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Staff Office-Individual: Defense Policy-Bell, Robert				
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NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

August 9, 1994

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH: ROBERT BELL *RB*

FROM: JIM SEATON *JS*

SUBJECT: Request President to Honor Memory of Sinking of
USS Indianapolis for 50th Anniversary July 30,
1995

At Tab II is a request for the President to honor the memory of the hundreds of sailors killed in the sinking of the USS Indianapolis on July 30, 1945. No special commemorative event is currently scheduled nor recommended for that anniversary by the 50th Anniversary of World War II Commemoration Committee.

Concurrence by: Andrew Sens

RECOMMENDATION

That you forward the memorandum at Tab I recommending no special Presidential activity commemorating this event.

Attachments

Tab I Memorandum for Signature
Tab II Incoming Correspondence

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20506

MEMORANDUM FOR RICKI SEIDMAN

FROM: WILLIAM H. ITOH

SUBJECT: Request President to Honor Memory of Sinking of
USS Indianapolis for 50th Anniversary July 30,
1995

The National Security Council staff recommends no special
Presidential event commemorating the 50th anniversary of the USS
Indianapolis sinking.

Scheduling Advice Memorandum

PLEASE RETURN THIS MEMO TO ANNA WINDERBAUM IN ROOM 185.5 BY 8/17

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

☐ O - OUTGOING☐ H - INTERNAL☐ I - INCOMINGDate Correspondence
Received (YY/MM/DD) 1 1Name of Correspondent: Earl R. Lithus☐ MI Mail Report

User Codes: (A) _____ (B) _____ (C) _____

Subject: Request the President to honor the 50th
Anniversary of the sinking of the USS Indianapolis.

ROUTE TO:

ACTION

DISPOSITION

Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
---------------	--------------	-------------	---------------------------	------------------	------	-----------------------------

SC WINDORIGINATOR 94108102

Referral Note: _____

A 94108108

Referral Note: _____

Referral Note: _____

Referral Note: _____

Referral Note: _____

ACTION CODES:

A - Appropriate Action
C - Comment/Recommendation
D - Draft Response
F - Furnish Fact Sheet
to be used as Enclosure

I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply

DISPOSITION CODES:

A - Answered
B - Non-Special Referral
C - Completed
S - Suspended

FOR OUTGOING CORRESPONDENCE:

Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments: _____

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Schedule's

073447

JUN - JUN

6911 N 24th Street

Tacoma WA 98406

June 2, 1994

President Bill Clinton
The White House
Washington D C 20500

Dear President Bill Clinton;

I have recently read the book "Fatal Voyage" by Dan Kurzman. The book is about the sinking of the USS Indianapolis on July 30, 1945. The book is most interesting and to me emotional.

The 50th anniversary of the sinking of the USS Indianapolis is only a little over a year away. Mr. President I hope that you will do what no other President has done since that "Fatal Voyage", and that is for the President and Country pay due respect to the USS Indianapolis, the ship's Captain, and the ship's crew. I, an Army Veteran of WW II, as well as all veterans of all branches of the service would be must grateful if you would honor these men and their ship.

Sincerely,

Earl R. Uthus

Earl R. Uthus

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20508

August 9, 1994

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH:

ROBERT BELL *RB*

FROM:

JIM SEATON *JS*

SUBJECT: State Proposed Testimony on International Law of the Sea

At Tab II is the State Department's proposed testimony on the Law of the Sea Convention before the Senate Foreign Relations Committee. The State Department supports Senate passage of the current Law of the Sea Convention as it addresses the previous concerns regarding the non-market oriented approaches to the deep seabed mining provisions.

Concurrences by:

In draft
Bill Danvers, Alan Kreczko

RECOMMENDATION

That you sign the memorandum at Tab I concurring with the proposed State Department testimony.

Attachments

Tab I Memorandum for Signature

Tab II Incoming Correspondence

NATIONAL SECURITY COUNCIL
WASHINGTON, D.C. 20508

6447

MEMORANDUM FOR RONALD K. PETERSON

FROM: WILLIAM H. ITOH

SUBJECT: State Proposed Testimony on International Law of
the Sea

The National Security Council staff concurs with the proposed
State Department testimony.

6447

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

August 8, 1994

LEGISLATIVE REFERRAL MEMORANDUM

LRM #M-1711

TO: Legislative Liaison Officer -

DEFENSE - Samuel T. Brick, Jr. - (703)697-1305 - 325
TRANSPORTATION - Tom Herlihy - (202)366-4687 - 226
COMMERCE - Michael A. Levitt - (202)482-3151 - 324
ENERGY - Bob Rabben - (202)586-6718 - 209
INTERIOR - Jane Lyder - (202)208-4371 - 329
JUSTICE - Sheila F. Anthony - (202)514-2141 - 217
LABOR - Robert A. Shapiro - (202)219-8201 - 330
TREASURY - Richard S. Carro - (202)622-1146 - 228
EPA - Thomas C. Roberts - (202)260-5414 - 326
CEQ - Liaison Officer (vacant) - (202)395-5750 - 256
NEC - Sonyia Matthews - (202)456-6630 - 429
NSC - William H. Itoh - (202)395-3723 - 249
USTR - Fred Montgomery - (202)395-3475 - 223

FROM: RONALD K. PETERSON (for)
Assistant Director for Legislative Reference

OMB CONTACT: Jeff ASHFORD (395-3921)

SUBJECT: STATE Proposed Testimony on International Law
of the Sea

DEADLINE: 10:00 A.M., Tuesday August 9, 1994

COMMENTS: Commerce/NOAA, Defense, and Coast Guard will also be
testifying at this hearing. If you do not respond by the
deadline, we assume that you have no objection to this
testimony.

OMB requests the views of your agency on the above subject before
advising on its relationship to the program of the President, in
accordance with OMB Circular A-19.

Please advise us if this item will affect direct spending or
receipts for purposes of the the "Pay-As-You-Go" provisions of
Title XIII of the Omnibus Budget Reconciliation Act of 1990.

CC:
Michael Deich
Mike Schmidt
Bob Damus
Rodney Bent
Jeff Payne
John Schuhart

18 pages

TESTIMONY BEFORE THE
COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE

AMBASSADOR DAVID A. COLSON
DEPUTY ASSISTANT SECRETARY OF STATE FOR OCEANS

AUGUST 10, 1994

Mr. Chairman, Members of the Committee. Thank you for the opportunity to testify today on the 1982 United Nations Convention on the Law of the Sea. I am accompanied by Mr. Wes Scholz of the Department of State's Bureau of Economic and Business Affairs, who was our chief negotiator on the recently concluded seabed mining agreement.

I am pleased to report that an agreement reforming the seabed mining provisions (Part XI) of the Law of the Sea Convention was adopted by the United Nations General Assembly on July 28, 1994. The agreement, entitled the Agreement Relating to the Implementation of Part XI of the 1982 United Nations Convention on the Law of the Sea of December 10, 1982, was approved by an overwhelming

Julie Norton 647-4463

majority of the members of the United Nations and opened for signature the following day. Ambassador Madeleine Albright, United States Permanent Representative to the United Nations, signed the Agreement for the United States. Forty four nations, including the United Kingdom, German and Japan, for example have joined us in signing the agreement. Others have indicated their intention to sign in the near future.

The new agreement incorporates legally binding changes in the seabed mining provisions of the LOS Convention to address longstanding United States objections. Objections to the Convention's original provisions on possible development of minerals from the deep seabed led to our decision in 1982 not to sign the Convention at that time and have deterred all major industrialized nations from adhering. Removal of those objections now opens the way for acceptance of the Law of the Sea Convention by the United States and our industrialized allies.

Before turning to the features of the new agreement, I would like to touch on the LOS Convention as a whole, whose provisions are of major strategic, economic and environmental importance to the United States.

Since the 1960's, a central tenet of United States oceans policy has been to achieve a comprehensive treaty on the Law of the Sea. This goal reflected the fact that the existing body of international law on the oceans, as

reflected in the four Geneva Conventions of 1958, was rapidly being overtaken by political, economic and technological developments within the international community. These included the emergence of new nations in the post colonial era who had ideas of their own, and continued lack of consensus on the key question of the breadth of the territorial sea.

