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Chairman –E. S. Corlett III, *President,*
Metropolitan Miami Fishing Tournament, Miami, Florida

Our Changing International Fisheries

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It is an honor and a pleasure to participate in this joint conference of the Gulf and Caribbean Fisheries Institute and the International Game Fish Research Conference. I particularly welcome the opportunity at this time when through the Third United Nations Conference on the Law of the Sea we stand on the threshold of a promising new era in fisheries management. Yet paradoxically, our nation now faces the most important oceans policy decision in our history. Is United States oceans policy to be pursued through cooperative efforts at international agreement? Or is it to be pursued through unilateral national measures risking an irreversible pattern of conflicting national claims? How we answer this question will determine the future of international fisheries and indeed of the oceans themselves.

All of us are familiar with the symptoms of the present inadequate international system of fisheries management; overexploitation of certain coastal and salmon stocks, disputes concerning fishing rights affecting highly migratory species, and many other problems. The principal causes of these problems are uncertainty in present oceans law and an outmoded jurisdictional basis for managing international fisheries.

The crippling defect in the present pattern of international fisheries jurisdiction is that management jurisdiction does not generally coincide with the range of the stocks. As such, any effort at sound management and conservation confronts the classic "common pool problem" similar to that experienced in the early days of the east Texas oil fields. That is, in the absence of agreement, it is not in the interest of any producer acting alone to conserve the resource. The solution to this common pool problem in fisheries is broadly based international agreement providing coastal nations with management jurisdiction over coastal and anadromous species with highly migratory species managed by regional or international organizations.

For the first time in the history of oceans law it is realistic to expect such a broadly based agreement reordering fisheries jurisdiction and ending the uncertainties in oceans law. After lengthy preparatory work in the United Nations Seabed Committee, the Third United Nations Conference on the Law of the Sea has recently completed its first substantive session held in Caracas, Venezuela, from June 20 to August 29. If other issues are satisfactorily resolved the Conference offers every promise of providing the jurisdictional framework within which we can solve the coastal fisheries problems as well as the special requirements of salmon, highly migratory species and sport fishermen. The strong trend in the Conference is for acceptance of a 200-mile economic zone providing coastal states with jurisdiction over coastal fisheries in a 200-mile area off their coast. There is also considerable support for host state control of salmon throughout their migratory range and growing support for special provisions on international and regional management of highly migratory species such as tuna. In this connection the United States Delegation has indicated that we can accept and indeed would welcome the 200-mile economic zone as part of a satisfactory overall treaty which also protects our other oceans interests, including unimpeded transit of straits used for international navigation.

It is also realistic to expect a broadly based oceans treaty in the near future. The General Assembly Resolution which established the Law of the Sea Conference provided that any subsequent session or sessions necessary after the Caracas session would be held no later than 1975.

Whether agreement is reached in 1975 or 1976, it is, of course, also important that we prevent further depletion of the coastal and salmon stocks off our coast before the new Law of the Sea Treaty comes into force. We are taking several important steps to meet this need.

First, we are actively pursuing bilateral and limited multilateral approaches for the protection of our stocks. Progress has been significant in recent months, and we intend to continue to vigorously pursue improved protection bilaterally and within regional fisheries commissions.

Second, we have proposed that the fisheries as well as certain other provisions of the new Law of the Sea Treaty should be applied on a provisional basis. That is, they should be applied after signature of the new treaty but before waiting for the process of ratification to bring the treaty into full legal effect. Provisional application is a recognized concept of international law and our proposal was favorably received.

Third, we have announced a significant new measure to provide increased protection for certain of the stocks off our coast. That is, new enforcement procedures for the protection of living resources of the United States continental shelf. These new enforcement procedures will provide substantial increased protection to our valuable living resources. We believe that they are entirely justified by existing international law and that jurisdiction over the living resources of the continental shelf carries with it the right to require other states to enter into agreements for the protection of such resources if they are taken during fishing for non-shelf stocks as well as if the taking of such shelf resources is intentional.

Along these lines, we are also carefully reviewing the availability of means to make possible increased Coast Guard enforcement efforts to protect our living resources in particularly vulnerable areas.

