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Charting a New Course in the Law of the Sea Negotiations

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MYRES S. McDOUGAL DISTINGUISHED LECTURE

Charting a New Course in the Law of the Sea Negotiations

JOHN NORTON MOORE

This is the sixth annual Myres S. McDougal Distinguished Lecture in International Law and Policy, presented at the University of Denver College of Law on March 12, 1981. The series is sponsored by the International Legal Studies Program, the International Law Society, the Student Bar Association, and the *Denver Journal of International Law and Policy*.

When I got involved in the law of the sea negotiations, I was told that the title of the job would be Chairman of the National Security Council Interagency Task Force on the Law of the Sea and Deputy Special Representative of the President for the Law of the Sea Conference. There was only one problem: They did not fully disclose that in Washington, power is inversely related to the length of the title. So you should not attach any particular importance to the titles in Professor Nanda's generous introduction.

It is a privilege and a pleasure to appear at this law school, and particularly to appear in this distinguished lecture series named after a personal friend of mine who, I believe, has made one of the greatest contributions, not only to international law, but also to jurisprudence, in the history of law. And I make that statement, which is a monumental generalization, only after soul-searching produced by the kind of statement that it is. But I think it has truly been an outstanding contribution, and it is only fitting that one of the finest international law programs in the

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country should have a lecture series named after Myres McDougal. Indeed, I believe this is the first such series in the world, and my guess is that over the next several centuries, there will be many more named after Professor McDougal.

It is also a particular pleasure to be asked to share a few thoughts on the law of the sea negotiations, because this is a subject that is very dear to my heart after investing four years of my life in seeking to move these negotiations forward.

One of the things that was quickly apparent as one went around the United States to talk about law of the sea, is that all Americans were familiar with SALT, and the SALT process, but few had heard about UNCLOS III, which admittedly doesn't roll off the tongue quite as nicely as SALT. But I think the events of the last few days* may have altered that. For this negotiation—the Third United Nations Conference on the Law of the Sea—is the largest multilateral negotiation in history. It is the most important negotiation other than SALT that the United States is engaged in today. At stake is a basic constitution for an area that covers about seventy-two percent of the surface of the earth. There is a full range of issues: transit rights through straits and over straits for aircraft; submerged rights through straits for SSBN submarines, as part of the overall strategic balance; about forty percent of the potential oil and gas reserves of the world, located under saltwater in the continental margins of the world; and a very large source of protein for all mankind—the fishery stocks, the coastal species, the highly migratory stocks, such as tuna, and the anadromous stocks, the salmon. In addition to that are the issues of marine scientific research, the basic freedom to use the oceans to find out fundamental information about the nature of planet Earth and the protection of its environment, issues of marine pollution and conservation of the oceans.

It's one thing to cleanse the Great Lakes by draining them into the oceans when we pollute them, but it's going to be quite a challenge to try to drain the oceans. So it's terribly important that we protect that very vital part of the ecosystem that is truly necessary for the survival of all mankind. These negotiations have been developing a framework for the protection of those oceans and in addition to that, have focused on such things as the conservation of the great whales. How do we preserve the

* *Ed. note:* On March 3, 1981, Secretary of State Alexander M. Haig instructed the United States representatives to the Law of the Sea Conference "to seek to insure that the negotiations do not end at the present session of the conference, pending a policy review by the United States." *N.Y. Times*, Mar. 4, 1981, at 1, col. 5. On March 8, on the eve of the opening in New York of the tenth session of the conference, seven senior members of the U.S. delegation, including the Acting Special Representative of the President, George H. Aldrich, were dismissed. *Id.*, Mar. 9, 1981, at 1, col. 1. State Department officials were reported to have said that the dismissals were necessary because the Reagan Administration "felt it had to put a new team in charge." *Id.* at 14, col. 1. The new head of the delegation, it was announced, would be James L. Malone, already designated as Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs. *Id.*

cetaceans of the world, the porpoise and the dolphin, and particularly the great whales, that have been under so much pressure during the last several decades.