Equally important, the continuing growth of human activities in the oceans and the advancement of new technologies -- be they to enable humankind to catch fish more effectively, to conduct marine science, or to move quietly through the oceans aboard a nuclear submarine -- all spurred the trend by many states to assert increasing control over those activities and at further distances off their coasts.

These developments presented a challenge to U.S. interests. Our interest in protecting and managing fishery resources, controlling continental shelf oil and gas development, and protecting the marine environment created an important United States interest in asserting broad resource and environmental jurisdiction off our coasts. Extensions by other nations, however, were not always limited to matters of resource use or environmental protection. They often represented a potential threat to our interests as a major maritime nation in freedom of commercial and military navigation and overflight -- on,

over and under the seas.

For these reasons, the United States during the Nixon Administration was a prime mover in the convening of the Third United Nations Conference on the Law of the Sea. Our objective was to establish and preserve a balance between our interests as a major maritime power and our interests as a coastal nation in preserving, protecting and reaping the benefits of fishery populations and other marine resources in adjacent waters and in protecting the marine environment. The range of United States interests dictated the need to establish that balance globally.

The Third U.N. Conference on the Law of the Sea began in the early 1970s. The 1982 Law of the Sea Convention which resulted from that 10-year negotiating effort has been recognized by each succeeding U.S. Administration as the cornerstone of United States Oceans Policy.

I would like to review briefly what we believe are the primary benefits of the Convention to the United States: it stabilizes the breadth of the territorial sea at 12 miles and establishes important navigation regimes: of innocent passage in the territorial sea; of transit passage in straits used for international navigation; of archipelagic sea lanes passage in archipelagoes; and, it respects the traditional freedoms of navigation and overflight in the exclusive economic zone and the high

seas beyond. These navigation regimes are all consistent with our coastal interest in the waters off our coast, but they also preserve the right of our military to use the world's oceans to meet our national security requirements and for commercial vessels to carry sea-going cargoes. It establishes the 200-mile exclusive economic zone, and it makes provision for a wider continental shelf. These regimes are fully supportive of U.S. interests in developing our fisheries and oil and gas resources.

The Convention preserves the right of the U.S. military to use the world's oceans to meet national security requirements and of commercial vessels to carry sea-going cargoes. It achieves this, inter alia, by stabilizing the breadth of the territorial sea at 12 nautical miles; establishing navigation regimes of innocent passage in the territorial sea, transit passage in straits used for international navigation, and archipelagic sea lanes passage; and respecting the traditional freedoms of navigation and overflight in the exclusive economic zone and high seas beyond.

The Convention protects the interests of the United States as a coastal State. It achieves this, inter alia, by establishing a 200-nautical mile exclusive economic zone and making provision for a wider continental shelf. The Convention's provisions in these areas are fully consistent with our current oil and gas leasing practices,

our domestic management of coastal fishery resources, and our international fisheries agreements.

The Convention is a far reaching environmental accord addressing vessel source pollution, ocean dumping and land-based sources of marine pollution, and has facilitated continuing improvement in the health of the world's oceans.

The Convention provides a future framework for nations within which to work out solutions to the increasingly complex problems of the use of ocean space -- solutions which respect the essential balance between our interests as a coastal and maritime nation. Through its dispute settlement provisions, the Convention provides for mechanisms to ensure compliance by Parties with the Convention's provisions.

As is well known, the United States decided not to sign the Law of the Sea Convention in 1982. While recognizing that the Convention served fundamental U.S. interests, Part XI of the Convention dealing with mining of the deep seabed beyond the limits of national jurisdiction, was seriously flawed. For that reason -- and that reason alone -- the United States decided not to sign. This has remained the position of successive Republican and Democratic Administrations. The

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significance of the new agreement, which will form an integral part of the Law of the Sea Convention, not only lies in the fact that it solves the specific problems articulated by the United States with respect to Part XI of the Convention. It also opens the door for United States acceptance of the Convention and brings within reach our long-term and bipartisan goal of a comprehensive and widely supported law of the sea convention.

Let me turn briefly to provisions of the new agreement. U.S. objections to the Convention's original deep seabed mining provisions in 1982 were that: the economic principles and organizational machinery originally envisioned would deter investment; the decision-making process would not give the United States a voice commensurate with our interests; the technology transfer and production limitation provisions were unacceptable; and a review process could amend the Treaty and bind the United States over our objection.

The Agreement fundamentally changes the seabed mining regime of the Convention and addresses satisfactorily each of the U.S. concerns. It incorporates legally binding changes to ensure that the United States, and others with major economic interests at stake, have adequate influence over future decisions on possible deep seabed mining. It also requires the administration of the seabed mining regime to be based on free-market principles. Thus, the

-8-

agreement meets the United States goal of guaranteed access to deep seabed minerals on the basis of reasonable terms and conditions.

The Agreement, rather than seeking to establish a detailed regime anticipating all phases of potential activity associated with mining of the deep seabed, sets forth sound commercial and economic principles. They will form the basis for developing rules and regulations establishing a management regime for commercial mining when interest in commercial mining emerges.

The Agreement scales back the structure of the organization to administer the mining regime and links the activation and operation of institutions to the actual development of concrete interest in seabed mining. More fundamentally, it alters Part XI to provide the United States the ability to veto decisions related to budget and finance in the Finance Committee and decisions related to adoption of rules and regulations to amend the deep seabed mining regime as well as decisions related to the distribution of royalties in the Council. It also provides us the ability to block remaining substantive issues acting in concert with two other industrialized countries.

(continued)

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application may continue only for a limited period, pending entry into force. Provisional application would terminate on November 16, 1998, if the Agreement has not entered into force due to failure of a sufficient number of industrialized States to become Parties. Further, the agreement provides for provisional application in accordance with a state's national laws.

In signing the agreement on July 29, the United States indicated that it intends to apply the agreement provisionally. Provisional application by the United States will allow us to advance our seabed mining interests by participating in the International Seabed Authority from the outset to ensure that the implementation of the regime is consistent with those interests.

Mr. Chairman, in conclusion, let me express our satisfaction at being able to report on the successful conclusion of the new agreement reforming the seabed mining provisions of the Law of the Sea Convention. It represents an important step towards realization of a basic and bipartisan goal of our oceans and foreign policy. The Administration is expediting the process necessary to submit for your consideration, as a package, the Convention and the new agreement. As Secretary

Christopher indicated in the letter he signed jointly with Secretary Perry, we want to work with the Congress to provide complete and accurate information for your deliberations. We stand ready to provide briefings, information, background materials and any other assistance that may be required. We look forward to a continuing dialogue with you.

Mr. Chairman, at this time I would like to request that my statement be incorporated into the hearing record in its entirety. My statement is accompanied by two papers for the Committee's attention. The first reviews United States Ocean Policy and the Law of the Sea, the second provides a list of governments that to date have signed that agreement.

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UNITED STATES OCEANS POLICY AND THE LAW OF THE SEA CONVENTION

On July 29, 1994, the United Nations General Assembly convened in special session for the purpose of adopting and opening for signature the Agreement Relating to the Implementation of Part XI of the 1982 United Nations Convention on the Law of the Sea. The Agreement fundamentally changes the provisions of the Convention (Part XI) that establish a system for regulating the mining of mineral resources from the deep seabeds beyond national jurisdiction. In so doing, it removes the obstacles to the acceptance of the Convention that have prevented the United States and other industrialized countries from moving to become parties to it.

The United States believes that the Agreement satisfactorily addresses long-held objections to the Convention's seabed mining provisions. Therefore, the U.S. signed the Agreement. U.S. signature will in turn trigger the process of submitting the Law of the Sea Convention and the Agreement together as a package to the Senate for advice and consent to ratification. Entry into force of a widely accepted and comprehensive law of the sea convention - to which the United States can become a Party - has been a consistent objective of successive U.S. Administrations since negotiations began on such a convention over two decades ago. This paper analyzes the development of the Agreement Relating to the Implementation of Part XI of the 1982 United Nations Convention on the Law of the Sea in the context of overall U.S. oceans policy.

