The original documents are located in Box 10, folder "Fisheries Legislation - 200 Mile Limit (2)" of the Loen and Leppert Files at the Gerald R. Ford Presidential Library.

[ca. 8/75]

THE WHITE HOUSE
WASHINGTON

Date _____

TO: Vera

FROM: THOMAS LOEFFLER

Please Handle _____

For Your Information _____

Per Our Conversation _____

Other: The attached was background for me before CoS LIG Meeting. Perhaps you would want this for your file! T.L.

5118

~~SECRET~~

ACTION
August 6, 1975

MEMORANDUM FOR SECRETARY KISSINGER

FROM: Mr. Clift

SUBJECT: 200-Mile Interim Fisheries Legislation

The memorandum for your signature to the President at Tab I would forward for his review and approval the recommended Administration policy on the 200-mile interim fisheries legislation now being considered by the Congress. We are informed that without strong White House opposition this legislation is likely to pass the House soon after the summer recess, with the Senate following suit shortly thereafter. In my opinion, continued Administration opposition to unilateral Congressional action on fisheries is required if we are to obtain our overall objectives in the Law of the Sea Conference while avoiding unwanted confrontation with nations fishing off our coasts.

Included in the tabs to your memorandum to the President are:

-- a proposed memorandum for his approval and your signature (Tab A);

-- the report of the Chairman, NSC Under Secretaries Committee (Tab B);

-- an analysis of the options available for the President's decision (Tab C);

-- the formal comments of the participating agencies (Tab D).

Les Janka and Clinton E. Granger concur.

RECOMMENDATION

1. That you sign the memorandum for the President at Tab I.

2. Following Presidential approval, that you sign the accompanying memorandum.

~~SECRET~~ (XGDS)

GF lynn:nw:8/6/75

SECRET ACTION

MEMORANDUM FOR THE PRESIDENT

FROM: Henry A. Kissinger

SUBJECT: 200-Mile Interim Fisheries Legislation

I. Introduction

The Chairman, NSC Under Secretaries Committee (NSC/USC) has submitted for your review and decision the recommended Administration position on the 200-mile interim fisheries legislation now before the Congress (Tab B). Included in the NSC/USC report are USC Chairman Ingersoll's comments and recommendations, together with the formal view of those interested agencies that have participated in the Under Secretaries Committee's work on this issue (Tab D). Interior and the Office of Management and Budget have not submitted formal comments.

The slow progress in the Third United Nations Conference on the Law of the Sea (~~LOS~~) has increased the pressures in the Congress, as well as in a number of foreign states, to unilaterally declare a 200-mile fisheries zone prior to the conclusion of a comprehensive LOS treaty. The Administration, for the past three years, has been able to convince Congress that a unilateral extension of our fisheries jurisdiction would be damaging to the objectives we seek in a comprehensive oceans law treaty. However, the consensus in Congress now is that the LOS negotiations are moving too slowly toward a solution for the overfishing of coastal stocks off our coasts, particularly by Japan and the Soviet Union. Consequently, the passage of 200-mile fisheries legislation by a substantial margin this session appears all but imminent without strong, high-level Administration opposition.

On July 31, the House Merchant Marine and Fisheries Committee ordered reported, by an overwhelming majority, a bill which would unilaterally extend U.S. fisheries jurisdiction to 200 miles. The provisions of the bill would not take effect until July 1, 1976 and would be suspended upon implementation of the LOS treaty. The House International Relations Committee has taken action to seek sequential referral of the bill. A decision on this will be taken by the

Speaker in early September. Similar legislation is being considered in the Senate. (Despite concerted Administration opposition, the Senate last December passed the Magnuson 200-mile fisheries bill by a wide margin; time did not permit hearings in the House and the bill did not reach the floor.)

Unilateral action on fisheries at this time would violate our international legal obligations and our bilateral agreements with Japan, the Soviet Union and other nations. The passage of such legislation prior to agreement on a comprehensive Law of the Sea (LOS) treaty could have two undesirable consequences.

First, unilateral action by the United States at this time could prompt similar, possibly more stringent, action on the part of other nations and jeopardize the overall interests we seek to protect in the LOS forum: U.S. strategic mobility and capabilities; the freedom of navigation for U.S. merchant and naval ships; worldwide access to fossil fuels and hard minerals; protection of the marine environment from pollution; access to the oceans for marine scientific research (including defense research); and orderly exploitation and conservation of fisheries resources.

Second, unilateral action and the subsequent enforcement of such action could lead to unwanted confrontation with other nations who fish off our coasts, thus further complicating our efforts to achieve broad international acceptance of our fisheries objectives. On the other hand, indications are that many species of our coastal fish stocks between 12 and 200 miles are being overfished, and action to prevent overfishing by foreigners is required before U.S. coastal stocks are depleted beyond recovery.

The United States has always avoided separating one aspect of the Law of the Sea negotiations such as fisheries from the overall negotiations, thus maintaining the linkage between satisfactory resolution of all major oceans issues if we are to agree to a Law of the Sea treaty. I believe, therefore, that the Administration must adopt, in the very near future, a position on interim fisheries legislation which both maintains the U.S. position against unilateral claims on the high seas and provides the necessary protection for the fisheries stocks off our coasts.

A difference of opinion has been voiced within the NSC Interagency Task Force on the Law of the Sea as to how the Administration should approach the interim fisheries question. State and Defense are calling for a public announcement of your intention to veto any 200-mile fisheries legislation. These agencies fear that unilateral action would jeopardize the U.S. position in the LOS negotiations, and that unilateral action could result in a

confrontation with the Soviets or Japanese. Commerce and Treasury oppose a public veto pronouncement, arguing that such an announcement takes away any incentive for the Soviets and Japanese to agree to lower catch quotas and other conservations measures.

This memorandum reviews both the domestic and international considerations involved in the 200-mile interim fisheries legislation, presents the positions of the principal U.S. agencies concerned on those aspects of the issue on which there are interagency disagreements, and provides an analysis of the various policy options available, together with my recommendations. The memorandum for your approval at Tab A would provide policy guidance on the 200-mile interim fisheries legislation as pressures mount for immediate U.S. unilateral action in this area.

II. Possible Effects of a Unilateral Claim to 200-Mile Fisheries Jurisdiction

In the past, the Administration position on 200-mile fisheries bills has been that unilateral extensions of coastal state fisheries jurisdiction are detrimental for the following reasons:

-- A unilateral claim at this time could lead to a confrontation with the Soviet Union, Japan, and other fishing nations. The enactment of a 200-mile bill will create in the U.S. an expectation of substantial, immediate reduction in Soviet and Japanese fishing activities which will be unacceptable to those nations. Both the Soviet Union and Japan will perceive their response to U.S. unilateral action in terms of their global fishing interests -- if they perceive that U.S. unilateral action may encourage unilateral action by other nations, they will probably not acquiescence to our claim. Should a 200-mile bill pass and subsequent bilateral and multilateral negotiations be unsuccessful, the United States will be faced with the necessity of seizing Soviet and Japanese vessels fishing within 200 miles off our coasts. Indications are that the Soviet Union is unlikely to acquiesce in U.S. seizures. Recently the Soviet Embassy indicated strong opposition to any U.S. unilateral claim, and mentioned the precedent of the "cod war" in which the UK provided military protection for its vessels fishing within Iceland's claimed 50-mile zone. Whether the Soviets would send military escorts along with their fishing fleet is unknown, but the possibilities of confrontation would have a negative effect on our mutual efforts towards a lessening of tensions.

-- Unilateral action at this time would violate our existing treaty obligations and customary international law. A seizure of foreign vessels pursuant to unilateral legislation would be viewed as a violation of Article II of the Convention on the High Seas, in the same way we view Ecuadorian seizures of U.S. tuna boats beyond 12 miles from the coast of Ecuador.

-- Unilateral action by the U.S. would be certain to trigger unilateral claims by other States. Canada, Mexico, Norway, Denmark, Iceland, the UK, Kenya, Tanzania, and other coastal states are all under intense pressure to declare a 200-mile fisheries zone. ....the intent of certain African nations to unilaterally declare 200-mile territorial seas if the U.S. passes unilateral legislation. U.S. unilateral action would also make our negotiating effort with the Latin Americans to obtain regional agreement on tuna management less likely to succeed.

-- Unilateral action would undermine the U.S. position in the LOS negotiations, where we have urged a careful balance among navigation, security, scientific research, marine pollution, and resource interests in the 200-mile economic zone. Although unilateral fisheries claims would not be viewed as seriously in the LOS community as unilateral deep seabed mining claims, such action would still be seen by many nations as an attempt by the United States to by-pass the multilateral LOS process. (..... recently made a formal demarche to the United States, expressing strong opposition to unilateral U.S. action on the above grounds.)

Although the various agencies represented on the NSC Interagency Task Force on the Law of the Sea have concurred with the above observations, there have been indications that several agencies now either support the idea of domestic legislation or at least recommend interim policies somewhat different from the consensus expressed in the NSC/USC's paper.

III. International Considerations

The living resources of the ocean out to 200 miles are constantly threatened by overfishing and, in some cases, virtual depletion. As agreement on a comprehensive LOS treaty becomes further delayed, a number of coastal states, and particularly the U.S., are feeling the pressures to take some type of action to conserve these dwindling resources. In this regard, Iceland and Costa Rica recently declared 200-mile exclusive fisheries zone. Indications are that Canada and Mexico will take similar action before the year's end; they are only waiting to see what direction the United States takes.

From the beginning of the LOS negotiations, the United States has sought a broadly based international agreement providing coastal states with management jurisdiction over coastal and anadromous species of fish, with highly migratory species managed by appropriate regional or international organizations. The informal negotiating text emerging from the Geneva LOS session comes close, in principle, to fulfilling U.S. fisheries interests. The text provides for coastal state control of fisheries within 200 miles of the coast, and state-of-origin control over the full migratory range of anadromous species (salmon). The text is unsatisfactory in the area of highly migratory species (tuna and high seas shrimp), leaving the coastal state with wide discretionary control over these species in its zone. Furthermore, the single text gives priority access to our coastal fisheries to the geographically disadvantaged and developing states within our region -- ostensibly, Soviets trawlers operating under the Cuban flag could attain priority access to our fisheries stocks. These difficulties not withstanding, the law of the sea negotiations are moving in the direction of a multilateral agreement on fisheries which is very similar to the domestic legislation proposed by the U.S. Congress.

Of the several dozen nations which fish off the U.S. coasts, the Japanese and the Soviets account for a large percentage of the catch in these areas. They also are the nations most heavily criticized by domestic fishermen for overfishing our coastal waters.

Japan

Japan takes roughly 20% of her total worldwide catch within 200 miles of the U.S. coast. Most of Japan's fishing effort is concentrated off the coast of Alaska, with only a very small catch taken off the Pacific northwest and California. Japan's Atlantic catch represents a small percentage of the total fisheries in that area. Through a series of bilateral negotiations with the Japanese last November, the United States was successful in reducing Japanese catch quotas on crabs and certain fish species, and restricting certain Japanese fishing operations to the less productive grounds in the North Pacific. While the quotas still remain high, the negotiations did represent a solid achievement for U.S. fisheries management on the high seas off our coasts.

Soviet Union

The Soviets now have the largest fishing fleet in the world, and their production has increased dramatically in the last several years. In the

Atlantic, the Soviets take approximately 350,000 metric tons annually within 200 miles of the United States. This represents about 35 percent of the overall catch taken by vessels of twelve nations, including the U.S., in that area. In the Pacific, the Soviets have a total fishery within 200 miles of 585,000 metric tons, most of which is off the coast of Alaska. The Soviet catch off the U.S. coasts, as a whole, represents roughly one-seventh of the total Soviet catch throughout the world. The Soviets, however, have made clear that they will only recognize extended fisheries jurisdiction within the context of a comprehensive LOS treaty. They took a very hard line in the renegotiation of our bilateral fisheries agreements in February, and broke off negotiations without reaching agreement on the Pacific coast fishery. Another round of bilateral negotiations was held in early July. Possibly with an eye to the 200-mile legislation, the Soviets were surprisingly accommodating on agreeing to catch reductions in the Pacific -- while continuing their strong opposition to U.S. unilateral actions. Should this legislation be enacted, the chances of possible US-Soviet confrontation over fishing grounds claimed to be controlled by the U.S., yet still considered high seas by the Soviets, would increase.

IV. Domestic Considerations

Domestic U.S. fisheries interests are split regarding the passage of 200-mile legislation. Coastal fishermen, particularly from New England and the West Coast (including Alaska) blame foreign fishermen for the depletion of coastal stocks, and are demanding immediate action to exclude foreign fishing within 200 miles of our coasts. Their cause is strongly supported in the Senate by Kennedy, Muskie, Magnuson, Stevens, McIntyre, and Pell and in the House by a number of Congressmen with coastal fishermen constituents.

