT COMPULSORY DISPUTE SETTLEMENT.

9. FRANCE IN PRIVATE DISCUSSION FOLLOWING MEETING
EXPRESSED VIEW THAT DISPUTE SETTLEMENT PROCEDURE WHICH
WOULD SUSPEND RESEARCH WHILE DISPUTE WAS BELING RESOLVED
WOULD GO LONG WAY IN MEETING FRENCH CONCERNS ABOUT SHELF
RESEARCH.

10. COMMENT: ALTHOUGH MUCH WORK REMAINS TO BE DONE,
THERE HAS BEEN OBVIOUS MOVEMENT BY SOME PREVIOUSLY
INTRACTABLE STATES. ABRAMS

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INFO RUEHC/SECSTATE WASHDC 2095
RUKOBT/AMEMBASSY JAKARTA 181
RUMJMA/AMEMBASSY MANILA 218
BT

C O N F I D E N T I A L GENEVA 2606

FROM USDEL LOS
E.O. 11652: N/A
TAGS: PLOS, BF

SUBJECT: LOS; ARCHIPELAGO AGREEMENT

1. BAHAMIAN LOS DELEGATE GEORGE STEWART INFORMED AMB MOORE AT RECEPTION APRIL 11 HE HAD BEEN AUTHORIZED BY FONMIN ADDERLEY INFORM US GCOB HAD DECIDED TO ACCEPT US ARCHIPELAGO PROPOSAL. HE SPECIFICALLY MENTIONED SUPPORT FOR US POSITION ON STRAITS TRANSIT AS PART OF AGREEMENT.
2. STEWART INDICATED HE HAD SPOKEN WITH INDONESIANS AND THEY REMAINED A PROBLEM. HE URGED INDONESIAN JUSTICE MINISTER MOCHTAR TO DELAY DEPARTURE UNTIL FONMIN ADDERLEY ARRIVES NEXT WEEKEND SO THEY COULD DISCUSS ARCHIPELAGO ISSUE.
3. STEWART REFERRED TO UNCOMFORTABLE POSITION OF BEING ACCUSED BY SOME NON-ALIGNED FRIENDS OF BEING "LACKEY" TO US ON THIS ISSUE. AMB MOORE ASSURED HIM WE WILL BE DISCREET RE GCOB POSITION AND LOOK FORWARD TO OPPORTUNITY TO EXPRESS OUR APPRECIATION TO FONMIN ADDERLEY WHEN HE ARRIVES.
4. ABOVE IS FOR EMBASSY INFORMATION ONLY. SEPTEL FOLLOWS COMMENTING ON HOW THIS DEVELOPMENT RELATES TO OVERALL STRAITS NEGOTIATIONS AND TO PROVIDE GUIDANCE TO EMBASSY. IF SUBJECT SHOULD BE RAISED WITH EMBASSY PRIOR RECEIPT SEPTEL, SUGGEST RESPONSE BE CONFINED TO EXPRESSION OF APPRECIATION GCOB FOUND IT POSSIBLE TO DECIDE FAVORABLY ON THIS ISSUE AT VERY IMPORTANT JUNCTURE IN NEGOTIATIONS. DALE

Geneva
Conrad II
Archipelago
James

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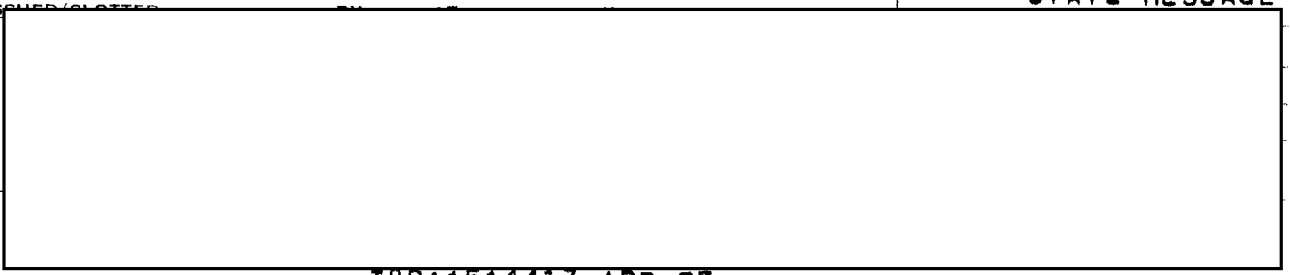
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FM USMISSION GENEVA
TO RUEHC/SECSTATE WASHDC 2077
INFO RUEHDT/USMISSION USUN NEW YORK 1571
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46

UNCLAS SECTION 1 OF 2 GENEVA 2587
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FROM USDEL LOS
E.O. 11652: N/A
TAGS: PLOS

SUBJ: LOS; UNCLASSIFIED MID-SESSION SUMMARY APRIL 10, 1975
1. SUMMARY: AT HALFWAY POINT IT IS STILL TOO EARLY TO PRE-
DICT WHETHER OR NOT THIS SESSION WILL PRODUCE VISIBLE AGREEMENT
AT COMMITTEE LEVEL ON BASIC ELEMENTS OF PACKAGE. HOWEVER,
IMMINENT APPEARANCE OF IMPORTANT ARTICLE TEXTS FROM THE
INFORMAL WORKING GROUP SESSIONS THAT OCCUPIED THE FIRST
4 WEEKS WILL PROVIDE KEY TEST. IN SUBSTANCE, PARTICULARLY
WITH RESPECT TO ECONOMIC ZONE, INFORMAL NEGOTIATIONS OF
JURIDICAL EXPERTS (EVENSEN) GROUP HAVE MADE VERY SUBSTANTIAL
PROGRESS, SO FAR, MOOD OF CONFERENCE HAS BEEN SERIOUS AND
THE RESULT IS APPARENT. CONFERENCE OPPONENTS HAVE SHIFTED TACTICS
TO LESS OBVIOUS DELAYING MANEUVERS. ON THE OTHER HAND
SOME DELS DO NOT SHARE OUR SENSE OR URGENCY AND ARE
ALREADY DISCUSSING WHETHER ONE OR POSSIBLY TWO MORE SUB-
STANTIVE SESSIONS WILL BE REQUIRED TO COMPLETE TREATY.
AMONG KEY ACCOMPLISHMENTS TO DATE ARE:

A. DEEP SEABED: PRESENTATION IN COMMITTEE I OF
CHAIRMAN'S SINGLE TEXT PAPER ON BASIC CONDITIONS OF
EXPLOITATIONS. IF PRESENT UNSATISFACTORY TEXT PROVES TO
BE NEGOTIABLE TO FURTHER ACCOMMODATE NEEDS OF DEVELOPED
COUNTRIES, IT MAY GO FAR TO RESOLVE ISSUE OF WHO WHALL
EXPLOIT SEABED WHICH TOOK VIRUTALLY THE ENTIRE TIME OF
COMMITTEE IN CARACAS. DISCUSSION HAS FOCUSED ON JOINT
VENTURE SYSTEM AND QUESTIONS OF DIRECT EXPLOITATION AND
DISCRETION OF AUTHORITY TO ENGAGE IN SERVICE CONTRACTS
HAVE NOT YET BEEN DEALT WITH.

B. TERRITORIAL SEA, HISH SEAS, ETC: IN COMMITTEE II
INFORMAL WORKING GROUPS HAVE SUCCEEDED IN PRODUCING SIN-

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GLE TEXTS ON MORE THAN 40 ITEMS OF MAIN TRENDS PAPER, WHILE TEXTS ARE ON RELATIVELY TECHNICAL AND NON-CONTENTIOUS ISSUES, AGREED SINGLE TEXTS SHOULD CONTRIBUTE SUBSTANTIALLY TO CONSOLIDATED BUREAU TEXT. IT IS EXPECTED THAT TECHNICAL TEXT ON BASELINES, HISH SEAS, ETC. WILL COMPLEMENT EFFORTS TO PRODUCE ECONOMIC ZONE AND OTHER TEXTS NEGOTIATED IN VARIOUS INFORMAL GROUPS.

C. ECONOMIC ZONE: INFORMAL JURIDICAL EXPERTS (EVENSEN) GROUP HAS MET EVERY AFTERNOON ON ECONOMIC ZONE, WITH CHAIRMAN PRESENTING TEXTS. CONSENSUS HAS EMERGED IN GROUP ON MANY OF THESE TEXTS, AND ON OTHERS WE ARE CLOSER TO AGREEMENT. MOST DIVISIVE ISSUE IS FISHING RIGHTS OF LANDLOCKED AND GEOGRAPHICALLY DIS-ADVANTAGED STATES, WHICH MAY IN PART HAVE PROMPTED CHAIRMAN OF GROUP OF 77 CONTACT GROUP FOR COMMITTEE II TO PRODUCE SEPARATE TEXT.

D. MARINE POLLUTION AND SCIENTIFIC RESEARCH: COMMITTEE III MAY BE EXPECTED TO RPRODUCE BY END OF SESSION SINBLE TEXTS ON BROAD RANGE OF ISSUES. EXCEPTION MAY BE ON FEW DIFFICULT QUESTIONS SUCH AS POLLUTION STANDARD SETTING AND ENFORCEMENT AND THE REGIME FOR RESEARCH WITHIN THE ECONOMIC ZONE, WHICH REMAIN TO BE RESOLVED WITHIN CONTEXT OF OVERALL PACKAGE.

E. DISPUTE SETTLEMENT: GROUP, WHICH MEETS SEVERAL TIMES PER WEEK, HAS BEEN MAKING SUBSTANTIAL PROGRESS IN DRAFTING ARTICLES AND EVELOPING BASIC FRAMEWORK OF COMPULSORY DISPUTE SETTLEMENT SYSTEM. AGREEMENT EMERGING THAT SPECIALIZED PROCEUDRES MAY BE NEEDED FOR SOME SECTIONS OF TREATY (E.G. DEEP SEABEDS). WITH RESPECT TO GENERAL PROCEDURES, ADVOCATES OF LOS TRIBUNAL, ICJ OR ARBITRATION, MAY FIND WAY TO AGREE BY PERMITTING STATE TO DECLARE ITS PREFERENCE AT TIME OF RATIFICATION. MULTIPLIED AND MANY MEET DAILY. WHILE FRAGMENTATION CONTRIBUTES TO GENERAL MANAGERIAL DIFFICULTY OF 150 NATION FORUM, IT ALSO SUGGESTS INCREASING ATTENTION TO ISSUES IN A MORE RELISTIC AND LESS IDEOLOGICAL CONTEXT. END SUMMARY.

2. COMMITTEE I, DEEP SEABED: DURING FIRST FOUR WEEKS, DISCUSSION IN WORKING GROUP FOCUSED ON BASIC CONDITIONS OF EXPLORATION AND EXPLOITATION AND IN PARTICULAR ON

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JOINT VENTURES. WHILE ATTENTION TO DEVICE OF JOINT VENTURES HAS TENDED TO HEAD OFF ISSUE OF RIGHT OF AUTHORITY TO EXPLOIT DIRECTLY, LDC'S CONTINUE TO RESERVE THEIR POSITIONS. THEY MAINTAIN THAT JOINT VENTURE IS ONLY ONE OF SEVERAL MEANS BY WHICH EXPLOITATION MAY PROCEED. A NEW DRAFT OF BASIC CONDITIONS PREPARED BY WORKING GROUP CHAIRMAN HAS JUST BEEN CIRCULATED. WHILE PAPER DOES NOT REPRESENT A COMPROMISE AND DOES NOT PROTECT DEVELOPED COUNTRY INTERESTS IN MAY RESPECTS, IT DOES, AS THE CHAIRMAN STATED, MIRROR PREDOMINANT TREND IN C-I, AND HAS BEEN GENERALLY ACCEPTED AS A BASIS FOR NEGOTIATIONS. DEGREE OF PROGRESS HAS BEEN REMARKEABLE IN COMPARISON TO CARACAS SESSION. WE BELIEVE THAT CHANCE EXISTS TO REACH AGREEMENT ON BASIC CONDITIONS AND ON SEVERAL KEY MACHINERY ARTICLES. IT IS EXPECTED THAT WORK OF C-I WILL CONTINUE AS IT HAS TO DATE IN INFORMAL MEETINGS WHERE NEGOTIATING ATMOSPHERE IS SERIOUS AND GENERALLY CONSTRUCTIVE.

3. COMMITTEE II: TERRITORIAL SEA, STRAITS, ECONOMIC ZONE.

A. GENERAL: WORK ON WHAT IS HOPED WILL RESULT IN COMMITTEE LEVEL PACKAGE ON THESE ISSUES HAS PRO-

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PROCEEDED ON SEVERAL LEVELS WITH WORKING GROUPS IN
 COMMITTEE STRUCTURE AND INFORMAL GROU 9758\$3 85
 294(8, & 9,)-4897 -03:5 -, \$ 303:8-))6 9, 3:9, 9.8:
 "9.3. INFORMAL WORKING GROUP OF WHOLE OF COMMITTEE II
 HAS PROCEEDED THROUGH SECOND READING OF MAIN TRENDS
 PAPER WITH VIEW TO REDUCING OR CONSOLIDATING ALTER-
 NATIVES INTO SINGLE TEXTS. MORE INFORMAL AFTERNOON
 MEETINGS HAVE TO DATE PROVISIONALLY AGREED ON MORE
 THAN 40 ARTICLES ON BASELINES, HIGH SEAS, ETC, SO
 FAR EFFORTS OF A FEW COUNTRIES TO RE-OPEN MAIN TRENDS
 PAPER AND OTHERWISE TO INDULGE IN OBSTRUCTIVE TACTICS
 HAVE BEEN RESISTED. CONTINUED PROGRESS CLEARLY DEPENDS
 ON COMMITTEE ADDRESSING AT EARLY DATE MORE FUNDAMENTAL
 ISSUES WHICH HAVE BEEN SUBJECT OF NEGOTIATION IN INFORMAL
 GROUPS.

8. ECONOMIC ZONE: THE INFORMAL JURIDICAL EXPERS
 (EVENSEN) GROUP HAS MADE MAJOR NEGOTIATING PROGRESS ON
 THE CENTRAL ISSUE OF THE ECONOMIC ZONE. SEPTEL TO DEPT. CON-
 TAINS THE LATEST (USUALLY FIFTH REVISION) TEXTS
 CIRCULATED SO FAR BY THE CHAIRMAN. ARTICLES 1, 2, 3,
 5, 6, MOST OF 7, AND 8 COMMAND WIDESPREAD SUPPORT IN
 THE GROUP, ALTHOUGH SOME CHANGES ARE LIKELY. ARTICLES
 13 AND 14 HAVE NOT YET BEEN DISCUSSED, BUT 13 IS
 BASICALLY THE RESULT OF CONSULTATIONS WITH STATES
 PRINCIPALLY CONCERNED. MISSING ARTICLE 11 WILL BE
 CHAIRMAN'S DRAFT OF AN ARTICLE ON NON-TRANSFERENCE
 OF FISHING RIGHTS TO THIRD PARTIES.

EVENSEN GROUP IS EXPECTED TO TAKE UP CONTINENTAL
SHELF AND POLLUTION ISSUES SOON. ON FORMER ISSUE,
 THERE IS GROWING REALIZATION THAT COASTAL STATE JURIS-

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DICTION OVER THE MARGIN TO A PRECISELY DEFINED LIMIT COUPLED WITH REVENUE-SHARING BEYOND 200 MILES IS POSSIBLY THE ONLY WAY TO SECURE WIDESPREAD AGREEMENT. AT END OF 4TH WEEK NJENGA (KENYA) CHAIRMAN OF GROUP 0 77 CONTACT GROUP IN C-II, CIRCULATED A DRAFT ON ECONOMIC ZONE WHICH IS NOW UNDER REVIEW IN GROUP OF 77. THE DRAFT ATTEMPTS TO RESOLVE ISSUE OF ACCESS BY LANDLOCKED AND GEOGRAPHICALLY DISADVANTAGED STATES TO LIVING RESOURCES OF THE ECONOMIC ZONE. HOWEVER, THE PAPER REMAINS ESSENTIALLY COASTAL IN CHARACTER.

C. TERRITORIAL SEA AND STRAITS: ALTHOUGH A FEW 200 MILE TERRITORIALISTS CONTINUE TO RESIST CLEAR TREND OF C-II, THERE APPEARS TO BE OVERWHELMING SUPPORT FOR A 12 MILE TERRITORIAL SEA AND GOOD PROSPECTS FOR RESOLVING STRAITS ISSUE IF OVERALL C-II PACKAGE CAN BE AGREED UPON.

D. EXPECTATION IS THAT COMMITTEE BUREAU WILL SOON ATTEMPT TO PRODUCE A SINGLE TEXT, BASED ON INFORMAL NEGOTIATIONS WHEREVER POSSIBLE.

4. COMMITTEE III: MARINE POLLUTION AND SCIENTIFIC RESEARCH.

A. GENERAL: WORK OF COMMITTEE III HAS PROCEEDED SOMEWHAT ON PERIPHERY OF CONFERENCE NEGOTIATIONS SINCE SEVERAL OF ITS MOST DIFFICULT AGENDA ITEMS ARE DEPENDENT UPON BALANCE ACHIEVED WITH ESPECT TO THE ECONOMIC ZONE, MEANWHILE PROGRESS HAS BEEN MADE ON A NUMBER OF ITEMS WITH EFFORTS, AS IN COMMITTEE II, TO REDUCE EXISTING ALTERNATIVES TO SINGLE TEXTS IN INFORMAL WORKING GWUPS.

B. SCINETIFIC RESEARCH: INFORMAL WORKING GROUP ON ISSUE HAS FOCUSED ON LEGAL STATUS OF SCIENTIFIC INSTALLATION ANS ISSUES OF RESPONSIBLITY AND LIABILITY. GROUP OF 77 HAS ADDED TO ITS PREVIOUS PROPOSAL ON SCIENTIFIC RESEARCH A REQUIREMENT FOR PREFERENTIAL TREATMENT FOR NEIGHBORING DEVELOPING LANDLOCKED OR GEOGRAPHICALLY DISADVANTAGED STATES. SOVIETS HAVE INTRODUCED A PAPER WHICH REQUIRES COASTAL STATE CONSENT FOR RESEARCH RELATED TO EXPLORATION AND EXPLOITATION OF LIVING AND NON-LIVING RESOURCES, BUT PROVIDES FOREIGN STE

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LCIGATION REGIME FOR RESEARCH UNRELATED TO RESOURCES. RECENTLY, DISUCSSION HAS CENTERED ON PRACTICALLY AND DESIRABILTY OF SUCH A DISTRINCTION.

C. MARINE POLLUTION: COMMITTEE III'S PROGRESS ON MARINE POLLUTION NEGOTIATIONS HAS BEEN SLOW, AND AWAITS RESOLUTION OF DIFFICULT ISSUES IN EVENSEN GROUP BEGINNING THIS WEEK. ARTICLE ON MONITORING WAS AGREED AFTER EXTENSIVE DEBATE. UK HAS INTRODUCED COMPRE- HENSIVE ARTICLES ON MARINE POLLUTION ON BEHALF OF NINE MARITIME STATES. THSE PROVISIONS LIMIT PORT STATE ENFORCEMENT TO CASES WHERE THERE IS DAMAGE TO COAST. NINE-POWER PROPOSAL HAS BEEN GENERALLY CRITICIZED BY COASTAL STATES, MOST OF WHICH SUPPORT COASTAL STATE ENFORCE- MENT COMPETENCE, AS INADEQUATE AND TOO RESTRICTIVE IN THAT IT PROVIDES FOR NO RESIDUAL COASTAL STATE COMPE- TENCE WITH RESPECT TO ENFORCEMENT. ON OTHER ITEMS, DOUBLE STANDARD ISSUE HAS BEEN DEFERRED ON GROUNDS THAT ITS CONSIDERATION IN CONNECTION WITH EVERY ISSUE ONLY PROLONGS DEBATE. U.S. PROPOSAL DEALING WITH ENVIRON- MENTAL ASSESSMENTS OF ACTIVITIES THAT MAY SIGNIFICANTLY HARM MARINE ENVIRONMENT, AND CONSULTATIONS WITH AFFECTED STATES, WILL BE TAKEN UP AFTER ARTICLE ON LAND-BASED SOURCES, PROBABLY DURING 5TH WEEK.

5. DISPUTE SETTLEMENT: WEEKEND MEETING OF WORKING GROUP ON COMPULSORY DISPUTE SETTLEMENT EARLY IN CONFERENCE WAS HELD WHERE GROUP REVIEWED WORK AT CARACAS. FORTY STATES PARTICIPATING CONSIDERED FOR- MAT OF ACCEPTABLE COMPROMISE ON COMPULSORY DISPUTE SETTLEMENT PROCEDURES. ARTICLE III OF FOUR DRAFT ARTICLES WOULD ALLOW CONTRACTING PARTY TO DECLARE WHETHER IT ACCEPTS JURISDICTION OF ARBITRAL TRIBUNAL, LOS TRIBUNAL, OF ICJ OR ANY TWO OR THREE OF THEM. A CASE AGAINST CONTRACTING PARTY CAN BE SUBMITTED ONLY TO PROCEDURE BINDING UPON THAT PARTY. REVISED AND ADDITIONAL ARTICLES ARE BEING PREPARED. PRESENT DISPUTE SETTLEMENT ARTICLES PROVIDE:

ARTICLE I -- CONTRACTING PARTIES HAVE THE RIGHT TO AGREE TO SETTLE A DISPUTE BETWEEN THEM RELATING TO THE INTERPRETATION OR APPLICATION OF THE

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CONVENTION BY ANY PEACEFUL MEANS,
 ARTICLE II -- A DISPUTE NOT SETTLED BY SUCH
 MEANS WILL BE SETTLED PURSUANT TO ARTICLE III
 PROVIDED AGREED TIME-LIMIT HAS ELAPSED OR
 SPECIAL PROCEEDINGS SET FORTH IN OTHER CHAPTERS
 OF CONVENTION CONCLUDED. WHERE NO SUCH PRO-
 CEEDINGS PROVIDED, ANY PARTY MAY NOTIFY OTHER
 PARTY OR PARTIES TO DISPUTE OF SUBMISSION OF
 DISPUTE TO CONCILIATION, CONCILIATION PROCEEDINGS
 WOULD COMMENCE UNLESS, WITHIN TWO MONTHS OF
 NOTIFICATION, PROCEEDINGS PURSUANT TO ARTICLE
 3 ARE INSTITUTED.

ARTICLE III -- IN RATIFYING CONVENTION, PARTY WOULD
 DECLARE ACCEPTANCE OF JURISDICTION OF ARBITRAL
 TRIBUNAL, LOS TRIBUNAL, OR ICJ, OR ANY TWO OR
 THREE OF THEM, PARTY NOT MAKING DECLARATION
 WILL BE SUBJECT TO ALL THREE TRIBUNALS. A
 CASE AGAINST CONTRACTING PARTY CAN BE SUBMITTED
 ONLY TO PROCEDURE BINDING UPON THAT PARTY.

ARTICLE IV -- LOS TRIBUNAL WILL HAVE JURISDIC-
 TION TO INDICATE PROVISIONAL MEASURES TO PRESERVE
 RIGHTS OF PARTIES BOTH WITH RESPECT TO CASES
 SUBMITTED TO IT AND TO DISPUTES SUBMITTED TO
 ARBITRATION. SUCH INTERIM MEASURES SHALL
 BE BINDING.

AT LAST SESSION OF DISPUTE SETTLEMENT GROUP, ADEDE
 (KENYA) WAS ELECTED CO-CHAIRMAN TO REPLACE GALINDO-POHL
 (EL SALVADOR) WHO WAS UNABLE TO CONTINUE ACTIVE PARTI-
 CIPATION IN WORK OF GROUP DUE TO HIS CHAIRMANSHIP OF
 COMMITTEE II.

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TAGS: PLOS
 SUBJ: BDG POSITION ON BASELINES
 1. BDG ORIGINALLY TABLED TEXT IN CARACAS TO MEET PROBLEMS AS PERCEIVED FOR THE GANGES DELTA AREA. THIS TEXT INCLUDED IN MAINTRENDS PAPER OF COMMITTEE II AS PROVISION 9:

"IN LOCALITIES WHERE NO STABLE LOW-WATER LINE EXISTS ALONG THE COAST DUE TO CONTINUAL PROCESS OF ALLUVION AND SEDIMENTATION AND WHERE THE SEAS ADJACENT TO THE COAST ARE SO SHALLOW AS TO BE NON-NAVIGABLE BY OTHER THAN SMALL BOATS AND PERTAIN TO THE CHARACTER OF INLAND WATERS, BASELINES SHALL BE DRAWN LINKING APPROPRIATE POINTS ON THE SEA ADJACENT TO THE COAST NOT EXCEEDING 10 FATHOM LINE."

2. HOWEVER, IN EXPLANATORY INTERVENTION IN SMALL INTEREST GROUP CONSIDERING BASELINES, REPRESENTATIVE OF BANGLADESH PROPOSED ANOTHER FORMULA WHICH TRACKED MORE CLOSELY THE LANGUAGE OF THE EXISTING GENEVA CONVENTION ON THE TERRITORIAL SEA AND THE CONTIGUOUS ZONE. IN WORKING PAPER PRESENTED TO SMALLER DRAFTING GROUP, NEW BDG PROVISION INCLUDED AS OPTION B ALONG WITH A MODIFICATION OF GENERAL LANGUAGE OF THE CONVENTION, PROPOSED BY ANOTHER MEMBER OF THE DRAFTING GROUP, AS OPTION A. OPTION A COULD MEET BANGLADESH PROBLEM WHILE CONFORMING WITH INTENT OF EXISTING INTERNATIONAL LAW AND STATE PRACTICE. THESE OPTIONS ARE AS FOLLOWS (EXISTING CONVENTION LANGUAGE IS IN QUOTES):

OPTION A: "IN LOCALITIES WHERE THE COASTLINE IS DEEPLY INDENTED AND CUT INTO, OR IF THERE IS A FRINGE OF ISLANDS ALONG THE COAST IN ITS IMMEDIATE VICINITY, THE METHOD OF STRAIGHT BASELINES JOINING APPROPRIATE POINTS MAY BE EMPLOYED IN DRAWING THE BASELINE FROM WHICH THE BREADTH OF THE TERRITORIAL SEA IS MEASURED," WHERE BECAUSE OF THE PRESENCE OF A DELTA OR OTHER

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NATURAL CONDITIONS THE COASTLINE IS HIGHLY UNSTABLE, THE APPROPRIATE POINTS MAY BE SELECTED ALONG THE FURTHEST SEAWARD EXTENT OF THE LOW-WATER LINE AND, NOTWITHSTANDING SUBSEQUENT REGRESSION OF THE LOW-WATER LINE, SUCH BASELINES SHALL REMAIN EFFECTIVE UNTIL CHANGED BY THE COASTAL STATE IN ACCORDANCE WITH THIS CONVENTION. A COASTAL STATE MAY EMPLOY THE METHOD OF MIXED BASELINES, I.E., DRAWING THE BASELINE IN TURN BY THE METHODS PROVIDED FOR IN ARTICLE ... AND THIS ARTICLE TO SUIT DIFFERENT CONDITIONS.

OPTION B: "IN LOCALITIES WHERE THE COASTLINE IS DEEPLY INDENTED AND CUT INTO OR IF THERE IS A FRINGE OF ISLANDS ALONG THE COAST IN ITS IMMEDIATE VICINTIY" OR IF THE WATER ADJACENT TO THE COAST IS MARKED BY CONTINUAL PROCESS OF ALLUVION AND SEDIMENTATION CREATING A HIGHLY UNSTABLE LOW-WATER LINE "THE METHOD OF STRAIGHT BASELINES JOINING APPROPRIATE POINTS" ON THE COASTS OR ON THE COASTAL WATERS MAY BE EMPLOYED IN DRAWING THE BASELINE FROM WHICH THE BREADTH OF THE TERRITORIAL SEA IS MEASURED.

3. IN SUBSEQUENT DISCUSSION OF INFORMAL WORKING PAPER IN GROUP INTERESTED IN BASELINES, ONLY BANGLADESH SPOKE IN FAVOR OF OPTION B. AS A RESULT, THE CHAIRMAN OF COMMITTEE II, ACTING AS CHAIRMAN OF GROUP, STATED THAT A CONSENSUS HAD BEEN REACHED ON OPTION A.

4. WORKING PAPER, NOW A PRODUCT OF BUREAU OF COMMITTEE II AND SUBSEQUENT REVISIONS, IF ANY, WILL HAVE TO OCCUR IN FULL COMMITTEE II.

5. DELOFFS EXPLAINED, AS DID OTHER EXPERTS ATTACHED TO OTHER DELEGATIONS, THAT BDG PRINCIPLE WOULD PROBABLY NOT HELP BDG IN NEGOTIATIONS FOR MEASURING CONTINENTAL SHELF AND ECONOMIC ZONE BOUNDARY WITH INDIA AS SAME OPTION WOULD BE OPEN TO INDIA, THUS NEGATING ANY ADVANTAGE WHICH COULD ACCRUE TO BANGLADESH.

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TAGS: PLOS, PO

SUBJ: LAW OF THE SEA

1. ON HIS DEPARTURE APRIL 12 TO HEAD THE PORTUGUESE DELEGATION AT THE LAW OF THE SEA CONFERENCE IN GENEVA, DR. MARIO RUIVO, SECRETARY OF STATE FOR FISHERIES, MADE THE FOLLOWING OBSERVATIONS ABOUT GOP'S LOS POLICIES:

A. PORTUGAL'S POSITION IS BASED ON DEFENDING THE INTERESTS OF DEVELOPING COUNTRIES WITH WHICH PORTUGAL CONTINUES TO IDENTIFY MORE CLOSELY BUT WITHOUT FORGETTING ITS CONTINUING LINKS TO EUROPE.

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B. FROM A PRACTICAL POINT OF VIEW, GIVEN THE IMPORTANCE OF FISHERIES TO THE ECONOMY AND FOR FOOD SUPPLY, THE LOS ASPECT WHICH MOST INTERESTS PORTUGAL IS TO ASSURE THAT WHATEVER FRAMEWORK IS ESTABLISHED FOR MARITIME RESOURCES IS NOT DISCRIMINATORY AND PERMITS INTERESTED COUNTRIES TO PARTICIPATE IN FISHERIES.

C. RE POLLUTION, PORTUGAL WANTS FORMS OF INTERNATIONAL COOPERATION THAT PERMIT SMALL COUNTRIES TO PROTECT THEMSELVES AGAINST THE ACTIVITIES OF THE LARGE INDUSTRIAL COUNTRIES.

2. THE PORTUGUESE DELEGATION TO THE LOS CONFERENCE WERE IDENTIFIED AS FOLLOWS: COMANDANTE MANUEL LIMPO SERRA, ENG, JOSE FARINHA DA CONCEICAO, DR, JOAO AFONSO D'ASCENSAO, DR. JOSE HIPOLITO, DR, RUI MONTEIRO, DR, EMILIO CADIMA, DR. JOSE ROSADO, DRA, MARIA BARROSO GONCALVES, AND DR, RUI CABECADAS.

3. COMMENT: REVOLUTIONARY CHANGES IN PORTUGAL MEAN THAT IT IS LIKELY TO BE FURTHER FROM UNITED STATES VIEWS THAN IT WAS IN THE PAST. LOSS OF EMPIRE MEANS LESS INTEREST IN STRATEGIC LOS QUESTIONS (E.G., PASSAGE OF STRAITS). CLOSER IDENTIFICATION WITH THIRD-WORLD VIEWS MEANS LESS IDENTIFICATION WITH CERTAIN U.S. OBJECTIVES. EVEN THE COMPOSITION OF THE PORTUGUESE DELEGATION ITSELF IS LIKELY TO MAKE ACCESS TO IT MORE DIFFICULT. RUIVO HAS BEEN IDENTIFIED AS A LEFTIST, FRIENDLY TO MOSCOW, AND RUI CABECADAS IS THOUGHT TO BELONG TO THE FAR LEFT. LIMPO SERRA WE KNOW AS A TECHNICIAN; WE ARE NOT FAMILIAR WITH THE OTHER MEMBERS OF THE DELEGATION. CARLUCCI

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 C O N F I D E N T I A L GENEVA 2545
 FROM USDEL LOS
 EO 11652: GDS
 TAGS: PLOS
 SUBJ: COMMITTEE II INFORMAL "BLUE PAPERS"
 REF: STATE 079132

*Geneva
Committee II
Historic Bays &
Waters*

43

1. INFORMAL SUB-COMMITTEE ON HISTORIC BAYS AND WATERS OF COMMITTEE II MET FOR THIRD INFORMAL SESSION ON APRIL 9 TO CONSIDER QUESTION OF "HISTORIC BAYS AND WATERS". IN EARLIER MEETINGS, VARIOUS AMENDMENTS INTRODUCED ORALLY, ON APRIL 9, CHAIRMAN OF SUB-COMMITTEE (COLOMBIA) NOTED THE "GREAT DIFFICULTIES", "HESITANCIES" OF THE VARIOUS DELEGATIONS AND "THE GENERAL RELUCTANCE TO ADDRESS THE ISSUES". THE CHAIRMAN, AS A RESULT, ANNOUNCED HE WOULD CONVEY THIS CONDITION TO THE CHAIRMAN OF COMMITTEE II.

2. WHILE THE SITUATION IS UNCLEAR AT THE MOMENT, IT APPEARS LIKELY THAT THE SUB-COMMITTEE WILL NOT MEET AGAIN AND THAT ITS WORK WILL CEASE. IF ASSESSEMTN IS TRUE, EXISTING LANGUAGE OF THE GENEVA CONVENTION ON THE TERRITORIAL SEA AND CONTIGUOUS ZONE WILL PROBABLY CONTINUE TO PREVAIL.

3. AS DEPT. AWARE, US POSITION IS TO FAVOR NO CHANGE IN TERRITORIAL SEA CONVENTION IN DELIMITATION AND BAYS. WE EXPLAINED THIS TO CHARLES MEACHEM, WHO IS REPRESENTING GOVERNOR OF ALASKA HERE, AND WHO IS HIGHLY SENSITIVE TO THE ISSUE. LIKELY RESPONSE TO JUSTIVE USE OF DRAFT WOULD BE TO RPRESSURE USDEL ON WHAT, IN ANY EVENT, IS PROBABLY AN INSOLUBLE ISSUE IN CONFERENCE WITH, INTER ALIA, ADVERSE IMPELICATIONS FOR US-SOVIET COOPERATION. MOREOVER, WE DO NOT, REPEAT NOT, BELIEVE IT IS WISE TO GIVE INCORRECT IMPRESSION THAT US NEGOTIATING POSITIONS HERE ON BAYS AND BASELINES RELATED TO FEDERAL-STATE PROBLEMS.

4. IN LIGHT FOREGOING, WE RECOMMEND THAT SUBSTANCE OF PROPOSAL NOT RPT NOT BE USED. IF JUSTICE WISHES TO USE PAPER ALONG WITH OTHERS TO ILLUS-TRATE THAT MATTERS ARE UNDER NEGOTIATION, THIS WOULD

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PAGE 02-02

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OF COURSE ENTIAL FEWER PROBLEMS.

5. DELOFF HODGSON RETURNING TO WASHINGTON ON APRIL 12

AND WILL BRING COPIES OF THE THREE INFORMAL WORKING

PRPAERS CONSIDERED BY THE SUB-COMMITTEE GROUP.

DALE

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LOS

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Committee I

42

CONFIDENTIAL GENEVA 2419
FROM USDEL LOS
E.O. 11652: GDS
TAGS: PLOS

SUBJ: LOS: COMMITTEE I WORKING GROUP, APRIL 4, 1975

1. WORKING GROUP (WG) HELD VERY CONSTRUCTIVE MEETING IN WHICH CHAIRMAN'S (PINTO) PROPOSAL THAT HE, PINTO, PREPARE COMPROMISE BASIC CONDITIONS TEXT CONFIRMED TO CONTRACTUAL FORM OF JOINT VENTURE WAS UNOPPOSED, FIRST DRAFT OF PAAPER BEING CIRCULATED PRIVATELY IS VERY CLOSE TO GROUP OF 77 DRAFT FROM CARACAS SESSION, BUT COULD BE BASIS FOR DISCUSSION.

DRAFT WILL BE DISCUSSED IN PRIVATE CONSULTATIONS BEFORE IT IS GIVEN PUBLIC CIRCULATION, EVEN AT INFORMAL LEVEL. SOVIETS APPARENTLY AGITATED THAT PINTO PAPER DID NOT DRAW UPON THEIR RECENT CONDITIONS PROPOSAL, HAVE NEVER THELESS AGREED TO USE IT AS A BASIS FOR DISCUSSION IN PRIVATE GROUPS. WE AND OTHER MEMBERS OF GROUP OF 5 HAVE JOINTLY MADE DETAILED COMMENTS.

2. STATEMENTS BY COLOMBIA, ARGENTINA, LIBERIA, TRAG AND THAILAND FAVORED AS BASIS OF COMPROMISE CONTRACTUAL FORM OF JOINT VENTURES AS OPPOSED TO CREATION OF NEW LEGAL ENTITY. COLOMBIA AND ARGENTINA IN MARKEDLY MODERATE INTERVENTIONS FIRMLY STATED THAT AUTHORITY COULD NOT EXPLOIT DIRECTLY IN EARLY YEARS AND INDICATED SUBSTANTIAL FLEXIBILITY ON NEED TO REQUIRE AUTHORITY'S SHARE IN EQUITY IN EACH JOINT VENTURE. MOREOVER, ARGENTINA STRESSED HIGH RISK NATURE OF MINING ENTERPRISES, UNACCEPTABILITY OF SERVICE CONTRACT ARRANGEMENTS, AND EMPHASIZED THAT BASIC CONDITIONS MUST CONTAIN DESCRIPTION OF REASONS FOR WHICH AUTHORITY COULD REQUIRE SUSPENSION AND TERMINATION, THAT AUTHORITY'S CONTROL WOULD BE PROTECTED BY ACCESS TO OPERATOR'S FINANCIAL RECORDS, THAT OPERATOR SHOULD CARRY OUT REOUTINE MANAGEMENT FUNCTIONS AND THAT PROMPT DISPUTE SETTLEMENT WAS ESSENTIAL. (COMPROMISE TONE OF ARGENTIAN STATEMENT IS SUBJECT OF WIDESPREAD DISCUSSIONS IN CORRIDORS).

3. WG WILL NOT MEET APRIL 7 OR APR 8 IN ORDER TO GIVE TIME FOR

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CHAIRMAN TO CONTINUE CONSULTATIONS ON NEW COMPROMISE
DRAFT OF BASIC CONDITIONS, ABRAMS

75

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EXDIS
FROM USDEL LOS
FOR DEPUTY SECRETARY CHAIRMAN, NSC UNDER SECRETARIES
COMMITTEE FROM AMBASSADORS STEVENSON AND MOORE
E.O. 11652: XGDS-3
TAGS: PLOS
SUBJ: WEEKLY ASSESSMENT OF GENEVA SESSION OF LAW OF
THE SEA CONFERENCE-PERSONAL VIEWS OF DELEGATION
CHAIRMAN AND VICE CHAIRMAN

1. TWELVE MILE TERRITORIAL SEA: GENERAL AGREEMENT ON
THIS ESSENTIAL PART OF GENERAL PACKAGE WITH 200-MILE
TERRITORIALISTS LIMITING SELVES TO FORMAL RESERVATIONS,
SEEKING TO STRENGTHEN COASTAL STATE RIGHTS IN TERRITORIAL
SEA AND, IN SOME CASES, TO DELAY CONFERENCE.
2. UNIMPEDED TRANSIT THROUGH, OVER AND UNDER STRAITS:
OPPOSITION IS PRINCIPALLY LIMITED TO SPAIN, EGYPT,
MOROCCO, YEMEN, OMAN, PHILIPPINES, AND IRAN. SETTLE-
MENT WITH INDONESIA ON ARCHIPELAGOES AND WITH EGYPT ON
TRANSIT THROUGH STRAIT OF AQUAABA ARE MOST CRITICAL
ELEMENTS IN ACHIEVING OUR STRAITS OBJECTIVES. SEE
SEPARATE CABLES ON THESE SUBJECTS.
3. ECONOMIC ZONE: MAJOR BREAKTHROUGH ACHIEVED: 30
NATION UNOFFICIAL EVENSEN GROUP (IN WHICH MOST REGIONAL
GROUP LEADERS AS WELL AS USA, USSR, UK, FRANCE,
JAPAN AND CHINA REPRESENTED) IS CLOSE TO FINAL AGREE-
MENT ON SINGLE WORKING TEXT FOR GENERAL ECONOMIC ZONE
ARTICLES. TEXT WOULD RECOGNIZE 200-MILE ECONOMIC
ZONE IN WHICH COASTAL STATES HAVE SOVEREIGN RIGHTS
OVER RESOURCES AND JURISDICTION AS PROVIDED IN CON-
VENTION WITH RESPECT TO PRESERVATION OF MARINE ENVIRON-
MENT, SCIENTIFIC RESEARCH (ENVIRONMENT AND RESEARCH
TO BE DEALT WITH IN SEPARATE CHAPTERS) AND ARTIFICIAL
ISLANDS AND CERTAIN INSTALLATIONS AND STRUCTURES; ON
THE OTHER HAND THIRD STATES HAVE IN ECONOMIC ZONE
FREEDOMS OF NAVIGATION, OVERFLIGHT, LAYING PIPELINES

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AND CABLES, AND OF OTHER USES RELATED TO NAVIGATION AND COMMUNICATIONS. RIGHTS IN RESPECT OF RESIDUAL PRESENT OR FUTURE USES NOT VESTED IN EITHER COASTAL OR OTHER STATES.

SERIOUS TACTICAL PROBLEM INVOLVED IN OBTAINING ACCEPTANCE OF THIS DELICATE ACCOMMODATION BY CONFERENCE AS A WHOLE, PARTICULARLY BY NON-PARTICIPATING STATES. WE HAVE ENCOURAGED CHAIRMAN COMMITTEE II TO INCLUDE EVENSEN TEXT IN HIS OWN TEXT COVERING INITIALLY TERRITORIAL SEA, ECONOMIC ZONE, STRAITS AND HIGH SEAS. CONSIDERABLE AGREEMENT IN EVENSEN GROUP ON FISHERIES PROVISIONS RECOGNIZING COASTAL STATE SOVEREIGN MANAGEMENT AND CONSERVATION RIGHTS SUBJECT TO DUTIES OF CONSERVATION AND FULL UTILIZATION. WE ARE ACTIVELY NEGOTIATING SPECIAL PROVISIONS ON SALMON AND TUNA AMONG INTERESTED STATES IN EXPECTATION CAN BE ADOPTED THIS WEEK BY EVENSEN GROUP.

A MAJOR ISSUE IN ECONOMIC ZONE NEGOTIATIONS IS WHETHER COASTAL STATE CONTROL OVER INSTALLATIONS SHOULD COVER INSTALLATIONS USED FOR MILITARY PURPOSES. MEXICO AND PERU SUPPORTED BY MANY OTHER DEVELOPING COUNTRIES HAVE URGED COASTAL STATE CONTROL OVER ALL INSTALLATIONS IN ECONOMIC ZONE AND WE HAVE STRONGLY RESISTED ON GROUND DISARMAMENT SHOULD BE DEALT WITH IN OTHER FORUMS. LEADER OF MEXICAN DELEGATION ADVISED AMBASSADOR STEVENSON HE HAS REQUESTED RELIEF FROM INSTRUCTIONS TO SEEK COASTAL STATE CONTROL OVER ALL INSTALLATIONS, INCLUDING MILITARY INSTALLATIONS, IF GENERAL ECONOMIC ZONE ARTICLES WHICH HE FAVORS SURVIVE IN SUBSTANTIALLY PRESENT FORM.

OTHER MAJOR ECONOMIC ZONE ISSUE IS WHETHER LIMIT OF ECONOMIC ZONE SHOULD EXTEND BEYOND 200 MILES WHEN CONTINENTAL MARGIN EXTENDS BEYOND 200 MILES. CANADA, AUSTRALIA, NORWAY, UK, ARGENTINA AND OTHER BROAD MARGIN STATES CONSIDER THIS A MAKE OR BREAK ISSUE. DISADVANTAGED AND MOST AFRICAN STATES ARE OPPOSED TO GOING BEYOND 200 MILES, BUT IMPORTANT LEADERS HAVE INDICATED WILL DO SO IF NECESSARY TO ACHIEVE AGREEMENT IF ACCOMPANIED BY REVENUE SHARING BEYOND 200 MILES. MOST BELIEVE PROFIT SHARING BEST FORMULA FOR REVENUE

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SHARING BEYOND 200 MILES, WE ARE WORKING FOR GENERAL AGREEMENT ON ABOVE LINES, WHILE ONLY LIMITED DISCUSSIONS OF HOW MUCH PROFIT SHARING NECESSARY, UNOFFICIAL BALLPARK PROPOSALS MADE RANGE FROM 10 PERCENT (NEW ZEALAND) TO 50 PERCENT (KENYA).

4. DEEP SEABEDS: PROGRESS IN COMMITTEE I NEGOTIATION IN COMPARISON TO CARACAS SESSION HAS BEEN SUBSTANTIAL, BUT THERE REMAIN SERIOUS DOUBTS AS TO WHETHER CERTAIN KEY COMMITTEE I ISSUES CAN BE AGREED THIS SESSION, NEGOTIATIONS ARE CONCENTRATING ON DEVELOPING COMPROMISE BASIC CONDITIONS TO GOVERN EXPLOITATION THROUGH JOINT VENTURES AND WE ANTICIPATE THAT WITHIN ONE TO TWO WEEKS A NEGOTIATED DRAFT OF BASIC CONDITIONS CAN BE FORMALLY PRESENTED TO COMMITTEE I FOR APPROVAL. AGREEMENT IN PRINCIPLE ON NECESSITY FOR DETAILED PROVISIONAL REGULATIONS CAN PROBABLY BE OBTAINED. COMPROMISE BASIC CONDITIONS WILL LEAVE SOME DISCRETION TO AUTHORITY AND THUS MUST BE ACCOMPANIED BY AGREEMENT ON ARTICLES ON COUNCIL, ASSEMBLY AND DISPUTE SETTLEMENT. BELIEVE LAST THREE OR FOUR WEEKS OF SESSION PROVIDE ADEQUATE TIME FOR NEGOTIATION OF THESE KEY MACHINERY ARTICLES BUT CANNOT PREDICT NOW THE EXTENT TO WHICH THESE MATTERS CAN BE TIED DOWN BY END OF SESSION.

ASSUMING COMMITTEE I NEGOTIATION CONTINUES TO MOVE RAPIDLY, WE WOULD LEAVE GENEVA WITH AGREEMENT ON BASIC CONDITIONS GOVERNING JOINT VENTURES SYSTEM, AGREEMENT IN PRINCIPLE ON NEED FOR PROVISIONAL DETAILED REGULATIONS TO ACCOMPANY TREATY AS ONE OF FINAL ACTS OF LOS CONFERENCE OR A TREATY ARTICLE REQUIRING THAT THEY BE PREPARED WITHIN SHORT TIME PERIOD BY PROVISIONAL MACHINERY, AND AGREEMENT ON COMPOSITION AND VOTING OF COUNCIL AND BASIC ELEMENTS OF DISPUTE SETTLEMENT ORGAN, UNLIKELY, HOWEVER, THAT QUESTION OF DIRECT EXPLOITATION BY AUTHORITY AND PRODUCTION CONTROLS, WILL BE NEGOTIATED HERE. IT IS POSSIBLE THAT GROSSLY SIMPLIFIED TEXTS OF REGIME AND MACHINERY ARTICLES, READY FOR NEGOTIATION OR VOTING, WILL HAVE SURFACED BY END OF SESSION. ALSO PROBABLE THAT CONFERENCE WILL ADOPT NEW MORATORIUM RESOLUTION.

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5. SCIENTIFIC RESEARCH, MARINE POLLUTION, DIS-
PUTE SETTLEMENT; ONLY LIMITED DEVELOPMENTS TO DATE;
WILL REPORT NEW WEEK,
ABRAMS

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FOR DEPUTY SECRETARY INGERSOLL AND UNDER SECRETARY
MAW FROM AMB STEVENSON
FROM USDEL LOS
E.O. 11652: XGDS-3
TAGS: PLOS
SUBJ: ISRAEL LOS DELEGATION DESIRES DIRECT TALKS WITH
EGYPTIAN DELEGATION
REF: GENEVA 2287

SUMMARY: AMBASSADOR AMIEL NAJAR, CHAIRMAN ISRAELI LOS
DELEGATION WHO CLOSE POLITICAL ADVISER TO PRIME MINISTER
AND WHO FANCIES SELF EXPERT ON ARAB PSYCHOLOGY BASED
ON LONG RESIDENCE IN CAIRO, ACCOMPANIED BY AMBASSADOR
SHABTAI ROSENNE, REVIEWED PROGRESS OF GENEVA SESSION
WITH AMBASSADOR STEVENSON, END SUMMARY

1. IN COURSE DISCUSSION NAJAR EXPRESSED PERSONAL VIEW
THAT PROGRESS ON INTERNATIONAL GUARANTEES OF ISRAELI
ACCESS TO STRAITS OF TIRAN, BAB-EL-MANDEB AND GIBRALTAR
WOULD GREATLY FACILITATE ACCEPTANCE BY ISRAELI CABINET
OF EGYPTIAN PROPOSALS WITHOUT FORMAL EGYPTIAN PLEDGE
OF NON-BELLIGERENCY. HE STRESSED STRONG APPREHENSION
IN ISRAELI CABINET OVER POSSIBLE CUTTING OFF OF ACCESS TO
ISRAEL THROUGH GULF OF AQUABA.

2. STEVENSON INQUIRED IF ISRAELI GOVERNMENT IS NOW
PREPARED ACCEPT PROPOSAL US PUT TO EGYPT, SAUDI ARABIA
AND KUWAIT AT CARACAS OF HAVING UNIMPEDED TRANSIT OF
STRAITS (INCLUDING SUBMERGED TRANSIT AND OVERFLIGHT)
APPLY ONLY TO STRAITS CONNECTING HIGH SEAS TO HIGH SEAS
(SUCH AS STRAITS OF GIBRALTAR AND BAB-EL-MANDEB) WITH
REGIME OF NON-SUSPENDABLE INNOCENT PASSAGE AND CLAUSE
RESERVING LEGAL POSITION OF PATTIES APPLYING IN STRAITS
CONNECTING HIGH SEAS TO TERRITORIAL SEAS OF A FOREIGN
STATE (SUCH AS STRAIT OF TIRAN). NAJAR GAVE SOMEWHAT
EQUIVOCAL RESPONSE AND INDICATED DESIRABILITY OF BILATERAL
DISCUSSIONS BETWEEN ISRAELI AND EGYPTIAN DELEGATION.

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IMPLICATION WAS THAT HE WOULD BE INTERESTED STEVENSON
 ACTING AS INTERMEDIARY IN CONDUCTING OR ARRANGING BI-
 LATERAL DISCUSSIONS BUT AS NO DIRECT REQUEST WAS MADE,
 NO RESPONSE WAS GIVEN.

3. IN VIEW SPLIT ARAB GROUP AT CONFERENCE ON STRAITS
 ISSUE (REFTEL) AND CRITICAL LEADERSHIP OF EGYPT IN
 OPPOSING UNIMPEDED TRANSIT, ISRAELI-EGYPTIAN ACCOMMO-
 DATION ON STRAITS COULD CONSTITUTE IMPORTANT BREAK-
 THROUGH AT LOS CONFERENCE AS WELL AS FACILITATING US
 OVERALL MID-EAST OBJECTIVES.

4. REQUEST AUTHORITY EXPLORE FURTHER NAJAR PROPOSAL
 WITH HIM AND LEADER EGYPTIAN LOS DELEGATION.
 ABRAMS

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CONFIDENTIAL GENEVA 2316
E.O. 11652: GDS
TAGS: PLOS

SUBJECT: CLASSIFIED LOS WEEKLY SUMMARY FOR D/LOS, ENDING APRIL 2, 1975
FROM USDEL LOS

1. SUMMARY: FOCUS OF WEEK'S EFFORTS WERE IN INFORMAL DISCUSSIONS IN COMMITTEE I ON JOINT VENTURES, AND IN THE EVENSEN GROUP WHICH CONTINUED DRAFTING ON FISHERIES. CONFERENCE OTHERWISE IS ESSENTIALLY MARKING TIME AND MOOD IS DIFFICULT TO ASSESS. RECEPTION GIVEN TO CIRCULATION OF EVENSEN ARTICLES IN C-II NEXT WEEK SHOULD BE KEY TO PACE OF REMAINING WEEKS. CONFERENCE PRESIDENT AMERASINGHE HELD FIRST MEETING OF HIS NEGOTIATING GROUP CONSISTING OF CHAIRMEN OF REGIONAL GROUPS (INCLUDING US) AND OF INFORMAL GROUPS. DURING MEETING, GALINDO-POHL EXPRESSED OPTIMISM ON PRODUCING A COMMITTEE II PACKAGE. IN COMMITTEE II SESSIONS, DISCUSSIONS OF MAIN TRENDS PAPER CONTINUED WITH PROGRESS ON SOME TECHNICAL MATTERS SUCH AS BASELINES. IN COMMITTEE III, AS IN COMMITTEE II, MAIN ISSUES ARE BEING DISCUSSED IN EVENSEN GROUP WHICH IS EXPECTED TO TAKE UP MARINE POLLUTION ARTICLES NEXT WEEK. END SUMMARY.

2. COMMITTEE I.

(A) C-I HAS HELD NUMEROUS MEETINGS SINCE LAST SUMMARY REPORT IN THE FORM OF PRIVATE CONSULTATIVE GROUPS AND IN THE FORMAL WORKING GROUP. DISCUSSIONS HAVE INCREASINGLY FOCUSED ON OPERATIONAL ASPECTS OF JOINT VENTURE SYSTEM. LDC WILLINGNESS TO CONTINUE DISCUSSIONS ON THIS BASIS FOLLOWING CONFRONTATION TONE OF LAST WEEK'S WG DEBATE IS ENCOURAGING. POSSIBILITY OF PARALLEL SYSTEM THAT INCLUDES JOINT VENTURES AS WELL AS DIRECT EXPLOITATION BY AUTHORITY IN RESERVED AREAS IS FREQUENTLY RAISED BY MODERATE

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LDC'S WHO AT CARACAS SESSION STRICTLY ADHERED TO GROUP OF 77 POSITION.

(B) WITH MINOR EXCEPTIONS, CONSULTATIONS HAVE BEEN RESTRICTED TO BASIC CONDITIONS AND WG CHAIRMAN (PINTO) IS EXPECTED TO CIRCULATE NEW PERSONAL DRAFT IN NEXT FEW DAYS WHICH HE IS CHARACTERIZING AS COMPROMISE BASIC CONDITIONS. REGULAR CONSULTATIONS AMONG SMALL NUMBER OF KEY DELS IN WHICH US PARTICIPATED LAST WEEK HAVE NOW BEEN EXPANDED TO INCLUDE AROUND 30 DELS. WHILE NEW GROUP IS MORE UNWIELDY, BELIEVE IT OFFERS BETTER OPPORTUNITY FOR DIRECT CONTACT BETWEEN US AND MODERATE LDC'S IN NEGOTIATING SITUATION. ARRANGEMENTS ARE BEING MADE FOR CONTINUATION OF SMALLER GROUP DISCUSSION CONSISTING OF C-I LEADERSHIP.

(C) MEETING OF GROUP OF FIVE REVEALED BASIC C-I NEGOTIATING POSITIONS WHICH GNERALLY TRACK OUR OWN, ALTHOUGH JAPANESE APPEAR TO HAVE GREATER FLEXIBILITY AND SOVIETS CONTINUE TO BELIEVE CLASSICAL PARALLEL SYSTEM BEST PROTECTS ACCESS FOR SOCI LIST STATES. KEY DIFFICULTY APPEARS TO BE TIMEING PERSPECTIVE OF OTHER FOUR DELS WHO SEEM RESIGNED TO EXTENSION OF CONFERENCE BEYOND EARLY 1973. ANTICIPATE THIS MAY RESULT IN SOME FRICTION IF NEGOTIATION BEGINS TO MOVE QUICKLY ON BASIC CONDITIONS AND US PLAYS LEADERSHIP ROLE. EM COMMITTEE II.

(A) SMALL GROUP CONSISTING OF REPS FORM US, CANADA, UK, NICARAGUA, BANGLADESH, AND NORWAY CONSIDERED CONSOLIDATED SINGEL TEXT ON BASELINES. US PREPARED THESE PROVISIONS OF 4-20 OF MAIN TRENDS (PAPER SENT SEPTEL). THIS INFORMAL CONSOLIDATED TEXT EXPECTED TO BE DISCUSSED IN NEXT FEW DAYS BY LARGER WORKING GROUP ESTABLISHED IN C-II TO CONSIDER BASELINES; CONSOLIDATED ARTICLES ARE FIRST TO EMERGE FROM WORKING GROUP IN C-II AND HOPEFULLY WILL SET PRECEDENT FOR WORK METHOD THAT WILL FACILITATE DEVELOPMENT OF AGREED TEXTS. US INITIATIVE IN PREPARING PAPERS WAS WELCOMED, AND INDEED WHEN CHAIRMAN HAD TO LEAVE FOR ANOTHER MEETING, DEPARTMENT OF STATE GEOGRAPHER (HODGSON) WAS SELECTED CHAIRMAN OF GROUP BY ACCLAMATION. PAPER SHOULD BE PRESENTED AS COLLEC-

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TIVE SUB-WORKING GROUP PRODUCT. NEW PROVISION 5 IN TEXT IS DESIGNED TO ACCOMMODATE BAGLADESH, AND TO REPLACE OBJECTIONABLE BANGLADESH PROPOSAL IN PROVISION 9 OF MAIN TRENDS PAPER.

(B) US CONTINUED TO HOLD SERIES OF BILATERAL DISCUSSIONS WITH VARIOUS DELEGATIONS TO ATTEMPT TO REDUCE DIFFERENRS ON STRAITS, FISHERIES, AND CONTINTENTAL MARGIN ISSUES.

(C) EVENSEN GROUP CONTINUED DAILY SESSIONS, AND ON 2 APRIL COMPLETED DEBATE ON FISHERIES ARTICLES AS WELL AS ARTICLE 18 (RIGHTS OF LANDLOCKED AND GEOGRAPHICALLY DISADVANTAGED STATES), REVISED TEXTS OF FISHERIES ARTICLES HAVE BEEN CIRCULATED BUT NOT DISCUSSED.

REVISED INTRODUCTORY ARTICLES ON ECONOMIC ZONE (TRANSMITTED SEPTTEL) HAVE BEEN CIRCULATED AND DISCUSSION BEGUN. RESULTS OF FIRST DAY SOMEWHAT DISAPPOINTING WITH PERU ATTEMPTING TO MODIFY ARTICLES AND CHANGE BALANCE OF ARTICLES. DISCUS- SION WILL CONTINUE. EVENSEN OBVIOUSLY ATTEMPTING TO MOVE NEGOTIATIONS FORWARD AS RAPIDLY AS POSSIBLE AND IS UNDER MOUNTING PRESSURE TO SURFACE WORK PRODUCT AS SOON AS POSSIBLE. PROBLEM AREAS WOULD APPEAR TO BE: 1) WHETHER DELICATE BALANCE IN ARTICLES 1-3 C N BE RETAINED;

2) HOW BEST TO PRESENT ARTICLES TO CONFERENCE AS A WHOLE IN ORDER TO AVOID REOPENING CONTENTIOUS ISSUES; AND 3) ABILITY TO TIME A SUITABLE ACCOMMODATION WHICH WILL SATISFY DESIRES OF LANDLOCKED AND GEOGRAPHICALLY DICADVANTAGED STATE BLOC.
4. COMMITTEE III.

(A) POLLUTION. EVENSEN GROUP WILL LIKELY TURN TO POLLUTION ON MONDAY, APRIL 7. USDEL REDRAFTED EVENSEN POLLUTION TEXT TO SET FORTH ALTERN TIVES ON VESSELS AND DOUBLE STANDARD MORE FAIRLY. REDRAFTED TEXT GIVEN TO EVENSEN ON APRIL 2, BUT AS YET THERE IS NO INDICATION OF HIS WILLINGESS TO ACCEPT CHANGES. US TEAM MET WITH SOVIETS APRIL 2 TO DICUSS VESSEL SOURCE POLLUTION IN VULNERABLE AREAS. SOVIETS INDICATED SOME FLEXIBILITY ON DEFINITION BUT EX- PRESSED STRONG CONCERNS REG RDING INTERNATIONAL REVIEW OF SOVIET REGULATIONS FOR ARCTIC. US ENVIRONMENTAL

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IMPACT ASSESSMENT PROPOSAL HAS BEEN DEFERRED TO ALLOW SOVIETS TIME TO CONSIDER IT. PRIVATE REACTIONS OF OTHER DELEGATIONS, INCLUDING INDIA, EGYPT, SINGAPORE, CANADA, AND AUSTRALIA, HAVE BEEN GENERALLY FAVORABLE. CONFIDENTIAL SMALL NEGOTIATING GROUP CHAIRED BY CHAIRMAN VALLARTA MET APRIL 1 TO CONSIDER LANDBASED SOURCES. DISCUSSION INCONCLUSIVE IN TERMS OF TEXT, BUT CONSENSUS EMERGED THAT THERE SHOULD BE OBLIGATION TO ESTABLISH NATIONAL REGULATIONS, TAKE OTHER NECESSARY MEASURES AND TAKE INTERNATIONAL REGULATIONS INTO ACCOUNT. (B) MARINE SCIENTIFIC RESEARCH, SOVIETS HAVE INFORMED US THAT THEY HAVE MODIFIED THEIR POSITION ON CONSENT FOR CONTINENTAL SHELF RESEARCH. THUS, SHELF RESEARCH WOULD BE TREATED LIKE RESEARCH IN WATER COLUMN, I.E., RESEARCH DIRECTLY RELATED TO EXPLORATION AND EXPLOITATION OF RESOURCES WOULD BE SUBJECT TO CONSENT WHILE RESEARCH NOT DIRECTLY RELATED TO RESOURCES WOULD BE SUBJECT TO AN OBLIGATION REGIME SIMILAR TO OUR PROPOSAL. CANADA HAS INFORMALLY CIRCULATED A PROPOSAL ESSENTIALLY PROVIDING THAT CONSENT SHALL NOT NORMALLY BE WITHHELD. AFTER WE REACTED NEGATIVELY TO THEIR PROPOSAL, CANADA ASKED IF A PROVISION WOULD BE HELPFUL THAT PROVIDED THAT CONSENT WOULD BE PRESUMED IF NO RESPONSE WERE RECEIVED WITHIN A STATED PERIOD. TANZANIA ALSO RAISED THIS IDEA OF IMPLIED CONSENT. IN ADDITION, TANZANIA INDICATED THAT CONSENT SHOULD BE REQUIRED FOR SHELF RESEARCH AND THAT IT WAS POSSIBLE TO ELABORATE A MORE LIBERAL REGIME FOR THE WATER COLUMN. GROUP 77 CONTINUES TO PRESSURE LANDLOCKED AND GEOGRAPHICALLY DISADVANTAGED STATES TO WITHDRAW SUPPORT FROM L.19. PRESSURE IS BEING RESISTED BY SOME STATES. DALE

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Committee II

38

CONFIDENTIAL GENEVA 2287
 FROM USDEL LOS
 E.O. 11652: GDS
 TAGS: PLOS

SUBJECT: LOS; SUPPORT FOR UNIMPEDED TRANSIT OF STRAITS
 1, ONE OF THE MOST CRITICAL US AND MARITIME STATE OBJECTIVES IN CURRENT LOS CONFERENCE IS SECURING GUARANTEED RIGHT OF UNIMPEDED TRANSIT OF STRAITS USED FOR INTERNATIONAL NAVIGATION. SUPPORT FOR UNIMPEDED TRANSIT OF STRAITS AS SOUGHT BY US, USSR AND UK IS INCREASING AND NUMBER OF VOCAL OPPONENTS IS DECREASING. SPAIN, PRC AND ARAB STATES OF EGYPT, YEMEN, ARAB REPUBLIC, MOROCCO AND OMAN ARE ONLY REMAINING PRINCIPAL OPPONENTS, APPARENTLY ARAB GROUP AT CONFERENCE BADLY DIVIDED ON STRAITS ISSUE AND WE MUST HAVE SUPPORT OF ARAB BLOC.
 2, LOS DEL WOULD APPRECIATE EMBASSY ASSESSMENT AT EARLIEST TIME OF REASONS FOR OPPOSITION, MOROCCO, OMAN, AND YEMEN TO US, USSR, UK STRAITS OBJECTIVES AND WHAT MIGHT BE DONE TO OBTAIN EARLY SHIFT IN THEIR POSITIONS,
 3, EMBASSIES SHOULD BEAR IN MIND THAT US HAD CONVEYED TO EGYPT, SAUDI ARABIA, AND KUWAIT US WILLINGNESS TO HAVE REGIME OF UNIMPEDED TRANSIT (INCLUDING SUBMERGED TRANSIT AND OVERFLIGHT) APPLY ONLY TO STRAITS CONNECTING HIGH SEAS TO HIGH SEAS AND CLAUSE RESERVING LEGAL PORTION OF PARTIES APPLYING IN STRAITS CONNECTING HIGH SEAS TO THE TERRITORIAL SEA OF A FOREIGN STATE (SUCH AS STRAIT OF TIRAN). FORMALLY TABLED US ARTICLE, HOWEVER, DOES NOT REFLECT THIS POSITION, ALTHOUGH UK AND SOVIET ARTICLES DO APPROXIMATE THIS POSITION, DALE

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 FROM USDEL LOS
 E.O. 11652: GDS
 TAGS: PLOS

~~XXXXXXXXXX~~ Committee
 II
 Oman 
 37

SUBJECT: LOS: OMANI POSITION ON STRAITS

1. LOS DEL AGREES WITH ASSESSMENT REFTEL RE OMAN DELS LACK OF DISCRETION TO ACT ON STRAITS ISSUE.
2. WITH RESPECT TO SUBSTANCE OF USG POSITIONS RELEVANT TO OMANI CONCERNS, THERE HAS BEEN NO CHANGE FROM THAT SET FORTH IN MATERIALS AVAILABLE TO EMBASSY. USG CONSIDERS THAT UNIMPEDED TRANSIT FOR ALL VESSELS AND AIRCRAFT THROUGH AND OVER STRAITS MUST BE CONFIRMED IN LOS TREATY. OMANI INTERVENTIONS ON STRAITS ISSUE HAVE NOT SIGNALLED ANY SPECIAL DESIRE TO EXEMPT HORMUZ FROM A GENERAL UNIMPEDED TRANSIT REGIME. IF, HOWEVER, THIS IS ACTUAL OMANI OBJECTIVE, WE CANNOT IN ANY WAY ACCOMMODATE. HORMUZ CONNECTS TWO PARTS OF HIGH SEAS, AND IN OUR VIEW THERE EXISTS NO GEORGRAPHIC, POLITICAL OR LEGAL REASON FOR TAILORING AN EXCEPTION CLAUSE TO EXCLUDE HORMUZ. ON THE CONTRARY, STRATEGIC IMPORTANCE OF HORMUZ IS SUCH THAT WE CONSIDER IT VITAL THAT RIGHT OF UNIMPEDED TRANSIT APPLY THERE.
3. OMANIS HAVE NOT SIGNALLED ANY SPECIAL CONCERN WITH TIRAN ISSUE. OMANI DEL, WHICH INTRODUCED PARTICULARLY EXTREME ARTICLES AT CARACAS SESSION, RECENTLY STATED TO AMB. STEVENSON THAT STRAITS DO NOT CONSTITUTE A VITAL OMANI INTEREST, YET THEIR OPPOSITION CONTINUES. US DEL IS WORKING WITH ARAB STATES PARTICULARLY CONCERNED WITH TIRAN (EGYPT, KUWAIT, SAR) TO WORK OUT NON-PREJUDICIAL MEANS OF REMOVING THIS ISSUE FROM LOS CONFERENCE. WE HOPE TO MAKE THIS POINT IN BILATERAL DISCUSSIONS WITH OTHER ARAB STATES HERE, WHILE ALLOWING EGYPT, KUWAIT AND SAR TO SELL REST OF ARAB LEAGUE ON COMPROMISE ULTIMATELY AGREED ON.
4. BASIC THRUST OF OMANI INTERVENTIONS HAS BEEN TO

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ENCOURAGE DISCRIMINATION AGAINST WARSHIPS OR QUOTE SHIPS WITH SPECIAL CHARACTERISTICS UNQUOTE WHICH HAS BECOME CATCH PHRASE FOR NUCLEAR POWERED SHIPS AND SUPERTANKERS. OMANI PITCH HAS BEEN RATHER STANDARD APPEAL TO THIRD WORLD SECURITY CONCERNS, BUT WE FIND POLEMICS PUZZLING IN VIEW OF OMAN RELATIONSHIP WITH IRAN.

5. WHILE OMAN HAS REFERRED TO POLLUTION PROBLEM IN HORMUZ, OUR ASSESSMENT IS THAT THEIR POSITION CARRIES TOO MUCH ANTI-US BAGGAGE FOR THIS TO BE THEIR MAJOR CONCERN. AS EVIDENCED BY REFERRAL OF ARAB SPLIT OVER STRAITS ISSUE TO ARAB LEAGUE COUNCIL OF MINISTERS, OMANI POSITION APPEARS TO RESULT FROM HIGH LEVEL POLITICAL DECISION, THE BASIS OF WHICH WE CANNOT FATHOM.

6. LOS DEL WOULD APPRECIATE SOONEST EMBASSY ASSESSMENT OF (A) TO WHAT DEGREE, IF AT ALL, OMANI POSITION MAY BE STALKING HORSE FOR IRAN, (B) ON OTHER HAND, TO WHAT DEGREE OMAN WOULD OPPOSE IMPORTANT IRANIAN INTERESTS ON STRAITS ISSUE, AND (C) OTHER REASONS FOR APPARENT OMANI OPPOSITION.

7. SUGGEST THAT OMAN BE GIVEN FULL EXPLANATION OF US POSITIONS AND TOLD MAJOR MARITIME STATES CANNOT AND WILL NOT ACCEPT ANYTHING REMOTELY APPROACHING OMAIN STRAITS POSITION. IN FACT, CURRENT EXTREME OMANI STANCE IS CUTTING HER OFF FROM MAINSTREAM OF STRAITS NEGOTIATION IN GENEVA. IF, AS NOW APPEARS, OTHER PROPOSED TREATY PROVISIONS, ESPECIALLY ECONOMIC ZONE, HAVE BROAD THIRD WORLD APPEAL, OMAN WILL FIND HERSELF UNDER TREMENDOUS PRESSURE FROM OTHER DEVELOPING STATES TO ACCEPT A STRAITS ARTICLE SHE HAS HAD NO PART IN NEGOTIATING. OMAN'S ALTERNATIVE WILL BE TO ACCEMPT RESPONSIBILITY FOR BLOCKING AGREEMENT ON A PACKAGE WHICH HAS BROAD DEVELOPING STATE SUPPORT.DALE



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FROM USDEL LOS
EO 11652: N/A
TAGS: PLOS

Comm. I

36

SUBJ: LOS: COMMITTEE I WORKING GROUP MEETING - 3 APRIL 1975
1. PINTO CHAIEED CONTINUING DISCUSSION OF JOINT VENTURE SYSTEMS. FAO REPRESENTATIVE, DRAWING UPON FISHERIES EXPERIENCE, DISCUSSED LEGAL NATURE OF AND DIFFERENCES BETWEEN EQUITY TYPE JOINT VENTURE AND CONTRACTUAL TYPE, INDICATING WIDE VARIETY OF STATE PRACTICE.
2. AUSTRALIA (LAUTERPACHT), SPEAKING IN PERSONAL CAPACITY, CITED EXAMPLES OF BOTH TYPES OF JOINT VENTURES. HE NOTED MANAGEMENT CONTROL CAN ADEQUATELY BE ACHIEVED BY APPROPRIATE CONTRACTUAL RELATIONSHIP. CONDUCTING OPERATIONS BY AUTHORITY- ESTABLISHED INTERNATIONAL LEGAL ENTITY WOULD REQUIRE ELABORATE ESTABLISHMENT OF LABOR, CRIMINAL, TORT CODES, ETC., AS NATIONAL SYSTEMS WOULD NOT APPLY UNLESS INCORPORATED BY REFERENCE. AUSTRALIA NOTED AUTHORITY WOULD BE OWNER OF DEEP SEA MINERALS AT OUTSET OF OPERATIONS AND THAT THIS ELEMENT COULD BE INCLUDED IN CONTRACTUAL RELATIONSHIP JUST AS EASILY AS IN NEW LEGAL ENTITY.
DISCUSSION OF JOINT VENTURES WILL CONTINUE 4 APRIL.
DALE

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 FROM USDEL LOS
 E.O. 11652: N/A
 TAGS: PLOS

Committees I, II & III
 (35)

SUBJECT: LOS: UNCLASSIFIED WEEKLY SUMMARY FOR D/LOS, ENDING APRIL 2.

SUMMARY: THREE MAIN COMMITTEES CONTINUED WORK IN INFORMAL SESSIONS. IN C-1 MOST OF WEEK DEVOTED TO DISCUSSION OF JOINT VENTURES WITH INTEREST EXPRESSED IN OPERATIONAL ASPECTS. INFORMAL NEGOTIATING GROUPS AND VARIOUS REGIONAL GROUPS CONTINUED TO MEET. NEXT STAGE OF MORE FORMAL WORK OF C-2 AND C-3 SHOULD BEGIN IN EARNEST WHEN INFORMAL GROUPS PRODUCE DRAFT ARTICLES. END SUMMARY

1. COMMITTEE I: PINTO AGAIN FOCUSED DISCUSSION ON BASIC CONDITIONS 4 (STAGES OF OPERATIONS) AND 5 (ARRANGEMENTS RELATING TO ACTIVITIES), AND ISSUES RELATING TO SETTLEMENT OF DISPUTES (SECURITY OF TENURE, ENFORCEMENT, FORCE MAJEURE, SUSPENSION OF ARRANGEMENTS ENTERED INTO). DEBATE CENTERED ON PROPRIETY OF JOINT VENTURE AS COMMON NORM, VARIOUS INTERPRETATIONS OF THE TERM (TEMPORARY ASSOCIATION, PARTNERSHIP, NEW LEGAL ENTITY), AND IF LATTER, ESTABLISHMENT OF INDEPENDENT ENTITY WITH EQUITY PARTICIPATION VIA CONTRACTUAL AND NON-CONTRACTUAL MODES. US ADDRESSED SECURITY OF TENURE, SUSPENSION AND TERMINATION OF ARRANGEMENTS, AND FORCE MAJEURE.

2. COMMITTEE II: SECOND READING OF MAIN TRENDS PAPER CONTINUED IN INFORMAL SESSIONS. MAIN ISSUE WAS LAND-LOCKED STATES DESIRE FOR ACCESS TO SEA AND THEIR RIGHTS, IF ANY, TO LIVING AND NON-LIVING RESOURCES OF NEIGHBORING COASTAL STATES ECONOMIC ZONES. (AFGHANISTAN, NEPAL, AUSTRIA, HUNGARY, BOLIVIA, MALI, PARAGUAY, AND UPPER VOLT) PARTICIPATED ON BEHALF OF LAND-LOCKED STATES. COASTAL STATES RESPONSE HEADED BY

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PAKISTAN, PERU, ARGENTINA, NIGERIA, AND FIJI, LATTER QUERIED AS TO WHOM ITS NEIGHBORS WERE. AFTER DISCUSSION OF EACH ITEM IN TRENDS PAPER WAS FINISHED, CHAIRMAN ESTABLISHED VOLUNTARY WORKING GROUPS TO CONSIDER SPECIFIC ITEMS IN INFORMAL CONSULTATIVE SESSIONS CHAIRED BY HIM. SUB-CONSULTATIVE GROUP CONSISTING OF STATES CONCERNED WITH BASELINES ISSUE PRODUCED 16 SINGLE TEXTS WHICH WILL NOT BE REVIEWED BY LARGER CONSULTATIVE GROUP.

3. COMMITTEE IIII

(A) POLLUTION: INFORMAL WORKING GROUP MET ONLY ON APRIL 2 TO CONSIDER LAST SENTENCE OF DRAFT ARTICLE ON MONITORING. AFTER LONG DEBATE WITH PARTICULAR EMPHASIS ON APPROPRIATENESS OF NAMING UNEP AS INTERNATIONAL CLEARING-HOUSE FOR MONITORING DATA, AND ON THE MECHANISMS FOR CONVEYING SUCH DATA TO OTHER STATES, MEETING ADJOURNED WITHOUT DECISION. CHAIRMAN VAL-LARTA UNDERTOOK TO CONSULT WITH INTERESTED DELEGATIONS TO DEVELOP ACCEPTABLE TEXT FOR NEXT MEETING.

(B) MARINE SCIENTIFIC RESEARCH: DISCUSSIONS IN INFORMAL WORKING GROUP ON SCIENTIFIC RESEARCH CONTINUED IN TWO SESSIONS ON LEGAL STATUS OF MARINE SCIENTIFIC RESEARCH EQUIPMENT. CHAIRMAN METTERNICH ATTEMPTED TO BRING OPPOSING GROUPS TOGETHER ON COMPROMISE ARTICLE. BY END OF WEEK, COMPROMISE APPEARED TO BE IMPOSSIBLE, ALTHOUGH METTERNICH, IN PRIVATE CONSULTATIONS, CONTINUES TO SEEK COMPROMISE. DALE

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E.O. 11652: N/A

TAGS: PLOS
SUBJECT: LOS: COMMITTEE II WORKING GROUP ON BASELINES
FROM USDEL LOS

FOLLOWING IS CONSOLIDATED TEXT PREPARED IN COMMITTEE II BY SMALL WORKING GOURP ON BASELINES. BEGIN TEXT:

PROVISION 4, ANTE

THE OUTER LIMIT OF THE TERRITORIAL SEA IS THE LINE EVERY POINT OF WHICH IS AT A DISTANCE FROM THE NEAREST POINT OF THE BASELINE EQUAL TO THE BREADTH OF THE TERRITORIAL SEA.

PROVISION 4

EXCEPT WHERE OTHERWISE PROVIDED IN THESE ARTICLES, THE NORMAL BASELINE FOR MEASURING THE BREADTH OF THE TERRITORIAL SEA IS THE LOW-WATER LINE ALONG THE COAST AS MARKED ON LARGE-SCALE CHARTS OFFICIALLY RECOGNIZED BY THE COASTAL STATE.

PROVISION 4 BIS

IN THE CASE OF ATOLLS OR OF ISLANDS HAVING FRINGING REEFS, THE BASELINE FOR MEASURING THE BREADTH OF THE TERRITORIAL SEA SHALL BE THE SEAWARD EDGE OF THE REEF, AS SHOWN BY THE APPROPRIATE SYMBOL ON OFFICIAL CHARTS.

PROVISION 5

OPTION A

1. IN LOCALITIES WHERE THE COASTLINE IS DEEPLY INDENTED AND CUT INTO, OR IF THERE IS A FRINGE OF ISLANDS ALONG THE COAST IN ITS IMMEDIATE VICINITY, THE METHOD OF STRAIGHT BASELINES JOINING APPROPRIATE POINTS MAY BE EMPLOYED IN DRAWING THE BASELINE FROM WHICH THE BREADTH OF THE TERRITORIAL SEA IS MEASURED. WHERE BECAUSE OF THE PRESENCE OF A DELTA OR OTHER NATURAL CONDITIONS THE COASTLINE IS HIGHLY UNSTABLE, THE APPROPRIATE POINTS MAY BE SELECTED ALONG THE FURTHEST SEAWARD EXTENT OF THE LOW-WATER LINE AND, NOTWITHSTANDING SUBSEQUENT REGRESSION OF THE LOW-WATER LINE, SUCH BASELINES SHALL REMAIN EFFECTIVE UNTIL CHANGED BY THE COASTAL STATE IN

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ACCORDANCE WITH THIS CONVENTION.

2. A COASTAL STATE MAY EMPLOY THE METHOD OF MIXED BASELINES, I.E., DRAWING THE BASELINE IN TURN BY THE METHODS PROVIDED FOR IN ARTICLE ... AND THIS ARTICLE TO SUIT DIFFERENT CONDITIONS.

OPTION B

IN LOCALITIES WHERE THE COASTLINE IS DEEPLY INDENTED AND CUT INTO OR IF THERE IS A FRINGE OF ISLANDS ALONG THE COAST IN ITS IMMEDIATE VICINITY OR IF THE WATER ADJACENT TO THE COAST IS MARKED BY CONTINUAL PROCESS OF ALLUVION AND SEDIMENTATION CREATING A HIGHLY UNSTABLE LOW WATER LINE THE METHOD OF STRAIGHT BASELINES JOINING APPROPRIATE POINTS ON THE COASTS OR ON THE COASTAL WATERS MAY BE EMPLOYED IN DRAWING THE BASELINE FROM WHICH THE BREADTH OF THE TERRITORIAL SEA IS MEASURED.

PROVISION 6

THE DRAWING OF SUCH BASELINES MUST NOT DEPART TO ANY APPRECIABLE EXTENT FOR THE GENERAL DIRECTION OF THE COAST, AND THE SEA AREAS LYING WITHIN THE LINES MUST BE SUFFICIENTLY CLOSELY LINKED TO THE LAND DOMAIN TO BE SUBJECT TO THE REGIME OF INTERNAL WATERS.

PROVISION 7

STRAIGHT BASELINES SHALL NOT BE DRAWN TO AND FROM LOW-TIDE ELEVATIONS, UNLESS LIGHTHOUSES OR SIMILAR INSTALLATIONS WHICH ARE PERMANENTLY ABOVE SEA LEVEL HAVE BEEN BUILT ON THEM OR EXCEPT IN INSTANCES WHERE THE DRAWING OF BASELINES TO AND FROM SUCH ELEVATIONS HAS RECEIVED GENERAL INTERNATIONAL RECOGNITION.

PROVISION 8

WHERE THE METHOD OF STRAIGHT BASELINES IS APPLICABLE UNDER THE PROVISIONS OF () ACCOUNT MAY BE TAKEN, IN DETERMINING PARTICULAR BASELINES, OF ECONOMIC INTERESTS PECULIAR TO THE REGION CONCERNED, THE REALITY AND THE IMPORTANCE OF WHICH ARE CLEARLY EVIDENCED BY A LONG USAGE.

PROVISION 9

THIS PROVISION HAS BEEN INCLUDED UNDER PROVISION 5.

PROVISION 10

THE SYSTEM OF STRAIGHT BASELINES MAY NOT BE APPLIED
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BY A STATE IN SUCH A MANNER AS TO CUT OFF FROM THE HIGH SEAS THE TERRITORIAL SEA OF ANOTHER STATE.

PROVISION 11

THE COASTAL STATE MUST CLEARLY INDICATE STRAIGHT BASELINES ON CHARTS, SUPPLEMENTED BY A LIST OF GEOGRAPHICAL COORDINATES OF POINTS, DEPOSITED WITH THE SECRETARY GENERAL OF THE UNITED NATIONS WHO SHALL GIVE DUE PUBLICITY THEREON

PROVISION 12'

1, WATERS ON THE LANDWARD SIDE OF THE BASELINE OF THE TERRITORIAL SEA FORM PART OF THE INTERNAL WATERS OF THE STATE.
2, WHERE THE ESTABLISHMENT OF A STRAIGHT BASELINE IN ACCORDANCE WITH () HAS THE EFFECT OF ENCLOSING AS INTERNAL WATERS AREAS WHICH PREVIOUSLY HAD BEEN CONSIDERED AS PART OF THE TERRITORIAL SEA OR OF THE HIGH SEAS, A RIGHT OF INNOCENT PASSAGE, AS PROVIDED IN () SHALL EXIST IN THOSE WATERS. (FOOTNOTE THIS PROVISION IS WITHOUT PREJUDICE TO ITEM 16 OR OTHER RELATED ITEMS).

PROVISION 13

IF A RIVER FLOWS DIRECTLY INTO THE SEA, THE BASELINE SHALL BE A STRAIGHT LINE ACROSS THE MOUTH OF THE RIVER BETWEEN POINTS ON THE LOW-TIDE LINE OF ITS BANKS. THE COASTAL STATE MUST CLEARLY INDICATE THESE BASELINES ON LARGE-SCALE CHARTS DEPOSITED WITH THE SECRETARY GENERAL OF THE UNITED NATIONS, WHO SHALL GIVE DUE PUBLICITY THERETO.

PROVISION 14

1. THIS () RELATES ONLY TO BAYS THE COASTS OF WHICH BELONG TO A SINGLE STATE.
2. FOR THE PURPOSES OF THESE () A BAY IS A WELL-MARKED INDENTATION WHOSE PENETRATION IS IN SUCH PROPORTION TO THE WIDTH OF ITS MOUTH AS TO CONTAIN LAND-LOCKED WATERS AND CONSTITUTE MORE THAN A MERE CURVATURE OF THE COAST. AN INDENTATION SHALL NOT, HOWEVER, BE REGARDED AS A BAY UNLESS ITS AREA IS AS LARGE AS, OR LARGER THAN, THAT OF THE SEMI-CIRCLE WHOSE DIAMETER IS A LINE DRAWN ACROSS THE MOUTH OF THAT INDENTATION.
3. FOR THE PURPOSE OF MEASUREMENT, THE AREA OF AN INDENTATION IS THAT LYING BETWEEN THE LOW-WATER MARK

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AROUND THE SHORE OF THE INDENTATION AND A LINE JOINING THE LOW-WATER MARK OF ITS NATURAL ENTRANCE POINTS. WHERE, BECAUSE OF THE PRESENCE OF ISLANDS, AN INDENTATION HAS MORE THAN ONE MOUTH, THE SEMI-CIRCLE

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 TO RUEHC/SECSTATE WASHDC 1825
 INFO RUEHDT/USMISSION USUN 1522
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UNCLAS SECTION 2 OF 2 GENEVA 2298
 SHALL BE DRAWN ON A LINE AS LONG AS THE SUM TOTAL OF
 THE LENGTHS OF THE LINES ACROSS THE DIFFERENT MOUTHS.
 ISLANDS WITHIN TAN INDENTATION SHALL BE INCLUDED AS
 IF THEY WERE PART OF THE WATER AREA OF THE INDENTATION.

PROVISION 15

IF THE DISTANCE BETWEEN THE LOW-WATER MARKS OF THE
 NATURAL ENTRANCE POINTS OF A BAY DOES NOT EXCEED
 TWENTY-FOUR MILES A CLOSING LINE MAY BE DRAWN BETWEEN
 THESE TWO LOW-WATER MARKS, AND THE WATERS ENCLOSED
 THEREBY SHALL BE CONSIDERED AS INTERNAL WATERS.

PROVISION 16

WHERE THE DISTANCE BETWEEN THE LOW-WATER MARKS OF THE
 NATURAL ENTRANCE POINTS OF A BAY EXCEEDS TWENTY-FOUR
 MILES A STRAIGHT BASELINE OF TWENTY-FOUR MILES SHALL
 BE DRAWN WITHIN THE BAY IN SUCH A MANNER AS TO ENCLOSE
 THE MAXIMUM AREA OF WATER THAT IS POSSIBLE WITH A LINE
 OF THAT LENGTH.

PROVISION 17

THE FOREGOING BEGIN BRACKET PROVISIONS 14 TO 16 END
 BRACKET SHALL NOT APPLY TO SO-CALLED "HISTORIC" BAYS,
 OR IN ANY CASE WHERE THE STRAIGHT BASELINE SYSTEM
 PROVIDED FOR IN () IS APPLIED.

PROVISION 18

FOR THE PURPOSE OF DELIMITING THE TERRITORIAL SEA, THE
 OUTERMOST PERMANENT HARBOUR WORKS WHICH FORM AN INTEGRAL
 PART OF THE HARBOUR SYSTEM SHALL BE REGARDED AS FORMING
 PART OF THE COAST. OFFSHORE INSTALLATIONS AND ARTIFI-
 CIAL ISLANDS SHALL NOT BE CONSIDERED AS PERMANENT
 HARBOUR WORKS.

PROVISION 19

ROADSTEADS WHICH ARE NORMALLY USED FOR THE LOADING,
 UNLOADING, AND ANCHORING OF SHIPS, AND WHICH WOULD
 OTHERWISE BE SITUATED WHOLLY OR PARTLY OUTSIDE THE
 OUTER LIMIT OF THE TERRITORIAL SEA, ARE INCLUDED IN
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THE TERRITORIAL SEA, THE COASTAL STATE MUST CLEARLY DEMARCATÉ SUCH ROADSTÉADS AND INDICATE THEM ON CHARTS TOGETHER WITH THEIR BOUNDARIES, TO WHICH DUE PUBLICITY MUST BE GIVEN.

PROVISION 20

1. AT LOW-TIDE ELEVATION IS A NATURALLY FORMED AREA OF LAND WHICH IS SURROUNDED BY AND ABOVE WATER AT LOW-TIDE BUT SUBMERGED AT HIGH TIDE. WHERE A LOW-TIDE ELEVATION IS SITUATED WHOLLY OR PARTLY AT A DISTANCE NOT EXCEEDING THE BREADTH OF THE TERRITORIAL SEA FROM THE MAINLAND OR AN ISLAND, THE LOW-WATER LINE ON THAT ELEVATION MAY BE USED AS THE BASELINE FOR MEASURING THE BREADTH OF THE TERRITORIAL SEA.
2. WHERE A LOW-TIDE ELEVATION IS WHOLLY SITUATED AT A DISTANCE EXCEEDING THE BREADTH OF THE TERRITORIAL SEA FROM THE MAINLAND OR AN ISLAND, IT HAS NO TERRITORIAL SEA OF ITS OWN. END TEXT. DALE

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 FM USMISSION GENEVA
 TO RUEHC/SECSTATE WASHDC 1812
 INFO RUEHDT/USUN NEW YORK 1518
 BT
 UNCLAS GENEVA 2284
 FROM USDEL LOS
 E.O. 11652: N/A
 TAGSI PLOS

Committee I

33

SUBJECT: LOSI COMMITTEE I WORKING GROUP MEETING, 1 APRIL 1975

1. SUMMARY. PINTO AGAIN FOCUSED DISCUSSION ON BASIC CONDITIONS 4 (STAGES OF OPERATIONS) AND 5 (ARRANGEMENTS RELATING TO ACTIVITIES), AND ISSUES RELATING TO SETTLEMENT OF DISPUTES (SECURITY OF TENURE, ENFORCEMENT, FORCE MAJEURE, SUSPENSION OF ARRANGEMENTS ENTERED INTO), DEBATE CENTERED ON PROPRIETY OF JOINT VENTURE AS COMMON NORM, AND DEFINITION OF TERM. US ADDRESSED SECURITY OF TENURE, SUSPENSION AND TERMINATION OF ARRANGEMENTS, AND FORCE MAJEURE. END SUMMARY

2. NIGERIA WHILE STATING LEGAL ARRANGEMENTS WOULD VARY WITH EACH STAGE OF OPERATIONS CONTAINED IN GROUP OF 77 DRAFT, ENDORSED JOINT VENTURE AS PROSPECT WORTH EXPLORING AND INDICATED TERM COULD MEAN ARRANGEMENT OR ASSOCIATION OF COMPANIES, SERIES OF CONTRACTS, OR NEW LEGAL ENTITY WITH OWN PERSONALITY. HE SPECIFICALLY MENTIONED SERVICE CONTRACTS AND TURNKEY CONTRACTS AS POSSIBLE MEANS FOR AUTHORITY'S DIRECT EXPLOITATION IN AREAS RESERVED FOR THAT PURPOSE. NIGERIAN REP ALSO PROPOSED STUDY BE PREPARED BY UNCTAD ON OPERATIONAL ASPECTS OF JOINT VENTURE AND OTHER ARRANGEMENTS.

3. US (RATINER) INDICATED USE OF SERVICE CONTRACTS IN RELINGUISHED OR RESERVED AREAS BY AUTHORITY DIFFERED LITTLE FROM DIRECT EXPLOITATION BY AUTHORITY, BUT THAT POSSIBILITY FOR RESERVATION OF AREAS FOR LDC'S MIGHT BE EXPLORED. US STATED WG SHOULD NOT CONFUSE CONCEPTS OF PROFIT SHARING AND EQUITY PARTICIPATION, WHICH WOULD REQUIRE AUTHORITY TO CONTRIBUTE CAPITAL TO JOINT VENTURE. HE SUGGESTED UNCTAD NOT PROPER FORUM FOR PREPARATION OF STUDY PROPOSED BY NIGERIANS, PROTECTION OF SECURITY OF TENURE MUST BE EMBODIED IN TREATY, NOT MERELY A VAGUE OBLIGATION OF AUTHORITY. SUSPENSION AND TERMINATION SHOULD BE REGARDED AS SERIOUS PENALTIES TO BE PRECEDED BY LESS SERIOUS ONES

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(E.G., FINES), AND IN ANY CASE WOULD ONLY BE IMPOSED BY DECISION OF DISPUTE SETTLEMENT ORGAN. AUTHORITY SHOULD HAVE DISPUTE SETTLEMENT ORGAN OF ITS OWN, WITH JURISDICTION TO GRANT INJUNCTIVE RELIEF.

4, PINTO, REFERRING TO NIGERIAN STATEMENT ON JOINT VENTURES, URGED WG TO CONSIDER DEFINITION OF CONCEPT, WHICH WOULD REFER TO TEMPORARY ASSOCIATION, PARTNERSHIP, OR NEW LEGAL ENTITY. ARTICLE 17 OF GROUP OF 77 DRAFT WOULD INSULATE JOINT VENTURE FROM DOMESTIC LEGAL SYSTEMS, AND GIVEN INTERNATIONAL CORPORATE LAW VACUM, JOINT VENTURE AS AN INDEPENDENT LEGAL ENTITY COULD NOT EXIST, AND COULD ECIST ONLY CONTRACTUALLY WITH REFERENCE TO CONVENTION ARTICLES, RULES AND REGULATIONS, AND CONTRACTUAL ARRANGEMENTS. OF LATTER, NO QUESTION OF EQUITY PARTICIPATION WOULD ARISE, AS WOULD ONLY BE EX CONTRACTU.