Background: United States Oceans Interests

The United States has important and diverse interests in the oceans. As the world's pre-eminent naval power, the U.S. has a national security interest in the ability to freely navigate and overfly the oceans as essential preconditions for projecting military power. The end of the Cold War has, if anything, highlighted this need. Ensuring the free flow of commercial navigation is likewise a basic concern for the U.S. as a major trading power, whose economic growth and employment is inextricably linked with a robust and growing export sector. By far, the bulk of international trade is transported by sea.

At the same time, the U.S., with one of the longest coastlines of any nation in the world, has basic resource and environmental interests in the oceans. The seabed of the deep oceans offers the potential for economically and

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strategically important mineral resources. Inshore and coastal waters generate vital economic activities - fisheries, offshore minerals development, ports and transportation facilities and, increasingly, recreation and tourism. The health and well-being of coastal populations - and the majority of Americans live in coastal areas - are intimately linked to the quality of the coastal marine environment.

Understanding the oceans, including their role in global processes, is one of the frontiers of human scientific investigation and the U.S. is a leader in the conduct of marine scientific research. Further, such research is essential for understanding and addressing problems associated with the use and protection of the marine environment, including marine pollution, conservation of fish and other marine living species and forecasting of weather and climate variability.

Pursuit of these objectives, however, requires careful and often difficult balancing of interests. As a coastal nation, for example, we naturally tend to seek maximum control over the waters off our shores. Equally, as a major maritime power, we often view such efforts on the part of others as unwarranted limitations on legitimate rights of navigation.

Moreover, traditional perceptions of the inexhaustibility of marine resources and of the capacity of the oceans to neutralize wastes have changed, as marine species have been progressively depleted by harvesting and their habitats damaged or threatened by pollution and a variety of human activities. Maintaining the health and productive capacity of the oceans while seeking to meet the economic aspirations of growing populations also requires difficult choices.

Striking the balances necessary to implement U.S. oceans policy must be viewed in the international context. Living resources migrate. Likewise, marine ecosystems and ocean currents, which transport pollutants and otherwise affect environmental interests, extend across maritime boundaries and jurisdictional limits. National security and commercial shipping interests are also international in scope. Achievement of oceans policy objectives thus requires international cooperation at the bilateral, regional and global level. The alternative is increased competition, and conflict over control of the oceans and marine resources to the potential detriment of U.S. interests and the marine environment generally.

The United Nations Convention on the Law of the Sea

United States oceans policy has always had as a basic

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objective the application of the rule of law to the uses and conservation of the oceans. The U.S. was a leader in the international community's effort to develop an overall legal framework for the oceans in the Third United Nations Conference on the Law of the Sea, which began its substantive work in 1974.

The resulting United Nations Convention on the Law of the Sea (UNCLOS), concluded in 1982, provides a comprehensive legal framework governing uses of the oceans and the rights and obligations of States relating thereto. It achieved consensus on the nature and extent of jurisdiction that States may exercise off their coasts: a territorial sea of a maximum breadth of 12 nautical miles and coastal State jurisdiction over fisheries and other resources (e.g., oil and gas) in a 200 nautical-mile Exclusive Economic Zone (EEZ) and on the continental shelf where it extends beyond the EEZ. It balances extended coastal State jurisdiction with provision for preservation and elaboration of rights of navigation and overflight in these areas and guarantees of passage through and over straits used for international navigation and archipelagoes.

In addition to the nature and extent of maritime jurisdiction, UNCLOS sets forth rights and obligations of States with respect to:

- conserving marine living resources, including coastal fisheries populations, straddling stocks (fisheries populations whose range includes both areas of the EEZ and the high seas); and highly migratory species and marine mammals, such as whales;
- protecting the marine environment from all sources of pollution, including from vessels, dumping, seabed activities and land-based activities; and
- the conduct of marine scientific research, including procedures for coastal State exercise of right to require consent for research in coastal waters and for promoting and facilitating access by researchers to such areas.

The agreements reached in these areas well served U.S. interests. Nonetheless, the provisions of UNCLOS on the deep seabed (Part XI) posed basic problems. Negotiations on these provisions were designed to give effect to the generally accepted principle that the resources of the seabed beyond national jurisdiction are the common heritage of mankind and to elaborate an international system to regulate mining of this area. They took place against a backdrop of deep ideological differences between

developing and industrialized nations. The result was an overly detailed and, from the U.S. perspective, fundamentally flawed seabed mining regime. U.S. objections, shared by several other industrialized States, centered on its top-heavy institutional structure and unrepresentative decision-making procedures; its provision for a member-financed operating arm, accorded competitive advantages over independent operators; and artificial production controls and requirements for mandatory transfer of technology.

Because of basic objections to the seabed mining provisions of UNCLOS, the U.S. decided that it could not accept the Convention as a whole and did not sign it.

Implementation of United States Policy

In 1983, the U.S. issued a presidential statement on oceans policy. It restated the objections to Part XI, re-iterated commitment to the objective of a universally acceptable convention and indicated that the U.S. would accept and act in accordance with the Convention's balance of interests relating to traditional uses of the oceans. This policy has been reaffirmed by every successive U.S. Administration. On this basis, the U.S. promoted international acceptance of the non-seabed provisions of UNCLOS, but continued to take the position that the deep seabed regime of Part XI required fundamental reform for the U.S. ever to consider ratification of the Convention as a whole.

In the late 1980's, other nations increasingly began to recognize difficulties in the seabed mining regime. This shift in attitude reflected general changes in the international political environment: the waning of the Cold War and the explosion of interest in free market reforms in developing countries and within Eastern Europe and the States of the former Soviet Union. It also reflected the decline in commercial interest in deep seabed mining as a result of relatively low metals prices and growing convergence in view among industrialized countries on the need for changes in Part XI of the nature consistently advocated by the U.S. The views of industrialized nations were matched by expressions of interest in an accommodation by developing countries - the primary defenders of Part XI.

These developments led the United Nations Secretary General in 1990 to launch a process of consultations aimed at resolving the objections that had caused the United States and others to reject the deep seabed mining regime. Initially, the U.S. took a limited role in these talks: expressing skepticism as to possible results but, in light of its longstanding commitment to a universally

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acceptable Convention, participating to keep under review prospects for fundamental reform. The Secretary General's consultations revealed growing international support for finding a solution to the problems of Part XI. The prospect of entry into force of the Convention (now definitely to take place on November 16, 1994) added momentum. Other industrialized nations saw a window of opportunity for fundamental change and argued that it would be more difficult to effect such changes once the Convention had entered into force and its institutions had been established. Likewise, key developing countries shared concerns about entry into force of Part XI with no industrialized country participation.

In early 1993, the Clinton Administration undertook a detailed review of U.S. oceans policy. It endorsed the basic elements of that policy as they had been consistently articulated over the past two decades. It concluded that the prospects of reforming Part XI of UNCLOS to address our longstanding difficulties had improved to the point that U.S. oceans policy would be best served by taking a more active role in the reform effort.

This conclusion was also based on an assessment which has been shared by all U.S. administrations since negotiations began on the Law of the Sea Convention, that our oceans interests would be best served by a universally accepted Convention. Such a convention does not answer every question regarding the uses of the oceans, but it frames and channels discussions as new issues arise. Therefore, a Convention acceptable to us offers a legal framework within which to pursue and protect our oceans interests with greater predictability and at less political and economic cost than through unilateral action or other alternatives. This position applies to Part XI as it does to the other parts of the Convention.

The U.S. has demonstrated that, if necessary, it can successfully assert its oceans interests without legal treaty relations with others and could continue to do so if reform of Part XI is not attained. The costs of this approach, however, would grow over time, and long-term U.S. interests in stable and predictable rules concerning uses of the oceans would be best served by entry into force of a widely acceptable LOS Convention.

The Agreement Relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea

Progress in the consultations conducted by the United Nations Secretary General has been rapid since the April, 1993 announcement by the United States that it would actively engage in the effort to reform Part XI of

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UNCLAS. The drafting and completion of an agreement to fundamentally change Part XI - the Agreement Relating to the Implementation of Part XI of the 1982 United Nations Convention on the Law of the Sea - essentially took place within the span of a year.