On the other hand, tuna, shrimp, and salmon interests oppose the 200-mile bills, believing that passage would lead to their exclusion fromthe 200-mile zones off other States' coasts. These fisheries groups, supported by Senators Stennis, Case, Inouye and Tunney and Congressmen Frazer, Gude, Wilson, and Van Deerlin, are attempting to modify the legislation to suit their industries. The tuna and shrimp representatives are trying to obtain mandatory sanctions such as tariff restrictions, embargoes and other protective devices for seizures we would still consider illegal. Some segments of the shrimp industry are seeking compensation for losses expected as a result of increased license fees after the U.S. goes to 200 miles. Although it is widely recognized that U.S. distant water fisheries will be badly hurt by U.S. unilateral action, the Congress in general believes this cost is justified by the need to gain control over the fisheries within 200 miles of the U.S.

Influential Congressmen, both supporters and opponents of the legislation, indicate that 200-mile bills will pass this session in one or both Houses unless there is active Administration opposition at the highest levels. According to these Congressmen, the entire fisheries issue has picked up a considerable amount of emotional support from a number of states with little or no fisheries constituency. Only Presidential and Secretarial involvement, they claim, can reverse this trend.

VI. Options and Strategies

The NSC/USC memorandum outlines three options:

-- Option 1: totally oppose the 200-mile bills, including Presidential veto if necessary;

-- Option 2: work closely with the Congress to develop a reasonable, effective 200-mile bill coupled with a sound fisheries management system;

-- Option 3: implement Article 7 of 1958 Convention on Fishing and Conservation of the Living Resources of the High Seas, which would allow the U.S. to adopt unilateral conservation measures to protect specific endangered fish species. A detailed analysis of each option -- including assumptions, pros and cons -- is presented at Tab C.

There is no agency or Congressional support for Option 3, since enforcement would be difficult and neither the Soviets nor the Japanese are parties to the international convention.

Two contending approaches to an interim fisheries policy remain -- Options 1 and 2.

Option 1 -- the State/DOD approach, supported by Transporation, the NSF, FEA, and USC Chairman Ingersoll, includes:

-- a Presidential pledge to veto unilateral fisheries legislation as long as LOS negotiations hold out a reasonable chance for success; and,

-- a Presidential announcement stating U.S. intent to negotiate new, tougher quotas with the Soviets and Japanese.

Option 1 argues that unilateral extension of U.S. fisheries jurisdiction is contrary to international law, would stimulate other countries to pass unilateral regulations which could be harmful to USS. interests, and would disrupt LOS negotiations. In the view of some, these arguments are weakened somewhat because proposed U.S. legislation is similar to the Geneva negotiating text and would be superseded by a ratified treaty.

A second and probably more forceful argument for opposing fisheries legislation is that seizure of Soviet and Japanese fishing boats -- implicit in the 200-mile legislation -- would be resisted and resulting conflicts would not further bilateral relations. In addition, recent unexpected Soviet concessions in Pacific Ocean bilateral fisheries negotiations make unilateral action now awkward.

In my opinion, Option 1 reduces the chances of conflict with the Soviets, but makes inevitable the need for a veto. However, this option, with its explicit veto threat, would reduce pressure on nations to reach agreements with us on catch reductions. Without progress in bilateral and multilateral negotiations over the next year, opposition to the bill will become increasingly difficult.

Option 2 -- the Treasury/Commerce approach includes:

-- a Presidential announcement on new quota negotiations similar to Option 1; and,

-- an Administration commitment to support unilateral fisheries legislation one year from now if the bilateral and multilateral negotiations fail.

This option would head off the Congressional initiative without having to resort to a veto threat, but would probably lead to difficulties with the Soviets and Japanese when the legislation was implemented.

In my opinion, neither Option 1 nor Option 2 provide the necessary balance between opposition to unilateral action on the one hand and conservation and protection of fisheries resources on the other. Our overall objective should be to avoid confrontation through unilateral action while protecting U.S. interests. I propose, therefore, an alternative course between the extremes of Option 1 and Option 2. This includes:

-- continued strong Presidential opposition to unilateral fisheries legislation, while avoiding the explicit veto pledge of Option 1, together

with an indication of support for unilateral legislation in the future if bilateral and multilateral negotiations do not show progress; and,

-- Presidential support for the continuation of bilateral initiatives with nations fishing off our coasts with the objective of conserving and protecting our vital coastal and high seas fisheries.

While this approach avoids a veto commitment, a veto will have to be given serious consideration in the event that Congress enacts the legislation.

I recommend adoption of this course of action. If you agree, the memorandum at Tab A for your approval would do this.

Following your approval, I will take the necessary action to implement your decision within the White House staff and with the interested agencies.

RECOMMENDATION

That you approve the memorandum at Tab A.

APPROVE ✓ DISAPPROVE _____

GFlynn:nw:8/6/75

~~SECRET~~

MEMORANDUM FOR

THE CHAIRMAN, NSC UNDER SECRETARIES COMMITTEE

SUBJECT: 200-Mile Interim Fisheries Legislation

The President has reviewed the Chairman, NSC Under Secretaries Committee's memorandum of July 25, 1975, with the recommended position on the 200-mile interim fisheries legislation, together with the formal agency comments relating thereto.

The President reaffirms the importance attached to gaining broad international acceptance in the Law of the Sea Conference of U.S. oceans policy positions on freedom of navigation, marine pollution, scientific research, peaceful dispute resolution, and marine resources, including fisheries. In this connection, the President desires to continue the strong U.S. position against unilateral claims to jurisdiction on the high seas while providing necessary protection for the fisheries off our coasts.

Concerning the 200-mile interim fisheries legislation now before the Congress, the President has decided to:

-- continue strong opposition to such unilateral legislation, while indicating willingness to consider support for unilateral legislation at some time in the future if bilateral and multilateral negotiations do not show progress; and,

-- support continued bilateral initiatives with nations fishing off our coasts with the objective of conserving and protecting our vital coastal and high seas fisheries.

~~SECRET~~ (XGDS)

The President has directed that the NSC Under Secretaries Committee should coordinate implementation of this policy decision with appropriate offices and agencies.

Henry A. Kissinger

cc: The Secretary of the Treasury
The Secretary of Defense
The Acting Secretary of the Interior
The Secretary of Commerce
The Secretary of Transportation
The Director, Office of Management and Budget
The Assistant to the President for Economic Policy
The Chairman, Joint Chiefs of Staff
The Director, Central Intelligence
The Director, National Science Foundation
The Assistant to the President for Legislative Affairs

GFlynn:nw:8/6/75

~~SECRET~~ (XGDS)

THE WHITE HOUSE
WASHINGTON

Date 8/28

TO: Vern

FROM: THOMAS LOEFFLER

Please Handle _____

For Your Information ✓

Per Our Conversation _____

Other:

DRAFT

Talking Points in Opposition to a 200-mile Fisheries Bill

The Executive Branch strongly opposes the passage of bills that would unilaterally establish a 200-mile fisheries zone off the U.S. coast. The multilateral and bilateral treaty approach is a better means for solving the overfishing problem for the following reasons:

-- U.S. security interests require naval mobility for our general purpose and strategic deterrent forces in the 40% of the world's oceans covered by 200-mile zones. Historically unilateral extentions of fisheries jurisdiction have led to territorial claims where submerged transit and freedom of overflight are prohibited. U.S. security interests in the 200-mile economic zone and in international straits will be much better safeguarded in a Law of the Sea Treaty.

-- Existing U.S. agreements on both the high seas and fisheries would be undermined by unilateral legislation. Customary law freedom of navigation and overflight beyond the territorial sea is codified in the 1958 Geneva Convention on the High Seas. The U.S. is also party to agreements managing fisheries through eight international commissions and twelve bilateral treaties. Our agreements on distant water tuna and shrimp fishing as well as the recent bilateral treaties with the Soviet Union and Japan providing for substantial reduction in their catch would be seriously damaged.

-- Enforcement of a 200-mile statute against non-consenting nations such as the Soviet Union, Japan and the United Kingdom raises the spectre of major confrontations on the high seas. Enforcement against non-consenting nations in a 200-mile zone (an area over 90% the size of the U.S. land territory) would be financially costly and would invite retaliation not necessarily limited to fisheries matters.

-- Secretary Kissinger views unilateral legislation as a last resort and the U.S. is resolved to help conclude the Law of the Sea Conference in 1976. In the meantime, the Secretary has said: "To conserve the fish and protect our fishing industry while the Treaty is being negotiated, the United States will negotiate interim arrangements with other nations to conserve the fish stocks, to ensure effective enforcement, and to protect the livelihood of our coastal fishermen. These agreements will be a transition to the eventual 200-mile zone."

200-mile file
S.1988

Pol 5.1(b)

SENATE VOTE ON S.1988 11 December 1974
VOTE: 68-27-5

UNDECIDED SENATORS WHO VOTED FOR S.1988

BURDICK
NELSON
COCK
SCHWEIKER
DOMENICI
HANSEN
TAFT
DOMINICK
BIDEN
EASTLAND
FANNIN
HASKELL
MATHIAS
MCCLELLEN
MONDALE
MONTOYA
RANDOLPH
ABOURESK
(18 of 23)

UNDECIDED SENATORS WHO VOTED AGAINST

CURTIS
FONG
ALLEN
HUDDLESTON
(4 of 23)

UNDECIDED SENATORS NOT VOTING

BELLMON
(1 of 23)

SENATORS LEANING AGAINST S.1988 WHO VOTED AYE

BAKER
BAYH
HUMPHREY
STEVENSON
(4 of 5)

SENATORS LEANING FOR S.1988 WHO VOTED NO

DOLE
(1 of 4)

SENATORS COMMITTED AGAINST S.1988 WHO VOTED AYE

STAFFORD
EAGLETON
MCGOVERN
NUNN
GOLDWATER
ERVIN
HARTKE
SCOTT (Pa)
TALMADGE
YOUNG
(10 of 33)

SENATORS COMMITTED AGAINST S.1988 WHO DIDN'T VOTE

MANSFIELD
BENTSON
BUCKLEY
(3 of 33)

SENATORS COMMITTED FOR S.1988 WHO VOTED NO

PEARSON
(1 of 35)

SENATORS COMMITTED FOR S1988 WHO DIDN'T VOTE

HUGHES
(1 of 35)

SENATORS WHO VOTED NO ON S.1988 IN COMMITTEE AND VOTED AYE ON THE FLOOR

MCGOVERN (Fore Rel)
SCOTT (Pa.) (Fore Rel)
ERVIN (Armd Ser)
NUNN (Armd Ser)
GOLDWATER (Armd Ser)
(5 of 13)

SENATORS WHO VOTED NO ON S.1988 IN COMMITTEE AND DID NOT VOTE ON THE FLOOR

MANSFIELD
(1 of 13)

DRAFT

DETAILED DOMESTIC PLAN OF ACTION

ASSIGNMENT	RESPONSIBILITY	TIMING	REMARKS
Informal meeting of WH, NSC, H, D/LOS, DOD, DOT and Commerce to plan Executive Branch opposition to 200-mile bill	Les Janka	Week of August 18	
Preparation of detailed plans of opposition	H and D/LOS under NSC direction	By LIG Group meeting	
Preparation of initial talking points and other materials for discussions with Congress	H and D/LOS in coordination with other agencies	By end of Recess	
Convening of NSC LIG Group	NSC Staff	By end of Recess	
Prepare letter from President to Mansfield, Scott, Sparkman, Magnuson, Stennis, Albert, Rhodes, Morgan and Sullivan	H and D/LOS	By end of Recess	
Arrange small group meetings with President	NSC Staff	Early in September	Composition of group should include proponents as well as opponents of bills unless President is one on one

ASSIGNMENT	RESPONSIBILITY	TIMING	REMARKS
Coordination with M.C.P.L., UN Assoc., SOS and related groups in opposition	D/LOS	After Presidential decision	
Coordination with tuna, shrimp, maritime industries, marine scientist, marine pollution and similar groups in opposition	D/LOS	After Presidential decision	
Detailed analysis of H.R. 200 and Magnuson bills	NSC Interagency Task Force	By September 10	
Talking points on recent bilateral fisheries agreements	State-OES and Commerce	By September 10	Talking point papers should not exceed three pages
Talking points on ICNAF	State-OES and Commerce	By September 10	These should be up-dated after September ICNAF meeting is concluded