And there is the question of access to the nodules—the manganese nodules of the ocean floor. These nodules look like lumps of coal littering the abyssal plain of the deep ocean floor. One can pass a television camera across them and just see what looks like a coal field on top of the abyssal plain. And those nodules contain what we believe are commercially attractive quantities of copper, nickel, cobalt, and manganese. If you take all of the resources together, it is a very large resource indeed. In fact, one or two operations could for a twenty-year period reverse all of the import dependence of the United States on cobalt, manganese, nickel, and that portion of copper that we do still import. There may be twenty-five to one hundred first generation mine sites, and by a mine site we're talking about an area of the sea floor about the size of Rhode Island.

In addition to that, the question of conflict management and dispute settlement is at stake. It is extremely important to build international institutions, to establish a useful mechanism within the United Nations system that is capable of resolving global problems in a realistic and constructive fashion, and to establish compulsory dispute settlement mechanisms that will enable peaceful resolution of such disputes as may arise under the treaty.

These negotiations, including the informal negotiations in the United Nations have been underway since 1967, when Ambassador Pardo of Malta electrified the United Nations General Assembly by declaring that the manganese nodules of the deep ocean floor should become the common heritage of mankind. That was followed by a principles resolution that sought, in general terms, to develop the kind of negotiations that would clarify the concept. Six years of preparatory work within the United Nations Seabeds Committee then followed, and since 1973, there have been annual and semiannual meetings of UNCLOS III.

Following the last session of the conference last summer, the United States representative at the negotiations, Ambassador Elliot Richardson, indicated that we were very close to final agreement. Indeed, let me read to you an excerpt from his statement made in Geneva on August 29, 1980.

Historians are likely to look back at the ninth session of the Third U.N. Conference on the Law of the Sea, just concluding here in Geneva today, as the most significant single event in the history of peaceful cooperation and the development of the rule of law since the founding of the United Nations itself. When this session of the Conference resumed some five weeks ago, it faced a number of basic outstanding issues. Almost all of these have been resolved in a manner commanding the broad support of the Conference participants. It is now all but certain that the text of a convention on the law of the sea will be ready for signature in 1981.

That statement was followed by a rash of press reports that we were very close to the end of this negotiation. In fact, the draft which had been

called an "informal composite negotiating text" had become a "draft convention," at the ninth session, and now looks like something that is very close to finalization. That has created a major domestic debate, and it has shifted the focus from the difficulties of the negotiation on the international side to the question of the United States' interest. Is the United States' interest adequately protected in the text? Is it the kind of agreement that can realistically achieved political support in the United States Senate? And with respect to that last issue, we must keep in mind that this is going to be a different process than most treaties going to the United States Senate in which a process of amendment, though awkward, is still possible. Normally, certain amendments, reservations, and understandings can be suggested. This, however, is a treaty that has 320 primary articles and seven annexes and has a rule, almost certain to be adopted, that no amendments and no reservations to that text will be permitted. Moreover, it covers the range of about ninety-two major ocean issues. Now imagine the debate in the United States Senate on that range of issues, with the rule that no amendment and no reservation is permitted. It places a great premium on a domestic consensus that is very strong, if there is to be any realistic hope of adopting the law of the sea treaty, and the domestic debate is just beginning on the parameters of that question.

The events of the last week, which have been prominently in the news, have really been a continuation of that debate. Most recently and most dramatically there have been two events. One is the indication by the new administration that the American delegation is under instructions for the current session of the conference not to permit finalization of the treaty text until there has been an opportunity for a full and careful review by the administration. And then shortly thereafter, the principal United States negotiator, who had been identified with the negotiations under the Carter Administration, was replaced by a new chief United States negotiator. Ambassador Richardson had resigned prior to the presidential election to campaign for the Republican ticket, so it was not his resignation or replacement that occurred, but rather that of his principal deputy.