The Agreement, rather than seeking to establish a detailed regime anticipating all phases of potential activity associated with mining of the deep seabed, sets forth sound commercial and economic principles. They will form the basis for developing rules and regulations establishing a management regime for commercial mining when interest in commercial mining emerges.

The Agreement retains the institutional outlines of Part XI but scales back the structure and links the activation and operation of institutions to the actual development of concrete interest in seabed mining. More fundamentally, it alters Part XI to provide the United States, and other states with major economic interests, a voice in decision-making commensurate with those interests.

It deletes mandatory transfer of technology and production control provisions. More generally, it includes provisions to ensure that market oriented approaches are taken to the management of the resources of the deep seabed, replacing Part XI's interventionist and centralized economic planning approach. In the view of the U.S. and others, that latter approach would have preempted private investment in seabed resources and, thus, prevented the development of those resources when economic conditions so warranted.

The Agreement recognizes the seabed mine site claims established on the basis of the exploration work already conducted by U.S. and other companies; and it strengthens the provisions requiring consideration of the potential environmental impacts of deep seabed mining.

Simply stated, the Agreement revises Part XI in a manner that satisfactorily addresses the objections consistently articulated by the United States since 1982.

1-8

List of Governments that signed the
Agreement Relating to the
Implementation of Part XI of the
1982 United Nations Convention
on the Law of the Sea of December 10, 1982

- 1) Algeria
- 2) Argentina
- 3) Australia
- 4) Austria
- 5) Bahamas
- 6) Belgium
- 7) Brazil
- 8) Canada
- 9) Cape Verde
- 10) China
- 11) Denmark
- 12) Fiji
- 13) Finland
- 14) France
- 15) Germany
- 16) Greece
- 17) Iceland
- 18) India
- 19) Indonesia
- 20) Ireland
- 21) Italy
- 22) Jamaica
- 23) Japan
- 24) Kenya
- 25) Luxembourg
- 26) Malaysia
- 27) Malta
- 28) Mauritania
- 29) Namibia
- 30) Netherlands
- 31) New Zealand
- 32) Paraguay
- 33) Poland
- 34) Portugal
- 35) Seychelles
- 36) Spain
- 37) Sri Lanka
- 38) Sudan
- 39) Sweden
- 40) Togo
- 41) United Kingdom
- 42) United States
- 43) Uruguay
- 44) Vanuatu
- 45) European Community

NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20506

August 9, 1994

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH: ROBERT BELL *RGB*FROM: JIM SEATON *JBS*

SUBJECT: Defense Proposed Testimony on International Law of the Sea

At Tab II is the Joint Chiefs of Staff's proposed testimony before the Senate Foreign Relations Committee on the strategic significance and military implications of the Convention on the Law of the Sea. The JCS testimony supports Senate passage of the Law of the Sea Convention.

Concurrences by: Bill Danvers, Alan Kreczko *in brief*RECOMMENDATION

That you sign the memorandum at Tab I concurring with the proposed Joint Chiefs of Staff testimony.

Attachments

Tab I Memorandum for Signature
Tab II Incoming Correspondence

NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20506

MEMORANDUM FOR RONALD K. PETERSON

FROM: WILLIAM H. ITOH

SUBJECT: Defense Proposed Testimony on International Law of
the Sea

The National Security Council staff concurs with the proposed
Joint Chiefs of Staff testimony.

6432

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

URGENT

August 8, 1994

LEGISLATIVE REFERRAL MEMORANDUM

LRM #M-1706

TO: Legislative Liaison Officer -

STATE - Julia C. Norton - (202) 647-4463 - 225
TRANSPORTATION - Tom Herlihy - (202) 366-4687 - 226
COMMERCE - Michael A. Levitt - (202) 482-3151 - 324
ENERGY - Bob Rabben - (202) 586-6718 - 209
INTERIOR - Jane Lyder - (202) 208-4371 - 329
JUSTICE - Sheila F. Anthony - (202) 514-2141 - 217
LABOR - Robert A. Shapiro - (202) 219-8201 - 330
TREASURY - Richard S. Carro - (202) 622-1146 - 228
EPA - Thomas C. Roberts - (202) 260-5414 - 326
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NEC - Sonyia Matthews - (202) 456-6630 - 429
NSC - William H. Itoh - (202) 395-3723 - 249
USTR - Fred Montgomery - (202) 395-3475 - 223

FROM: RONALD K. PETERSON (for) *Smith for*
Assistant Director for Legislative Reference

OMB CONTACT: Jeff ASHFORD (395-3921)

SUBJECT: DEFENSE Proposed Testimony on International
Law of the Sea

DEADLINE: 10:00 A.M., Tuesday August 9, 1994

THIS TRANSMISSION CONTAINS 15 PAGE(S) (total).

COMMENTS: Commerce/NOAA, State, and Coast Guard will also be
testifying at this hearing. If you do not respond by the
deadline, we assume that you have no objection to this
testimony.

OMB requests the views of your agency on the above subject before
advising on its relationship to the program of the President, in
accordance with OMB Circular A-19.

Please advise us if this item will affect direct spending or
receipts for purposes of the the "Pay-As-You-Go" provisions of
Title XIII of the Omnibus Budget Reconciliation Act of 1990.

CC:
Michael Deich
Mike Schmidt
Bob Damus
Rodney Bent

Jeff Payne
John Schuhart

6 August 1994

Statement for the Record

Rear Admiral William D. Center, United States Navy

Deputy Director, International Negotiations

J-5 Directorate, Joint Staff

Before the Senate Foreign Relations Committee

on the Law of the Sea Convention

10 August 1994

CLEARED
FOR OPEN PUBLICATION

AUG 11 1994

CLASSIFICATION
13-00-0000

01-01-1024

I would like to thank Chairman Pell and the Committee on Foreign Relations for this opportunity to testify concerning the Law of the Sea (LOS) Convention. General Shalikashvili, Chairman of the Joint Chiefs of Staff, and Admiral Owens, Vice Chairman and Co-Chair of the DOD Law of the Sea Task Force, asked that I review with you the position of the Joint Chiefs of Staff and the Unified and Specified Commanders-in-Chief on ratification of the agreement implementing the LOS Convention.

By way of introduction, I am the Deputy Director for International Negotiations in the Strategic Plans and Policy Directorate of the Joint Staff. My responsibilities include developing policy positions and participating in negotiation of international agreements and treaties having military impact. Today I will review the Law of the Sea Convention from a strategic and national security perspective.

There are strong national security reasons for supporting Senate ratification of the LOS Convention. Entry into force will strongly underpin the worldwide mobility our forces need and make us less reliant on operational challenges to protect our navigational rights. The LOS

Convention will provide a stable basis for governing the world's oceans through legal rules and norms rather than a potentially volatile mixture of customary practice and gunboat diplomacy.

Our Requirements

The end of the Cold War has not lessened our global mobility requirements. A smaller force places a premium on mobility. The situation is further complicated by our inability to predict where the next challenge will arise. The geographic diversity and complexity of not only our own mobility requirements, but those of our potential coalition partners, has never been greater. To meet these operational challenges, our naval and air forces must take maximum advantage of the navigational rights codified in the LOS Convention. Sustaining our overseas presence, using military forces for peacekeeping, disaster assistance, or humanitarian relief, or conducting combat operations far from our shores are only possible if military forces and military and civilian logistics supply ships and aircraft are able to make free use of the sea and air lines of communication. Today there are an almost infinite number of scenarios for which we must be prepared.

LOS Convention Rights on Which OOD Depends

To meet our power projection and sustainment requirements there must be a bedrock assurance that key lines of communication will remain open as a matter of legal right. It is far preferable that our navigational and other interests be codified in a treaty document than to depend upon "custom," "tradition," or "customary international law." Would-be adversaries, or nations who do not support particular activities we are undertaking, will less likely challenge our lawful use of sea and air lanes once such use is based on a widely accepted treaty to which we are a party. The LOS Convention directly addresses these military mobility and national security interests. Specifically, the LOS Convention:

- Preserves the high seas freedoms of overflight and vessel navigation, military research and development activities, ordnance testing, and space and telecommunications activities.