ASSIGNMENT	RESPONSIBILITY	TIMING	REMARKS
Talking points on security implications of bills	DOD	By September 10	
Talking points on marine science implications of bills	State-OES	By September 10	
Talking points on marine pollution implications of bills	State-L	By September 10	
Talking points on international law implications of bills	State-L	By September 10	
Talking points on enforcement implications of bills	DOT	By September 10	
Talking points on interim arrangements to protect fisheries stocks pending conclusion of LOS Treaty	State-OES in coordination with Commerce	By September 10	
Talking points on bills implications for US bilateral relations with the Soviet Union	State-EUR	By September 10	
Talking points on bills implications for US bilateral relations with Japan	State-EA	By September 10	

ASSIGNMENT	RESPONSIBILITY	TIMING	REMARKS
Preparation of "GIST" explanation of LOS Conference	D/LOS and PA	By September 10	
Preparation of speeches for floor fight	D/LOS and H	On an "As requested" basis	
Preparation of list containing name of person handling LOS for every Senator and Congressman	H-D/LOS	By September 1	
Preparation of tentative name vote count	H-D/LOS	By September 21	
Systematic coverage of Senators or Congressman not reached by some other way	H (Mr. MacKenzie)	By September 22	
Telephone calls and preparation of talking points to key Members by principals of various Departments	NSC to identify key Members and designate action responsibility	As needed	

ASSIGNMENT	RESPONSIBILITY	TIMING	REMARKS
Identify leading media opinion makers and arrange briefings and individual mailings as appropriate	State-PA in coordination with D/LOS	By September 10	
General public education campaign	State-PA in coordination with D/LOS	Before end of September	Campaign could include radio programs, TV shorts and mailings to lesser known media outlets
Information mailing to LOS Public Advisory Committee and follow up personal contact	D/LOS	By September 10	Committee contains number of influential, knowledgeable individuals capable of writing letter to Editors, etc.
Prepare talking points for President to use at weekly bipartisan meetings and GOP leadership sessions	NSC Staff		
Prepare materials for distribution to Democratic and Republican Study Groups	H and D/LOS	By September 10	

INITIAL INTERNATIONAL PLAN OF ACTION

ASSIGNMENT	RESPONSIBILITY	TIMING	REMARKS
Preparation and delivery of diplomatic note to 20 or so nations fishing off US coast	State-L and OES in coordination with D/LOS	Early in September	Note should stress seriousness of overfishing problem and serve notice that future agreements will be negotiated "with a view toward transition to a 200-mile economic zone"
Identify and invite appropriate nations fishing off US to conference to discuss voluntary, transitional conservation measures	State-OES in Coordination with D/LOS and L	Before first vote in Congress	Recently concluded agreements with Japan and the Soviet Union provided for substantial catch reduction; focus here might be on other nations
Formally request bilateral fisheries discussions with Mexico and Canada on transitional arrangements	State-OES and D/LOS	Before first vote in Congress	
Ask President to direct Secretary of State to call in Soviet and Japanese Ambassadors to highlight concern with overfishing problem & ask for additional voluntary reductions in specific stocks	NSC Staff	Prior to ICNAF meeting in September	

GIST

—A quick reference aid on U.S. foreign relations primarily for Government use. Not intended as a comprehensive U.S. policy statement.

BUREAU OF PUBLIC AFFAIRS DEPARTMENT OF STATE

LAW OF THE SEA

1. Background: The Third U.N. Conference on the Law of the Sea began in 1973 with an organizational session in New York, and was followed by two substantive sessions in Caracas (June-August 1974) and in Geneva (March-May 1975). A third session is scheduled to begin in March, 1976. The main accomplishment of the 1975 Geneva session was an informal single negotiating text on the subjects before the conference.

The First ~~and Second~~ Law of the Sea Conferences, in 1958 (and 1960) resulted in four basic conventions. However, ~~agreement was not~~ reached on the breadth of the territorial sea and other important issues. The Third Law of the Sea Conference is the most comprehensive to date as its objective is a single convention concerning the uses of the ocean and its resources. It is also the largest multilateral conference ever held, with some 150 countries represented in the negotiations. Three developments have brought the current discussions to a critical stage:

- Accelerating world demands for fish protein, petroleum, and seaborne trade;
- increasing technological capabilities to exploit both the living resources and non-living (e.g. mineral) resources of the oceans;
- mounting pressures in many countries to extend unilaterally their claims over coastal regions (in some cases 200 miles from shore).

2. US position: The major elements of US oceans policy include:

A. Territorial seas and straits: The US is prepared to ~~move from a 3-mile to a 12-mile territorial sea breadth~~ accept an increase in the permissible breadth of the territorial sea as a part of a comprehensive law of the sea agreement only if such agreement guarantee the right of free transit through, over, and under straits used for international navigation that would be overlapped by the territorial sea extension.

B. 200-mile economic zone: There is wide support at the conference for a 200-mile economic zone, in which the coastal State would have exclusive rights to explore and exploit the living and non-living resources. In the ~~US view~~, the coastal State should also have the duty to enforce international pollution standards, to ensure non-interference with other uses of the ocean (such as navigation and scientific research), and to resort to binding dispute settlement mechanisms.

C. Fisheries: Broad support exists to confer upon coastal States authority over coastal species and anadromous fish (e.g., salmon). However, the US position is to leave the management of highly migratory species (e.g., tuna), to international or regional bodies.

PA/MS AUGUST 1975 Editor: Miss Fahey Black ext. 20736

The authority delegated to the coastal States would be subject to international standards to ensure conservation and full utilization, including an obligation to permit foreign fishing for that portion of the allowable catch which a coastal State could not itself harvest.

D. International seabed area: The UN General Assembly has proposed that the oceans beyond the limits of national jurisdiction should be the "common heritage of mankind." To implement this principle, the US supports the creation of an international organization to set rules for deep seabed mining. This international organization ~~must~~ would preserve the rights of all countries and their citizens directly to exploit deep seabed resources. Countries and their enterprises mining deep seabed resources would pay an agreed portion of their revenues to the international organization, to be used for the benefit of developing countries. The management of the organization and its voting procedures ~~must~~ reflect and balance the interests of the participating states. ~~The organization~~ should not have the power to control prices or production rates. If essential US interests ~~are~~ were guaranteed, the US ~~can~~ agree that this organization would also have the right to conduct mining operations on behalf of the international community, primarily for the benefit of developing countries.

E. Marine pollution: The US supports treaty articles establishing a legal framework for the prevention of pollution of the marine environment. The treaty should establish uniform international controls on pollution from ships, and environmental standards for continental shelf and deep-seabed exploitation.

F. Scientific research: The US favors the encouragement of marine scientific research for the benefit of all mankind. Our proposals are designed to ensure maximum freedom of marine research and to provide for access to the results of such research by the coastal States involved.

3. Problems: Among the major contentious issues at the Law of the Sea Conference are:

- The extent of the territorial sea and the related issue of guaranteed (~~free~~) transit through international straits;
- The degree of control that a coastal State can exercise in an offshore economic zone particularly with respect to freedom of navigation, highly migratory fisheries, protection of the marine environment, and conduct of scientific research.
- The nature of the international regime (~~organization~~) for the exploitation of deep seabed resources: the entities that should exploit; the organization, and the system of that exploitation; the powers and voting procedures in the international authority; and the source, level, and distribution of revenues from deep-seabed mining.

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ADDRESS BY
THE HONORABLE HENRY A. KISSINGER
SECRETARY OF STATE
BEFORE THE
AMERICAN BAR ASSOCIATION ANNUAL CONVENTION
MONTREAL, CANADA
August 11, 1975

INTERNATIONAL LAW, WORLD ORDER AND HUMAN PROGRESS

My friends in the legal profession like to remind me of a comment by a British Judge on the difference between lawyers and professors. "It's very simple," said Lord Denning. "The function of lawyers is to find a solution to every difficulty presented to them; whereas the function of professors is to find a difficulty with every solution." Today, the number of difficulties seems to be outpacing the number of solutions -- either because my lawyer friends are not working hard enough, or because there are too many professors in government.

Law and lawyers have played a seminal role in American public life since the founding of the Republic. In this century lawyers have been consistently at the center of our diplomacy, providing many of our ablest Secretaries of State and diplomats, and often decisively influencing American thinking about foreign policy.

This is no accident. The aspiration to harness the conflict of nations by standards of order and justice runs deep in the American tradition. In pioneering techniques of arbitration, conciliation, and adjudication; in developing international institutions and international economic practices; and in creating a body of scholarship sketching visions of world order -- American legal thinking has reflected both American idealism and American pragmatic genius.

The problems of the contemporary world structure summon these skills and go beyond them. The rigid international structure of the Cold War has disintegrated; we have entered an era of diffused economic power, proliferating nuclear weaponry, and multiple ideologies and centers of initiative. The challenge of our predecessors was to fashion stability from chaos. The challenge of our generation is to go from the building of national and regional institutions and the management of crises to

the building of a new international order which offers a hope of peace, progress, well-being, and justice for the generations to come.

Justice Holmes said of the common law that it "is not a brooding omnipresence in the sky, but the articulate voice of some sovereign or quasi-sovereign power which can be identified." But international politics recognizes no sovereign or even quasi-sovereign power beyond the nation-state.

Thus in international affairs the age-old struggle between order and anarchy has a political as well as a legal dimension. When competing national political aims are pressed to the point of unrestrained competition, the precept of laws proves fragile. The unrestrained quest for predominance brooks no legal restraints. In a democratic society law flourishes best amidst pluralistic institutions. Similarly in the international arena stability requires a certain equilibrium of power. Our basic foreign policy objective inevitably must be to shape a stable and cooperative global order out of diverse and contending interests.

But this is not enough. Preoccupation with interests and power is at best sterile and at worst an invitation to a constant test of strength. The true task of statesmanship is to draw from the balance of power a more positive capacity to better the human condition -- to turn stability into creativity, to transform the relaxation of tensions into a strengthening of freedoms, to turn man's preoccupations from self-defense to human progress.

An international order can be neither stable nor just without accepted norms of conduct. International law both provides a means and embodies our ends. It is a repository of our experience and our idealism -- a body of principles drawn from the practice of states and an instrument for fashioning new patterns of relations between states. Law is an expression of our own culture and yet a symbol of universal goals. It is the heritage of our past and a means of shaping our future.

The challenge of international order takes on unprecedented urgency in the contemporary world of interdependence. In an increasing number of areas of central political relevance, the legal process has become of major concern. Technology has driven us into vast new areas of human activity and opened up new prospects of either human progress or international contention. The use of the oceans and of outer space; the new excesses of hijacking, terrorism, and warfare; the expansion of multinational corporations -- will surely become areas of growing dispute if they are not regulated by a legal order.

The United States will not seek to impose a parochial or self-serving view of the law on others. But neither will we carry the quest for accommodation to the point of prejudicing our own values and rights. The new corpus of the law of nations must benefit all peoples equally; it cannot be the preserve of any one nation or group of nations.

The United States is convinced in its own interest that the extension of legal order is a boon to humanity and a necessity. The traditional aspiration of Americans takes on a new relevance and urgency in contemporary conditions. On a planet marked by interdependence, unilateral

action, and unrestrained pursuit of the national advantage inevitably provoke counter-action and therefore spell futility and anarchy. In an age of awesome weapons of war, there must be accommodation or there will be disaster.

Therefore, there must be an expansion of the legal consensus, in terms both of subject matter and participation. Many new and important areas of international activity, such as new departures in technology and communication, cry out for agreed international rules. In other areas, juridical concepts have advanced faster than the political will that is indispensable to assure their observance -- such as the UN Charter provisions governing the use of force in international relations. The pace of legal evolution cannot be allowed to lag behind the headlong pace of change in the world at large. In a world of 150 nations and competing ideologies, we cannot afford to wait upon the growth of customary international law. Nor can we be content with the snail's pace of treaty-making as we have known it in recent years in international forums.

We are at a pivotal moment in history. If the world is in flux, we have the capacity and hence the obligation to help shape it. If our goal is a new standard of international restraint and cooperation, then let us fashion the institutions and practices that will bring it about.

This morning, I would like to set forth the American view on some of those issues of law and diplomacy whose solution can move us toward a more orderly and lawful world. These issues emphasize the contemporary international challenge -- in the oceans where traditional law has been made obsolete by modern technology; in outer space where endeavors undreamed of a generation ago impinge upon traditional concerns for security and for sovereignty; in the laws of war where new practices of barbarism challenge us to develop new social and international restraint; and in international economics where transnational enterprises conduct their activities beyond the frontier of traditional political and legal regulation.

I shall deal in special detail with the law of the sea in an effort to promote significant and rapid progress in this vitally important negotiation.

The Law of the Sea

The United States is now engaged with some 140 nations in one of the most comprehensive and critical negotiations in history -- an international effort to devise rules to govern the domain of the oceans. No current international negotiation is more vital for the long-term stability and prosperity of our globe.