Models of the Debate: The Richardson View

In understanding these events—which I think have, to those that have not followed them, fallen like dramatic bombshells on the law of the sea negotiations—I think it would be useful to step back for a moment and examine several models of this debate. These models reflect the views of varying groups that are strongly and honestly held within American society about where we should go with the draft treaty text and the important question of our own national interest and political realism in moving forward. These models are somewhat exaggerated. I put them forth merely as heuristic models. It would be very difficult for me to cage and exhibit a pure representative of each model, and I will be taking somewhat unfair liberties with those I characterize as holding these positions, but nevertheless it is a good faith effort to be as close to their views

and as fair in describing them as I can be.

Let's look first at what until the last two weeks has been an official executive branch view. Perhaps today we can call this the Ambassador Richardson view. This model comprises a number of points.

It includes first a strong realization, as was evident from the statement I read, that a law of the sea treaty is important to the overall interest of the United States and of the community of nations, that at stake here is a matter of institution-building, a matter of strengthening the United Nations system and global law-making machinery. For the United States in particular, the treaty is central to the question of navigational freedom and of a variety of important national security objectives, including the movement of strategic submarines through important straits and the protection of navigational freedom of oil tankers moving forty-five percent of the oil used by the United States to our shores.

Also implicit in that view is a sense that the existing draft text, with a few changes that would need to be made, is realistically about the best accommodation that is obtainable in this difficult multilateral negotiation. It is not the kind of text that Ambassador Richardson would have drafted or preferred, but it is, the feeling goes, a reasonable accommodation, and in the real world, one cannot always obtain everything one believes is desirable. Moreover, there is a sense that an effort to move forward to toughen up the negotiation could result in a failure of the negotiation and a loss of the important navigational provisions protecting transit rights through straits, for example, that have been very successfully achieved in the negotiations.

Another aspect of the Richardson model, though it is not spoken of explicitly, is the belief that the treaty could, at least at an appropriate time, receive the requisite support of the United States Senate, because surely no responsible negotiator would want to move forward unless he believed that a treaty would receive the support of the United States Senate.

As a result of these views, adherents of this model would urge that we move forward basically with the text that was negotiated, but single out a few remaining problems before submission to the Senate. These problems include, for example, protection of the integrity of investments to be made by the mining industry prior to the treaty coming into effect—the so-called preparatory investment protection or “PIP” issue—and the details of setting up a preparatory commission that would have to draft rules and regulations before mining could take place. The basic idea is to move forward roughly with the current draft text as satisfactory and probably to go to a signing of some kind at this session if possible, followed by negotiations of these rules and regulations in a preparatory commission over a period of three to four years, and then, probably in 1985, to submit this package to the United States Senate.

The Skeptical View

Let me shift now and present what I would call a skeptical view. By

the way, I present both of these views not as caricatures but with the greatest respect for the individuals who hold them; I believe they are the competing views of reasonable men and women, and that they should be taken seriously and examined on their merits. The skeptical view is not quite as cohesive, because it really represents a number of diverse viewpoints that come together in significant opposition to the Richardson view of moving forward. It includes one camp that does not believe that a law of the sea treaty is particularly useful to or needed by the United States, and usually implicit in that assumption is a sense that any treaty will result necessarily in a trade-off of our access rights to deep seabed minerals. This group would stress the importance of access for the economic needs of the United States to the copper, nickel, cobalt, and manganese of the deep seabed, as opposed to the other view that would tend to stress the navigational issues more and not to argue the case for the importance of access to seabed minerals. There is also a corollary of this view that would argue that if a good treaty is strongly in the United States' interest, the current draft text does not provide assured access to seabed minerals, and that it ought to be unacceptable for the United States to agree not to have that kind of access.