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- Limits territorial seas to 12NM in the face of pressures by coastal states to expand those seas well beyond that limit and to assert other types of claims which have the practical effect of extending coastal state control over legitimate uses of the seas.
- Guarantees the nonsuspendable freedom of navigation and overflight through international straits and archipelagic sea lanes.
- Guarantees, without prior notification or permission, the right of innocent passage of ships through the territorial seas of coastal states.
- Clarifies which activities are permitted under the regime of innocent passage.
- Limits jurisdiction of coastal states in their exclusive economic zones (EEZ) to resource-related concerns while preserving high seas freedoms for everyone.
- Recognizes the right to conduct hydrographic and military surveys on the high seas and within foreign EEZs.

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- Confirms the right to conduct operationally effective transits through international straits in "normal modes." Submarines can stay submerged. Air capable ships can operate aircraft. Ships can remain in formation. This right is particularly important to our naval units because it ensures their ability to maintain appropriate readiness and defensive postures.
- Favorably codifies the doctrine of sovereign immunity-- fundamental to the inviolability and mobility of our warships and other public vessels.
- Upholds the right of ships to navigate freely without regard to cargo or means of propulsion. Since over 40% of the Navy's major combatants are nuclear powered, the importance of this right cannot be overemphasized.
- Preserves--in the face of pressures by some coastal states to impose mandatory design, safety, or crewing requirements--the right of flag states to train and equip warships and naval auxiliaries to fulfill their operational requirements.

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It would be difficult to pick-and-choose among the preceding rights to list them in priority order. They are all extremely important. As noted however, the right of transit passage and the related regime of archipelagic sea lanes passage are particularly important. More than 150 international straits are overlapped by 12NM territorial seas. Of this total, we consider around a dozen to be "strategic" for commercial and military purposes. Among these are the straits of Hormuz, Dover, Bab el Mandeb, Malacca, Gibraltar, and Bonafacio, plus the strategic "shortcuts" through the Philippine and Indonesian archipelagoes.

Secretary Perry forwarded a copy of the DOD "White Paper" on the LOS Convention to the Committee. That document details clearly the importance of the Strait of Gibraltar to the resupply of Israel in 1967 and again in 1973. During the raid on Libya in 1986, US Air Force FB-111 fighter bombers also relied on free passage through the strait to accomplish their mission. Bab el Mandeb and Hormuz have been used constantly in enforcing UN sanctions against Iraq, and for moving personnel and equipment to and from the Persian Gulf theater of operations. The Strait of Bonafacio, a key "shortcut" between the Islands of Sardinia and Corsica, provides Sixth Fleet units in the Western Mediterranean with

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ready access to resupply ports in Italy. Monafacio is also a key portal for US submarines proceeding to rendezvous for repair and logistic support from the overseas homeported submarine tender in La Maddalena, Sardinia.

As you can see, what is at stake here is not just a matter for academic debate between international law professors--the law of the sea has a direct, measurable, and important impact on US military operations every day.

Why Under the Status Quo?

Some have suggested the United States will derive no benefit from becoming a party to a widely accepted LOS Convention since most of the rights are recognized under either customary international law or general usage. Formal, written codification of our rights is important, so is becoming a party to the LOS Convention.

Remaining outside of the LOS Convention would diminish our position of maritime leadership. The rights we will enjoy under the LOS Convention have been written and refined over time through the coordinated actions of the major

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maritime powers, most of whom will almost certainly become parties. As an outsider the US would find itself in a disadvantageous position to influence future development of the law which underpins our strategic mobility and commercial interests.

Remaining outside the LOS Convention would have the undesirable effect of placing the US Freedom of Navigation (FON) program "center stage" as the primary US instrument for challenging excessive claims. According to the State Department's 1992 study of illegal claims, the United States is actively protesting illegal claims by more than thirty states, at the rate of 30 to 40 protests per year. Of particular concern to DOD are claims asserting that the rights of transit passage (through an international strait) or innocent passage (through territorial waters) are conditioned upon prior notification by warships. We are also concerned with claims of "security zones" or illegal baselines which have the effect of delimiting large ocean areas as territorial sea or internal waters. US policy has been to challenge systematically those claims--both diplomatically and operationally--through the FON program.

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US accession to the Convention should help moderate the proliferation of excessive maritime claims. It is important to note that such claims are not being made by some anti-US bloc, but by virtually all coastal states--including many of our friends and closest allies. They range from Italy's noncompliant historic bay claims, to Canada's excessive baseline claims, to Indonesia's restrictive archipelagic sea lanes passage claims to Peru's restriction on aircraft overflight.

This is not to suggest unreasonable unilateral claims which attempt to restrict navigation will cease once the United States becomes party to the LOS Convention. Coastal states make excessive claims because they believe such claims to be in their national interest and because they believe they can enforce those claims. With the US as a party, fewer states are likely to view such claims as legitimate or enforceable. With clear support from the US, other nations will be more willing to undertake independent or cooperative freedom of navigation operations to challenge such claims. As a party, our diplomatic challenges will clearly carry greater weight.

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Because of the manner in which it evolves, customary law is lacking in detail and precision. Conflict over the exact meaning or scope of a particular provision has more than academic consequences. Modern anti-ship missiles, anti-air missiles, and mines afford coastal states the ability to interfere with transit rights. International consensus-- reflected in the LOS Convention-- that particular maritime activities are permitted and specific coastal restrictions are not, reduces the likelihood a state will undertake to enforce an excessive claim. One need only look at the factors behind the Peruvian Air Force attack on a US C-130 aircraft over international waters in 1992 or the (until recently) routine seizure of Japanese, Chinese, and South Korean fishing vessels in North Korea's so-called "security zone" to find a common thread: unilateral action by a coastal state in an attempt to justify an illegal claim.

Some have asserted that to the extent customary law is ambiguous, we can secure and clarify our rights through direct agreements with affected coastal states. Ratification of the LOS Convention will reduce the need for such bilateral or multilateral agreements or interpretive statements regarding the customary meaning of the law of the sea. The 1989 US/USSR Agreement on Innocent Passage in the Territorial

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Sea and the 1988 US/Indonesia Agreement on archipelagic passage are two examples. This practice was born out of necessity, but it is a haphazard approach to a very clearly defined goal. All coastal states are not willing to sign agreements. Iran, which overlooks the Strait of Hormuz and controls more Arabian coastline than any other country would be unlikely to sign an agreement with the United States. Even friends and allies such as Spain and Morocco would not feel it unreasonable to attach conditions (such as prior notice of the impending transit of a warship or overflight of a military aircraft) to an agreement on a regime for the Strait of Gibraltar. A treaty like the LOS Convention provides the best protection for our rights.

A policy which increases reliance on the FON program ignores costs and other factors. Our strategic responsibilities require deployment of a smaller fleet to diverse locations. During the past 60 days--in addition to "routine" deployments to the Mediterranean, Western Pacific, and Indian Ocean--our ships deployed to enforce UN Sanctions around Haiti, off the coast of the former Yugoslavia, and in the Persian Gulf and Red Sea. They were off the coast of eastern Africa in support of operations in Rwanda and Somalia. They operated in the vicinity of the Korean

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Peninsula to underscore our commitment in that region.
Ratifying the LOS Convention will reduce the need for FON
operations in conjunction with this already taxing list of
requirements.

Exercising Navigational Freedoms Incurs Risk

Some have argued that the navigational rights embodied
in the LOS Convention are already part of the body of
customary international law and it will not advance our
interests to become a party since US military forces have not
been restricted in their ability to conduct transits. TAB A
of the DOD "White Paper" entitled "National Security and the
Law of the Sea Convention" includes a partial list of past
incidents where disputes over maritime rights lead to
confrontations.

It is also wrong to argue that the ability of the US to
bring to bear overwhelming force to resist illegal claims
offsets our interests in becoming party to the Convention.
This oversimplifies the operational and political environment
in which US military forces operate. In the first place,
there are a relatively small number of incidents, involving

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contested maritime claims, because US forces conduct only selected challenges against illegal maritime claims. Whenever a military operation or activity could result in an international incident, our policies require commanders to provide advance notice and reporting to higher authority. These prudent procedures ensure appropriate levels of command are fully cognizant of situations in which US forces might become involved. In practice, these procedures have the effect of placing real world limitations on operational commanders--limits which wouldn't exist if illegal claims were rolled back.