One need not be a legal scholar to understand what is at stake. The oceans cover seventy percent of the earth's surface. They both unite and divide mankind. The importance of free navigation for the security of nations -- including our country -- is traditional; the economic significance of ocean resources is becoming enormous.

From the Seventeenth Century, until now, the law of the seas has been founded on a relatively simple precept: freedom of the seas, limited only by a narrow belt of territorial waters generally extending three miles offshore. Today, the explosion of technology requires new and more sophisticated solutions.

-- In a world desperate for new sources of energy and minerals, vast and largely untapped reserves exist in the oceans.

-- In a world that faces widespread famine and malnutrition, fish have become an increasingly vital source of protein.

-- In a world clouded by pollution, the environmental integrity of the oceans turns into a critical international problem.

-- In a world where ninety-five percent of international trade is carried on the seas, freedom of navigation is essential.

Unless competitive practices and claims are soon harmonized, the world faces the prospect of mounting conflict. Shipping tonnage is expected to increase fourfold in the next thirty years. Large, self-contained factory vessels already circle the globeand dominate fishing areas that were once the province of small coastal boats. The world-wide fish harvest is increasing dramatically, but without due regard to sound management or the legitimate concerns of coastal states. Shifting population patterns will soon place new strains on the ecology of the world's coastlines.

The current negotiation may thus be the world's last chance. Unilateral national claims to fishing zones and territorial seas extending from fifty to two hundred miles have already resulted in seizures of fishing vessels and constant disputes over rights to ocean space. The breakdown of the current negotiation, a failure to reach a legal consensus, will lead to unrestrained military and commercial rivalry and mounting political turmoil.

The United States strongly believes that law must govern the oceans. In this spirit, we welcomed the United Nations mandate in 1970 for a multilateral conference to write a comprehensive treaty governing the use of the oceans and their resources. We contributed substantially to the progress that was made at Caracas last summer and at Geneva this past spring which produced a "single negotiating text" of a draft treaty. This will focus the work of the next session, scheduled for March 1976 in New York. The United States intends to intensify its efforts.

The issues in the Law of the Sea negotiation stretch from the shoreline to the farthest deep seabed. They include:

-- The extent of the territorial sea and the related issues of guarantees of free transit through straits;

-- The degree of control that a coastal state can exercise in an offshore economic zone beyond its territorial waters; and

-- The international system for the exploitation of the resources of the deep seabeds.

If we move outward from the coastline, the first issue is the extent of the territorial sea -- the belt of ocean over which the coastal state exercises sovereignty. Historically, it has been recognized as three miles; that has been the long-established United States position. Increasingly, other states have claimed twelve miles or even two hundred.

After years of dispute and contradictory international practice, the Law of the Sea Conference is approaching a consensus on a twelve-mile territorial limit. We are prepared to accept this solution, provided that the unimpeded transit rights through and over straits used for international navigation are guaranteed. For without such guarantees, a twelve-mile territorial sea would place over 100 straits -- including the Straits of Gibraltar, Malacca, and Bab-el-Mandeb -- now free for international sea and air travel under the jurisdictional control of coastal states. This the United States cannot accept. Freedom of international transit through these and other straits is for the benefit of all nations, for trade and for security. We will not join in an agreement which leaves any uncertainty about the right to use world communication routes without interference.

Within 200 miles of the shore are some of the world's most important fishing grounds as well as substantial deposits of petroleum, natural gas, and minerals. This has led some coastal states to seek full sovereignty over this zone. These claims, too, are unacceptable to the United States. To accept them would bring thirty percent of the oceans under national territorial control -- in the very areas through which most of the world's shipping travels.

The United States joins many other countries in urging international agreement on a 200-mile offshore economic zone. Under this proposal, coastal states would be permitted to control fisheries and mineral resources in the economic zone, but freedom of navigation and other rights of the international community would be preserved. Fishing within the zone would be managed by the coastal state, which would have an international duty to apply agreed standards of conservation. If the coastal state could not harvest all the allowed yearly fishing catch, other countries would be permitted to do so. Special arrangements for tuna and salmon, and other fish which migrate over large distances, would be required. We favor also provisions to protect the fishing interests of land-locked and other geographically disadvantaged countries.

In some areas the continental margin extends beyond 200 miles. To resolve disagreements over the use of this area, the United States proposes that the coastal states be given jurisdiction over continental margin resources beyond 200 miles, to a precisely defined limit, and that they share a percentage of financial benefit from mineral exploitation in that area with the international community.

Beyond the territorial sea, the offshore economic zone, and the continental margin lie the deep seabeds. They are our planet's last great unexplored frontier. For more than a century we have known that the deep seabeds

hold vast deposits of manganese, nickel, cobalt, copper, and other minerals, but we did not know how to extract them. New modern technology is rapidly advancing the time when their exploration and commercial exploitation will become a reality.

The United Nations has declared the deep seabed to be the "common heritage of mankind." But this only states the problem. How will the world community manage the clash of national and regional interests, or the inequality of technological capability? Will we reconcile unbridled competition with the imperative of political order?

The United States has nothing to fear from competition. Our technology is the most advanced, and our Navy is adequate to protect our interests. Ultimately, unless basic rules regulate exploitation, rivalry will lead to tests of power. A race to carve out exclusive domains of exploration on the deep seabed, even without claims of sovereignty, will menace freedom of navigation, and invite a competition like that of the colonial powers in Africa and Asia in the last century.

This is not the kind of world we want to see. Law has an opportunity to civilize us in the early stages of a new competitive activity.

We believe that the Law of the Sea Treaty must preserve the right of access presently enjoyed by states and their citizens under international law. Restrictions on free access will retard the development of seabed resources. Nor is it feasible, as some developing countries have proposed, to reserve to a new international seabed organization the sole right to exploit the seabeds.

Nevertheless, the United States believes strongly that law must regulate international activity in this area. The world community has an historic opportunity to manage this new wealth cooperatively and to dedicate resources from the exploitation of the deep seabeds to the development of the poorer countries. A cooperative and equitable solution can lead to new patterns of accommodation between the developing and industrial countries. It could give a fresh and conciliatory cast to the dialogue between the industrialized and so-called Third World. The legal regime we establish for the deep seabeds can be a milestone in the legal and political development of the world community.

The United States has devoted much thought and consideration to this issue. We offer the following proposals:

-- An international organization should be created to set rules for deep seabed mining.

-- This international organization must preserve the rights of all countries, and their citizens, directly to exploit deep seabed resources.

-- It should also ensure fair adjudication of conflicting interests and security of investment.

-- Countries and their enterprises mining deep seabed resources

should pay an agreed portion of their revenues to the international organization, to be used for the benefit of developing countries.

-- The management of the organization and its voting procedures must reflect and balance the interests of the participating states. The organization should not have the power to control prices or production rates.

-- If these essential United States interests are guaranteed, we can agree that this organization will also have the right to conduct mining operations on behalf of the international community primarily for the benefit of developing countries.

-- The new organization should serve as a vehicle for cooperation between the technologically advanced and the developing countries. The United States is prepared to explore ways of sharing deep seabed technology with other nations.

-- A balanced commission of consumers, seabed producers, and land-based producers could monitor the possible adverse effects of deep seabed mining on the economies of those developing countries which are substantially dependent on the export of minerals also produced from the deep seabed.

The United States believes that the world community has before it an extraordinary opportunity. The regime for the deep seabeds can turn interdependence from a slogan into reality. The sense of community which mankind has failed to achieve on land could be realized through a regime for the ocean.

The United States will continue to make determined efforts to bring about final progress when the Law of the Sea Conference reconvenes in New York next year. But we must be clear on one point: The United States cannot indefinitely sacrifice its own interest in developing an assured supply of critical resources to an indefinitely prolonged negotiation. We prefer a generally acceptable international agreement that provides a stable legal environment before deep seabed mining actually begins. The responsibility for achieving an agreement before actual exploitation begins is shared by all nations. We cannot defer our own deep seabed mining for too much longer. In this spirit, we and other potential seabed producers can consider appropriate steps to protect current investment, and to ensure that this investment is also protected in the treaty.

The Conference is faced with other important issues:

-- Ways must be found to encourage marine scientific research for the benefit of all mankind while safeguarding the legitimate interests of coastal states in their economic zones.

-- Steps must be taken to protect the oceans from pollution. We must establish uniform international controls on pollution from ships and insist upon universal respect for environmental standards for continental shelf and deep seabed exploitation.

-- Access to the sea for land-locked countries must be assured.

-- There must be provisions for compulsory and impartial third-party settlement of disputes. The United States cannot accept unilateral interpretation of a treaty of such scope by individual states or by an international seabed organization.

The pace of technology, the extent of economic need, and the claims of ideology and national ambition threaten to submerge the difficult process of negotiation. The United States therefore believes that a just and beneficial regime for the oceans is essential to world peace.

For the self-interest of every nation is heavily engaged. Failure would seriously impair confidence in global treaty-making and in the very process of multilateral accommodation. The conclusion of a comprehensive Law of the Sea treaty on the other hand would mark a major step towards a new world community.

The urgency of the problem is illustrated by disturbing developments which continue to crowd upon us. Most prominent is the problem of fisheries.

The United States cannot indefinitely accept unregulated and indiscriminate foreign fishing off its coasts. Many fish stocks have been brought close to extinction by foreign overfishing. We have recently concluded agreements with the Soviet Union, Japan, and Poland which will limit their catch and we have a long and successful history of conservation agreements with Canada. But much more needs to be done.

Many within Congress are urging us to solve this problem unilaterally. A bill to establish a 200-mile fishing zone passed the Senate last year; a new one is currently before the House.

The Administration shares the concern which has led to such proposals. But unilateral action is both extremely dangerous and incompatible with the thrust of the negotiations described here. The United States has consistently resisted the unilateral claims of other nations, and others will almost certainly resist ours. Unilateral legislation on our part would almost surely prompt others to assert extreme claims of their own. Our ability to negotiate an acceptable international consensus on the economic zone will be jeopardized. If every state proclaims its own rules of law and seeks to impose them on others, the very basis of international law will be shaken, ultimately to our own detriment.

We warmly welcome the recent statement by Prime Minister Trudeau reaffirming the need for a solution through the Law of the Sea Conference rather than through unilateral action. He said, "Canadians at large should realize that we have very large stakes indeed in the Law of the Sea Conference and we would be fools to give up those stakes by an action that would be purely a temporary, paper success."

That attitude will guide our actions as well. To conserve the fish and protect our fishing industry while the treaty is being negotiated, the

United States will negotiate interim arrangements with other nations to conserve the fish stocks, to ensure effective enforcement, and to protect the livelihood of our coastal fishermen. These agreements will be a transition to the eventual 200-mile zone. We believe it is in the interests of states fishing off our coasts to cooperate with us in this effort. We will support the efforts of other states, including our neighbors, to deal with their problems by similar agreements. We will consult fully with Congress, our states, the public, and foreign governments on arrangements for implementing a 200-mile zone by virtue of agreement at the Law of the Sea Conference.

Unilateral legislation would be a last resort. The world simply cannot afford to let the vital questions before the Law of the Sea Conference be answered by default. We are at one of those rare moments when mankind has come together to devise means of preventing future conflict and shaping its destiny rather than to solve a crisis that has occurred, or to deal with the aftermath of war. It is a test of vision and will, and of statesmanship. It must succeed. The United States is resolved to help conclude the Conference in 1976 -- before the pressure of events and contention places international consensus irretrievably beyond our grasp.

Outer Space and the Law of Nations

The oceans are not the only area in which technology drives man in directions he has not foreseen and towards solutions unprecedented in history. No dimension of our modern experience is more a source of wonder than the exploration of space. Here, too, the extension of man's reach has come up against national sensitivies and concerns for sovereignty Here, too, we confront the potential for conflict or the possibility for legal order. Here, too, we have an opportunity to substitute law for power in the formative stage of an international activity.

Space technologies are directly relevant to the well-being of all nations. Earth sensing satellites, for example, can dramatically help nations to assess their resources and to develop their potential. In the Sahel region of Africa we have seen the tremendous potential of this technology in dealing with natural disasters. The United States has urged in the United Nations that the new knowledge be made freely and widely available.

The use of satellites for broadcasting has a great potential to spread educational opportunities, and to foster the exchange of ideas.

In the nearly two decades since the first artificial satellite, remarkable progress has been made in extending the reach of law to outer space. The Outer Space Treaty of 1967 placed space beyond national sovereignty and banned weapons of mass destruction from earth orbit. The Treaty also established the principle that the benefits of space exploration should be shared. Supplementary agreements have provided for the registry of objects placed in space, for liability for damage caused by their return to earth, and for international assistance to astronauts in emergencies. Efforts are underway to develop further international law governing man's activities on the moon and other celestial bodies.