I would like to step back for a moment and describe the current system. It is a complex accommodation on deep seabed mining, something called a parallel or a dual system, in which half of all mine sites, theoretically, would be mined by assured access by private firms, including United States firms, that currently have the technological lead in the world in deep seabed mining. The enterprise side would operate primarily through joint-venture or contract arrangements, probably with the same firms. There would be on the assured access side of the system substantial revenue-sharing for the benefit of developing countries, and those provisions are widely, basically, and fairly strongly agreed. I think even the industry has only some reservations about some portions of those revenue-sharing texts. So the issue is not, as you'll read in some of the press, that it is a matter of deciding not to give anything to the poor countries of the world, the developing countries. That is basically not at issue. That has not been a problem in any of the core, informed aspects of the debate. In any event, this model would say, in this dual system, you have developed the enterprise side very carefully. The Group of 77 developing countries have negotiated very well, and their side of the system is spelled out in detail. But when we shift to our side of the system—that is, assured access, the thing that was the *quid pro quo* of this accommodation—we discover that it's very fuzzy. We're very worried that there will not be full assured access or protection for investment.

Another component of the skeptical view is that in addition to some of these problems in the text, it probably cannot in its current form get by the United States Senate. This is a political realization that, if we move forward as the old official view wanted to—in the Nixon terminology, “toughing it through”—the chances are, the political realists feel, that that kind of fight with the industry, though it might be satisfying to

some, would not be likely to produce a treaty that could receive the endorsement of the United States Senate. There are simply too many kinds of problems, too many different diverse groups, and there has to be a more broadly based consensus including the seabed mining industry to move this treaty forward.

The Balanced View

The third view—which of course, in all options, is the true view—provides some assessment of both of these camps. I'm somewhat sympathetic to the argument that both sides in this debate have been advancing, and I believe there is substantial truth in both, and I think there is also some danger in both. I believe, on the Richardson side, that he is correct that the law of the sea treaty is important in the United States national interest and in the interest of the nations of the world; that the institution-building side of this treaty is significant; and I would endorse the kind of statement he made that I read to you earlier about that significance. I think he is also correct that the navigational issues and the national security issues are indeed very important and that the United States has done well in those negotiations. There is at least ninety percent of this text that has been completed and that is in the interest of our nation.

On the other hand, I believe that the skeptical model is absolutely correct on a number of very essential points. First, it seems to me that the United States ought to stand firm in its national interest for assured access to seabed minerals within this parallel system. That is, that our side of the system should be spelled out clearly and unambiguously so that the mining firms in the United States can, with appropriate protection of their investment, be assured that they can mine the seabed and the United States can get permanent access to the mineral resources of the deep seabed. I regard that as a significant economic issue at stake in this negotiation, and in my judgment, the regime that has been negotiated on that point is below the line and is very fuzzy on assured access. It is not the kind of system that skeptical lawyers operating in a difficult international climate would be inclined to say provides genuine protection of access.

In addition to that, there are I believe substantial institutional defects that are of significant importance going beyond law of the sea issues, and these take place in the deep seabed mining area. Let me just give you three of these problems. The first is an ambiguity as to whether, under the text, the Palestine Liberation Organization, or other terrorist groups, would be permitted to share in the revenues from deep seabed mining. That, I think, would be a treaty-stopper in the United States Senate. In fairness to the outgoing delegation, they were not unaware of that. They had sought to do something about it, and it was their view that the problem would have to be corrected, but I think there may nevertheless be significant differences about the degree of ambiguity that might be acceptable on that issue.

The second institutional concern is that the socialist camp—the Soviet Union and the Eastern European “Socialist Bloc” in United Nations negotiating parlance—has been given three permanent seats on the Council of the deep seabed authority. The United States probably, indeed in fairness almost certainly, would have most of the time one seat. That one seat would also be subject to the principle ultimately of rotation off, if our allies decided that we’d been on too long, and perhaps some other NATO members, for example, within the Western European and Others Group, should have a right to participate on the Council. In my judgment, it is institutionally unsound for the United States to agree to a permanent arrangement that goes out of its way to provide three permanent seats for the Soviet Bloc on the Council, where we would have one seat. I would regard that issue as one in which the United States Senate is likely to have a substantial interest.