Finally, arguing that excessive claims have not deterred US forces ignores the impact of such claims on our potential coalition partners. We have encouraged other nations to join our efforts in enforcing UN sanctions against Iraq. Many have been reluctant to do so. In some cases this is almost certainly due to the risk of confrontation with coastal states. Even those who do participate are circumspect in their behavior. To date none of the foreign navies joining the enforcement effort have exercised their transit passage right to conduct helicopter operations in the Strait of Hormuz. Common understanding and application of the law of

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the sea is essential in planning and executing coalition operations.

Final Thoughts

The LOS Convention provides a stable basis upon which to build--through negotiation and state practice--solutions to global problems such as pollution, over fishing, and access to seabed resources. It will be much easier--should it ever prove necessary--to operate our forces in support of US commercial seabed mining claims if the US is a party to the LOS Convention. In such cases, one can easily envision how remaining outside the Convention could ultimately result in confrontation with a coalition of our own allies. The LOS Convention is a progressive step towards solution of the some problems of the next century.

Again I wish to thank the Committee for offering me the opportunity to appear today. Summarizing, from a national security perspective, there are two fundamental points in support of ratification:

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- The number and geographic diversity of challenges to our national interests plus our smaller post-Cold War force structure make strategic mobility more important than ever to our national security.
- The rule of law as embodied in the LOS Convention underpins US leadership and security and is clearly preferable to a strategy of unilateralism based on the threatened or actual use of force.

In 1982, the important national security benefits of the LOS Convention properly took a back seat to the serious flaws in the original Part XI. Adjustments to Part XI and the changing geopolitical situation have now tipped the balance in favor of ratification.

NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20506

August 9, 1994

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH:

ROBERT BELL *RGB*

FROM:

JIM SEATON *JBS*

SUBJECT:

SR from Rep. Kennelly RE: President Attending
50th Anniversary of Flag Raising on Iwo Jima

At Tab II are invitations from Representative Kennelly and the Iwo Jima Survivors Association for the President to participate in an Iwo Jima Flag Raising 50th anniversary commemoration in Connecticut on February 23, 1995. There is a much larger ceremony commemorating this event scheduled for February 19, 1995 at the Marine Memorial in Arlington, Virginia which we believe the President should attend. We will submit a schedule proposal for that event later this year.

Concurrence by:

In draft
Bill DanversRECOMMENDATION

That you sign the memorandum at Tab I recommending the President decline the invitation.

Attachments

Tab I Memorandum for Signature

Tab II Incoming Correspondence

NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20506

6439

MEMORANDUM FOR RICKI SEIDMAN

FROM: WILLIAM H. ITOH

SUBJECT: SR from Rep. Kennelly RE: President Attending
50th Anniversary of Flag Raising on Iwo Jima

The National Security Council staff recommends the President decline the invitation to appear before the Iwo Jima Survivors Association in Connecticut on February 23, 1995. There is a similar event hosted by the Commandant of the Marine Corps scheduled for February 19 at the Marine Memorial in Arlington, Virginia. We will submit a schedule proposal for that event later this year.

Legislative Affairs defers to you.

6439

Scheduling Advice Memorandum

FROM: RICKI SEIDMAN

TO:

JOAN BAGGETT
LLOYD CUTLER
RAHM EMANUEL
JOHN EMERSON
MARK GEARAN
JACK GIBBONS
PAT GRIFFIN
MARCIA HALE
KAREN HANCOX
ALEXIS HERMAN
NANCY HERNREICH
HAROLD ICKES
WILL ITOH
PHIL LADER
ANTHONY LAKE
BRUCE LINDSEY
AL MALDON

KATIE MCGINTY
MACK MCLARTY
LEON PANETTA
JOHN PODESTA
JACK QUINN
CAROL RASCO
BOB RUBIN
ELI SEGAL
PATTI SOLIS
GEORGE STEPHANOPOLOUS
ANN STOCK
CHRISTINE VARNEY
MELANNE VERVEER
DANNY WEXLER
MAGGIE WILLIAMS
TONY WILSON

RE:

50th Anniversary of the Battle and Hay Burning on
Mt. Suribachi

The Scheduling Office is considering the attached invitation.
Please advise us:



POTUS should attend.



POTUS should/need not attend.



POTUS should/need not attend but should send a representative



If you think POTUS should attend please submit a proposal ASAP

Your Additional Comments:

we will submit SP in January for
presidential participation at the ceremonies at
the USMC Memorial in Arlington Feb. 19, 1995.

PLEASE RETURN THIS MEMO TO ANNA WINDERBAUM IN ROOM 185.5 BY 8/17

WHITE HOUSE
CORRESPONDENCE TRACKING WORKSHEET

- ☐ O - OUTGOING
☐ H - INTERNAL
☐ I - INCOMING

Date Correspondence
Received (YY/MM/DD) 1/21/95

Name of Correspondent: The Honorable Barbara B. Kennelly

☐ MI Mail Report User Codes: (A) (B) (C)

Subject: Endorsed invitation for the President to attend the 50th Anniversary
of the Battle + flag raising on Mt. Suribachi in New Britain, CT on
February 23, 1995

ROUTE TO:		ACTION		DISPOSITION	
Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response Code	Completion Date YY/MM/DD
SC	WIND	ORIGINATOR	94 108 103		1 1
✓ NS	ITOH	Referral Note: AC	94 108 18		1 1
PL	WEXL	Referral Note: AC	94 108 18		1 1
		Referral Note:			1 1
		Referral Note:			1 1
		Referral Note:			1 1
		Referral Note:			1 1

ACTION CODES:

- A - Appropriate Action
C - Comment/Recommendation
D - Draft Response
F - Furnish Fact Sheet
to be used as Enclosure

- I - Info Copy Only/No Action Necessary
R - Direct Reply w/Copy
S - For Signature
X - Interim Reply

DISPOSITION CODES:

- A - Answered C - Completed
B - Non-Special Referral S - Suspended

FOR OUTGOING CORRESPONDENCE:

Type of Response = Initials of Signer
Code = "A"
Completion Date = Date of Outgoing

Comments:

Keep this worksheet attached to the original incoming letter.
Send all routing updates to Central Reference (Room 75, OEOP).
Always return completed correspondence record to Central Files.
Refer questions about the correspondence tracking system to Central Reference, ext. 2590.

BARBARA B. KENNELLY
1ST DISTRICT, CONNECTICUT

COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON TRADE

COMMITTEE ON HOUSE
ADMINISTRATION

COMMITTEE ON THE BUDGET

CHIEF DEPUTY MAJORITY WHIP



073451

201 CANNON BUILDING
WASHINGTON, DC 20515
(202) 225-2265

ONE CORPORATE CENTER
HARTFORD, CT 06103
(203) 278-8888

Congress of the United States
House of Representatives
Washington, DC 20515

July 25, 1994

The President
The White House
Washington, D.C. 20500

PLEASE REPLY TO HARTFORD

Dear Mr. President:

It has come to my attention that you have been invited to the 50th Anniversary of the Battle and Flag Raising on Mt. Suribachi by the Iwo Jima Survivors Association, Inc. of Newington, Connecticut on February 23, 1995.

I write in support of their request and urge your favorable consideration of the invitation. They are a fine veterans organization who have worked tirelessly to remember the Iwo Jima effort.

If I can be of any further assistance as you review this request, please contact me. Again thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Barbara".

BARBARA B. KENNELLY
Member of Congress



JUL 08 1994

Iwo Jima Survivors Association, Inc.

P.O. Box 310516 • Newington, Connecticut 06131

*"Uncommon Valor was a
Common Virtue"*

*50th Anniversary Reunion
and Dedication of Monument
February 21 - 23, 1995*

Copy

July 4, 1994
Independence Day

Honorable President of the U.S.
Bill Clinton
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear Mr. President:

The Iwo Jima Survivors Assn, Inc. will be holding its Annual Reunion on February 21, 22, 23, 1995, the 50th Anniversary of the Battle and Historic Flag Raising on Mt. Suribachi, Iwo Jima. On February 23, 1995, the Anniversary Date of the Flag Raising, survivors of the battle will be unveiling and dedicating a more than life size bronze statue of the pulitzer prize winning photograph by Joe Rosenthal. The statue will be a tribute and memorial to the 6800 men who fought and died at Iwo Jima. On the black granite base will be inscribed the names of the 98 men from Connecticut who made the supreme sacrifice.