Earth sensing and broadcasting satellites, and conditions of their use, are a fresh challenge to international agreement. The United Nations Committee on the Peaceful Uses of Outer Space is seized with the issue, and the United States will cooperate actively with it. We are committed to the wider exchange of communication and ideas. But we recognize that there must be full consultation among the countries directly concerned. While we believe that knowledge of the earth and its environment gained from outer space should be broadly shared, we recognize that this must be accompanied by efforts to ensure that all countries will fully understand the significance of this new knowledge.

The United States stands ready to engage in a cooperative search for agreed international ground rules for these activities.

Hijacking, Terrorism and War

The modern age has not only given us the benefits of technology; it has also spawned the plagues of aircraft hijacking, international terrorism, and new techniques of warfare. The international community cannot ignore these affronts to civilization; it must not allow them to spread their poison; it has a duty to act vigorously to combat them.

Nations already have the legal obligation, recognized by unanimous resolution of the UN General Assembly, "to refrain from organizing, instigating, assisting, participating (or) acquiescing in" terrorist acts. Treaties have been concluded to combat hijacking, sabotage of aircraft, and attacks on diplomats. The majority of states observe these rules; a minority do not. But events even in the last few weeks dramatize that present restraints are inadequate.

The United States is convinced that stronger international steps must be taken -- and urgently -- to deny skyjackers and terrorists a safehaven and to establish sanctions against states which aid them, harbor them, or fail to prosecute or extradite them.

The United States in 1972 proposed to the UN a new international Convention for the Prevention of Punishment of Certain Acts of International Terrorism, covering kidnapping, murder, and other brutal acts. This convention regrettably was not adopted -- and innumerable innocent lives have been lost as a consequence. We urge the United Nations once again to take up and adopt this convention or other similar proposals as a matter of the highest priority.

Terrorism, like piracy, must be seen as outside the law. It discredits any political objective that it purports to serve and any nations which encourage it. If all nations deny terrorists a safehaven, terrorist practices will be substantially reduced -- just as the incidence of skyjacking has declined sharply as a result of multilateral and bilateral agreements. All governments have a duty to defend civilized life by supporting such measures.

The struggle to restrain violence by law meets one of its severest tests in the law of war. Historically nations have found it possible to observe certain rules in their conduct of war. This restraint has been extended

and codified especially in the past century. In our time new, ever more awesome tools of warfare, the bitterness of ideologies and civil warfare, and weakened bonds of social cohesion have brought an even more brutal dimension to human conflict.

At the same time our century has also witnessed a broad effort to ameliorate some of these evils by international agreements. The most recent and comprehensive is the four Geneva Conventions of 1949 on the Protection of War Victims.

But the law in action has been less impressive than the law on the books. Patent deficiences in implementation and compliance can no longer be ignored. Two issues are of paramount concern: First, greater protection for civilians and those imprisoned, missing, and wounded in war. And, second, the application of international standards of humane conduct in civil wars.

An international conference is now underway to supplement the 1949 Geneva Conventions on the law of war. We will continue to press for rules which will prohibit nations from barring a neutral country, or an international organization such as the International Committee of the Red Cross, from inspecting its treatment of prisoners. We strongly support provisions requiring full accounting for the missing in action. We will advocate immunity for aircraft evacuating the wounded. And we will seek agreement on a protocol which demands humane conduct during civil war; which bans torture, summary execution, and the other excesses which too often characterize civil strife.

The United States is committed to the principle that fundamental human rights require legal protection under all circumstances; that some kinds of individual suffering are intolerable no matter what threat nations may face. The American people and government deeply believe in fundamental standards of humane conduct; we are committed to uphold and promote them; we will fight to vindicate them in international forums.

Multinational Enterprises

The need for new international regulation touches areas as modern as new technology and as old as war. It also reaches our economic institutions, where human ingenuity has created new means for progess while bringing new problems of social and legal adjustment.

Multinational enterprises have contributed greatly to economic growth in both their industrialized home countries where they are most active, and in developing countries where they conduct some of their operations. If these organizations are to continue to foster world economic growth, it is in the common interest that international law, not political contests, govern their future.

Some nations feel that multinational enterprises influence their economies in ways unresponsive to their national priorities. Others are concerned that these enterprises may evade national taxation and regulation through facilities abroad. And recent disclosures of improper financial relationships between these companies and government officials in several countries raise fresh concerns.

But it remains equally true that multinational enterprises can be powerful engines for good. They can marshal and organize the resources of capital, initiative, research, technology, and markets in ways which vastly increase production and growth. If an international consensus on the proper role and responsibilities of these enterprises could be reached, their vital contribution to the world economy could be further expanded. A multilateral treaty establishing binding rules for multinational enterprises does not seem possible in the near future. However, the United States believes an agreed statement of basic principles is achievable. We are prepared to make a major effort and invite the participation of all interested parties.

We are now actively discussing such guidelines, and will support the relevant work of the UN Commission on Transnational Enterprises. We believe that such guidelines must:

-- accord with existing principles of international law governing the treatment of foreigners and their property rights;

-- call upon multinational corporations to take account of national priorities, act in accordance with local law, and employ fair labor practices;

-- cover all multinationals, state-owned as well as private;

-- not discriminate in favor of host country enterprises except under specifically defined and limited circumstances;

-- set forth not only the obligations of the multinationals, but also the host country's responsibilities to the foreign enterprises within their borders;

-- acknowledge the responsibility of governments to apply recognized conflict-of-lawsprinciples in reconciling regulations applied by various host nations.

If multinational institutions become an object of economic warfare, it will be an ill omen for the global economic system. We believe that the continued operation of transnational companies, under accepted guidelines, can be reconciled with the claims of national sovereignty. The capacity of nations to deal with this issue constructively will be a test of whether the search for common solutions or the clash of ideologies will dominate our economic future.

Conclusion

Since the early days of the Republic, Americans have seen that their nation's self-interest could not be separated from a just and progressive international legal order. Our founding fathers were men of law, of wisdom, and of political sophistication. The heritage they left is an inspiration as we face an expanding array of problems that are at once central to our national well-being and soluble only on a global scale.

The challenge of the statesman is to recognize that a just international order cannot be built on power but only on restraint of power. As

Felix Frankfurter said, "Fragile as reason is and limited as law is as the instituionalized expression of reason, it is often all that stands between us and the tyranny of will, the cruelty of unbridled, unprincipled, undisciplined feeling." If the politics of ideological confrontation and strident nationalism become pervasive, broad and humane international agreement will grow ever more elusive and unilateral actions will dominate. In an environment of widening chaos the stronger will survive, and may even prosper temporarily. But the weaker will despair and the human spirit will suffer.

The American people have always had a higher vision -- a community of nations that has discovered the capacity to act according to man's more noble aspirations. The principles and procedures of the Anglo-American legal system have proven their moral and practical worth. They have promoted our national progress and brought benefits to more citizens more equitably than in any society in the history of man. They are a heritage and a trust which we all hold in common. And their greatest contribution to human progress may well lie ahead of us.

The philosopher Kant saw law and freedom, moral principle and practical necessity, as parts of the same reality. He saw law as the inescapable guide to political action. He believed that sooner or later the realities of human interdependence would compel the fulfillment of the moral imperatives of human aspiration.

We have reached that moment in time where moral and practical imperatives, law and pragmatism point toward the same goals.

The foreign policy of the United States must reflect the universal ideals of the American people. It is no accident that a dedication to international law has always been a central feature of our foreign policy. And so it is today -- inescapably -- as for the first time in history we have the opportunity and the duty to build a true world community.

* * * * * * * * * *

Vern
[ca. 9/75]

MEMORANDUM

THE WHITE HOUSE

WASHINGTON

MEMORANDUM FOR: MAX FRIEDERSDORF

FROM: LES JANKA

SUBJECT: 200-Mile Fisheries Legislation

The Subcommittee on Fisheries and Wildlife Conservation and the Environment of the House Merchant Marine and Fisheries Committee this week favorably reported, by an overwhelming majority, to the full Committee a bill which would unilaterally extend U.S. fisheries jurisdiction to 200 miles. We expect a major effort by proponents of the legislation to report the bill out of the full Committee prior to the August recess.

If we are to be able to prevent passage of the 200-mile fisheries legislation by the House, we must take action before the bill reaches the floor. Once the bill reaches the floor it is likely to have such momentum that we may not be able to prevent passage. Since the full Committee may act on the bill within the week, we must act immediately to prevent the bill from being reported out. All departments oppose passage of the legislation at this time (disagreement among the agencies centers on what our position should be if our initial opposition fails).

There are two key members of Congress who might be able to delay action on the bill in the Committee: Leonor Sullivan (Chairman of the Committee) and Ed Forsythe (ranking minority member of the Committee).

We recommend that the White House call on Congresswoman Sullivan and Congressman Forsythe and urge them to delay action on the 200-mile fisheries bill until the President has had an opportunity to address the issues. (He will shortly be reviewing an interagency paper containing the recommendations of all departments and agencies on this troublesome issue.)

The following talking points can be used:

-- We recognize the intense feeling in the Congress concerning the 200-mile bill as evidenced by the vote in the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the House Merchant Marine and Fisheries Committee

-- Unilateral extension of fisheries jurisdiction will have a major impact on our relations, not only with states fishing off our coasts but also with those states which would take similar or more extensive measures.

-- We have won major concessions from Japan, Poland, and the Soviet Union in recent bilateral fisheries negotiations and we are carefully examining additional ways to seek protection for all fish stocks off our coasts.

-- We hope that the Committee will be able to delay consideration of this bill until the President has returned from his trip and has been able to give his personal attention to this important matter.

Also attached is the position paper we used last spring to defeat this measure.

CC: Bob Wolthuis
Vern Loen

TALKING POINTS IN OPPOSITION TO S. 1988
THE 200-MILE FISHERIES BILL

S. 1988 would unilaterally establish a 200-mile fisheries zone for the U.S. until a multilateral agreement entered into force or was provisionally applied. The Executive Branch strongly opposes the passage of S. 1988 or similar legislation for the following reasons:

-- The only effective solution to our fishery and other oceans problems is a comprehensive treaty on the Law of the Sea. The Third U.N. Conference on the Law of the Sea is scheduled to hold a second substantive session next March and April to complete the work on such a treaty. Prior unilateral action by the U.S. could destroy the Conference. On the other hand, if the Conference is able to conclude its work there is broad support for a 200-mile economic zone which would fully protect coastal stocks off the U.S. coasts;

-- Unilateral action by the U.S. is certain to trigger broad unilateral claims by other nations which could be seriously damaging to overall U.S. oceans interests including important security and energy needs;

-- A unilateral extension of U.S. fisheries jurisdiction to 200 miles could lead to serious confrontations with the Soviet Union or Japan, the principal nations fishing off the U.S. coasts, as well as other distant water fishing nations. A lesser extension to 50 miles by Iceland led to the recent "Cod War" with the United Kingdom;

-- A unilateral extension of fisheries jurisdiction to 200 miles would not be consistent with U.S. international legal obligations, particularly the Convention on the High Seas. The ICJ recently held in a case arising from the "Cod War" that Iceland's 50 mile extension violated the legal rights of the UK and the FRG;

-- A unilateral 200-mile zone by the U.S. would severely damage the interests of U.S. distant water shrimp and tuna fishermen who fish within 200 miles of other nations;

-- Pending entry into force of a comprehensive Law of the Sea Treaty the Executive Branch is taking concrete steps to relieve the interim fisheries problem for U.S. fishermen by steps such as:

a. strengthened bilateral and multilateral agreements to protect U.S. fishery resources;

b. provisional application of the fishery provisions of a comprehensive Law of the Sea Treaty; and

c. tough new enforcement procedures to protect living resources of the U.S. continental shelf.

DRAFT

Talking Points in Opposition to a 200-mile Fisheries Bill

The Executive Branch strongly opposes the passage of bills that would unilaterally establish a 200-mile fisheries zone off the U.S. coast. The multilateral and bilateral treaty approach is a better means for solving the overfishing problem for the following reasons:

-- U.S. security interests require naval mobility for our general purpose and strategic deterrent forces in the 40% of the world's oceans covered by 200-mile zones. Historically unilateral extentions of fisheries jurisdiction have led to territorial claims where submerged transit and freedom of overflight are prohibited. U.S. security interests in the 200-mile economic zone and in international straits will be much better safeguarded in a Law of the Sea Treaty.