The third kind of institutional concern here is the question of the review provision for deep seabed mining. The negotiations have for the last four or five years assumed, after Secretary Kissinger suggested the possibility, that at the end of some appropriate period, let’s say fifteen years, there would be a review conference to reexamine the issue of deep seabed mining—the most difficult chapter to negotiate—and to decide whether there should be changes in that text. When the Group of 77 initially suggested a review conference, they thought maybe this meant that, let’s have a parallel system for the first fifteen years, and at that point let’s shift to a single operating monopoly enterprise for the entire area, which had been their proposal all along. That was not the proposal of Secretary Kissinger, and that’s not something that our delegation has agreed to, but they have agreed to something that, it seems to me, may be the functional equivalent. This is a clause that says you have a review conference after fifteen years for the deep seabed mining chapter. If you cannot then reach agreement within five years, then at the end of that period of time, there can be a conference vote, and a single two-thirds vote will be able to totally rewrite the entire seabed chapter and it will be binding on every nation that is a signatory of the treaty whether or not they vote for it.

That, it seems to me, is reasonably close to phasing out whatever protections we have in access to deep seabed minerals at the end of twenty years. The response of our delegation in the official view has been twofold. First, it is argued, the review negotiations really are likely to be more sensible than that. It is realized that the technological importance of developed nations in participating in mining is a significant ingredient in having it go forward to generate revenues; therefore, it’s likely that things will move forward more reasonably. I am not entirely sure of that, and the last five years of negotiations on deep seabed mining have not inspired me as to the reasonableness of the Group of 77 on this issue. I’m not saying we’ve been perfect, but I am saying clearly that I think the Group of 77 has sought to overreach, and I think, by the way, not in their interest. We could have concluded this negotiation some five years ago,

had there been a more reasonable position from the 77, but I see no reason to believe that there would not be significant advantage taken of that opportunity to rewrite the text.

The other answer given to this is that in any event, the United States could then withdraw from the entire treaty. The difficulty is that in the interim it could have become customary international law. When you have this kind of broadly based multilateral treaty, much of it is likely to become customary international law, and if we were to withdraw from the treaty, it would still be extremely difficult to move forward in that kind of climate with deep seabed mining under national legislation as opposed to trying to get the treaty right in the first place.

So, it seems to me that on those institutional grounds, there are serious concerns that need to be reviewed very carefully. There is yet another I won't go into in detail, but it's a provision for mandatory transfer of technology to the international enterprise which would amount to a forced sale from the industry of their technological lead, with arbitration if the price could not be agreed on. That was a provision that was suggested as reasonable and an overall accommodation, but I must admit, in every single review that the Center for Oceans Law and Policy among others has conducted, and when we have asked the view of congressional participants trying to get some advance sense of how Congress feels, that has been flagged as an absolute treaty-stopper. There is a certain climate in the United States at the present time. We are competing with a number of other very technologically advanced nations around the world. We are very sensitive, and rightly so, to our economic problems and it is not a climate in which we take lightly the notion of mandatory transfer abroad of a United States technological lead.

The last point in trying to evaluate these two models, and yet another point on which I would agree with the skeptical model, is the political consensus point, the realism point. Is it realistic to "tough this through," and to fight the industry, and to get this treaty through the United States Senate in its current form with such a battle? Virtually every knowledgeable observer of the Hill that I have seen, including many friends of this treaty—and I would count myself among them—do not believe that there is any realistic prospect for this text, in the context of a war between the deep seabed mining industry and a delegation trying to get it through the Senate unchanged, no matter how able the latter may be. These observers just do not believe that it's politically realistic to have a war instead of a consensus when the treaty is brought to the Senate.

That was the kind of background that the Reagan Administration confronted when it came into office. Needless to say, as one would expect, those views were hard fought by the players that had been debating them for some months. The decision by the administration to have a thorough review is, I believe, a correct decision. I think it is in the interest of a successful law of the sea conference, and I welcome this change. Do not believe that what is at stake here is nothing more than a fight between a

deep seabed mining interest trying to protect itself, and a delegation that is pursuing overall United States national interests. I think there is much more at stake, and it's far more complicated. It's also not simply an issue of a decision to somehow retrench and to not give to developing countries their due share of the common heritage of mankind or to renege on that principle.

Responding to Confrontation: An Activist America

Let me shift now as a last point to place this in a perhaps more controversial format of broader issues facing the United States within multilateral negotiations. We are faced and have been for some time with a variety of serious confrontations within the United Nations system, and it's a system whose aspirations we all strongly support. We are faced, realistically, with East-West confrontations, in which the Soviet Bloc, and proxies for the Soviets, such as the Cubans, stand up in the United Nations and lambast us with speeches year after year on such things as denying "self-determination" to Puerto Rico. They don't examine the options, including free referenda that have been put to the Puerto Rican people—and by the way, if that issue wasn't there, they would find another issue—but it's issue after issue in which we come under attack from the East in the East-West debate. It may have been less, at the height of détente, but it has always been present, and it's a significant series of attacks, not only on the United States but on the West and on western values in general.

In addition to that there is an unfortunate confrontation taking place between the North and the South, between the developed countries and the underdeveloped countries of the world. I say unfortunate because to me, there are fruitful areas of cooperation in which we could advance the goals of both, but unfortunately, the rhetoric of the new international economic order, I believe, has not proceeded that way. I'm not saying that we are wholly free from blame. I'm saying that there has been a basic confrontational mode of rhetoric and approach in the new international economic order on North-South issues within the United Nations system. By the way, the trend is toward improvement in this dialogue, with respect to challenges within the United Nations system and on global and multinational issues, but the problem is still serious.

Conventional wisdom has been that the United States should take a low profile, that we should ignore statements that are extreme and are made against our interest, and that if there are resolutions—such as those, for example, on permanent sovereignty over natural resources, which has a nice title that no one can differ with, but which may have provisions that are profoundly harmful to the protection of investment and the free flow of capital around the world—in that kind of setting, conventional wisdom would have us abstain or change the language so that it's mildly ambiguous on a key phrase, and then do nothing else about it, because to really have a debate would simply become a difficult process that allegedly could be harmful to our interests.

There is obviously truth in the traditional diplomatic wisdom on this. I don't believe it's fruitful for the United States to adopt a shoe-pounding posture in the United Nations. I think we must be sensitive to context, and we must be sensitive and realistic as to what we can win and what we can't win. But I think there has to be a change in tone. There has to be a more realistic meeting on the merits of the kinds of arguments that are made against western values, because the truth of the matter is that not to do so is a profound insult to the United Nations system and to international law. It is really saying that notions of authority and notions of law and what takes place in United Nations debates and the opinion of the world do not count. Ladies and gentlemen, I submit that they do count, that this is one of the major underpinnings of what law is all about, and there is a struggle for authority going on in the world that is every bit as real as Hans Morgenthau's "struggle for power." I think it is essential that the United States take the lead in the Western world in trying somewhat more vigorously to defend traditional values in which we strongly believe. That means notions of self-determination, notions of preventing coercion against other nations, against external intervention by other nations, and against terrorism that strikes at innocent women and children around the world, notions of human rights, and of efficient economic organization in the world community.

What does that mean specifically? I think there are a number of possibilities we might suggest. One is that the next time a Soviet proxy nation gets up and attacks the United States for denial of self-determination in Puerto Rico, let's have a full and open discussion of the issues and the position of the United States in that case and let's in turn examine self-determination in Cuba, and the treatment of minorities in Cuba, and Cuban proxy forces abroad, and Cuban intervention in El Salvador. In short, we don't have anything to fear by an honest and open debate. We needn't precipitate it, but if we are going to be attacked, I think it's time for us to take more seriously the need to respond in international institutions.

Let's take a second set of problems. These concern not the kind of problem we have with the Soviet Union and East-West confrontation, but something we don't want to see as a confrontation: North-South problems. We must have a commitment to aid developing countries. We have a major trade stake with developing countries today—something we sometimes overlook—with almost a quarter of the trade of the United States going to developing countries. I think that provides an interest not only in trying to protect our own national interest, but also in trying to encourage a more open and honest debate on such issues as the new international economic order.

What has been the core of the new international economic order so far? One, notions of permanent sovereignty over natural resources, meaning in essence, in terms of its legal effect, the right basically to expropriate without paying compensation and to not have a careful set of guarantees for the protection of the integrity of capital flows to developing

countries. I'm sorry to say that's been one of the issues. I think that is profoundly not in the interest of developing countries. I can see no group that more urgently needs to attract capital, particularly in the area of energy development, than developing countries. It is absolutely demonstrable with the simplest economic model that as you increase the uncertainty of the protection of investment, you will decrease the capital flow. And as you increase the cost of that flow, you decrease the kind of economic rent that could go to the developing countries. The problem is that it was the wrong issue. The issue should have been full and open bargaining between multilateral firms or others that were seeking to invest in developing countries, with representation by the finest law firms in the world, so that there will be a fair, full, well-thought-out, balanced negotiation, and no overreaching in terms of the interest of the developing countries. And those issues are important. We don't want imbalanced agreements. We want agreements that are in the interest of both sides. But a focus on trying to attack the integrity of investment—and by the way, I think that is beginning to change in the thinking of the Group of 77—that is in my judgment not a useful focus, and we should not have simply abstained and remained silent on the kind of negotiation in creating authority that took place on those issues.

My last example concerns the current global negotiations that are underway within the General Assembly, following a decision of the non-aligned conference last year, in which there was a call for a full range of global negotiations, not only on energy issues, but on trade, on commodity stabilization agreements, and in short on the full shopping list of North-South issues. Now that has been tried before. It was tried in Paris in December 1975 at the Conference on International Economic Cooperation, and was a clear failure. It was a failure because there was no realistic opportunity then as there is no realistic opportunity now to conclude an enormous agreement that will spell out all of those issues at the present time. Instead, in my judgment, there should be a realistic focus, and we should take the lead in trying to promote that focus on the most important multilateral economic issues today. One stands out: the instability in global oil markets and the enormous transfer of wealth from "NOPEC" developing countries to OPEC. That is the issue that is probably responsible for a greater transfer of wealth from developing countries than at any time in the history of colonialism. I don't seek by that statement to denigrate the problems of colonialism. I think it's absolutely clear that the world wants to turn its back on that kind of past. But I don't believe that we should also not address squarely the kinds of wealth transfers that are taking place from developing countries today. The problems are staggering and they are getting worse. It's an absolute emergency to deal within the United Nations system for the kinds of mechanisms that can meet the debt service requirements of developing countries, and that can stabilize world oil markets. As a starter, let's take a page from the new international economic order and consider the possibility of a commodity stabilization agreement in the most important commodity in world trade,

and that is oil. I think here there just might be some potential for the North and the South to come together constructively to deal with one of the more important issues.

It would have been easy to have stopped at law of the sea and not to move on to the more controversial issues, but I feel that it is important that the United States actively get into the arena with the debate about authority—that is, the making of new international law. Whether you agree with my particular examples or not is not necessarily the point. The point is that there is a struggle for authority going on in the world, that that struggle is important, and that we must win it. The law of the sea negotiations are one battleground where we might join that struggle.

Thank you.