An expanded enforcement effort by the Coast Guard would also help ensure compliance with existing regulations and will assist in the transition from the present limited fisheries jurisdiction to the broader jurisdiction which is the likely outcome of a successful Law of the Sea Conference.

Paradoxically, at a time when the chances for concluding a comprehensive oceans treaty seem brightest, pressures for unilateral action are mounting. A major debate has been taking place in Congress during the last few months concerning S. 1988, a bill to unilaterally extend the fisheries contiguous zone of the United States from the present 12 miles to 200 miles.

Despite the interim problem in protection of our coastal and anadromous stocks, the Executive Branch is strongly opposed to the enactment of such legislation. It would not satisfactorily resolve our fisheries problems, would at most merely anticipate a result likely to emerge in a matter of months from a successful Law of the Sea Conference, and would be seriously harmful to United States oceans and foreign relations interests in at least five principal ways.

First, unilateral action extending national jurisdiction in the oceans is harmful to overall United States oceans interests and as such we have consistently protested any extension of fishery or other jurisdiction beyond recognized limits. A unilateral extension of jurisdiction for one purpose will not always be met by a similar extension but rather may encourage broader claims which could have serious implications, for example, with respect to our energy needs in transportation of hydrocarbons, our defense and national security interests in the unimpeded movement of vessels and aircraft on the world's oceans, or our interest in the protection of marine scientific research rights in the oceans. Because of our broad range of oceans interest and our leadership role in the world, an example of unilateral action by the United States would have a particularly severe impact upon the international community which could quickly lead to a crazy quilt of uncontrolled national claims. Indeed it was the threat of just such a result with its open-ended invitation to conflicts and pressures on vital U.S. interests that led to a decision in two prior administrations at the highest level of government that U.S. oceans interests and the stability of the world community would best be served by a broadly supported international agreement. This administration strongly agrees with that judgment. Soundings from our embassies and at the Caracas session of the Law of the Sea Conference indicate that the possibility of unilateral claims by others is not merely an abstract concern should this legislation pass.

Second, such legislation could be seriously damaging to important foreign policy objectives of the United States. Unilateral extension of our fisheries jurisdiction could place the nation in a confrontation with the Soviet Union, Japan and other distant water fishing nations fishing off our coasts. These nations strongly maintain the right to fish in high seas areas and are unlikely to acquiesce in unilateral claims, particularly during the course of sensitive law of the sea negotiations in which they have substantial interests at stake. The implications for detente and our relations with Japan are evident. In fact, both the Soviet Union and Japan

have already expressed serious concern over this legislation to our principal negotiators at the Law of the Sea Conference.

Similarly, unilateral extension of our fisheries jurisdiction coupled with reliance on the Fishermen's Protective Act to protect threatened distant water fishing interests of the United States seem certain to assure continuation of disputes with Ecuador and Peru as well as to generate new disputes with other coastal states off whose coasts our nationals fish.

It is strongly in the national interest to encourage cooperative solutions to oceans problems rather than a pattern of competing national claims. A widely agreed comprehensive Law of the Sea Treaty will promote development of ocean uses and will reduce the chances of ocean disputes leading to conflict among nations. If these interests seem too theoretical, we might recall the recent "Cod War" between the United Kingdom and Iceland which resulted from a more modest Icelandic claim of a 50-mile fisheries contiguous zone.

Third, a unilateral extension of our fisheries jurisdiction from 12 to 200 miles would not be compatible with existing international law, and particularly with the Convention on the High Seas to which the United States and 45 other nations are party. The International Court of Justice held only last month in two cases arising from the "Cod War" that the 50-mile unilateral extension of fisheries jurisdiction by Iceland was not consistent with the rights of the United Kingdom and the Federal Republic of Germany.

What would we do if this bill were to become law and another country brings us before the International Court of Justice? Would we invoke our reservation and maintain that issues relating to the use of the seas up to 200-miles from our coast, or even hundreds of miles beyond this in the case of salmon, are exclusively within our domestic jurisdiction? Or would we respond on the merits and risk losing what we are certain to get from a widely accepted Law of the Sea Treaty?

Violation of our international legal obligations by encroaching on existing high seas freedoms can be seriously detrimental to a variety of oceans interests dependent on maintenance of shared community freedoms in the high seas. The appropriate way to change these obligations in order to deal with new circumstances is by agreement. It is particularly inappropriate to argue that a unilateral act contrary to these obligations is required by such circumstances when a widely supported agreement that resolves the problem is nearing completion. Violation of our international legal obligations can have the most serious short and long run costs to the nation.

Fourth, a unilateral extension of our fisheries jurisdiction would pose serious risks for our fisheries interests. Protection of our coastal and anadromous stocks can only be achieved with the agreement of the states participating in the harvesting of those stocks. Unilateral action not only fails to achieve such agreement but it may also endanger existing fishery agreements and efforts to resolve the problem on a more lasting basis with such countries. Similarly, protection of our interests in fishing for highly migratory species such as tuna or coastal species such as shrimp where U.S. nationals may fish off the coasts of other nations can only be achieved through cooperative solutions. This is particularly true for our important distant water fishing interests in the Gulf and Caribbean area. In short, we

cannot expect to achieve acquiescence from states fishing off our coast, and we will harden the positions of other countries off whose coasts we fish. The resolution of old disputes will be made more difficult and their costs to our fishermen and our government will continue. At the same time we will face new disputes off our own coast and elsewhere.

Legislation unilaterally extending United States fisheries jurisdiction would provide others with an opportunity to make unilateral claims damaging to our distant water fishing interests despite any exceptions for highly migratory species or provisions for full utilization written into the legislation. If the United States can make a unilateral claim eliminating the freedom to fish on the high seas, it is difficult to assert that other nations are bound by the exceptions and provisions contained in our own legislation. Moreover, even by its terms pending bills such as S. 1988 would include highly migratory species in the extension of coastal state jurisdiction where such species "are not managed pursuant to bilateral or multilateral fishery agreements." We should keep in mind that the principal countries with which we have disputes concerning jurisdiction over highly migratory species are not now parties to agreements relating to the management of such stocks.

A unilateral extension of fisheries jurisdiction by the United States could also make it more difficult to achieve meaningful guarantees such as those we are advocating at the Law of the Sea Conference binding on all nations for the conservation of the living resources of the oceans. Moreover, it could make more difficult acceptance of a rational basis for fisheries management; that is, jurisdiction over coastal and anadromous species in the coastal nation and jurisdiction over highly migratory species in a regional or international organization. Similarly, it could make more difficult general acceptance of a concept of maximum sustainable yield permitting consideration of economic factors in order to take meaningful account of the needs of sports fisheries. As such, legislation such as S. 1988, although intended to protect our fish stocks, could paradoxically have the opposite effect not only on stocks off our coast but on fish stocks the world over.

Finally, passage at this time of legislation unilaterally extending the fisheries contiguous zone of the United States would seriously undercut the effort of all nations to achieve a comprehensive oceans law treaty. Our nation has urged particular care and restraint in avoiding new oceans claims during the course of the Third United Nations Conference on the Law of the Sea. A pattern of escalating unilateral claims during the Conference could destroy the delicate fabric of this most promising and difficult negotiation. It could also undermine the essential political compromise by which all nations would agree on a single package treaty. And by unilaterally taking action which we have said must be dependent on a satisfactory overall compromise, it could undermine other United States oceans interests such as protection of vital navigational freedoms, or economic interests such as a regime for deep seabed mining which will promote secure access to the minerals of the deep seabed area.

The nation is faced with a fundamental choice. Are we to pursue cooperative efforts at a solution to our oceans problems even when the going is rough and the

pace slower than we would like? Or are we to pursue unilateral policies destined to lead to escalating conflict in the oceans?

The overall oceans interests of our nation, our foreign relations interests, compliance with our international legal obligations, our fisheries interests themselves and our interest in concluding a timely and successful Law of the Sea Treaty all strongly require that we firmly set our course toward cooperative solutions. As Secretary of State Henry Kissinger has highlighted, the world is "delicately poised" on the verge of a new historic era. We can go forward to a recognition of our global interdependence and usher in one of the great periods of human creativity. Or we can turn our backs on difficult cooperative solutions and have a world of conflict and disarray. The choice is real, immediate and inescapably ours.