-- Existing U.S. agreements on both the high seas and fisheries would be undermined by unilateral legislation. Customary law freedom of navigation and overflight beyond the territorial sea is codified in the 1958 Geneva Convention on the High Seas. The U.S. is also party to agreements managing fisheries through eight international commissions and twelve bilateral treaties. Our agreements on distant water tuna and shrimp fishing as well as the recent bilateral treaties with the Soviet Union and Japan providing for substantial reduction in their catch would be seriously damaged.

-- Enforcement of a 200-mile statute against non-consenting nations such as the Soviet Union, Japan and the United Kingdom raises the spectre of major confrontations on the high seas. Enforcement against non-consenting nations in a 200-mile zone (an area over 90% the size of the U.S. land territory) would be financially costly and would invite retaliation not necessarily limited to fisheries matters.

-- Secretary Kissinger views unilateral legislation as a last resort and the U.S. is resolved to help conclude the Law of the Sea Conference in 1976. In the meantime, the Secretary has said: "To conserve the fish and protect our fishing industry while the Treaty is being negotiated, the United States will negotiate interim arrangements with other nations to conserve the fish stocks, to ensure effective enforcement, and to protect the livelihood of our coastal fishermen. These agreements will be a transition to the eventual 200-mile zone."

200-mile file

~~S.1988~~

~~Pol 5.1(b)~~

SENATE VOTE ON S.1988 11 December 1974
VOTE: 68-27-5

UNDECIDED SENATORS WHO VOTED FOR S.1988

BURDICK
NELSON
COCK
SCHWEIKER
DOMENICI
HANSEN
TAFT
DOMINICK
BIDEN
EASTLAND
FANNIN
HASKELL
MATHIAS
MCCLELLEN
MONDALE
MONTOYA
RANDOLPH
ABOURESK
(18 of 23)

UNDECIDED SENATORS WHO VOTED AGAINST

CURTIS
FONG
ALLEN
HUDDLESTON
(4 of 23)

UNDECIDED SENATORS NOT VOTING

BELLMON
(1 of 23)

SENATORS LEANING AGAINST S.1988 WHO VOTED AYE

BAKER
BAYH
HUMPHREY
STEVENSON
(4 of 5)

SENATORS LEANING FOR S.1988 WHO VOTED NO

DOLE
(1 of 4)

SENATORS COMMITTED AGAINST S.1988 WHO VOTED AYE

STAFFORD
EAGLETON
MCGOVERN
NUNN
GOLDWATER
ERVIN
HARTKE
SCOTT (Pa)
TALMADGE
YOUNG
(10 of 33)

SENATORS COMMITTED AGAINST S.1988 WHO DIDN'T VOTE

MANSFIELD
BENTSON
BUCKLEY
(3 of 33)

SENATORS COMMITTED FOR S.1988 WHO VOTED NO

PEARSON
(1 of 35)

SENATORS COMMITTED FOR S1988 WHO DIDN'T VOTE

HUGHES
(1 of 35)

SENATORS WHO VOTED NO ON S.1988 IN COMMITTEE AND VOTED AYE ON THE FLOOR

MCGOVERN (Fore Rel)
SCOTT (Pa.) (Fore Rel)
ERVIN (Armd Ser)
NUNN (Armd Ser)
GOLDWATER (Armd Ser)
(5 of 13)

SENATORS WHO VOTED NO ON S.1988 IN COMMITTEE AND DID NOT VOTE ON THE FLOOR

MANSFIELD
(1 of 13)

DRAFT

DETAILED DOMESTIC PLAN OF ACTION

ASSIGNMENT	RESPONSIBILITY	TIMING	REMARKS
Informal meeting of WH, NSC, H, D/LOS, DOD, DOT and Commerce to plan Executive Branch opposition to 200-mile bill	Les Janka	Week of August 18	
Preparation of detailed plans of opposition	H and D/LOS under NSC direction	By LIG Group meeting	
Preparation of initial talking points and other materials for discussions with Congress	H and D/LOS in coordination with other agencies	By end of Recess	
Convening of NSC LIG Group	NSC Staff	By end of Recess	
Prepare letter from President to Mansfield, Scott, Sparkman, Magnuson, Stennis, Albert, Rhodes, Morgan and Sullivan	H and D/LOS	By end of Recess	
Arrange small group meetings with President	NSC Staff	Early in September	Composition of group should include proponents as well as opponents of bills unless President is one on one

ASSIGNMENT	RESPONSIBILITY	TIMING	REMARKS
Coordination with M.C.P.L., UN Assoc., SOS and related groups in opposition	D/LOS	After Presidential decision	
Coordination with tuna, shrimp, maritime industries, marine scientist, marine pollution and similar groups in opposition	D/LOS	After Presidential decision	
Detailed analysis of H.R. 200 and Magnuson bills	NSC Interagency Task Force	By September 10	
Talking points on recent bilateral fisheries agreements	State-OES and Commerce	By September 10	Talking point papers should not exceed three pages
Talking points on ICNAF	State-OES and Commerce	By September 10	These should be up-dated after September ICNAF meeting is concluded

ASSIGNMENT	RESPONSIBILITY	TIMING	REMARKS
Talking points on security implications of bills	DOD	By September 10	
Talking points on marine science implications of bills	State-OES	By September 10	
Talking points on marine pollution implications of bills	State-L	By September 10	
Talking points on international law implications of bills	State-L	By September 10	
Talking points on enforcement implications of bills	DOT	By September 10	
Talking points on interim arrangements to protect fisheries stocks pending conclusion of LOS Treaty	State-OES in coordination with Commerce	By September 10	
Talking points on bills implications for US bilateral relations with the Soviet Union	State-EUR	By September 10	
Talking points on bills implications for US bilateral relations with Japan	State-EA	By September 10	

ASSIGNMENT	RESPONSIBILITY	TIMING	REMARKS
Preparation of "GIST" explanation of LOS Conference	D/LOS and PA	By September 10	
Preparation of speeches for floor fight	D/LOS and H	On an "As requested" basis	
Preparation of list containing name of person handling LOS for every Senator and Congressman	H-D/LOS	By September 1	
Preparation of tentative name vote count	H-D/LOS	By September 21	
Systematic coverage of Senators or Congressman not reached by some other way	H (Mr. MacKenzie)	By September 22	
Telephone calls and preparation of talking points to key Members by principals of various Departments	NSC to identify key Members and designate action responsibility	As needed	

ASSIGNMENT	RESPONSIBILITY	TIMING	REMARKS
Identify leading media opinion makers and arrange briefings and individual mailings as appropriate	State-PA in coordination with D/LOS	By September 10	
General public education campaign	State-PA in coordination with D/LOS	Before end of September	Campaign could include radio programs, TV shorts and mailings to lesser known media outlets
Information mailing to LOS Public Advisory Committee and follow up personal contact	D/LOS	By September 10	Committee contains number of influential, knowledgeable individuals capable of writing letter to Editors, etc.
Prepare talking points for President to use at weekly bipartisan meetings and GOP leadership sessions	NSC Staff		
Prepare materials for distribution to Democratic and Republican Study Groups	H and D/LOS	By September 10	

INITIAL INTERNATIONAL PLAN OF ACTION

ASSIGNMENT	RESPONSIBILITY	TIMING	REMARKS
Preparation and delivery of diplomatic note to 20 or so nations fishing off US coast	State-L and OES in coordination with D/LOS	Early in September	Note should stress seriousness of overfishing problem and serve notice that future agreements will be negotiated "with a view toward transition to a 200-mile economic zone"
Identify and invite appropriate nations fishing off US to conference to discuss voluntary, transitional conservation measures	State-OES in Coordination with D/LOS and L	Before first vote in Congress	Recently concluded agreements with Japan and the Soviet Union provided for substantial catch reduction; focus here might be on other nations
Formally request bilateral fisheries discussions with Mexico and Canada on transitional arrangements	State-OES and D/LOS	Before first vote in Congress	
Ask President to direct Secretary of State to call in Soviet and Japanese Ambassadors to highlight concern with overfishing problem & ask for additional voluntary reductions in specific stocks	NSC Staff	Prior to ICNAF meeting in September	

GIST

—A quick reference aid on U.S. foreign relations primarily for Government use. Not intended as a comprehensive U.S. policy statement.

BUREAU OF PUBLIC AFFAIRS DEPARTMENT OF STATE

LAW OF THE SEA

1. Background: The Third U.N. Conference on the Law of the Sea began in 1973 with an organizational session in New York, and was followed by two substantive sessions in Caracas (June-August 1974) and in Geneva (March-May 1975). A third session is scheduled to begin in March, 1976. The main accomplishment of the 1975 Geneva session was an informal single negotiating text on the subjects before the conference.

The First ~~and Second~~ Law of the Sea Conferences, in 1958 (and 1960) resulted in four basic conventions. However, ~~agreement was not~~ reached on the breadth of the territorial sea and other important issues. The Third Law of the Sea Conference is the most comprehensive to date as its objective is a single convention concerning the uses of the ocean and its resources. It is also the largest multilateral conference ever held, with some 150 countries represented in the negotiations. Three developments have brought the current discussions to a critical stage:

- Accelerating world demands for fish protein, petroleum, and seaborne trade;
- increasing technological capabilities to exploit both the living resources and non-living (e.g. mineral) resources of the oceans;
- mounting pressures in many countries to extend unilaterally their claims over coastal regions (in some cases 200 miles from shore).

2. US position: The major elements of US oceans policy include:

A. Territorial seas and straits: The US is prepared to ~~move from a 3-mile to a 12-mile territorial sea breadth~~ accept an increase in the permissible breadth of the territorial sea as a part of a comprehensive law of the sea agreement only if such agreement guarantee the right of free transit through, over, and under straits used for international navigation that would be overlapped by the territorial sea extension.

B. 200-mile economic zone: There is wide support at the conference for a 200-mile economic zone, in which the coastal State would have exclusive rights to explore and exploit the living and non-living resources. In the ~~US view~~, the coastal State should also have the duty to enforce international pollution standards, to ensure non-interference with other uses of the ocean (such as navigation and scientific research), and to resort to binding dispute settlement mechanisms.

C. Fisheries: Broad support exists to confer upon coastal States authority over coastal species and anadromous fish (e.g., salmon). However, the US position is to leave the management of highly migratory species (e.g., tuna), to international or regional bodies.

PA/MS AUGUST 1975 Editor: Miss Fahey Black ext. 20736

The authority delegated to the coastal States would be subject to international standards to ensure conservation and full utilization, including an obligation to permit foreign fishing for that portion of the allowable catch which a coastal State could not itself harvest.

D. International seabed area: The UN General Assembly has proposed that the oceans beyond the limits of national jurisdiction should be the "common heritage of mankind." To implement this principle, the US supports the creation of an international organization to set rules for deep seabed mining. This international organization ~~must~~ would preserve the rights of all countries and their citizens directly to exploit deep seabed resources. Countries and their enterprises mining deep seabed resources would pay an agreed portion of their revenues to the international organization, to be used for the benefit of developing countries. The management of the organization and its voting procedures ~~must~~ reflect and balance the interests of the participating states. ~~The organization~~ should not have the power to control prices or production rates. If essential US interests ~~are~~ were guaranteed, the US ~~can~~ agree that this organization would also have the right to conduct mining operations on behalf of the international community, primarily for the benefit of developing countries.

E. Marine pollution: The US supports treaty articles establishing a legal framework for the prevention of pollution of the marine environment. The treaty should establish uniform international controls on pollution from ships, and environmental standards for continental shelf and deep-seabed exploitation.

F. Scientific research: The US favors the encouragement of marine ~~scientific research for the benefit of all mankind.~~ Our proposals are designed to ensure maximum freedom of marine research and to provide for access to the results of such research by the coastal States involved.

3. Problems: Among the major contentious issues at the Law of the Sea Conference are:

- The extent of the territorial sea and the related issue of guaranteed ~~(free)~~ transit through international straits;
- The degree of control that a coastal State can exercise in an offshore economic zone particularly with respect to freedom of navigation, highly migratory fisheries, protection of the marine environment, and conduct of scientific research.
- The nature of the international regime ~~(organization)~~ for the exploitation of deep seabed resources: the entities that should exploit the organization, and the system of that exploitation; the powers and voting procedures in the international authority; and the source, level, and distribution of revenues from deep-seabed mining.

PRESS
DEPARTMENT OF STATE

August 11, 1975

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ADDRESS BY
THE HONORABLE HENRY A. KISSINGER
SECRETARY OF STATE
BEFORE THE
AMERICAN BAR ASSOCIATION ANNUAL CONVENTION
MONTREAL, CANADA
August 11, 1975

INTERNATIONAL LAW, WORLD ORDER AND HUMAN PROGRESS

My friends in the legal profession like to remind me of a comment by a British Judge on the difference between lawyers and professors. "It's very simple," said Lord Denning. "The function of lawyers is to find a solution to every difficulty presented to them; whereas the function of professors is to find a difficulty with every solution." Today, the number of difficulties seems to be outpacing the number of solutions -- either because my lawyer friends are not working hard enough, or because there are too many professors in government.