The ceremony will take place at our Iwo Jima Memorial Park, located adjacent to the Iwo Jima Memorial Expressway in Central Connecticut on land provided by the State of Connecticut and Central Connecticut State University. In the event of inclement weather, provisions have been made for an indoor ceremony.

The historic Iwo Jima Flag Raising has become a symbol of American unity of purpose, spirit of victory and patriotism in WWII. Unlike the U.S. Marine Memorial at Arlington, our Iwo Jima Memorial Monument will be a tribute and memorial to not only those men who fought and died at Iwo Jima, but symbolically also a tribute to all those Americans who served their country in World War II.

July 4, 1994
Independence Day

Honorable President of the U.S.
Bill Clinton
Page 2

It would be a privilege and an honor for us, the survivors of the battle, to have you attend as our President and Commander in Chief of all of our Armed Forces. We know your presence would insure, that for generations to come, the importance of reminding Americans of a critical time in our country's history, when tremendous sacrifice and the loss of thousands of lives saved the world from tyranny and preserved democracy.

The fund for our monument was raised by our members, almost six hundred (600) survivors of the battle, one hundred percent (100%) from private citizens. No local, state or federal funds were requested or received. The total cost for the bronze statue amounts to Two Hundred Thousand Dollars (\$200,000). Contributions were received from citizens of all ages - thousands of Americans from all over the country - in small amounts, but with big hearts.

We hope you and your family will attend and join with us when we once again "raise the flag", as we did 50 years ago.

Respectfully,



Dr. George Gentile
President

Iwo Jima Survivors Assn. Inc.

TO: FITTER, H

FROM: ITOH

DOC DATE: 09 AUG 94
SOURCE REF:

KEYWORDS: NAVIGATIONAL FREEDOM
DEFENSE POLICY

LEGISLATIVE REFERRAL

PERSONS:

SUBJECT: ENROLLED BILL HR-4429. NAVAL VESSEL TRANSFER AUTHORIZATION ACT,

ACTION: ITOH SGD MEMO

DUE DATE: 04 AUG 94 STATUS: C

STAFF OFFICER: HAHN

LOGREF:

FILES: WH

NSCP:

CODES:

DOCUMENT DISTRIBUTION

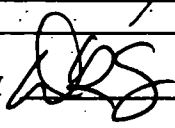
FOR ACTION

FOR CONCURRENCE

FOR INFO

BELL
DANVERS
EXECSEC
JONES

COMMENTS:

DISPATCHED BY 

DATE 8/5

BY HAND

W/ATTCH

OPENED BY: NSJEB

CLOSED BY: NSDRS

DOC 3 OF 3

UNCLASSIFIED
ACTION DATA SUMMARY REPORT

RECORD ID: 9406317

DOC ACTION OFFICER

CAO ASSIGNED ACTION REQUIRED

001 HAHN
002 ITOH
003

Z 94080412 PREPARE MEMO FOR ITOH
Z 94080816 FOR SIGNATURE
X 94080912 ITOH SGD MEMO

DISPATCH DATA SUMMARY REPORT

DOC DATE DISPATCH FOR ACTION

DISPATCH FOR INFO

003 940809 FITTER, H

UNCLASSIFIED

UNCLASSIFIED
NSC/RMO PROFILE

RECORD ID: 9406317
RECEIVED: 04 AUG 94 12

TO: ITOH

FROM: FITTER, H

DOC DATE: 02 AUG 94
SOURCE REF:

KEYWORDS: NAVIGATIONAL FREEDOM
DEFENSE POLICY

LEGISLATIVE REFERRAL

PERSONS:

SUBJECT: ENROLLED BILL NAVAL VESSEL TRANSFER AUTHORIZATION ACT

ACTION: PREPARE MEMO FOR ITOH

DUE DATE: 04 AUG 94 STATUS: S

STAFF OFFICER: HAHN

LOGREF:

FILES: WH

NSCP:

CODES:

D O C U M E N T D I S T R I B U T I O N

FOR ACTION
HAHN

FOR CONCURRENCE
BELL
DANVERS.

FOR INFO
JONES

COMMENTS: URGENT ACTION REQUIRED - PHONE HOLLY FITTER X53233 W/ COMMENTS
& DO FOLLOW UP MEMO

DISPATCHED BY _____ DATE _____ BY HAND W/ATTCH

OPENED BY: NSJEB

CLOSED BY:

DOC 1 OF 1

UNCLASSIFIED

NATIONAL SECURITY COUNCIL

WASHINGTON, D. C. 20508

6317

MEMORANDUM FOR HOLLY FITTER

FROM: WILLIAM H. ITOH *W*

SUBJECT: Enrolled Bill H.R. 4429, Naval Vessel Transfer Authorization Act
(EB Request #280)

The National Security Council staff concurs with the subject enrolled bill authorizing certain naval vessel transfers to foreign countries.

August 5, 1994

ACTION

MEMORANDUM FOR WILLIAM H. ITOH

THROUGH: ROBERT G. BELL *RGB*

FROM: STEVEN R. JONES *SJ*

SUBJECT: Enrolled Bill H.R. 4429, Naval Vessel Transfer Authorization Act
(EB Request #280)

The attached enrolled bill authorizes the transfer of specified naval vessels to certain foreign countries. The bill is strongly supported by DoD and the Navy, who want to see its passage and signature into law expedited. It has passed the House and is currently awaiting passage in the Senate. Because of the extremely tight OMB suspense, after checking with OMB and the Navy, I phoned in concurrence to Holly Fitter on August 4 at 1:50 p.m.

Concurrence by: Bill Danvers *BD*

RECOMMENDATION

That you sign the memorandum at Tab I.

Attachments

Tab I Memorandum for Signature
Tab II Incoming Correspondence

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

6317

August 2, 1994

ENROLLED BILL REQUEST

EB Request #280

TO: LEGISLATIVE LIAISON OFFICERS

COMMERCE - Michael A. Levitt - (202)482-3151 - 324
DEFENSE - Samuel T. Brick, Jr. - (703)697-1305 - 325
JUSTICE - Sheila F. Anthony - (202)514-2141 - 217
STATE - Julia C. Norton - (202)647-4463 - 225
TREASURY - Richard S. Carro - (202)622-1146 - 228
NSC - William H. Itoh - (202)395-3723 - 249

OMB CONTACT: Holly FITTER (395-3233)

*Concurrence Called in
8/4/96 @ 1350*

SUBJECT: ENROLLED BILL - HR 4429

Naval Vessel Transfer Authorization Act

COMMENTS See pages S 9130-33 and H 6515-6 of the July 15, 1994, and the August 1, 1994, Congressional Record, respectively. As a further assist, attached is a copy of HR 4429 as amended by the House on 8/1/94. The Senate will pass the attached version this week.

In accordance with OMB Circular No. A-19, your written views and recommendation for Presidential action are requested on the subject enrolled bill.

Please consult section 10 of OMB Circular No. A-19, pages 12-14, for instructions regarding the preparation of enrolled bill letters and the procedures to be followed on enrolled bills.

Within TWO DAYS (including Saturdays and holidays but excluding Sundays) after receipt of the facsimile, an original and one copy of your reply should be hand delivered to the New Executive Office Building (NEOB).

In order to expedite the handling of your reply, please

- o mark the envelope "Enrolled Bill";
- o indicate the legislative analyst's name and phone number on the envelope; and
- o instruct your messenger to call the legislative analyst from the NEOB lobby to pick up the envelope. (The envelope should NOT be left in the mail room in the NEOB lobby.)

Your cooperation in meeting this deadline is needed to provide maximum time for Presidential action on the enrolled bill.

PAGE 2

A regular facsimile of the enrolled bill is being sent to you by the messenger service.