5, PERU, IN RESPONSE, EMPHASIZED DISTINCTION IN GROUP OF 77 DRAFT BETWEEN SERVICE CONTRACTS AND DIRECT EXPLOITATION BY AUTHORITY AND SUPPORTED NIGERIAN PROPOSAL TO HAVE OBJECTIVE REPORT ON OPERATIONAL ASPECTS OF JOINT VENTURES MADE BY UN SECRETARIAT. PERUVIAN REP EXPLAINED JOINT VENTURES MUST GUARANTEE AUTHORITY CONTROL OVER FINANCIAL SHARES AND ADMINISTRATION, THAT JOINT VENTURES NOT MERELY CONTRACTUAL, AND THAT QUESTION MERELY TECHNICAL PROBLEM. PINTO, INDICATING DIFFICULTY WITH EXPLANATION, QUERIED HOW AUTHORITY COULD HAVE MAJORITY CONTROL OF HOLDINGS ARISING EX CONTRACTU. SCHEDULED NEXT WG MEETING THURSDAY, 3 APRIL. DALE

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FM US MISSION GENEVA
TO SECSTATE WASHDC 1791
BT
C O N F I D E N T I A L GENEVA 2262
FROM US DEL LOS
E.O. 11652: GDS
TAGS: PLOS

Committee I

32

SUBJECT: LOS: COMMITTEE I MEETING, 26 MAR. 1975
1. SUMMARY. IN COMMITTEE I MEETING CHAIRED BY ENGO (CAMEROON), TRIBUTES TO KING FAISAL AND TO DEPARTING RAPPOREUR MOTT (AUSTRALIA) WERE MADE, LATTER OF WHOM WAS REPLACED BY BAILEY (AUSTRALIA) WITHOUT OBJECTION. USSR INTRODUCED A/CONF.62/C.1/L.12 OF 21 MAR. 1975, BASIC PROVISIONS OF RULES AND REGULATIONS GOVERNING EVALUATION AND EXPLOITATION OF MINERAL RESOURCES IN INTERNATIONAL AREA. PERU EXPRESSED CONCERN OF GROUP OF 77 OVER REPORTS THAT UNIDENTIFIED STATE WAS MOVING FORWARD WITH DOMESTIC OCEAN MINING LEGISLATION. U.S.M REPLIED (AMB, STEVENSON). AUSTRALIA AFFIRMED SUPPORT FOR PARALLEL EXPLOITATION SYSTEM AND RAISED DEEP SEA VENTURES CLAIM. PINTO GAVE SUMMARY OF PROGRESS MADE IN WORKING GROUP. END SUMMARY.
2. AFTER TRIBUTES TO KING FAISAL AND TO DEPARTING RAPPOREUR MOTT (AUSTRALIA), USSR (IGREVSKY DEPUTY MINISTER GEOLOGY AND VICE CHAIRMAN DELEGATION) INTRODUCED BASIC PROVISIONS OF DEEP SEABED RULES AND REGULATIONS A/CONF.62/C.1/L.12 (POUCHED SEPARATELY). AFTER STATING PROVISIONS NOT FINAL POSITION OF USSR AND THAT THEY SHOULD FORM INTEGRAL PART OF LOS CONVENTION, USSR REFERRED TO FOLLOWING PROVISIONS: ALL STATES ENJOY RIGHT TO EVALUATE AND EXPLOIT THROUGH CONTRACT COVERING BOTH EVALUATION AND EXPLOITATION PHASES, WITH NUMBER OF CONTRACTS GRANTED EACH STATE LIMITED TO AVOID MONOPOLIES (ART. 3, 9); INTERNATIONAL ORGANIZATION WOULD ENJOY RIGHT TO RESERVE SECTORS OF SEABED FOR EVALUATION AND EXPLOITATION ITSELF (ART. 7); GRANTING OF CONTRACTS BY AUTHORITY, WHICH WOULD TAKE INTO ACCOUNT SPECIAL NEEDS OF DEVELOPING COUNTRIES; CONTRACTS WOULD BE GIVEN FOR FOUR CATEGORIES OF MINERALS; AND LDC EXPERTS WOULD HAVE RIGHT TO PARTICIPATE IN

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EVALUATION AND EXPLOITATION ACTIVITIES OF ALL STATE PARTIES (ART. 21). RISK CAPITAL REQUIRED CONTRACTUAL RIGHT TO PROCEED FROM EVALUATIVE TO EXPLOITATIVE PHASE, AUTHORITY COULD ITSELF ENGAGE DIRECTLY IN EVALUATION AND EXPLOITATION PHASES AND WOULD ENJOY PREFERENCE TO AREAS BEFORE COMPETITIVE BIDDING FOR CONTRACTS COMMENCED (ART. 7).

3. AFTER SUMMARY OF PROGRESS MADE IN WORKING GROUP BY ITS CHAIRMAN (PINTO) AND STATEMENT BY ENGO THAT PLENARY WILL MEET APRIL 7 TO HEAR REPORT OF WEEKLY COMMITTEE CHAIRMEN, PERU, SPEAKING ON BEHALF OF GROUP OF 77, INDICATED CONCERN OVER STEPS TAKEN BY AN UNIDENTIFIED STATE (U.S.) TO ENABLE UNILATERAL ISSUANCE OF LICENSES FOR DEEP SEA MINING. HE OBJECTED TO FEB, 1976 DEADLINE FOR CONFERENCE ACTION REPORTED TO BE INCLUDED IN DRAFT OCEAN MINING BILL AND REFERRED TO 1970 G.A. RESOLUTION 2749 (COMMON HERITAGE OF MANKIND RESOLUTION) AND G.A. RESOLUTION 2574 (MORATORIUM RESOLUTION) AS PROHIBITING SUCH UNILATERAL ACTION. HE CALLED UPON STATES TO RECOGNIZE DESTRUCTIVE EFFECT ON NEGOTIATIONS THAT WOULD BE GENERATED BY TAKING THESE MEASURES. IN COMPARISON TO SIMILAR INTERVENTIONS AT PREVIOUS SESSIONS, STATEMENT WAS MILD REPRIMAND.

4. U.S. (AMB. STEVENSON) DELIVERED LOW-KEY RESPONSE THAT EMPHASIZED U.S. HAD NOT CHANGED POSITION THAT INTERNATIONALLY AGREED DEEP SEABED REGIME WAS BEST SOLUTION AND HAD COME TO GENEVA TO NEGOTIATE THAT REGIME. HE STATED THAT REPORTED LEGISLATION WAS PREPARED BY ONE GOVERNMENTAL AGENCY FOR EXECUTIVE BRANCH CONSIDERATION AND HAD NEITHER BEEN ENDORSED OR INTRODUCED INTO CONGRESS. ON OTHER HAND, HE INDICATED EXECUTIVE BRANCH COMMITMENT TO CONSIDER LEGISLATIVE APPROACHES WITH PRIMARY EMPHASIS ON PROVISIONAL APPLICATION. HE EXPRESSED U.S. DISAGREEMENT WITH PERU'S INTERPRETATION OF DECLARATION OF PRINCIPLES AND REFERRED COMMITTEE TO U.S. STATEMENT DELIVERED AT DATE OF PASSAGE U.S. STATEMENT HAS BEEN PRAISED PRIVATELY AS ADOPTING NECESSARY TONE TO CUT OFF DEBATE.

5. AUSTRALIA, SUPPORTED A DUAL SYSTEM ENABLING AUTHORITY TO EXPLOIT DIRECTLY AND TO ENTER INTO CONTRACTUAL ARRANGEMENTS WITH STATES. HE EXPRESSED CONCERN OVER DEEP SEA VENTURES CLAIM AND STATED AUSTRALIAN NON-RECOGNITION OF EXCLUSIVE RIGHTS TO HIGH SEA AREAS, WHILE RECOGNIZING

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LEGITIMACY OF DEEP SEA MINING AS ACCEPTED USE OF HIGH SEAS.
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NC 22028

TOR: 021157Z APR 75

R 020816Z APR 75
FM USMISSION GENEVA
TO SECSTATE WASHDC 1770
BT
UNCLAS GENEVA 2241
FROM USDEL LOS
FOR D/LOS
E.O. 11652: N/A
TAGS: PLOS

*Committee II
Historic waters
Bays*

31

SUBJECT: LOS: COMMITTEE II INFORMAL "BLUE PAPERS"
1. SMALL WORKING GROUPS OF COMMITTEE II PREPARING
INFORMAL "BLUE PAPERS" IN EFFORT TO COMBINE TEXTS OF
COMMITTEE II MAIN TRENDS PAPER (A/CONF.62/C.2/WP.1). PAPERS
HAVE LITTLE IMPACT COMPARED TO EVENSEN PAPERS BUT MUST BE WATCHED.
2. TESTS OF C.2 BLUE PAPER NO.1 AND 2 AS FOLLOWS:
QUOTE BAYS AND OTHER HISTORIC WATERS

ARTICLE ...

FOR A BAY TO BE CONSIDERED AS HISTORIC EACH OF THE
FOLLOWING REQUIREMENTS MUST BE MET:

(A) THAT THE COASTAL STATE CLAIMING IT TO BE SUCH HAS POSSESSED
THE WATERS OF THE BAY IN QUESTION CONTINUOUSLY, PEACEFULLY AND
FOR A LONG TIME, BY EXCLUDING VESSELS AND FISHERMEN OF OTHER
STATES, PURSUANT TO LAWS, REGULATIONS, AND REPEATED AND CON-
TINUOUS PUBLIC PROVISIONS;

(B) THAT THIS PRACTICE IS EXPRESSLY OR TACITLY ACCEPTED BY
THIRD STATES, AND IN PARTICULAR BY NEIGHBOURING STATES;

(C) THAT IT IS ABSOLUTELY NECESSARY FOR THE COASTAL
STATE TO HAVE FULL POSSESSION OF THE BAY FOR REASONS OF DE-
FENCE OR OF ECONOMIC INTERESTS PECULIAR TO THE ZONE THE
EXISTENCE AND IMPORTANCE OF WHICH ARE CLEARLY CONFIRMED BY
LONG USE.

ARTICLE ...

AN HISTORIC BAY MAY BE CLOSED BY THE COASTAL STATE BY
MEANS OF A STRAIGHT CLOSING LINE ACROSS ITS MOUTH FROM THE
NATURAL ENTRANCE POINTS OF THE BAY IN QUESTION ("INTER
FAUCES TERRARUM") AND THE WATERS ENCLOSED BY THE COAST AND
THE SAID LINE SHALL BE CONSIDERED AS INTERNAL WATERS.

ARTICLE ...

A BAY WHOSE COASTS BELONG TO TWO OR MORE STATES AND WHICH
MEETS THE REQUIREMENTS LAID DOWN IN ARTICLE ... SHALL BE

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REGARDED AS HISTORIC ONLY BY AGREEMENT BETWEEN THE COASTAL STATES. SUCH AGREEMENT SHALL SPECIFY THE CLOSING LINE OF THE BAY AND THE LIMITS OF THE RESPECTIVE MARITIME SPACES.

THE COASTAL STATE OR STATES SHALL NOTIFY THE INTERNATIONAL HYDROGRAPHIC BUREAU OF THE AGREEMENT OR AGREEMENTS MENTIONED IN THE PREVIOUS PARAGRAPH AND SHALL MARK THEM ON THE LARGE-SCALE CHARTS PREPARED BY THE RESPECTIVE STATES. IN THE ABSENCE OF SUCH NOTIFICATION THE REGIME OF HISTORIC BAYS SHALL NOT BE APPLICABLE TO THE BAY IN QUESTION.

ARTICLE ...

THE FOREGOING PROVISIONS SHALL APPLY MUTATIS MUTANDIS TO THE RECOGNITION OF HISTORIC WATERS OTHER THAN BAYS. THE COASTAL STATE MAY CLAIM SUCH WATERS AS INTERNAL WATERS OR AS TERRITORIAL SEA, DEPENDING ON THE TYPE OF JURISDICTION IT HAS EXERCISED OVER THEM.

BAYS

1. A BAY IS A WELL-MARKED INDENTATION WHOSE PENETRATION IS IN SUCH PROPORTION TO THE WIDTH OF ITS MOUTH AS TO CONTAIN LAND-LOCKED WATERS AND CONSTITUTE MORE THAN A MERE CURVATURE OF THE COAST. AN INDENTATION SHALL NOT, HOWEVER, BE REGARDED AS A BAY UNLESS ITS AREA IS AS LARGE AS, OR LARGER THAN, THAT OF THE SEMI-CIRCLE WHOSE DIAMETER IS A LINE DRAWN ACROSS THE MOUTH OF THE SAID INDENTATION.

2. FOR THE PURPOSE OF MEASUREMENT, THE AREA OF AN INDENTATION IS THAT LYING BETWEEN THE LOW-WATER MARKS OF ITS NATURAL ENTRANCE POINTS. WHERE, BECAUSE OF THE PRESENCE OF ISLANDS, AN INDENTATION HAS MORE THAN ONE MOUTH, THE SEMI-CIRCLE SHALL BE DRAWN ON A LINE AS LONG AS THE SUM TOTAL OF THE LENGTHS OF THE LINES ACROSS THE DIFFERENT MOUTHS. ISLANDS WITHIN AN INDENTATION SHALL BE INCLUDED AS IF THEY WERE PART OF THE WATER AREA OF THE INDENTATION.

3. IF THE DISTANCE BETWEEN THE LOW-WATER MARKS OF THE NATURAL ENTRANCE POINTS OF A BAY DOES NOT EXCEED 24 MILES, A STRAIGHT CLOSING LINE MAY BE DRAWN BETWEEN THESE TWO LOW-WATER MARKS, FROM WHICH THE BREADTH OF THE TERRITORIAL SEA SHALL BE MEASURED, AND THE WATERS ENCLOSED THEREBY SHALL BE CONSIDERED AS INTERNAL WATERS.

4. WHERE THE DISTANCE BETWEEN THE LOW-WATER MARKS OF THE NATURAL ENTRANCE POINTS OF A BAY EXCEEDS 24 MILES, A STRAIGHT BASE-LINE OF 24 MILES MAY BE DRAWN WITHIN THE BAY IN SUCH A MANNER AS TO

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ENCLOSE THE MAXIMUM AREA OF WATER POSSIBLE WITH A LINE OF THAT LENGTH.
 5. BAYS WHOSE COASTS BELONG TO TWO OR MORE STATES AND WHICH MEET THE CONDITIONS STATED IN PARAPRAPHS 1, 2, 3 AND 4, MAY ONLY BE CLOSED AS INDICATED THEREIN BY AGREEMENT BETWEEN THE SAID STATES. THE SAID AGREEMENT MUST COVER THE CLOSING LINE AND THE DELIMITATION OF THE RESPECTIVE MARITIME SPACES.
 6. THE PROVISIONS OF PARAGRAPHS 3 AND 4 SHALL NOT APPLY TO SO-CALLED "HISTORIC" BAYS. UNQUOTE
 3. DELEGARION HAS SERIOUS PROBLEMS WITH WP1 AND PARAGRAPH 5 WP 2. IN PARTICULAR, REFERENCE TO BAYS BORDERED BY MORE THAN ONE STATE AND TO OPEN-ENDED "HISTORIC WATERS" ARE CLEARLY UNACCEPTABLE. REQUEST D/L OS COORDINATE OTHER PROVISIONS REGARDING BAYS, HISTORIC BAYS, AND DEFINITION OF HISTORIC BAYS. DALE