Law and lawyers have played a seminal role in American public life since the founding of the Republic. In this century lawyers have been consistently at the center of our diplomacy, providing many of our ablest Secretaries of State and diplomats, and often decisively influencing American thinking about foreign policy.

This is no accident. The aspiration to harness the conflict of nations by standards of order and justice runs deep in the American tradition. In pioneering techniques of arbitration, conciliation, and adjudication; in developing international institutions and international economic practices; and in creating a body of scholarship sketching visions of world order -- American legal thinking has reflected both American idealism and American pragmatic genius.

The problems of the contemporary world structure summon these skills and go beyond them. The rigid international structure of the Cold War has disintegrated; we have entered an era of diffused economic power, proliferating nuclear weaponry, and multiple ideologies and centers of initiative. The challenge of our predecessors was to fashion stability from chaos. The challenge of our generation is to go from the building of national and regional institutions and the management of crises to

the building of a new international order which offers a hope of peace, progress, well-being, and justice for the generations to come.

Justice Holmes said of the common law that it "is not a brooding omnipresence in the sky, but the articulate voice of some sovereign or quasi-sovereign power which can be identified." But international politics recognizes no sovereign or even quasi-sovereign power beyond the nation-state.

Thus in international affairs the age-old struggle between order and anarchy has a political as well as a legal dimension. When competing national political aims are pressed to the point of unrestrained competition, the precept of laws proves fragile. The unrestrained quest for predominance brooks no legal restraints. In a democratic society law flourishes best amidst pluralistic institutions. Similarly in the international arena stability requires a certain equilibrium of power. Our basic foreign policy objective inevitably must be to shape a stable and cooperative global order out of diverse and contending interests.

But this is not enough. Preoccupation with interests and power is at best sterile and at worst an invitation to a constant test of strength. The true task of statesmanship is to draw from the balance of power a more positive capacity to better the human condition -- to turn stability into creativity, to transform the relaxation of tensions into a strengthening of freedoms, to turn man's preoccupations from self-defense to human progress.

An international order can be neither stable nor just without accepted norms of conduct. International law both provides a means and embodies our ends. It is a repository of our experience and our idealism -- a body of principles drawn from the practice of states and an instrument for fashioning new patterns of relations between states. Law is an expression of our own culture and yet a symbol of universal goals. It is the heritage of our past and a means of shaping our future.

The challenge of international order takes on unprecedented urgency in the contemporary world of interdependence. In an increasing number of areas of central political relevance, the legal process has become of major concern. Technology has driven us into vast new areas of human activity and opened up new prospects of either human progress or international contention. The use of the oceans and of outer space; the new excesses of hijacking, terrorism, and warfare; the expansion of multinational corporations -- will surely become areas of growing dispute if they are not regulated by a legal order.

The United States will not seek to impose a parochial or self-serving view of the law on others. But neither will we carry the quest for accommodation to the point of prejudicing our own values and rights. The new corpus of the law of nations must benefit all peoples equally; it cannot be the preserve of any one nation or group of nations.

The United States is convinced in its own interest that the extension of legal order is a boon to humanity and a necessity. The traditional aspiration of Americans takes on a new relevance and urgency in contemporary conditions. On a planet marked by interdependence, unilateral

action, and unrestrained pursuit of the national advantage inevitably provoke counter-action and therefore spell futility and anarchy. In an age of awesome weapons of war, there must be accommodation or there will be disaster.

Therefore, there must be an expansion of the legal consensus, in terms both of subject matter and participation. Many new and important areas of international activity, such as new departures in technology and communication, cry out for agreed international rules. In other areas, juridical concepts have advanced faster than the political will that is indispensable to assure their observance -- such as the UN Charter provisions governing the use of force in international relations. The pace of legal evolution cannot be allowed to lag behind the headlong pace of change in the world at large. In a world of 150 nations and competing ideologies, we cannot afford to wait upon the growth of customary international law. Nor can we be content with the snail's pace of treaty-making as we have known it in recent years in international forums.

We are at a pivotal moment in history. If the world is in flux, we have the capacity and hence the obligation to help shape it. If our goal is a new standard of international restraint and cooperation, then let us fashion the institutions and practices that will bring it about.

This morning, I would like to set forth the American view on some of those issues of law and diplomacy whose solution can move us toward a more orderly and lawful world. These issues emphasize the contemporary international challenge -- in the oceans where traditional law has been made obsolete by modern technology; in outer space where endeavors undreamed of a generation ago impinge upon traditional concerns for security and for sovereignty; in the laws of war where new practices of barbarism challenge us to develop new social and international restraint; and in international economics where transnational enterprises conduct their activities beyond the frontier of traditional political and legal regulation.

I shall deal in special detail with the law of the sea in an effort to promote significant and rapid progress in this vitally important negotiation.

The Law of the Sea

The United States is now engaged with some 140 nations in one of the most comprehensive and critical negotiations in history -- an international effort to devise rules to govern the domain of the oceans. No current international negotiation is more vital for the long-term stability and prosperity of our globe.

One need not be a legal scholar to understand what is at stake. The oceans cover seventy percent of the earth's surface. They both unite and divide mankind. The importance of free navigation for the security of nations -- including our country -- is traditional; the economic significance of ocean resources is becoming enormous.

From the Seventeenth Century, until now, the law of the seas has been founded on a relatively simple precept: freedom of the seas, limited only by a narrow belt of territorial waters generally extending three miles offshore. Today, the explosion of technology requires new and more sophisticated solutions.

-- In a world desperate for new sources of energy and minerals, vast and largely untapped reserves exist in the oceans.

-- In a world that faces widespread famine and malnutrition, fish have become an increasingly vital source of protein.

-- In a world clouded by pollution, the environmental integrity of the oceans turns into a critical international problem.

-- In a world where ninety-five percent of international trade is carried on the seas, freedom of navigation is essential.

Unless competitive practices and claims are soon harmonized, the world faces the prospect of mounting conflict. Shipping tonnage is expected to increase fourfold in the next thirty years. Large, self-contained factory vessels already circle the globe and dominate fishing areas that were once the province of small coastal boats. The world-wide fish harvest is increasing dramatically, but without due regard to sound management or the legitimate concerns of coastal states. Shifting population patterns will soon place new strains on the ecology of the world's coastlines.

The current negotiation may thus be the world's last chance. Unilateral national claims to fishing zones and territorial seas extending from fifty to two hundred miles have already resulted in seizures of fishing vessels and constant disputes over rights to ocean space. The breakdown of the current negotiation, a failure to reach a legal consensus, will lead to unrestrained military and commercial rivalry and mounting political turmoil.

The United States strongly believes that law must govern the oceans. In this spirit, we welcomed the United Nations mandate in 1970 for a multilateral conference to write a comprehensive treaty governing the use of the oceans and their resources. We contributed substantially to the progress that was made at Caracas last summer and at Geneva this past spring which produced a "single negotiating text" of a draft treaty. This will focus the work of the next session, scheduled for March 1976 in New York. The United States intends to intensify its efforts.

The issues in the Law of the Sea negotiation stretch from the shoreline to the farthest deep seabed. They include:

-- The extent of the territorial sea and the related issues of guarantees of free transit through straits;

-- The degree of control that a coastal state can exercise in an offshore economic zone beyond its territorial waters; and

-- The international system for the exploitation of the resources of the deep seabeds.

If we move outward from the coastline, the first issue is the extent of the territorial sea -- the belt of ocean over which the coastal state exercises sovereignty. Historically, it has been recognized as three miles; that has been the long-established United States position. Increasingly, other states have claimed twelve miles or even two hundred.

After years of dispute and contradictory international practice, the Law of the Sea Conference is approaching a consensus on a twelve-mile territorial limit. We are prepared to accept this solution, provided that the unimpeded transit rights through and over straits used for international navigation are guaranteed. For without such guarantees, a twelve-mile territorial sea would place over 100 straits -- including the Straits of Gibraltar, Malacca, and Bab-el-Mandeb -- now free for international sea and air travel under the jurisdictional control of coastal states. This the United States cannot accept. Freedom of international transit through these and other straits is for the benefit of all nations, for trade and for security. We will not join in an agreement which leaves any uncertainty about the right to use world communication routes without interference.

Within 200 miles of the shore are some of the world's most important fishing grounds as well as substantial deposits of petroleum, natural gas, and minerals. This has led some coastal states to seek full sovereignty over this zone. These claims, too, are unacceptable to the United States. To accept them would bring thirty percent of the oceans under national territorial control -- in the very areas through which most of the world's shipping travels.

The United States joins many other countries in urging international agreement on a 200-mile offshore economic zone. Under this proposal, coastal states would be permitted to control fisheries and mineral resources in the economic zone, but freedom of navigation and other rights of the international community would be preserved. Fishing within the zone would be managed by the coastal state, which would have an international duty to apply agreed standards of conservation. If the coastal state could not harvest all the allowed yearly fishing catch, other countries would be permitted to do so. Special arrangements for tuna and salmon, and other fish which migrate over large distances, would be required. We favor also provisions to protect the fishing interests of land-locked and other geographically disadvantaged countries.

In some areas the continental margin extends beyond 200 miles. To resolve disagreements over the use of this area, the United States proposes that the coastal states be given jurisdiction over continental margin resources beyond 200 miles, to a precisely defined limit, and that they share a percentage of financial benefit from mineral exploitation in that area with the international community.

Beyond the territorial sea, the offshore economic zone, and the continental margin lie the deep seabeds. They are our planet's last great unexplored frontier. For more than a century we have known that the deep seabeds

hold vast deposits of manganese, nickel, cobalt, copper, and other minerals, but we did not know how to extract them. New modern technology is rapidly advancing the time when their exploration and commercial exploitation will become a reality.

The United Nations has declared the deep seabed to be the "common heritage of mankind." But this only states the problem. How will the world community manage the clash of national and regional interests, or the inequality of technological capability? Will we reconcile unbridled competition with the imperative of political order?

The United States has nothing to fear from competition. Our technology is the most advanced, and our Navy is adequate to protect our interests. Ultimately, unless basic rules regulate exploitation, rivalry will lead to tests of power. A race to carve out exclusive domains of exploration on the deep seabed, even without claims of sovereignty, will menace freedom of navigation, and invite a competition like that of the colonial powers in Africa and Asia in the last century.

This is not the kind of world we want to see. Law has an opportunity to civilize us in the early stages of a new competitive activity.

We believe that the Law of the Sea Treaty must preserve the right of access presently enjoyed by states and their citizens under international law. Restrictions on free access will retard the development of seabed resources. Nor is it feasible, as some developing countries have proposed, to reserve to a new international seabed organization the sole right to exploit the seabeds.

Nevertheless, the United States believes strongly that law must regulate international activity in this area. The world community has an historic opportunity to manage this new wealth cooperatively and to dedicate resources from the exploitation of the deep seabeds to the development of the poorer countries. A cooperative and equitable solution can lead to new patterns of accommodation between the developing and industrial countries. It could give a fresh and conciliatory cast to the dialogue between the industrialized and so-called Third World. The legal regime we establish for the deep seabeds can be a milestone in the legal and political development of the world community.

The United States has devoted much thought and consideration to this issue. We offer the following proposals:

-- An international organization should be created to set rules for deep seabed mining.

-- This international organization must preserve the rights of all countries, and their citizens, directly to exploit deep seabed resources.

-- It should also ensure fair adjudication of conflicting interests and security of investment.

-- Countries and their enterprises mining deep seabed resources

should pay an agreed portion of their revenues to the international organization, to be used for the benefit of developing countries.

-- The management of the organization and its voting procedures must reflect and balance the interests of the participating states. The organization should not have the power to control prices or production rates.

-- If these essential United States interests are guaranteed, we can agree that this organization will also have the right to conduct mining operations on behalf of the international community primarily for the benefit of developing countries.

-- The new organization should serve as a vehicle for cooperation between the technologically advanced and the developing countries. The United States is prepared to explore ways of sharing deep seabed technology with other nations.

-- A balanced commission of consumers, seabed producers, and land-based producers could monitor the possible adverse effects of deep seabed mining on the economies of those developing countries which are substantially dependent on the export of minerals also produced from the deep seabed.

The United States believes that the world community has before it an extraordinary opportunity. The regime for the deep seabeds can turn interdependence from a slogan into reality. The sense of community which mankind has failed to achieve on land could be realized through a regime for the ocean.

The United States will continue to make determined efforts to bring about final progress when the Law of the Sea Conference reconvenes in New York next year. But we must be clear on one point: The United States cannot indefinitely sacrifice its own interest in developing an assured supply of critical resources to an indefinitely prolonged negotiation. We prefer a generally acceptable international agreement that provides a stable legal environment before deep seabed mining actually begins. The responsibility for achieving an agreement before actual exploitation begins is shared by all nations. We cannot defer our own deep seabed mining for too much longer. In this spirit, we and other potential seabed producers can consider appropriate steps to protect current investment, and to ensure that this investment is also protected in the treaty.

The Conference is faced with other important issues:

-- Ways must be found to encourage marine scientific research for the benefit of all mankind while safeguarding the legitimate interests of coastal states in their economic zones.

-- Steps must be taken to protect the oceans from pollution. We must establish uniform international controls on pollution from ships and insist upon universal respect for environmental standards for continental shelf and deep seabed exploitation.

-- Access to the sea for land-locked countries must be assured.

-- There must be provisions for compulsory and impartial third-party settlement of disputes. The United States cannot accept unilateral interpretation of a treaty of such scope by individual states or by an international seabed organization.

The pace of technology, the extent of economic need, and the claims of ideology and national ambition threaten to submerge the difficult process of negotiation. The United States therefore believes that a just and beneficial regime for the oceans is essential to world peace.

For the self-interest of every nation is heavily engaged. Failure would seriously impair confidence in global treaty-making and in the very process of multilateral accommodation. The conclusion of a comprehensive Law of the Sea treaty on the other hand would mark a major step towards a new world community.

The urgency of the problem is illustrated by disturbing developments which continue to crowd upon us. Most prominent is the problem of fisheries.

The United States cannot indefinitely accept unregulated and indiscriminate foreign fishing off its coasts. Many fish stocks have been brought close to extinction by foreign overfishing. We have recently concluded agreements with the Soviet Union, Japan, and Poland which will limit their catch and we have a long and successful history of conservation agreements with Canada. But much more needs to be done.

Many within Congress are urging us to solve this problem unilaterally. A bill to establish a 200-mile fishing zone passed the Senate last year; a new one is currently before the House.

The Administration shares the concern which has led to such proposals. But unilateral action is both extremely dangerous and incompatible with the thrust of the negotiations described here. The United States has consistently resisted the unilateral claims of other nations, and others will almost certainly resist ours. Unilateral legislation on our part would almost surely prompt others to assert extreme claims of their own. Our ability to negotiate an acceptable international consensus on the economic zone will be jeopardized. If every state proclaims its own rules of law and seeks to impose them on others, the very basis of international law will be shaken, ultimately to our own detriment.

We warmly welcome the recent statement by Prime Minister Trudeau reaffirming the need for a solution through the Law of the Sea Conference rather than through unilateral action. He said, "Canadians at large should realize that we have very large stakes indeed in the Law of the Sea Conference and we would be fools to give up those stakes by an action that would be purely a temporary, paper success."

That attitude will guide our actions as well. To conserve the fish and protect our fishing industry while the treaty is being negotiated, the

United States will negotiate interim arrangements with other nations to conserve the fish stocks, to ensure effective enforcement, and to protect the livelihood of our coastal fishermen. These agreements will be a transition to the eventual 200-mile zone. We believe it is in the interests of states fishing off our coasts to cooperate with us in this effort. We will support the efforts of other states, including our neighbors, to deal with their problems by similar agreements. We will consult fully with Congress, our states, the public, and foreign governments on arrangements for implementing a 200-mile zone by virtue of agreement at the Law of the Sea Conference.

Unilateral legislation would be a last resort. The world simply cannot afford to let the vital questions before the Law of the Sea Conference be answered by default. We are at one of those rare moments when mankind has come together to devise means of preventing future conflict and shaping its destiny rather than to solve a crisis that has occurred, or to deal with the aftermath of war. It is a test of vision and will, and of statesmanship. It must succeed. The United States is resolved to help conclude the Conference in 1976 -- before the pressure of events and contention places international consensus irretrievably beyond our grasp.

Outer Space and the Law of Nations

The oceans are not the only area in which technology drives man in directions he has not foreseen and towards solutions unprecedented in history. No dimension of our modern experience is more a source of wonder than the exploration of space. Here, too, the extension of man's reach has come up against national sensitivies and concerns for sovereignty Here, too, we confront the potential for conflict or the possibility for legal order. Here, too, we have an opportunity to substitute law for power in the formative stage of an international activity.

Space technologies are directly relevant to the well-being of all nations. Earth sensing satellites, for example, can dramatically help nations to assess their resources and to develop their potential. In the Sahel region of Africa we have seen the tremendous potential of this technology in dealing with natural disasters. The United States has urged in the United Nations that the new knowledge be made freely and widely available.

The use of satellites for broadcasting has a great potential to spread educational opportunities, and to foster the exchange of ideas.

In the nearly two decades since the first artificial satellite, remarkable progress has been made in extending the reach of law to outer space. The Outer Space Treaty of 1967 placed space beyond national sovereignty and banned weapons of mass destruction from earth orbit. The Treaty also established the principle that the benefits of space exploration should be shared. Supplementary agreements have provided for the registry of objects placed in space, for liability for damage caused by their return to earth, and for international assistance to astronauts in emergencies. Efforts are underway to develop further international law governing man's activities on the moon and other celestial bodies.

Earth sensing and broadcasting satellites, and conditions of their use, are a fresh challenge to international agreement. The United Nations Committee on the Peaceful Uses of Outer Space is seized with the issue, and the United States will cooperate actively with it. We are committed to the wider exchange of communication and ideas. But we recognize that there must be full consultation among the countries directly concerned. While we believe that knowledge of the earth and its environment gained from outer space should be broadly shared, we recognize that this must be accompanied by efforts to ensure that all countries will fully understand the significance of this new knowledge.

The United States stands ready to engage in a cooperative search for agreed international ground rules for these activities.

Hijacking, Terrorism and War

The modern age has not only given us the benefits of technology; it has also spawned the plagues of aircraft hijacking, international terrorism, and new techniques of warfare. The international community cannot ignore these affronts to civilization; it must not allow them to spread their poison; it has a duty to act vigorously to combat them.

Nations already have the legal obligation, recognized by unanimous resolution of the UN General Assembly, "to refrain from organizing, instigating, assisting, participating (or) acquiescing in" terrorist acts. Treaties have been concluded to combat hijacking, sabotage of aircraft, and attacks on diplomats. The majority of states observe these rules; a minority do not. But events even in the last few weeks dramatize that present restraints are inadequate.

The United States is convinced that stronger international steps must be taken -- and urgently -- to deny skyjackers and terrorists a safehaven and to establish sanctions against states which aid them, harbor them, or fail to prosecute or extradite them.

The United States in 1972 proposed to the UN a new international Convention for the Prevention of Punishment of Certain Acts of International Terrorism, covering kidnapping, murder, and other brutal acts. This convention regrettably was not adopted -- and innumerable innocent lives have been lost as a consequence. We urge the United Nations once again to take up and adopt this convention or other similar proposals as a matter of the highest priority.

Terrorism, like piracy, must be seen as outside the law. It discredits any political objective that it purports to serve and any nations which encourage it. If all nations deny terrorists a safehaven, terrorist practices will be substantially reduced -- just as the incidence of skyjacking has declined sharply as a result of multilateral and bilateral agreements. All governments have a duty to defend civilized life by supporting such measures.

The struggle to restrain violence by law meets one of its severest tests in the law of war. Historically nations have found it possible to observe certain rules in their conduct of war. This restraint has been extended

and codified especially in the past century. In our time new, ever more awesome tools of warfare, the bitterness of ideologies and civil warfare, and weakened bonds of social cohesion have brought an even more brutal dimension to human conflict.

At the same time our century has also witnessed a broad effort to ameliorate some of these evils by international agreements. The most recent and comprehensive is the four Geneva Conventions of 1949 on the Protection of War Victims.

But the law in action has been less impressive than the law on the books. Patent deficiences in implementation and compliance can no longer be ignored. Two issues are of paramount concern: First, greater protection for civilians and those imprisoned, missing, and wounded in war. And, second, the application of international standards of humane conduct in civil wars.

An international conference is now underway to supplement the 1949 Geneva Conventions on the law of war. We will continue to press for rules which will prohibit nations from barring a neutral country, or an international organization such as the International Committee of the Red Cross, from inspecting its treatment of prisoners. We strongly support provisions requiring full accounting for the missing in action. We will advocate immunity for aircraft evacuating the wounded. And we will seek agreement on a protocol which demands humane conduct during civil war; which bans torture, summary execution, and the other excesses which too often characterize civil strife.

The United States is committed to the principle that fundamental human rights require legal protection under all circumstances; that some kinds of individual suffering are intolerable no matter what threat nations may face. The American people and government deeply believe in fundamental standards of humane conduct; we are committed to uphold and promote them; we will fight to vindicate them in international forums.

Multinational Enterprises

The need for new international regulation touches areas as modern as new technology and as old as war. It also reaches our economic institutions, where human ingenuity has created new means for progess while bringing new problems of social and legal adjustment.

Multinational enterprises have contributed greatly to economic growth in both their industrialized home countries where they are most active, and in developing countries where they conduct some of their operations. If these organizations are to continue to foster world economic growth, it is in the common interest that international law, not political contests, govern their future.

Some nations feel that multinational enterprises influence their economies in ways unresponsive to their national priorities. Others are concerned that these enterprises may evade national taxation and regulation through facilities abroad. And recent disclosures of improper financial relationships between these companies and government officials in several countries raise fresh concerns.

But it remains equally true that multinational enterprises can be powerful engines for good. They can marshal and organize the resources of capital, initiative, research, technology, and markets in ways which vastly increase production and growth. If an international consensus on the proper role and responsibilities of these enterprises could be reached, their vital contribution to the world economy could be further expanded. A multilateral treaty establishing binding rules for multinational enterprises does not seem possible in the near future. However, the United States believes an agreed statement of basic principles is achievable. We are prepared to make a major effort and invite the participation of all interested parties.

We are now actively discussing such guidelines, and will support the relevant work of the UN Commission on Transnational Enterprises. We believe that such guidelines must:

-- accord with existing principles of international law governing the treatment of foreigners and their property rights;

-- call upon multinational corporations to take account of national priorities, act in accordance with local law, and employ fair labor practices;

-- cover all multinationals, state-owned as well as private;

-- not discriminate in favor of host country enterprises except under specifically defined and limited circumstances;

-- set forth not only the obligations of the multinationals, but also the host country's responsibilities to the foreign enterprises within their borders;

-- acknowledge the responsibility of governments to apply recognized conflict-of-lawsprinciples in reconciling regulations applied by various host nations.

If multinational institutions become an object of economic warfare, it will be an ill omen for the global economic system. We believe that the continued operation of transnational companies, under accepted guidelines, can be reconciled with the claims of national sovereignty. The capacity of nations to deal with this issue constructively will be a test of whether the search for common solutions or the clash of ideologies will dominate our economic future.

Conclusion

Since the early days of the Republic, Americans have seen that their nation's self-interest could not be separated from a just and progressive international legal order. Our founding fathers were men of law, of wisdom, and of political sophistication. The heritage they left is an inspiration as we face an expanding array of problems that are at once central to our national well-being and soluble only on a global scale.

The challenge of the statesman is to recognize that a just international order cannot be built on power but only on restraint of power. As

Felix Frankfurter said, "Fragile as reason is and limited as law is as the instituionalized expression of reason, it is often all that stands between us and the tyranny of will, the cruelty of unbridled, unprincipled, undisciplined feeling." If the politics of ideological confrontation and strident nationalism become pervasive, broad and humane international agreement will grow ever more elusive and unilateral actions will dominate. In an environment of widening chaos the stronger will survive, and may even prosper temporarily. But the weaker will despair and the human spirit will suffer.

The American people have always had a higher vision -- a community of nations that has discovered the capacity to act according to man's more noble aspirations. The principles and procedures of the Anglo-American legal system have proven their moral and practical worth. They have promoted our national progress and brought benefits to more citizens more equitably than in any society in the history of man. They are a heritage and a trust which we all hold in common. And their greatest contribution to human progress may well lie ahead of us.

The philosopher Kant saw law and freedom, moral principle and practical necessity, as parts of the same reality. He saw law as the inescapable guide to political action. He believed that sooner or later the realities of human interdependence would compel the fulfillment of the moral imperatives of human aspiration.

We have reached that moment in time where moral and practical imperatives, law and pragmatism point toward the same goals.

The foreign policy of the United States must reflect the universal ideals of the American people. It is no accident that a dedication to international law has always been a central feature of our foreign policy. And so it is today -- inescapably -- as for the first time in history we have the opportunity and the duty to build a true world community.

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