

TESTIMONY OF
JOHN F. TURNER, ASSISTANT SECRETARY, BUREAU OF OCEANS AND
INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS
BEFORE THE
SENATE COMMITTEE ON FOREIGN RELATIONS
ON OCTOBER 21, 2003 CONCERNING
ACCESSION TO THE 1982 LAW OF THE SEA CONVENTION AND
RATIFICATION OF THE 1994 AGREEMENT AMENDING PART XI OF THE
LAW OF THE SEA CONVENTION
[Senate Treaty Document 103-39]

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to testify on the 1982 United Nations Convention on the Law of the Sea (“the Convention”) and the 1994 Agreement relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 (“the 1994 Agreement”).

I.

OVERVIEW

This Administration has concluded that there are important reasons for the United States to become a party to this Convention and to do so now.

For many years, the United States has been seeking to assert its oceans interests as a non-party to the Convention. While we have had considerable success in doing so, our efforts will be enhanced by becoming a party. The Convention, as amended by the 1994 Agreement, offers an accepted and acceptable international framework within which to

pursue and secure our oceans interests with greater certainty and with fewer political and economic disadvantages than we could otherwise achieve.

The reformed Convention applies stable and predictable rules to the uses of the oceans. It does not answer every question, but it provides the only generally accepted framework for resolving new oceans issues as they arise. By becoming party to the Convention, the United States will thus maximize its influence over the outcome of these wide-ranging issues.

As the world's leading maritime power, with the longest coastline and the largest exclusive economic zone in the world, the United States will benefit more than many other nations from the provisions of the Convention. The Convention enhances U.S. objectives as a major maritime power with worldwide interests. Its provisions on navigation and overflight, as well as the balance reflected in its jurisdictional articles, preserve the right of the U.S. military to use the world's oceans to meet national security requirements, and of commercial vessels to carry sea-going cargoes. The rule of law as embodied in the Convention underpins U.S. leadership and security.

The Convention promotes the resource and environmental interests of the United States as a coastal State, including strong obligations to conserve and manage living marine resources and to protect the marine environment from all sources of pollution, combined with broad and exclusive jurisdiction over living and non-living resources off our coasts. The Convention's provisions on fisheries are entirely consistent with U.S. domestic fisheries laws and well as our international fisheries agreements and understandings.

In fact, the most innovative international fisheries agreements developed in the last decade have as their basis the Convention's statements of the obligations of each

party to conserve and manage living marine resources in their own EEZs and on the high seas. The United Nations Fish Stocks Agreement, the FAO Compliance Agreement, the new convention on highly migratory species in the Western and Central Pacific, and recent bilateral agreements we have negotiated are elaborations on these obligations. Effective implementation of these forward-leaning agreements can bring about an end to rampant overfishing in the years to come. Becoming a party to the Convention will only strengthen our hand in addressing this serious issue.

The Convention's regime of access for marine scientific research will support the U.S. role as a leader in efforts to understand the oceans, including their role in global processes. Such research is critical for addressing problems associated with the use and protection of the marine environment.

Through its dispute settlement provisions, the Convention provides peaceful and effective mechanisms to ensure compliance by Parties with the Convention, thereby restraining unreasonable claims and interpretations and contributing to a stable international order.

As to actual costs of being a party, our annual contributions to the Convention's institutions would be about three million dollars, paid to the Law of the Sea Tribunal and the International Seabed Authority from the State Department's Contributions to International Organizations account. In our view, this is a bargain.

In spite of its manifest benefits to the United States, we said in 1982, when the Convention was adopted, that we could not become a party unless its seabed mining system were reformed. Through the 1994 Agreement, we have achieved the reform of this system that we sought. As of today, 143 parties, including most of our major allies, have joined the

Convention. It is time for us to take this opportunity to demonstrate U.S. leadership on oceans issues by becoming a party to the Law of the Sea Convention.

II.

U.S. INTERESTS IN THE OCEANS

The United States has basic and enduring national interests in the oceans. As the world's preeminent naval power, the United States has strong national security interests in the ability to freely and rapidly navigate and overfly the oceans. These are essential preconditions for projecting military power that must be able to react rapidly to emerging threats.

Ensuring the free and secure flow of commercial navigation is likewise a basic concern for the United States as a major trading power, whose economic growth and employment are inextricably linked with a robust and growing export sector.

At the same time, the United States, with the longest coastlines, the largest exclusive economic zone, and one of the largest continental shelves of any nation in the world, has basic resource and environmental interests in the oceans. Inshore and coastal waters generate vital economic activities – fisheries, offshore mineral development, ports and transportation facilities, and, increasingly, recreation and tourism. The health and well-being of coastal populations – and the majority of Americans do live in coastal areas – are intimately linked to the quality of the coastal marine environment.

Understanding the oceans is one of the frontiers of human scientific inquiry. The United States is a leader in the conduct of marine scientific research and ocean observation. Further, marine data collection is essential for understanding and addressing problems associated with the use and protection of the marine environment, including

marine pollution, conservation of fish and other marine living species, and forecasting of weather and climate variability.

Pursuit of our oceans objectives requires careful and often difficult balancing of interests. As a coastal nation, for example, we naturally are concerned about control over the waters off our shores. Just as often, as a major maritime power, we worry about efforts on the part of others to limit freedom of navigation.

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

Striking these balances must also be viewed in the international context. Living resources migrate across the jurisdictional lines that human beings draw on a map. Marine ecosystems and ocean currents transport pollutants and otherwise affect environmental interests extending across maritime boundaries and jurisdictional limits. National security and commercial interests are also international in scope. Achievement of ocean policy objectives thus requires international cooperation at the bilateral, regional, and global levels.

The United States has consistently taken the view that the full range of these interests is best protected through a widely accepted international framework governing uses of the sea. Since the late 1960s, the basic U.S. strategy has been to conclude a comprehensive treaty on the law of the sea that will be generally respected. Each

succeeding U.S. Administration has recognized this goal as the cornerstone of U.S. oceans policy. Following adoption of the Convention in 1982, it has been the policy of the United States to act in a manner consistent with its provisions relating to traditional uses of the oceans and to encourage other countries to do likewise.

Notwithstanding the numerous beneficial provisions of the Convention, the United States decided not to sign the Convention in 1982 because of flaws in the deep seabed mining regime. As Mr. Taft will discuss, the 1994 Agreement before you overcomes these flaws and meets the objections the United States and other industrialized countries have expressed. It is time for the United States to become a party to the Convention, because of the substantive benefits to the United States; because U.S. adherence will promote the stability of the legal regime for the oceans, which is vital to U.S. national security; and because U.S. accession will demonstrate to the international community that, when it modifies a regime to address our concerns, we will join that regime.

Let me note in closing that the U.S. Commission on Oceans Policy – a Commission that Congress established to make recommendations for a coordinated and comprehensive national ocean policy – has unanimously recommended that the United States immediately accede to UNCLOS. As the Commission’s resolution says: “Time is of the essence if the United States is to maintain its leadership role in ocean and coastal activities. Critical national interests are at stake and the United States can only be a full participant in upcoming Convention activities if the country proceeds with accession expeditiously.” Becoming a party to the Convention, as modified by the 1994 Agreement, represents the highest priority of United States international oceans policy –

a bipartisan priority – and to this end I urge rapid and favorable action on these treaties by the Senate.

I will of course be happy to answer any questions you might have, but at this time I would ask my colleague, Legal Adviser Will Taft, to provide you with a detailed description of the Convention and the Agreement. He will also note some of the legal issues arising from U.S. accession to the Convention and Agreement.

Thank you very much.