It is also of considerable assistance to us if you fax advance copies of letters, signing statements, and veto messages.

JAMES C. MURR
Assistant Director for
Legislative Reference

Naoy: Pam White 703-697-5759

Suspend the Rules and Concur in Senate Amendments to H.R. 4429 with Further Amendments

(Amendment 12 is Modified)

103d CONGRESS
2d Session

H.R. 4429

To authorize the transfer of naval vessels to certain foreign countries

August 1, 1994

Printed with the amendments of the Senate numbered

A BILL

To authorize the transfer of naval vessels to certain foreign countries.

1 *Be it enacted by the Senate and House of Representatives of the*
2 *United States of America in Congress assembled,*

3 **SECTION 1. AUTHORITY TO TRANSFER NAVAL VESSELS TO CERTAIN**
4 **FOREIGN COUNTRIES**

5 ~~(1)(a) Argentina. The Secretary of the Navy is authorized to~~
6 ~~transfer to the Government of Argentina the 'NEWPORT' class tank~~
7 ~~landing ship LA MOURE COUNTY (LST 1194). Such transfer shall~~
8 ~~be on a lease basis under chapter 6 of the Arms Export Control Act (22~~
9 ~~U.S.C. 2796 and following).~~

1 ~~(2)(b) Australia.~~ *The (a) Australia.* ~~Subject to section 6, the~~
2 Secretary of the Navy is authorized to transfer to the Government of
3 Australia the 'NEWPORT' class tank landing ships SAGINAW (LST
4 1185) and FAIRFAX COUNTY (LST 1193). Such transfers shall be
5 on a sales basis under section 21 of the Arms Export Control Act (22
6 U.S.C. 2761; relating to the foreign military sales program).

7 ~~(3)(c) Brazil.~~ *The Subject to section 6, the* Secretary of the Navy
8 is authorized to transfer to the Government of Brazil the 'NEWPORT'
9 class tank landing ship CAYUGA (LST 1186) and the 'KNOX' class
10 frigates MILLER (FF 1091) and VALDEZ (FF 1096). Such transfers
11 shall be on a lease basis under chapter 6 of the Arms Export Control
12 Act (22 U.S.C. 2796 and following).

13 ~~(4)(d) Chile.~~ ~~The Secretary of the Navy is authorized to transfer~~
14 ~~to the Government of Chile the 'NEWPORT' class tank landing ships~~
15 ~~FREDERICK (LST 1184) and SAN BERNARDINO (LST 1189). Such~~
16 ~~transfers shall be on a lease basis under chapter 6 of the Arms Export~~
17 ~~Control Act (22 U.S.C. 2796 and following).~~

18 ~~(e) Malaysia.~~ ~~The Secretary of the Navy is authorized to transfer~~
19 ~~to the Government of Malaysia the 'NEWPORT' class tank landing ship~~
20 ~~SPARTANBURG COUNTY (LST 1193). Such transfer shall be on a~~
21 ~~lease basis under chapter 6 of the Arms Export Control Act (22 U.S.C.~~
22 ~~2796 and following).~~

23 ~~(5)(f) Morocco.~~ *The (c) Morocco.* ~~Subject to section 6, the~~

1 Secretary of the Navy is authorized to transfer to the Government of
2 Morocco the 'NEWPORT' class tank landing ship BRISTOL COUNTY
3 (LST 1198). Such transfer shall be on a grant basis under section 516
4 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321j; relating to
5 transfers of excess defense articles).

6 ~~(6)(g) Spain.~~ *The (d) Spain.* -- *Subject to section 6, the Secretary*
7 *of the Navy is authorized to transfer to the Government of Spain the*
8 *'NEWPORT' class tank landing (7)ships HARLAN COUNTY (LST*
9 *1196) and ship BARNSTABLE COUNTY (LST 1197). Such*
10 *(8)transfers transfer shall be on a lease basis under chapter 6 of the*
11 *Arms Export Control Act (22 U.S.C. 2796 and following).*

12 ~~(9)(h) Taiwan.~~ *The Secretary of the Navy is authorized to*
13 *transfer to the Coordination Council for North American Affairs (which*
14 *is the Taiwan instrumentality designated pursuant to section 10(a) of the*
15 *Taiwan Relations Act) the 'NEWPORT' class tank landing ships*
16 *SCHENEGADY (LST 1185), BOULDER (LST 1190), and RAGINE*
17 *(LST 1191). Such transfers shall be on a lease basis under chapter 6 of*
18 *the Arms Export Control Act (22 U.S.C. 2796 and following).*

19 ~~(4) Venezuela.~~ *The Secretary of the Navy is authorized to*
20 *transfer to the Government of Venezuela the 'NEWPORT' class tank*
21 *landing ships PEORIA (LST 1183 and TUSCALOOSA (LST 1187).*
22 *Such transfers shall be on a lease basis under chapter 6 of the Arms*
23 *Export Control Act (22 U.S.C. 2796 and following).*

1 **SECTION 2. WAIVER OF REQUIREMENTS FOR NOTIFICATION TO**
2 **CONGRESS.**

3 The following provisions do not apply with respect to the
4 transfers authorized by this Act:

5 (1) In case of a grant under section 516 of the Foreign Assistance
6 Act of 1961, subsection (c) of that section and any similar provision
7 *(10) of law.*

8 (2) In the case of a sale under section 21 of the Arms Export
9 Control Act, section 525 of the Foreign Operations, Export Financing,
10 and Related Programs Appropriations Act, 1994 (Public Law 103-87)
11 and any similar, successor provision *(11) of law.*

12 (3) In the case of a lease under section 61 of the Arms Export
13 Control Act, section 62 of that Act (except that section 62 of that Act
14 shall apply to any renewal of the lease).

15 **SECTION 3. COSTS OF TRANSFERS.**

16 Any expense of the United States in connection with a transfer
17 authorized by this Act shall be charged to the recipient.

18 **SECTION 4. EXPIRATION OF AUTHORITY.**

19 The authority granted by section 1 of this Act shall expire at the
20 end of the 2-year period beginning on the date of the enactment of this
21 Act, except that leases entered into during that period under section 1
22 may be renewed.

1 **SECTION 5. REPAIR AND REFURBISHMENT OF VESSELS IN THE UNITED**
2 **STATES.**

3 It is the sense of the Congress that the Secretary of the Navy
4 should request that each country to which a naval vessel is transferred
5 under this Act have such repair or refurbishment of the vessel as is
6 needed, before the vessel joins the naval forces of that country,
7 performed at shipyards located in the United States, including United
8 States navy shipyards.

9 **(12) SECTION 6. CONDITION FOR TRANSFER.**

10 *No vessel may be transferred under this Act or any other*
11 *provision of law until the Secretary of Defense certifies in writing to*
12 *Congress that, after the transfer--*

13 *(1) the amphibious lift capacity remaining available in the*
14 *Navy is sufficient in all lift categories to transport 2 1/2 Marine*
15 *Corps expeditionary brigades simultaneously; and*

16 *(2) the amphibious lift capacity planned to be available in*
17 *the Navy under the future-years defense program will be sufficient*
18 *in all lift categories, throughout the period covered by the*
19 *future-years defense program, to transport 2 1/2 Marine Corps*
20 *expeditionary brigades simultaneously.*

21 **~~SECTION 7. USE OF PROCEEDS~~**

22 ~~The proceeds derived from a transfer authorized by this Act that~~
23 ~~are received in a fiscal year shall be credited to the appropriation for~~

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- 1 ~~the Navy for such fiscal year for operation and maintenance and shall~~
- 2 ~~be available, for the same period as the appropriation to which~~
- 3 ~~credited, for operation and maintenance of amphibious vessels.~~

National Security Council
The White House

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Amc SEQUENCE TO HAS SEEN DISPOSITION

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Soderberg			
Berger			
Lake			
Situation Room			
West Wing Desk	3	2P 8/8	<u>D</u>
NSC Secretariat	4	<u>ADS</u>	<u>D</u>

A = Action I = Information D = Dispatch R = Retain N = No Further Action

cc: VP McLarty Other _____
Should be seen by: _____ (Date/Time)

COMMENTS:

DISPATCH INSTRUCTIONS: