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CONSERVATION OF TROPICAL TUNA

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HEARINGS
BEFORE THE
SUBCOMMITTEE ON INTER-AMERICAN AFFAIRS
OF THE
COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES
EIGHTY-SEVENTH CONGRESS

SECOND SESSION

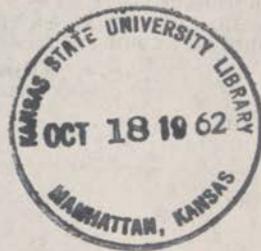
ON

S. 2568

A BILL TO AMEND THE ACT OF SEPTEMBER 7, 1950, TO EXTEND THE REGULATORY AUTHORITY OF THE FEDERAL AND STATE AGENCIES CONCERNED UNDER THE TERMS OF THE CONVENTION FOR THE ESTABLISHMENT OF AN INTER-AMERICAN TROPICAL TUNA COMMISSION, SIGNED AT WASHINGTON, MAY 31, 1949, AND FOR OTHER PURPOSES

AUGUST 14, 28, AND 30, 1962

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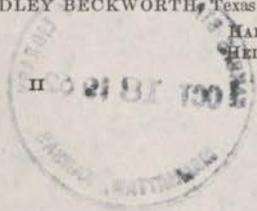
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CONSERVATION OF TROPICAL TUNA

TUESDAY, AUGUST 14, 1962

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
SUBCOMMITTEE ON INTER-AMERICAN AFFAIRS,
Washington, D.C.

The Subcommittee on Inter-American Affairs met, pursuant to call, at 10:40 a.m., in room G-3, U.S. Capitol, Hon. Armistead I. Selden, Jr. (chairman of the subcommittee), presiding.

Mr. SELDEN. The meeting will come to order, please.

We have before the committee this morning Senate bill 2568 which is the result of Executive recommendation sent to the Congress on the 14th of September 1961. The purpose of this bill, as I understand it, is to revise existing basic tuna legislation by providing authority to the Secretary of the Interior for the issuance and enforcement of Federal regulations which would carry out recommendations of the Inter-American Tropical Tuna Commission for the conservation of tuna resources in the Eastern Pacific.

(The bill referred to and State Department comments thereon are as follows:)

[S. 2568, 87th Cong., 2d sess.]

AN ACT To amend the Act of September 7, 1950, to extend the regulatory authority of the Federal and State agencies concerned under the terms of the Convention for the Establishment of an Inter-American Tropical Tuna Commission, signed at Washington May 31, 1949, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Act entitled "Tuna Conventions Act of 1950" (16 U.S.C. 951) is amended by repealing subsection (e) in its entirety and substituting therefor a new subsection (e) as follows:

"(e) 'United States' includes its territories, possessions, and other areas under its control or jurisdiction."

SEC. 2. Section 6 of the Act entitled "Tuna Conventions Act of 1950" (16 U.S.C. 955) is amended by striking out the phrase "head of the enforcement agency" where it appears once each in subsections (a) and (b) and inserting in lieu thereof in both places the term "Secretary of the Interior," and by adding a new subsection (c) immediately following subsection (b), as follows:

"(c) Regulations required to carry out recommendations of the commission made pursuant to paragraph 5 of article II of the Convention for the Establishment of an Inter-American Tropical Tuna Commission shall be promulgated as hereinafter provided by the Secretary of the Interior upon approval of such recommendations by the Secretary of State and the Secretary of the Interior. The Secretary of the Interior shall cause to be published in the Federal Register a general notice of proposed rulemaking and shall afford interested persons an opportunity to participate in the rulemaking through (1) submission of written data, views, or arguments, and (2) oral presentation at a public hearing. Such regulations shall be published in the Federal Register and shall be accompanied by a statement of the considerations involved in the issuance of the regulations. After publication in the Federal Register such regulations shall be applicable to all vessels and persons subject to the jurisdiction of the United States on such date as the Secretary of the Interior shall prescribe, but in no

event prior to an agreed date for the application by all countries whose vessels engage in fishing for species covered by the convention in the regulatory area on a meaningful scale, in terms of effect upon the success of the conservation program, of effective measures for the implementation of the commission's recommendations applicable to all vessels and persons subject to their respective jurisdictions. The Secretary of the Interior shall suspend at any time the application of any such regulations when, after consultation with the Secretary of State and the United States Commissioners, he determines that foreign fishing operations in the regulatory area are such as to constitute a serious threat to the achievement of the objectives of the commission's recommendations. The regulations thus promulgated may include the selection for regulation of one or more of the species covered by the convention; the division of the convention waters into areas; the establishment of one or more open or closed seasons as to each area; the limitation of the size of the fish and quantity of the catch which may be taken from each area within any season during which fishing is allowed; the limitation or prohibition of the incidental catch of a regulated species which may be retained, taken, possessed, or landed by vessels or persons fishing for other species of fish; the requiring of such clearance certificates for vessels as may be necessary to carry out the purposes of the convention and this Act; and such other measures incidental thereto as the Secretary of the Interior may deem necessary to implement the recommendations of the commission: *Provided*, That upon the promulgation of any such regulations the Secretary of the Interior shall promulgate additional regulations, with the concurrence of the Secretary of State, which shall become effective simultaneously with the application of the regulations hereinbefore referred to (1) to prohibit the entry into the United States, from any country when the vessels of such country are being used in the conduct of fishing operations in the regulatory area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the commission, of fish in any form of those species which are subject to regulation pursuant to a recommendation of the commission and which were taken from the regulatory area; and (2) to prohibit entry into the United States, from any country, of fish in any form of those species which are subject to regulation pursuant to a recommendation of the commission and which were taken from the regulatory area by vessels other than those of such country in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the commission. In the case of repeated and flagrant fishing operations in the regulatory area by the vessels of any country which seriously threaten the achievement of the objectives of the commission's recommendations, the Secretary of the Interior, with the concurrence of the Secretary of State, may, in his discretion, also prohibit the entry from any country of such other species of tuna, in any form, as may be under investigation by the commission and which were taken in the regulatory area. Any such prohibition shall continue until the Secretary of the Interior is satisfied that the condition warranting the prohibition no longer exists, at which time entry of fish in any form under investigation but not under regulation shall be permitted, except that all fish in any form of the species under regulation which were denied entry shall continue to be denied entry."

SEC. 3. Section 7 of the Act entitled "Tuna Conventions Act of 1950" (16 U.S.C. 956) is amended by deleting the section in its entirety and substituting in lieu thereof the following:

"SEC. 7. Any person authorized to carry out enforcement activities under this Act and any person authorized by the commissions shall have power without warrant or other process, to inspect, at any reasonable time, catch returns, statistical records, or other reports as are required by regulations adopted pursuant to this Act to be made, kept, or furnished."

SEC. 4. Section 8 of the Act entitled "Tuna Conventions Act of 1950" (16 U.S.C. 957) is amended by deleting the section in its entirety and substituting in lieu thereof the following:

"SEC. 8. (a) It shall be unlawful for any master or other person in charge of a fishing vessel of the United States to engage in fishing in violation of any regulation adopted pursuant to section 6(c) of this Act, or for any person knowingly to ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish taken or retained in violation of such regulations.

"(b) It shall be unlawful for the master or any person in charge of any fishing vessel of the United States or any person on board such vessel to fail to make, keep, or furnish any catch returns, statistical records, or other reports as are required by regulations adopted pursuant to this Act to be made, kept, or furnished; or to fail to stop upon being hailed by a duly authorized official of the United States; or to refuse to permit the duly authorized officials of the United States or authorized officials of the commissions to board such vessel or inspect its catch, equipment, books, documents, records, or other articles or question the persons on board in accordance with the provisions of this Act, or the convention, as the case may be.

"(c) It shall be unlawful for any person to import, in violation of any regulation adopted pursuant to section 6(c) of this Act, from any country, any fish in any form of those species subject to regulation pursuant to a recommendation of the commission, or any tuna in any form not under regulation but under investigation by the commission, during the period such fish have been denied entry in accordance with the provisions of section 6(c) of this Act. In the case of any fish as described in this subsection offered for entry into the United States, the Secretary of the Interior shall require proof satisfactory to him that such fish is not ineligible for such entry under the terms of section 6(c) of this Act.

"(d) Any person violating any provision of subsection (a) of this section shall be fined not more than \$25,000, and for a subsequent violation of any provisions of said subsection (a) shall be fined not more than \$50,000.

"(e) Any person violating any provision of subsection (b) of this section shall be fined not more than \$1,000, and for a subsequent violation of any provision of subsection (b) shall be fined not more than \$5,000.

"(f) Any person violating any provision of subsection (c) of this section shall be fined not more than \$100,000.

"(g) All fish taken or retained in violation of subsection (a) of this section, or the monetary value thereof, may be forfeited.

"(h) All provisions of law relating to the seizure, judicial forfeiture, and condemnation of a cargo for violation of the customs laws, the disposition of such cargo or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act, insofar as such provisions of law are applicable and not inconsistent with the provisions of this Act."

SEC. 5. Section 10 of the Act entitled "Tuna Conventions Act of 1950" (16 U.S.C. 959) is amended by deleting the section in its entirety and substituting in lieu thereof the following:

"Sec. 10. (a) The judges of the United States district courts and United States commissioners may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this Act and the regulations issued pursuant thereto.

"(b) Enforcement of the provisions of this Act and the regulations issued pursuant thereto shall be the joint responsibility of the United States Coast Guard, the United States Department of the Interior, and the United States Bureau of Customs. In addition, the Secretary of the Interior may designate officers and employees of the States of the United States, of the Commonwealth of Puerto Rico, and of American Samoa to carry out enforcement activities hereunder. When so designated, such officers and employees are authorized to function as Federal law enforcement agents for these purposes.

"(c) Any person authorized to carry out enforcement activities hereunder shall have the power to execute any warrant or process issued by any officer or court of competent jurisdiction for the enforcement of this Act.

"(d) Such person so authorized shall have the power—

"(1) with or without a warrant or other process, to arrest any persons subject to the jurisdiction of the United States at any place within the jurisdiction of the United States committing in his presence or view a violation of this Act or the regulations issued thereunder;

"(2) with or without a warrant or other process, to search any vessel subject to the jurisdiction of the United States, and, if as a result of such search he has reasonable cause to believe that such vessel or any person on board is engaging in operations in violation of the provisions of this Act or the regulations issued thereunder, then to arrest such person.

"(e) Such person so authorized may seize, whenever and wherever lawfully found, all fish taken or retained in violation of the provisions of this Act or the regulations issued pursuant thereto. Any fish so seized may be disposed of

CONSERVATION OF TROPICAL TUNA

pursuant to the order of a court of competent jurisdiction, pursuant to the provisions of subsection (f) of this section or, if perishable, in a manner prescribed by regulations of the Secretary of the Interior.

"(f) Notwithstanding the provisions of section 2464 of title 28 of the United States Code, when a warrant of arrest or other process in rem is issued in any cause under this section, the marshal or other officer shall stay the execution of such process, or discharge any fish seized if the process has been levied, on receiving from the claimant of the fish a bond or stipulation for the value of the property with sufficient surety to be approved by a judge of the district court having jurisdiction of the offense, conditioned to deliver the fish seized, if condemned, without impairment in value or, in the discretion of the court, to pay its equivalent value in money or otherwise to answer the decree of the court in such cause. Such bond or stipulation shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in event of any breach of the conditions thereof as determined by the court. In the discretion of the accused, and subject to the direction of the court, the fish may be sold for not less than its reasonable market value and the proceeds of such sale placed in the registry of the court pending judgment in the case."

SEC. 6. Nothing in this Act shall be construed to amend or repeal the provisions of section 4311 of the Revised Statutes, as amended (46 U.S.C. 251).

Passed the Senate July 18, 1962.

Attest:

FELTON M. JOHNSTON,
Secretary.

DEPARTMENT OF STATE,
Washington, July 25, 1962.

HON. THOMAS E. MORGAN,
*Chairman, House Committee on Foreign Affairs,
House of Representatives.*

DEAR MR. CHAIRMAN: S. 2568, as amended, was passed by the Senate on July 18, 1962, and referred to your committee. This bill, which would amend the act of September 7, 1950, so as to enable this Government further to carry out its obligations under the Inter-American Tropical Tuna Convention, is sponsored by this Department. With certain exceptions the Senate-approved text of S. 2568 represents a compromise version worked out in consultations between representatives of the Departments of State and Interior with interested segments of the U.S. tuna industry. These consultations followed hearings before the Senate Commerce Committee on the text of legislation originally proposed by the Department in letters dated September 14, 1961, to the Speaker of the House and to the Vice President of the Senate. A House bill has not been introduced.

The exceptions referred to above do not represent remaining differences between the administration and the tuna industry. Rather they are the result of consultations subsequent to the approval by the Senate of S. 2568. In point of fact, there is agreement with the tuna industry on these items and, it is understood, the industry's representatives are notifying your committee directly of this. With these changes, which are described below, S. 2568 may be considered noncontroversial.

In its present form S. 2568 would define the United States as follows:

"(e) 'United States' includes its territories, possessions, and other areas under its control or jurisdiction" (lines 4 and 5, p. 10).

The Department feels that this is much too broad a definition. The term "other areas under its control or jurisdiction," which had originally been proposed by the industry for the definition, would raise serious questions as to whether the legislation would have application to areas with respect to which the United States exercises some form of administrative, leasehold, or other control but with respect to which its legislation is not ordinarily extended. After further consideration it is now believed that the conservation program underlying S. 2568 would be effectively served by defining the United States as follows:

"(e) 'United States' shall include all areas under the sovereignty of the United States, the Trust Territory of the Pacific Islands, and the Canal Zone."

In addition to the foregoing substantive change, two changes of a purely editorial nature merely for purposes of clarification are desirable. Both occur on page 13 of S. 2568: (1) The word "such" ought to be substituted for the word "any" in line 9; and (2) the sentence in lines 12 to 18 should, preferably, read as follows:

"The aforesaid prohibitions shall continue until the Secretary of the Interior is satisfied that the condition warranting the prohibition no longer exists, except that all fish in any form of the species under regulation which were previously prohibited from entry shall continue to be prohibited from entry."

As noted, neither of these two changes is intended to affect the substance. Regarding the latter one, the Department would point out that with respect to eligibility for the U.S. market of tuna on hand once an embargo has been lifted, a clear distinction is to be drawn between embargoed tuna of a regulated species (e.g., yellowfin), on the one hand, and embargoed tuna of a species that is not under regulation but which is only under investigation by the Commission (e.g., skipjack and bigeye), on the other. In the latter case the tuna caught during the period it was subject to the embargo would not be barred from the U.S. market upon the revocation of the embargo. In the other case, supplies of regulated species which had been embargoed would continue to be prohibited from entry after the lifting of the embargo. The last-mentioned treatment is necessary to avoid a means of easy circumvention of the embargo, as where a country might ignore the conservation regulations, then set its house in order and proceed to market in the United States the tuna it had caught in contravention of the regulations.

It is very important that S. 2568, with the changes indicated above, be enacted into law during the present session of Congress if at all possible. The reason for this is twofold: (1) The United States is committed by the terms of the Inter-American Tropical Tuna Convention "to enact such legislation as may be necessary to carry out the purposes of * * * [the] Convention," and its principal purpose is conservation of the tuna resources in concern, and (2) delay will only work to the disadvantage of the conservation program for yellowfin tuna, this species having been found to be in need of catch restrictions. Your committee's urgent attention to this matter is, therefore, respectfully requested.

The Department has been advised by the Bureau of the Budget that from the standpoint of the administration's program there is no objection to the submission of this report.

Sincerely yours,

FREDERICK G. DUTTON,
Assistant Secretary.

Mr. SELDEN. We have with us this morning several witnesses from the executive branch of the Government. They include Mr. Fred E. Taylor, Deputy Special Assistant for Fisheries and Wildlife to the Undersecretary of State; Mr. Ralph E. Curtiss, Legislative Adviser to the Bureau of Commercial Fisheries, Department of the Interior; and Dr. J. Laurence McHugh, U.S. Commissioner of Inter-American Tropical Tuna Commission.

Our first witness is Mr. Fred E. Taylor. Mr. Taylor, will you proceed.

Mr. TAYLOR. Yes, sir.

STATEMENT OF FRED E. TAYLOR, DEPUTY ASSISTANT FOR FISHERIES AND WILDLIFE TO THE UNDER SECRETARY OF STATE

Mr. TAYLOR. My name is Fred E. Taylor. I am Deputy Special Assistant for Fisheries and Wildlife to the Under Secretary of State. It is my privilege to appear before you to testify on behalf of S. 2568, as amended, legislation sponsored by the Department of State. S. 2568, as amended, was formulated in consultation with the U.S. tuna industry, and with certain exceptions, noted hereinafter, represents a text that the industry in general can support.

At this point I must depart from my prepared statement to inform the committee that only at the last minute did I learn of a mental

reservation on the part of one element of the tuna industry concerning the implications of this law in the international aspect. That element is the American Tunaboat Association. I have had no opportunity to discuss this matter with its representative. I hope to presently. Until this development we had the full and complete agreement of that association as well as of all the other organizations of the tuna producing and processing industries to S. 2568, as amended, including the further changes I am going to mention hereinafter.

Mr. SELDEN. I might say to you, Mr. Taylor, there will be an opportunity for other witnesses to be heard in connection with this legislation if they so desire.

Mr. TAYLOR. Yes, sir.

Essentially, S. 2568, as amended, would revise the existing basic tuna legislation (16 U.S.C. 951) so as to adapt that legislation to present-day needs. The Inter-American Tropical Tuna Commission has recommended certain conservation measures for yellowfin tuna in the eastern tropical Pacific Ocean, the United States accepted the recommendation, and it has therefore become necessary for the United States to effectuate it. S. 2568, as amended, does just that, vesting certain authority essential to the regulation of nationals and vessels of the United States for purposes of conservation. But before going further into the content of the proposed legislation under consideration here today, I should like to comment briefly upon the origin of the tuna conservation regime for the eastern tropical Pacific Ocean.

In 1949 this Government negotiated with Costa Rica a Convention for the Establishment of an Inter-American Tropical Tuna Commission. The convention entered into force on March 3, 1950. The original two parties have since been joined by Panama and Ecuador through adherence by the latter to the convention. The Government of Colombia has signified interest in adhering to the convention.

This convention is concerned with the establishment and operation of an international commission. The Commission has responsibility and authority for gathering and interpreting factual information to facilitate maintaining the populations of yellowfin and skipjack tuna, as well as other kinds of fish taken by tuna fishing vessels in the eastern tropical Pacific Ocean, at a level which would permit maximum sustainable catches year after year. In actuality, the convention is a forward-looking device; that is, it looks to the prevention of the depletion of high seas resources, rather than, as has traditionally been the case, to means for their restoration after depletion has already occurred. In the ensuing dozen years the Commission established by the convention has carried out an enlightened and technically advanced program of research which has made it possible for the Commission to determine, with some assurance, the maximum sustainable yield that can be obtained from the yellowfin tuna stock in the convention area and the general size of the yellowfin stock required to support this yield. As a result of recent technological developments, principally use of the power block for hauling nets and use of synthetic fiber in net construction, the catch of yellowfin by our fleet increased rapidly during the last few years and, in 1961, for the first time reached and somewhat exceeded the catch that can

be sustained by the yellowfin stock on a continuing basis. At a special meeting in September 1961 the Commission reviewed the situation and concluded that the intensive fishing would continue and that the annual catch for several years, beginning in 1962, should therefore be limited to 83,000 tons in order to restore the stock to the level that would provide the maximum sustainable yield. Failure to do this would result in further overfishing and further reduction in the sustainable yield. This recommendation was accepted by the U.S. Government.

The present implementing legislation for the tuna convention was enacted in 1950 when the need for conservation regulations was remote, and when knowledge of the kind of regulations that might ultimately be needed was not at hand. For this reason the 1950 implementing legislation did not include authority to regulate. S. 2568, as amended, will rectify this situation.

At the beginning of my statement I referred to certain exceptions that are taken to the text of S. 2568. One is substantive, the others purely editorial for purposes of clarification. These items do not represent differences between the administration and our tuna industry. Actually, they were the subjects of consultation with the industry and agreement following Senate approval of S. 2568, as amended. The one has reference to the definition of the United States. The others to preferred language for the latter portion of section 2. All this is fully explained in the Department's letter of July 25, 1962,¹ to the committee and I will not take up the committee's time by repeating here what was said in that letter.

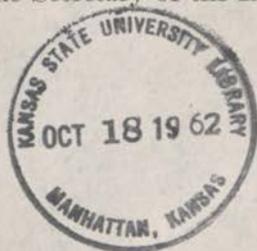
I will now review briefly the principal provisions of S. 2568, as amended, and their purposes in relation to the tuna conservation regime:

Section 2. The Tuna Conventions Act of 1950 (16 U.S.C. 951), the existing basic tuna legislation, would be amended to authorize the Secretary of the Interior to promulgate regulations to carry out recommendations of the Commission, upon the approval of such recommendations by the Secretary of State and the Secretary of the Interior, and sets out the procedure to be followed in doing this. The law would look to the application of such regulations to U.S. nationals by an agreed date for the application by other concerned countries of effective regulations against their nationals, exception being made for instances where the catch by another country would be insignificant. The Secretary of the Interior would be authorized to suspend the application of the regulations he has promulgated when, after consultation with the Secretary of State and the U.S. Commissioners, he determines that unregulated foreign fishing in the regulatory area constitutes a serious threat to the achievement of the objectives of the Commission's conservation recommendations.

Section 2 also gives examples of types of conservation regulations that the Secretary of the Interior may promulgate.

In addition, section 2 contains a singularly important proviso to the effect that, under certain circumstances, the Secretary of the In-

¹ See p. 4.



terior, with the concurrence of the Secretary of State, shall promulgate regulations embargoing from any country tuna, in any form, of those species subject to regulation pursuant to a recommendation of the Commission. The circumstances that call for this action are: (1) when the fishing vessels of such country are being operated in a manner that would defeat or diminish the effectiveness of the conservation recommendations of the Commission, or (2) when the tuna was taken from the regulatory area by persons not nationals of such country in a manner or under conditions which would defeat or diminish the effectiveness of the conservation recommendations of the Commission. In certain circumstances, the embargo may extend to other species of tuna that are only under investigation by the Commission; that is to say, which are not under regulation. The legislation provides that the mandatory limitation on imports shall be placed into effect at the time that regulations applicable to U.S. fishermen are promulgated. These provisions are intended to remove any possibility that the lucrative U.S. market for raw or processed tuna will provide incentives for the fishermen of other countries to operate in a manner that will defeat the purpose of the Commission's conservation program, or to withhold or unnecessarily delay the furnishing to the Inter-American Tropical Tuna Commission of the current catch records necessary for the effective operation of the conservation program. These provisions also guard against the possibility of an obvious inequity, since manifestly it would be unfair to impose strict limitations on U.S. fishermen for the purpose of conservation when the fishermen of other countries were operating in a manner which made such a conservation program ineffective and were exporting the tuna caught to U.S. markets in competition with the production of our fishermen.

Section 3 contains authority necessary to the examination of essential catch returns, statistical records, and the like that are required by the regulations adopted under this legislation.

Section 4 accomplishes a number of things:

(a) It makes it an offense for any person to engage in fishing in violation of any regulations adopted by the Secretary of the Interior under the act or to deal in fish taken in violation of such regulations;

(b) It makes it unlawful for the master or owner or any person in charge of a fishing vessel of the United States to fail to cooperate in certain respects concerned with the keeping and inspection of records required by regulations adopted under this legislation;

(c) It, in effect, makes it unlawful for any person to violate an embargo promulgated by the Secretary of the Interior under the act;

(d) It spells out the penalties applicable to the various offenses; and

(e) It describes certain judicial procedures with respect to enforcement activities.



Section 5 lodges enforcement responsibility jointly with the U.S. Coast Guard, the Department of Interior, and the Bureau of Customs, and contains authority for the designation of officers and employees of States of the United States and of Puerto Rico and American Samoa to carry out enforcement responsibilities. It also:

(a) Deals with legal procedures in regard to enforcement activities;

(b) Limits seizures to the cargo of tuna, thereby excepting fishing gear and vessels which had been contemplated in the original version of S. 2568, a change rendered desirable by the unreasonable burden that would otherwise fall on the owners and operators owing to difficulties in getting financing for repairs and fishing operations when vessels and gear are subject to possible forfeiture; and

(c) Gives the accused the choice of selling an alleged illegal cargo of fish at its reasonable market value and placement of the funds in escrow as an alternative to furnishing a costly bond, the premium on which would not be recoverable regardless of the outcome of the charges.

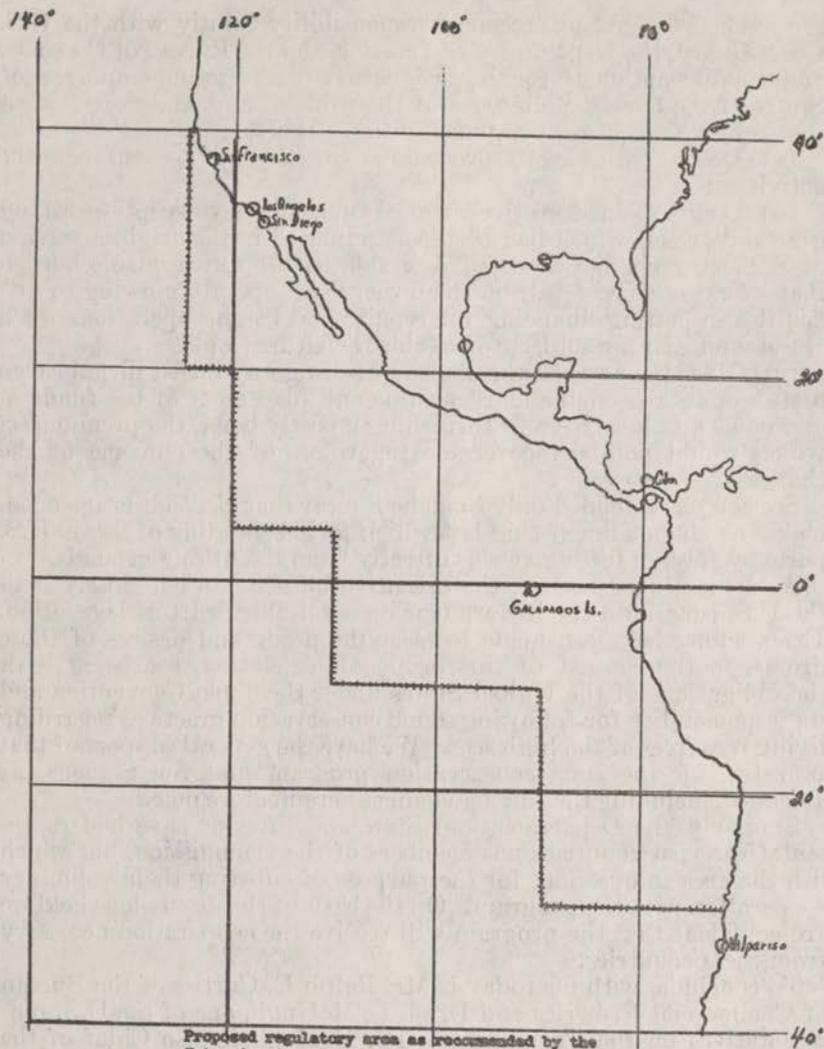
Section 6 is intended only to make it clear that S. 2568, as amended, makes no change in existing law which forbids landing of fish in U.S. ports by foreign fishing vessels directly from the fishing grounds.

As I mentioned earlier, the executive branch worked closely with the U.S. tuna industry in formulating a suitable draft of legislation. Every effort has been made to meet the needs and desires of those groups in the context of this proposed legislation, consistent with the obligations of the United States under the Tuna Convention and its responsibility for following sound conservation practices regarding living resources of the high seas. We have the general support of that industry for the tuna conservation program and for S. 2568, as amended, including the further changes hereinbefore noted.

Similarly, the Departments of State and Interior have had representatives visit countries not members of the Commission, but which fish the area in question, for the purpose of enlisting their voluntary cooperation with the program. On the basis of the discussions held we are confident that the program will receive the cooperation necessary from these countries.

To conclude, with me today is Mr. Ralph E. Curtiss of the Bureau of Commercial Fisheries and Dr. J. L. McHugh, one of the U.S. representatives on the Commission. Dr. McHugh is also Chief of the Division of Biological Research, Bureau of Commercial Fisheries, Department of the Interior. He is prepared to present the scientific basis for the Commission's current recommendation regarding yellowfin tuna.

I shall now be happy to try to answer any questions you may have on this proposed legislation.



Proposed regulatory area as recommended by the Inter-American Tropical Tuna Commission at its meeting in Quito, Ecuador, May 16-18, 1962

Mr. SELDEN. Mr. Taylor, I think it would be of interest to the committee to know what countries are members of this Inter-American Tropical Tuna Commission.

Mr. TAYLOR. The original signatories are the United States and Costa Rica. Panama adhered pursuant to an adherence provision in the treaty, as did Ecuador last year.

Colombia has asked to join but her membership has not been perfected.

Mr. SELDEN. How does this Commission affect other countries on the Pacific side that would be fishing in these waters?

Mr. TAYLOR. Countries that are not parties to the convention have no legal obligation to observe its provisions, of course. Recognizing

this, we had representatives visit each of the countries concerned; that is, those nonmember countries whose nationals fish in a substantial way in the area—including Japan—I visited Japan myself—with a view to enlisting their voluntary support for conservation purposes. The preliminary indications are that they will voluntarily cooperate. One informal governmental meeting of members and nonmembers has already been held in Quito in May of this year and another is in prospect, now that we have a proposed law that we can speak to them about.

Mr. SELDEN. What countries fish in this area and catch tunafish in any substantial amounts that are not members of the Commission?

Mr. TAYLOR. Japan, which is primarily interested in the bigeye tuna in the area, but whose incidental catch of yellowfin we are primarily concerned with here.

In this hemisphere Peru is the principal producer of fish from the area which is not a member of the Tropical Tuna Commission. Colombia and I think possibly Costa Rica, to some extent. Certainly Mexico, Honduras, Nicaragua, and Chile to some extent off the northern part of the coast.

Mr. SELDEN. Is it possible to carry out these conservation measures with some of the countries who fish in the area agreeing to certain controls and others not agreeing to these controls?

Mr. TAYLOR. We are convinced that it is, sir, and on the contingency that it is not, have incorporated in this proposed law a provision to the effect that the Secretary of the Interior shall suspend the application of the regulations against U.S. fishermen in the event nonmembers operate in a manner as would tend to defeat the conservation program, so that our people will not be placed at a competitive disadvantage.

Mr. SELDEN. Is that included in this legislation?

Mr. TAYLOR. Yes.

Mr. SELDEN. Mr. Beckworth.

Mr. BECKWORTH. No questions.

Mr. SELDEN. Mr. Mailliard.

Mr. MAILLIARD. I have just one question, Mr. Chairman.

You mentioned that the Secretary can suspend the regulations against the U.S. fishermen. The embargo provisions here—how does that work and against whom?

Mr. TAYLOR. I will be glad to speak to that, although I would prefer that the representative of the Interior Department which is the one to place the embargo in effect would speak principally on it.

I will say briefly, sir, that the embargo would be promulgated at the time the Secretary of the Interior promulgates regulations—conservation regulations applicable to our nationals. It would have application only if certain circumstances and certain conditions prevailed. It would have application to a country only if it fished in a certain way. The embargo would be there.

Mr. MAILLIARD. The embargo would be effective against signatories and nonsignatories?

Mr. TAYLOR. That is true and I would think that it was aimed primarily at nonsignatories because we expect the signatories to live up to their treaty obligations.

I would like to correct one statement, sir—not correct it but elaborate upon it a bit. That is, the suspension of regulations as appropriate because of noncooperation by a nonmember, by the Secretary of the Interior, is with the concurrence of the Secretary of State and, I believe, after consultation with him and after consultation with the U.S. commissioners. This is a joint determination as to whether the regulations against our people should be lifted.

Mr. MAILLIARD. This would be done only if the embargo procedures fail?

Mr. TAYLOR. That is true. It is a step-by-step process. If the embargo did not do the job, ultimately we have some way of relieving the situation for our fishermen. It would be an unhappy development from the standpoint of the resource because it would be a free-for-all with no restrictions, no restraints, and no resource ultimately, commercially speaking.

We cannot expect certain people to be under regulations when others ignore it on a substantial scale.

Mr. MAILLIARD. Can you tell us how closely this adheres or in what principal manner it departs from other similar conservation agreements?

Mr. TAYLOR. The principal difference between this conservation regime and the traditional conservation regime is that it is aimed at preventing overfishing rather than restoring the resource after it has been overfished.

Over the period of 12 years that the Commission has been in existence it has conducted a great deal of research with regard to the population of the fishes, the migratory habits; they have tagged fish, they have made blood studies, and they have reached the conclusion that the yellowfin stock can withstand just so much fishing effort. At the beginning here, if we start controlling the catch now—it was overfished a bit last year—but if we start controlling it now we won't have a depleted resource which we will have to build up again.

Mr. MAILLIARD. How does this compare, for example, with the halibut conservation, and so forth? Is this a similar pattern?

Mr. TAYLOR. Our fishery commissions, except for the Northwest Atlantic Commission, follow a similar pattern. In the case of the International Commission for the Northwest Atlantic Fisheries there is a series of panels. The membership on the panels depends upon where you fish in the area, so only those on the panel are interested in the areas relating to that panel. This follows the regular conservation procedures by the United States, which is probably the leading country in this field along with Canada. It departs in one important respect in that it looks to prevention of overfishing rather than restoration of the resource after it has been brought down.

Mr. SELDEN. Who are the U.S. members?

Mr. TAYLOR. Well, Dr. McHugh here is the Federal member. Eugene Bennett is the chairman of the U.S. section and also chairman of the Commission this year. He is a San Francisco attorney, as I am sure you know.

Mr. MAILLIARD. Yes. A constituent, and good friend.

Mr. TAYLOR. Robert Jones from Gearhart, Oreg., who has been a long-time member of the Oregon Fish and Game Commission; and a new member, John Driscoll, from San Diego, has just been appointed.

Mr. MAILLIARD. Thank you.

Mr. SELDEN. Mr. Whalley.

Mr. WHALLEY. Thank you, Mr. Chairman.

Mr. TAYLOR, it says here that in 1949 apparently Costa Rica and the United States jointly formed the Inter-American Tropical Tuna Commission and that Panama and Ecuador pretty much lived up to the agreement, as well as Colombia.

Wouldn't it have been easier to have had Japan, Peru, and these other countries join the Commission? We are interested in whether they were approached to come into this Commission.

Mr. TAYLOR. We have repeatedly invited them to attend the annual meetings of the Commission in an observer capacity. They have been invited to join. All that is necessary to their membership is the assent of the existing membership, which would be readily forthcoming, I am sure.

We were encouraged at the last meeting of the Commission in Quito last May. We feel that Mexico is seriously considering joining the Commission and that would be another important step.

Mr. WHALLEY. Which country is principally involved in tuna? Would it be the most active in tuna fishing?

Mr. TAYLOR. The United States is the country principally concerned with the tuna fishing.

Mr. WHALLEY. Of the others?

Mr. TAYLOR. Peru and Mexico, and next, Ecuador.

Mr. WHALLEY. Does this Commission have annual meetings?

Mr. TAYLOR. Yes.

Mr. WHALLEY. You would think over 13 years' time you could have persuaded those countries singly, like Mexico, and eventually you would have all of them as members. That would seem to be the way to get the best results.

Mr. TAYLOR. I could explain that, but not on the record, sir, very readily.

Mr. MAILLIARD. Let's go off the record.

Mr. SELDEN. We are not in executive session.

Mr. TAYLOR. From my knowledge of the persons present here, I would be pleased to make an explanation here.

Mr. SELDEN. We will go off the record temporarily.

(Discussion off the record.)

Mr. SELDEN. Are there any further questions the members present would like to ask Mr. Taylor?

If not, our second witness is Mr. Ralph E. Curtiss, legislative adviser to the Bureau of Commercial Fisheries, Department of the Interior.

Thank you, Mr. Taylor.

**STATEMENT OF RALPH E. CURTISS, LEGISLATIVE ADVISER,
BUREAU OF COMMERCIAL FISHERIES, DEPARTMENT OF THE
INTERIOR**

Mr. CURTISS. Mr. Chairman, I am Ralph E. Curtiss, legislative adviser to the Bureau of Commercial Fisheries, Department of the Interior. I have a prepared statement which I furnished the committee, but I am prepared to summarize unless the committee would prefer that it be read in its entirety.

Mr. SELDEN. Without objection, Mr. Curtiss' prepared statement will be included as a part of the record at this point.

(The prepared statement of Mr. Curtiss follows:)

STATEMENT OF RALPH E. CURTISS, LEGISLATIVE ADVISER, BUREAU OF COMMERCIAL FISHERIES, DEPARTMENT OF THE INTERIOR

Mr. Chairman and members of the committee, I am Ralph E. Curtiss, legislative adviser, Bureau of Commercial Fisheries, Department of the Interior. Amendment of the Tuna Conventions Act of 1950 by S. 2568 in its present form would place responsibilities on the Department of the Interior for promulgation of regulations and for certain enforcement activities. The Department of the Interior recommends the enactment of S. 2568 as a necessary step in the conservation action which must be taken if the U.S. Government is to respond to the recommendations of the Inter-American Tropical Tuna Commission. We believe our Government should cooperate to implement the recommendations of the Commission in order to prevent damage to this valuable resource and to maintain the maximum sustained yield from the fishery.

If S. 2568 becomes law, the amended Tuna Conventions Act of 1950 would authorize the Secretary of the Interior to promulgate regulations to carry out the recommendations of the Commission after such recommendations were approved by both the Secretary of State and the Secretary of the Interior. The bill contains language which indicates the various forms such regulations might take. This authority, while described in more detail in this bill, parallels the authority now held by the Secretary of the Interior for the promulgation of regulations to implement the findings of the Halibut Commission, the International Commission for the Northwest Atlantic Fisheries, the International North Pacific Fisheries Commission, and the International Whaling Commission. It is, therefore, the type of authority with which we have had some experience and for which there is ample precedent.

In the current situation, the Inter-American Tropical Tuna Commission has recommended the fixing of a specific quota for the amount of yellowfin tuna that can be taken from the convention area during the current year. The regulations initially established would, therefore, select this species for regulation, publish the recommended quota, and describe the regulatory area.

We have not, at this time, completed drafting the proposed regulations since there is, in fact, no authority for such action. We have, however, planned for such regulations in general terms, and we believe the committee may be interested in a general description of the type of regulations which would be submitted for public hearing. In passing, let me point out that the bill provides for public participation in the rulemaking process through submission of written data, views, or arguments, and oral presentation at a public hearing. After defining the principal terms which would be used throughout the regulation, we would set out in detail the specific area of the Eastern Pacific Ocean established by the Inter-American Tropical Tuna Commission as the regulatory area. Such regulatory area would consist of the waters of the Pacific Ocean off the coast of North America, Central America, and South America which, to the best of our present knowledge, includes the geographic distribution of the stocks of yellowfin tuna of interest to the Commission.

Our proposed regulations would provide for the registration of vessels fishing for yellowfin tuna in the regulatory area. The mechanics for the issuance of clearance certificates by appropriate Government officials would be spelled out, and provisions for validating a clearance certificate prior to departure for each fishing trip would be included.

There would be a section to prescribe the method for publishing annually the yellowfin quota as recommended by the Commission and approved by the party governments. Such publication would be the medium by which the industry would be advised of the official annual quota, which would be adjusted with appropriate recommendations each year by the Commission.

The regulations would include a section providing for automatic closure of the yellowfin season on the date on which the quota would be reached, as determined by the Commission through its Director of Investigations. This determination would be based upon reported yellowfin landings, plus anticipated landings by vessels still at sea on the date of the determination. The regulations would provide for legal notice of that date to the public. The regulations would also permit the incidental taking of yellowfin during a fishing trip after

the close of the yellowfin season. Pursuant to the recommendations of the Commission, such incidental catch of yellowfin would be limited so as not to exceed 15 percent by weight of the total catch made on the trip.

In 1962 the annual quota for all nations would be fixed at 83,000 tons. When the catch reaches 78,000 tons, the season would be closed for yellowfin tuna fishing, although boats would still be permitted to fish for other species of tuna and would be allowed, during the closed season, to land not more than 15 percent by weight of yellowfin among the total catch of each boat. It is estimated that this would result in landings of an additional 5,000 tons of yellowfin.

Provision for reporting amounts of yellowfin taken must be included in the regulations. The data which would be required are now being furnished by the industry, but we would need such information on a more current basis in order to determine accurately the cutoff date for taking yellowfin. We have under consideration a method of catch reporting by radio as the date of filling the quota is approached. During most of the season, weekly reports will be sufficient.

The regulations would include provisions for the keeping of a logbook by each registered vessel to facilitate accurate reporting of catch returns. We would also make clear the categories of vessels exempt from the regulations. Such exempt vessels would be—

1. Those engaged in fishing for scientific purposes.
2. Those documented as common carriers and not engaged in fishing.
3. Those of less than 10 gross tons.
4. Those engaged in sport fishing.

In our approach to this bill and to the regulations which would result if the bill becomes law, we are cognizant of the effect of such regulations upon this important industry as well as the conservation of the resource. Our thesis is that there should be the least possible regulation consonant with effective conservation. We realize that the best way to obtain compliance with such law and regulations is to demonstrate to the people affected that the law and regulations are designed for their benefit and for the benefit of the country as a whole. We have, therefore, conferred with the various segments of this fishing industry to obtain their ideas on the problem and the various solutions possible for it.

The language of the bill as it is now before this committee is the result of several conferences between representatives of the Departments of State and Interior and representatives of the industry which will be affected by it.

The principal and understandable concern of the industry in the matter of this bill and the regulations which would result from it, if enacted, is that there would be restrictions placed on the American fishing industry while nationals of other countries would be permitted to exploit the resources. There are three factual situations which this legislation must cover in order to apply restrictions in a manner which will be fair and equitable to our fishery:

First, it would be possible for nationals of other parties to the convention to exploit the resource at a time when American fishermen could not, if those party governments permitted them to fish contrary to the intent of the Commission's restrictions;

Second, it would be possible for nationals of countries not party to the convention to exploit the resource while Americans were denied access to the fishing if their Government permitted them to fish contrary to the intent of the Commission's restrictions; and

Third, it would be possible for nationals of the United States to evade control by fishing during the closed season and landing their catches in foreign countries.

The provisions of S. 2568 are designed to cover such factual situations, and I will review them. However, before doing so, I would like to mention some other factors which tend to mitigate the problems. While it is true that the Inter-American Tropical Tuna Commission has no authority to regulate fishing activity, the parties to it do have such authority. Our contact with these governments, both at the regular meetings of the Commission and on a recent survey trip to each such country taken by representatives of the Departments of State and Interior, encourages us to believe that these countries will take the parallel action contemplated by the terms of the convention. Our Government is a party to other international agreements which contemplate regulatory action by the party governments rather than the Commission itself, and our experience with them has been completely satisfactory, not only to Government but also to the affected industries as well. Examples that come quickly to mind are the International Convention for the Northwest Atlantic Fisheries, the North Pacific

Halibut Convention, the North Pacific Fisheries Convention, and the Great Lakes Fishery Convention.

The countries not party to the convention which are in a position substantially to exploit the resource are Mexico, Colombia, Peru, Chile and Japan. Direct contact has been had by our Government with these Governments to discuss this question, and all have given us reason to believe that their cooperation will be forthcoming. Colombia has requested membership in the Commission and Japan has expressed interest. In an official communication to our Government, Japan indicated that it would respect the yellowfin tuna conservation program of the Commission and would, so far as is practically possible, provide the Commission with current yellowfin tuna catch statistics for the area involved.

For these reasons, we believe the three possible threats to achievement of reasonable control of the tuna fishery will not actually materialize. However, there are further safeguards built into this bill to prevent unfair competition to our industry. The bill provides that once the Secretary of the Interior promulgates conservation regulations for the American industry, he then shall promulgate additional regulations, with the concurrence of the Secretary of State, to prohibit entry into the United States, from any country when the vessels of such country are being used in the conduct of fishing operations in the regulatory area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the Commission, of fish in any form of those species which are subject to regulation. This means that all yellowfin tuna taken from the regulatory area, regardless of when taken, will be denied entry into the United States from any country whose fishermen violate the closed season on yellowfin. This import prohibition would be an effective deterrent to fishing contrary to the intent of the regulations by nationals of the country where the importation would originate. In addition, the bill authorizes regulations to prevent the importation of yellowfin tuna taken contrary to the Commission recommendations and shipped to the United States through a third country. In the event of repeated and flagrant violations by any country, the importation of other species of tuna covered by the convention could be denied.

An additional safeguard built into this bill is the authority given to the Secretary of the Interior to suspend the conservation regulations in the event he finds that foreign fishing operations in the regulatory area are such as to constitute a serious threat to achievement of the recommendations of the Commission. In this regard, the Secretary of the Interior is to have the benefit of consultation with the Secretary of State and the U.S. representatives on the Inter-American Tropical Tuna Commission.

Some concern has been expressed by the industry that the large size of the regulatory area will make impractical constant surveillance of the fishing fleet while at sea. It is true that our enforcement will be shore-side inspections for the most part, but we do believe we will have considerable information concerning fishing activities in the area from our own American fishing fleet and from such patrols as we will be able to mount by cooperation with the Coast Guard. It should be noted that, in the import regulations contemplated by this legislation, the burden of proof will be on the foreign shipper to satisfy the Secretary of the Interior that yellowfin tuna offered for importation was not taken from the regulatory area during the closed season.

There was some objection to the forfeiture provisions of the original bill. It was believed that the liability for forfeiture of the fishing vessel would hinder the industry in the financing of fishing ventures. The bill in its present form meets this objective by providing only for forfeiture of the fish taken in violation of the regulations. Because of the high value of the fish, it is believed that the present forfeiture provisions are sufficient to obtain proper compliance with law and regulations.

In summary, we in the Department of the Interior believe that this bill will give to the Secretary of the Interior the authority he would need to fulfill the commitments of our Government for the conservation of the fishery according to the recommendations of the international body to which we hold membership. We believe that under such authority we can promulgate regulations to conserve the fishery and at the same time safeguard the interests of the important American industry affected. After considering the specific safeguards mentioned, it is to be noted that should it appear that regulation was unfair to our industry because of the acts of nationals of other countries over whom control was not effective, we have the ultimate safeguard that the Secretary of the

Interior can suspend the regulations and remove the restraint on the American industry.

I will be glad to attempt to answer any questions the committee may have concerning the part our Department would have in this international conservation effort.

Mr. CURTISS. The amendment of the Tuna Conventions Act of 1950 at this time and in the form suggested by this bill would place the responsibility on the Department of the Interior for promulgation of regulations and for the enforcement of those regulations. We feel that this bill is necessary to respond to the conservation recommendations which have been made by the International Commission. We believe we should cooperate to implement the recommendations of the Commission to prevent damage to this valuable resource and to maintain the maximum sustainable yield from this very valuable fishery.

Under Interior's authority under the bill we would carry out the recommendations of the Commission, after those recommendations have been approved by the Secretary of the Interior and the Secretary of State. The authority described in this bill is parallel to the authority which the Department of the Interior now has in connection with other international agreements. The authority is spelled out with a little more particularity perhaps in this bill, but basically it is the same authority that we have under other conventions.

Under the recommendations now approved—recommendations from the Tuna Commission—if the bill should be passed our regulations would cover a number of specific items and I would just briefly like to cover these with the committee if I may. The recommendation, as Mr. Taylor indicated, is for 83,000 tons for this year. And you understand, of course, that this quota would be adjusted annually by the Commission, depending upon the scientific data that each year produces.

We would begin the development of our regulations first by presenting them to the industry and the general public at a public hearing which is required under this proposed bill. They would be furnished the industry in advance of the hearing to give them ample opportunity to comment, suggest, and help in the promulgation of an equitable regulation. We would begin by defining the terms that would be used in the regulatory process. We would describe the regulatory area. The convention itself is very indefinite as to the convention area. It says, as a matter of fact, "the waters of the eastern Pacific Ocean fished by the nationals of the high contracting parties."

There is a recommendation of the Commission on the regulatory area so that it can be tied down with more definiteness than in the convention. We have this morning furnished the committee with a very rough map, and I think that has been distributed, which will describe the area for you.

We would register the vessels that fish for tuna in the regulatory area and spell out the mechanics for the issuance of clearance certificates for these vessels. We would prescribe the method for annual publication of the yellowfin quota which will be recommended each year by the Commission. The closure of the season and the date the quota is reached would be provided for in the regulations. This date, of course, would be computed from the statistics showing the amount of yellowfin landed during the year plus the anticipated landings

from vessels then at sea. In this connection—that is vessels still at sea—the regulations will contemplate that even though the season may be closed some yellowfin will be caught throughout the year. It is impossible to fish for skipjack and not catch some yellowfin.

Mr. SELDEN. May I interrupt you here. Do these regulations apply only to yellowfin tuna?

Mr. CURRISS. Yes, sir; they will, because the Commission has recommended only that yellowfin be regulated and we are following precisely the recommendations of the international body.

Our regulations will provide for an incidental catch of 15 percent by weight of yellowfin. This means that the season would be closed when we have landed or have anticipated that the vessels then at sea will land 78,000 tons of yellowfin. Then by the application of the 15-percent incidental catch it is calculated by the Commission that an additional 5,000 tons will be caught during the balance of the year for their total recommended figure of 83,000 tons. Further, our regulations will provide for the reporting of yellowfin catches by the fishing vessels, for the maintenance of logbooks to facilitate checks and to insure accuracy in the development of fishery statistics, and finally certain classes of vessels will be exempt. We would propose to exempt those vessels fishing for scientific purposes, common carriers not engaged in fishing, vessels of less than 10 gross tons, and vessels engaged in the sport fishery. Believing that there should be the least possible regulation consistent with effective conservation we have, as Mr. Taylor indicated, conferred with our associates in the Department of State and with representatives of the industry, and the present language of the bill before you is the result of those conferences.

We know that the tuna industry is concerned that some restriction will be placed upon it while the nationals of other countries may be permitted to fish without restraint.

Three principal situations, I suppose, face us there: the nationals of other countries party to the convention being permitted to fish in the regulatory area by their government contrary to the intent of the Commission's recommendations; the same with nationals of countries not party to the convention; and then nationals of the United States who might fish there and evade the restriction by fishing during the closed season and landing their catch in foreign countries.

This bill and the regulations which would be promulgated under it would be designed to meet those three situations. However, there are other factors here which lead us to believe that nationals of other countries and our own nationals will not fish contrary to the recommendations of the Commission. The series of conferences that Mr. Taylor mentioned lead us to believe that these other governments are conservation minded and, insofar as they are able, that they will cooperate.

For example, contact was made with Japan by having Mr. Taylor and Mr. Don Johnson, the California area director of the Bureau of Commercial Fisheries, actually visit Japan, and as a result our Government has an official communication from the Japanese Government in which they advise that with respect to the yellowfin tuna conservation program they would respect this program, and that further, they would provide the Commission, so far as is practicable, with current catch statistics for the area involved.

We are hopeful, then, that we will have the cooperation of all of these other governments. However, there are safeguards built into the bill to prevent unfair competition to our industry. The Secretary of the Interior, having promulgated conservation regulations, is required under the terms of this bill to promulgate immediately regulations which would prohibit the entry into the United States of fish caught in the regulatory area contrary to the spirit of the convention. This means that all yellowfin tuna taken from this regulatory area, regardless of when taken, will be denied entry into the United States from any country whose fishermen violate the closed season on yellowfin. We think this would be an important deterrent. In addition, the bill authorizes regulations to prevent the importation of yellowfin tuna, taken contrary to the Commission recommendations, shipped to the United States through a third country.

In the event of repeated and flagrant violations by any country our Secretary is authorized to deny the importation of the other species of tuna covered by the convention.

Now in addition to these safeguards, we have, of course, the one that Mr. Taylor did mention and that is, failing success in the conservation movement through the fault of some foreign country, the Secretary of the Interior is authorized under the bill to lift the restrictions on American fishing.

We feel that this bill will give to our Secretary the authority that he would need to fulfill the commitments of our Government for the conservation of this fishery according to the recommendations which have been made by the Commission.

Mr. Chairman, this is really a short, sort of hit-the-highspots of our prepared statement. If I can answer any questions, I will be glad to, or furnish any material that I cannot furnish today, later for the record.

Mr. SELDEN. You mentioned, in reply to my earlier question, that only the yellowfin tuna were affected by this legislation because the Commission had recommended that they only be affected.

Mr. CURTISS. Yes, sir.

Mr. SELDEN. However, if I understand this legislation correctly, it does contain authorization for the regulation of other species if the Commission so recommends. Am I correct in that statement?

Mr. CURTISS. This is correct.

Mr. SELDEN. In other words, no further action by Congress will be necessary in the event the Commission decides that other species of tuna should be regulated?

Mr. CURTISS. The only other action by Congress would be the annual appropriation act.

Mr. SELDEN. No authorizing legislation would be necessary?

Mr. CURTISS. No further authorizing legislation would be necessary.

Mr. SELDEN. Can you tell me what percentage of the yellowfin tuna catch is made by the countries who are parties to and bound by the Commission's recommendations?

Mr. McHUGH. About 95 percent. I think the State Department has the accurate figures. The United States makes about 95 percent of the total catch from this area.

Mr. SELDEN. And all other countries make only 5 percent of the catch?

Mr. McHUGH. That is about right.

Mr. SELDEN. Mr. Beckworth?

Mr. BECKWORTH. How difficult would it be to police this kind of arrangement if it should become a reality?

Mr. CURTISS. We have in mind at the present time a shoreside enforcement program, having in mind other fisheries where we have fishing far at sea, with deliveries to the U.S. ports—the International Convention for the Northwest Atlantic Fisheries, for example. We have shoreside enforcement program there supplemented to a small extent by surveys at sea, but from our experience there we are inclined to believe that we can control this by shoreside inspections.

Mr. BECKWORTH. Do you conceive this would cost the U.S. Government a lot more money? What are your thoughts as to additional cost, if any? I refer to dollars, round figures.

Mr. CURTISS. Additional cost, \$75,000.

Mr. BECKWORTH. How would that \$75,000 be spent?

Mr. CURTISS. We would put on five persons. Do you want this in detail?

Mr. BECKWORTH. Yes; in detail.

Mr. CURTISS. We would put on a program supervisor at our area office in California. We would have three fishery management agents of the same type we now have in connection with other enforcement on both coasts, and one clerk-stenographer.

Mr. BECKWORTH. Would these people do a lot of traveling?

Mr. CURTISS. Yes, sir.

Mr. BECKWORTH. How much do you estimate the cost of travel would be annually?

Mr. CURTISS. \$9,600.

Mr. BECKWORTH. That brings this thought to my mind: Do our people in Japan, who represent our Government there, have up-to-date facts and figures about the fishing problems for our country from the Japanese standpoint at all times?

Mr. TAYLOR. The answer is "No, sir." They have been slow getting tuna statistics to us in the past. This has hampered the Commission in its collection of needed statistics so as to be able to make its recommendation.

Mr. BECKWORTH. You mean the Japanese?

Mr. TAYLOR. The Japanese. They have offered to accelerate their furnishing of statistics through our Embassy to us for the sake of this program, now that we have a conservation program, which is dependent on current statistics.

Mr. BECKWORTH. How many people do we have attached to the American Embassy in Japan who are trying to help solve the fishing problem or the problem that relates to the fisheries industry now?

Mr. TAYLOR. We have a fisheries attaché whose responsibility is exclusively fisheries.

Mr. BECKWORTH. Just one man?

Mr. TAYLOR. One man, with a local assistant, a Japanese assistant, and, of course, secretarial service. This fisheries attaché is a ranking man. He is not a junior officer. His field is exclusively fisheries.

Mr. BECKWORTH. The point I am trying to clarify at the present time is: Do we get rather ample information from our Embassy out there concerning Japanese activities in fishing that might favorably or unfavorably affect us?

Mr. TAYLOR. Today, on tuna catches, no.

Mr. BECKWORTH. Would this legislation in your judgment help us to get that information?

Mr. TAYLOR. Yes, sir. I made a trip to Japan this past spring for the express purpose of getting a Japanese commitment to cooperate in the manner in which we felt it necessary to make the program work.

Mr. BECKWORTH. Why would we have to enact this kind of legislation in order to get them to cooperate?

Mr. TAYLOR. This is not aimed at getting the Japanese to cooperate except insofar as it contains inducements, like the embargo that could be levied or brought to bear in the event they should not cooperate. The basic purpose of this legislation is to vest authority for the regulation of our own nationals and to provide safeguards so as not to put them in an inequitable position.

Mr. BECKWORTH. What groups are resisting this type legislation?

Mr. TAYLOR. In the United States?

Mr. BECKWORTH. Yes.

Mr. TAYLOR. Until late yesterday, I was under the distinct impression, as I have had occasion to express to the committee's staff, sir, that we had the full concurrence of all of the affected elements of the American tuna industry. Late yesterday I understand that the American Tunaboat Association, located in San Diego, Calif., had belatedly or at the last minute had some reservations as to some aspects of this bill in connection with its effect upon other countries and their cooperation in the program. I have had no opportunity to speak with the representative of that association, with which we worked out, I thought, quite agreeably, the text of S. 2568, as amended.

Lacking such opportunity, I am not able to speak intelligently on this. He is the only one I know of at the present time who has any reservations about it.

Mr. BECKWORTH. Has he notified you that he would like to be heard, Mr. Chairman?

Mr. SELDEN. We have received a communication from the American Tunaboat Association and we have notified them that there will be an open hearing, at which time they can testify.

Mr. BECKWORTH. Is there anywhere listed in the testimony the groups that are advocating this legislation? I assume there are several groups. Would you enumerate four or five of them?

Mr. TAYLOR. Yes. The American Tunaboat Association, the Fishermen's Cooperative Association—that has reference to the small purse seiners in the San Pedro area; California Fish Cannery Association; International Longshoremen's & Warehousemen's Union, Fishermen's Local 33; Cannery Workers & Fisheries Union; and, last, Seine & Line Fishermen's Union.

Mr. BECKWORTH. Those would be about the only organizational groups that would have an interest.

Mr. SELDEN. Would the gentleman yield?

Mr. BECKWORTH. I yield.

Mr. SELDEN. I had planned to put this information in the record, later, but I will do so at this point. The committee has received correspondence from the following groups concurring with this bill and the proposed amendments by the executive branch of the Govern-

ment: The Seine & Line Fishermen's Union of San Pedro (California), John Calise, business agent; California Fish Cannery Association, Inc., Terminal Island, Calif., Charles R. Carry, executive director; Fishermen's Cooperative Association of San Pedro (California), Anthony Nizetich, general manager.

Without objection, I will include this correspondence at this point. (The correspondence follows:)

SEINE & LINE FISHERMEN'S UNION OF SAN PEDRO,
San Pedro, Calif., July 30, 1962.

HON. ARMISTEAD I. SELDEN, JR.,
Chairman, Inter-American Affairs Subcommittee, Committee on Foreign Affairs,
House of Representatives, Washington, D.C.

DEAR MR. SELDEN: The Senate on July 18 passed S. 2568, a bill to amend the act of September 7, 1950, to extend the regulatory authority of the Federal and State agencies concerned, under the terms of the Convention for the Establishment of an Inter-American Tropical Tuna Commission, signed at Washington, May 31, 1949, and for other purposes, and referred the bill to the House for action.

The bill as passed represents the combined views of all of the major organizations in the California tuna industry. It, also, except for some amendments proposed by the Department of State which did not reach the Senate Commerce Committee in time to be considered by the committee, represented the views of the several Government agencies concerned.

The proposed amendments to which I refer include the definition contained in section 1, beginning on line 24, page 9, and extending through line 5 on page 10 of the version reported by the committee. For a number of reasons the Department of State suggested a modification of the definition of the United States as it is contained therein. There has been further consultation between the Department of State and the appropriate members of the industry with regard to the Department's proposal concerning a modification of this definition. The members of the industry who participated in the several conferences and discussions with the Senate committee staff, with the interested agencies of the Government—the Department of State and the Department of Interior—believe that the new definition proposed by the Department of State will meet the requirements of the industry to close all possible loopholes that might permit evasion of the intent of the legislation. That definition is as follows:

"(e) 'United States' shall include all areas under the sovereignty of the United States, the Trust Territory of the Pacific Islands, and the Canal Zone."

I understand this definition in its reference to "areas under the sovereignty of the United States" includes the 50 States, Puerto Rico, the Virgin Islands, American Samoa, and numerous other insular possessions in accordance with the definition contained in State Department Geographic Report No. 4, dated June 23, 1961, prepared by the geographer of the Department of State.

I understand further that this definition for the purpose of this act only, also includes the Panama Canal Zone and the Trust Territory of the Pacific Islands.

The State Department has also suggested two additional modifications of language in the interest of clarity.

These amendments are also agreeable.

These modifications are contained in section 2(c), page 13, line 9, where the word "any," should be changed to "such," and section 2(c), page 13, lines 12 to 18, which should be revised to read as follows: "The aforesaid provisions shall continue until the Secretary of the Interior is satisfied that the condition warranting the prohibition no longer exists, except that fish in any form of the species under regulation which were previously prohibited from entry shall continue to be prohibited from entry."

I understand the foregoing modification to mean that when the Secretary of Interior is satisfied that the condition warranting the prohibition, e.g., " * * * repeated and flagrant fishing operations in the regulatory area by the vessels of any country which seriously threatens the objective of the Commission's recommendation * * *" no longer exists, fish under regulation (for example, yellowfin), which were previously denied entry will continue to be denied entry, but fish under investigation (for example, skipjack), which were temporarily denied entry will now be permitted to be entered.

It is our understanding that these modifications will achieve the objectives desired by the industry, namely, that in the event U.S. fishermen are regulated, fishermen of other countries will not be able to violate the intent of the convention, thereby discriminating against U.S. fishermen. On this basis I urge the committee to report the bill favorably as expeditiously as possible. Since the bill as amended is agreeable to the concerned agencies of the Government and the affected tuna industry has no objection to passage, it would appear that public hearings on the measure could be held quickly or dispensed with entirely in the interest of obtaining passage of the measure at the earliest opportunity.

Yours sincerely,

JOHN CALISE, *Secretary-Business Agent.*

CALIFORNIA FISH CANNERS ASSOCIATION, INC.,
Terminal Island, Calif., August 3, 1962.

HON. ARMISTEAD I. SELDEN, JR.,
*Chairman, Inter-American Affairs Subcommittee, Committee on Foreign Affairs,
House of Representatives, Washington, D.C.*

DEAR MR. SELDEN: By letter dated July 27, I have already notified you of the agreement of the members of this association to the amendments to S. 2568 proposed by the Department of State.

However, so that the record concerning this legislation may be complete, I believe it is desirable to point out to you that the members of the California Fish Canners Association operate plants in southern California and in Puerto Rico, in which are processed all of the yellowfin and skipjack tuna caught by the various elements of the American tuna fleet operating out of San Diego and San Pedro. Additionally, practically all of the tuna of these species (except small quantities consumed locally) caught in the eastern Pacific by fleets operating from Latin American countries finds its way ultimately in frozen form to canneries in the United States. Indeed our plants account for 85 percent of all tuna produced in the United States. The value of our annual production is in excess of \$200 million. Our capital investment in plant and facilities is huge and most of our members also have substantial investments in fishing vessels. We employ between 4,000 and 6,000 cannery workers in our plants.

It will be seen, therefore, that our interest in any legislation which affects any phase of our industry is considerable.

Some of us who have had longtime experience with the work of the Inter-American Tropical Tuna Commission are of the opinion that it might be helpful to your committee, in considering this legislation, to have before you a review of the reasons leading to the establishment of the IATTC, and the relationship between the work of this Commission and other international fishery problems which have arisen in recent years. Accordingly, there is enclosed a statement of the reasons leading to the establishment of the Inter-American Tropical Tuna Commission and related matters, which we would appreciate your making a part of the record concerning this legislation.

Yours sincerely,

CHAS. R. CARRY, *Executive Director.*

REVIEW OF THE REASONS LEADING TO THE ESTABLISHMENT OF THE INTER-AMERICAN TROPICAL TUNA COMMISSION AND RELATED MATTERS

It has been suggested that a review of the reasons leading to the establishment of the Inter-American Tropical Tuna Commission might be useful in considering the need for the enactment of legislation to extend the regulatory authority of the Federal and State agencies concerned under the terms of the Convention for the Establishment of an Inter-American Tropical Tuna Commission, signed at Washington, May 23, 1949, and for other purposes.

The genesis of the problem which this Commission was created to work on arose from two factors quite unrelated to the tuna fishery of the United States: offshore oil, and the salmon fishery of Bristol Bay, Alaska.

Just prior to World War II the technology of oil prospecting and drilling had developed to the point where oil could be found, drilled for, and harvested well offshore on continental shelves. While there were international connotations to this development, they never bulked as large in the resulting tussle as did the contest internally for the revenues that would result from the harvesting of these resources between the Federal Government and the coastal States off which the known or suspected fields of oil were located.

It is our understanding that these modifications will achieve the objectives desired by the industry, namely, that in the event U.S. fishermen are regulated, fishermen of other countries will not be able to violate the intent of the convention, thereby discriminating against U.S. fishermen. On this basis I urge the committee to report the bill favorably as expeditiously as possible. Since the bill as amended is agreeable to the concerned agencies of the Government and the affected tuna industry has no objection to passage, it would appear that public hearings on the measure could be held quickly or dispensed with entirely in the interest of obtaining passage of the measure at the earliest opportunity.

Yours sincerely,

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Just prior to World War II the technology of oil prospecting and drilling had developed to the point where oil could be found, drilled for, and harvested well offshore on continental shelves. While there were international connotations to this development, they never bulked as large in the resulting tussle as did the contest internally for the revenues that would result from the harvesting of these resources between the Federal Government and the coastal States off which the known or suspected fields of oil were located.

Trouble for the tuna industry first arose with Mexico, the nearest and consequently the most important country off whose shores Californians fished. Although the Mexican proclamation was never enacted into effective Mexican law nor reflected in seizures and serious troubles on the high seas off the Pacific coast of Mexico, nevertheless there was a deterioration in the relations between the affected agencies of the Mexican Government and the California fishing industry, which had been steadily nurtured by both sides over the years and had been generally excellent. Increasingly, from 1945 to 1949, this deterioration resulted in minor harassments and much talk which was not conducive to good business and which caused the Californians increasing concern.

The California tuna people became about as worried over these potentially explosive developments adjacent to their fishing industry as were the Alaska salmon people. Although their views on the substantive issues involved were precisely opposite to those of the Alaskans, they joined forces with the latter to see that these fishery jurisdiction matters were given proper attention in the Department of State. As a consequence, there was created in the Department of State the Office of Special Assistant for Fisheries and Wildlife to the Under-Secretary of State to have cognizance of such matters.

This was not accomplished any too early for the needs of the tuna people of southern California because of serious developments that were taking place both externally in relation to other governments and internally in the industry.

The steady and rapid growth which had taken place in the California tuna fishery and its market during the 1920's and 1930's had been artificially restrained during the first half of the 1940's by the exigencies of war. The Navy took over the long-range tuna clippers and wartime economic controls substantially froze the market. Immediately the Pacific war was concluded, this repressed growth burst its bounds both in the fishery and in the market and an abnormally rapid rate of growth took place in both, with resultant abnormal strains.

The suppressed market began to zoom with the removal of governmental economic controls. The Japanese being still out of the supply end of the market and substantially no fishery for tuna existing in any of the Latin American countries, the pressure for increasing supplies of raw material to meet market demands fell entirely upon the southern California fleets. The Navy began releasing vessels taken over for war duties back to their owners, and made available to owners whose vessels had been lost to enemy action and to the sea other suitable surplus hulls. Other fishermen, under the spur of market demand, built more and ever larger tuna vessels. The effect of these forces upon the size of the fleet is given in the following figures on the number of bait boat vessels in the San Diego fleet (the largest component) and their combined carrying capacity in short tons during the period directly after the war:

Year	Number of vessels	Carrying capacity in short tons
1945.....	102	13,900
1946.....	140	24,324
1947.....	161	29,165
1948.....	189	36,625
1949.....	193	38,370
1950.....	199	40,430
1951.....	210	44,300

The catch of yellowfin and skipjack tuna by all countries from the eastern Pacific expanded as the U.S. fleet expanded, but the expansion was mostly attributable to the expansion of the bait boat fleet working out of San Diego. The catch in millions of pounds for these years was as follows:

Year	Yellowfin	Skipjack	Total
1945.....	89.2	34.0	123.2
1946.....	129.7	42.5	172.2
1947.....	160.1	53.5	213.6
1948.....	200.3	61.5	269.1
1949.....	192.5	81.0	282.7
1950.....	224.8	129.0	354.1

The internal problem that this rapid expansion created in external relations was competition between the two sorts of large tuna fishing vessels existing in southern California which had different external needs and internal connections. The purse seine fleet originated primarily from San Pedro, the average size of vessels in that fleet (and their working range) was smaller, and it needed no bait from foreign waters but ability to take shelter in local ports from heavy weather. The bait-boat fleet originated from San Diego, contained the largest and longest ranged units which were much more free from need for port privileges adjacent to the fishing grounds, but absolutely required live bait which was for the most part available only within 3 miles or less of the beach and this within the sovereign jurisdiction of the countries adjacent to the fishing grounds.

Vigorous competition between these two American forces at sea, and for variable sorts of port privileges to the south, resulted in friction between the two in ports, and with governments, from northern Mexico to southern Ecuador. This was exacerbated by the very rapid expansion of the total California fleet which led thinking in the affected coastal countries in two quite separate but correlated paths: (a) This was a rich fishery which should be captured to help the economy of the coastal country, and (b) this fishery was growing so rapidly that if not checked it would damage, or even destroy, the natural resources upon which it was based.

The argument most frequently raised publicly by the Mexicans was that the very rapid expansion in fishing effort in California was putting the tuna resources off the Mexican coast in jeopardy or in actual danger of extinction. At that stage of history the Californians themselves did not know what justification there might be to such accusations because of lack of research on tuna and the fishery. Having before them the successful examples of the international fisheries commissions in the Pacific Northwest applying to halibut and sockeye salmon, they unitedly (both sorts of boatowners, fishermen's unions, and cannery) petitioned the Department of State to engage with Mexico in such an international fisheries commission to investigate impartially and jointly to determine what was the state of the resource, and what, on the basis of adequate scientific data, were the effects of the fishery.

Accordingly, the Department of State engaged in negotiations with the Government of Mexico in Mexico City from October 25 to November 4, 1948. Several representatives of the tuna fishing and processing interests were in Mexico City at the invitation of the Department of State during the negotiations, and were in daily consultation with the U.S. delegation. As a result of these negotiations a convention between the United States of America and Mexico for the establishment of an international commission for the scientific investigation of tuna was signed at Mexico City, January 25, 1949. It may be noted that advice and consent to the United States ratifying this convention was given by the U.S. Senate in 1949, with the testified approbation of all segments of the California industry.

The convention between the United States and Mexico never became effective for the reason that the Government of Mexico never appointed commissioners. The convention seemed, however, to have an ameliorating effect on relations between the two countries in that friction over the tuna fishery declined. The convention expired at the end of 5 years in accordance with its included terms. The lack of immediate working success of this convention did not make much difference at the time because almost simultaneously much more serious trouble erupted in Costa Rica, and the United States moved to counter it by the same means it had used with Mexico.

For about 20 years the bait-boat clippers from San Diego, Calif., had frequented the Gulf of Nicoya in Costa Rica for the purpose of catching anchovetta there as bait for their fishery. They paid liberal license fees to Costa Rica for this purpose and also by their expenditures for supplies, etc., in the coastal community, Puntarenas, contributed materially to the economy of that city as well as the country.

In 1946, the purse seiners from San Pedro began fishing off Costa Rica and also using the harbor of Puntarenas. Competitive arguments between these two sorts of California fishermen arose in Costa Rica and different individuals in that Government took different sides in these quarrels over what sort of gear was best for harvesting tuna in those latitudes.

In 1947, the Gulf of Nicoya experienced a widespread outbreak of "red tide," the poisonous one-celled animal which in dense congregations kills off fish. The entire anchovetta population of the Gulf of Nicoya soon disappeared. In 1948,

there also occurred a revolution on July 27. The revolutionary government published a proclamation based on that of Chile and Peru establishing the sovereignty of Costa Rica to the sea off its coast to a distance of 200 miles and establishing a territorial sea of the same distance around its off-lying island possessions and commenced enforcing this proclamation against the California fleet.

This was indeed serious to the California tuna people because Cocos Island, a Costa Rican possession, lies about 300 miles off the coast of that country. The newly pronounced territorial sea of Costa Rica, if validly established, would have put in being a band of territorial sea extending 500 miles to westward of Costa Rica, athwart the passage of the tuna boats to the south and in or through which Costa Rica could have controlled their passage or stopped it.

The U.S. Government made diplomatic representations to Costa Rica and that Government justified its action in the following terms: The anchovetta of the Gulf of Nicoya had died off. It was Costa Rica's opinion that the California bait boats had killed them off by overfishing. The number of California bait boats and purse seiners fishing off the coast was increasing rapidly. The Government believed this would lead to the tuna off this coast being killed off too if the fishing were left unregulated. Accordingly, it had taken what recourse was available to it, it had established a conservation zone off its coast (following, it said, the principles laid down by the U.S. fisheries proclamation of September 1945). Under this it proposed to regulate the tuna and bait fishing off the coast and prevent any overfishing.

The United States was fairly hoist with its own petard. In those days nobody knew very much about the population dynamics of tuna or the effect of the fishery upon such stocks of fish. Its own policies had been plainly stated by President Truman to the effect that U.S. nationals would not be permitted by the Government of the United States to overfish any stock of fish in the high seas. It was now a case of put up or shut up.

Accordingly, the United States suggested to Costa Rica that the subject be scientifically investigated by an international commission to be established between the two nations in which each would have an equal voice. If such joint scientific investigations showed that tuna (or bait) was being overfished, then appropriate regulations to prevent this, based upon the scientific investigations of the Commission, would be put into effect in respect of the citizens of the two countries.

This was accepted by Costa Rica, negotiations on the subject were undertaken in Washington, D.C., in May 1949, and the Convention Between the United States of America and the Republic of Costa Rica for the Establishment of an Inter-American Tropical Tuna Commission was signed between the two countries on May 31, 1949. The convention came into force on March 3, 1950. The two countries promptly appointed Commissioners and the Commission held its inaugural meeting in San Diego, Calif., in July of that same year. A director of investigations, Dr. Milner B. Schaefer, was hired and the recruiting of scientific staff began.

The Government of Costa Rica was satisfied with this program and our problems with that nation seemed well on the way to alleviation. As a matter of fact, when constitutional government was subsequently reestablished, the Costa Rican Supreme Court declared null and void the 200 miles proclamation issued by the revolutionary government.

On September 7 of that same year (1950), the U.S. Congress adopted legislation enabling the United States to perform its obligations under this convention. It will be noted that this enabling legislation did not give the U.S. Government authority to regulate its tuna fishermen on the high seas for conservation purposes. At this stage, that was not an obligation of the United States under this convention. Accordingly, authority was given to enforce only regulations requisite to the gathering of scientific data by the Commission. Following the successful precedents of the International Pacific Halibut Convention, and the International Pacific Salmon Fisheries Convention, the authority actually to regulate was withheld from the U.S. Government until such time as the Tuna Commission found conservation regulations to be necessary.

We have only reached this stage now—12 years later.

Thus, the Inter-American Tropical Tuna Commission was formed especially to solve a problem in international relations, not particularly a problem in fisheries conservation; no fisheries conservation problem was known for sure to exist in the area of the tuna fishery in 1950 and one has only now developed—12 years later.

The reason why no overfishing problem developed in this area for such a long period of time was economic and not political or diplomatic. In 1950, while the above-noted activities were going on, a flood of canned tuna imports from Japan hit the U.S. market. For the next 10 years the succeeding shocks in the U.S. market from the product of the rapidly expanding Japanese tuna fisheries and processing operations kept the California tuna industry, and especially the fleet, so upset that its fishing effort in this area declined steadily during that decade rather than expanding as had confidently been expected in early 1950.

But while Costa Rica was satisfied, the diplomatic problem which the Commission had been brought into being to solve between the United States and Costa Rica kept right on growing in other areas during the early years of the Commission's activity.

The 200-mile thesis in general developed into a flaming fire in Latin America, fed by a variety of fuels—nationalism, desire for economic gain, demagoguery, genuine fear for the welfare of resources, anti-Americanism, et cetera.

On September 14, 1950, El Salvador wrote a 200-mile limit for its territorial sea into a new constitution. The battle then moved into the international arenas, first in the Organization of American States and its related agencies. In July 1951, the Inter-American Juridical Committee, meeting in Rio de Janeiro, came out with recommendations favoring the adoption of a 200-mile territorial sea for all countries of Latin America. This had no legal effect of any sort, but in August 1952, Chile, Ecuador, and Peru, meeting in Santiago, Chile, signed an agreement establishing a breadth of territorial sea to a minimum distance of 200 miles for those three countries, thus beginning that accumulation of treaty law and practice which often leads to changes in international law.

At the second meeting of the Inter-American Council of Jurists in Buenos Aires in 1953, the above-noted recommendations of the Inter-American Juridical Committee came up for consideration and it was only with great difficulty that the United States and a few similar-thinking allies were able, not to defeat the concept, but to refer it back to the Inter-American Juridical Committee for study. At the 10th Inter-American Conference at Caracas in March 1954, a resolution proposing the adoption of the 200-mile limit as the rule of law in Latin America was brought forward. Had this been brought to a vote nobody there questioned that it would have been adopted by a majority of 18 to 2. The United States again was able to postpone the decision on the issue by getting adopted a resolution calling for the Organization of American States to convoke a specialized conference in 1955 to study as a whole the different aspects of the law of the sea.

What had been more or less a localized fishery argument over one fishery among a few nations had developed into a regional issue, the adoption of which could have had catastrophic consequences to general United States and the free world military, mercantile, and strategic interests on a worldwide basis. The United States could not tolerate losing on this issue and it could not win it in the Latin American arena. Accordingly, the United States, with allies, succeeded in transferring the action on this subject out of the Organization of American States into the United Nations. An International Technical Conference on the Conservation of the Living Resources of the Sea was called for Rome in April 1955, by the General Assembly of the United Nations at its meeting in December 1954.

While these moves were going on in the international field the Inter-American Tropical Tuna Commission's scientific staff had organized and forged ahead on its scientific studies of the relationship of the tuna fishery to the stocks of tuna and bait fishes in the entire eastern tropical and subtropical Pacific.

Also the California tuna industry, under the crushing competition in its market from expanding Japanese tuna production had been extending its area to the southward in order that it could have a more complete year-round activity and thus improve its economic situation. The fishery off the Ecuadorian continental coast (as contrasted with that around the Galapagos Islands) had increased, regular fishing had been established along the northern Peruvian coast and, finally, the fishery had extended seasonally (the northern winter or southern summer) clear down the coast of Peru to northern Chile, thus encompassing in a regular manner the entire range of yellowfin and skipjack in the Eastern Pacific from southern California to northern Chile.

There had been a sharp clash, with seizures of vessels, with Panama in 1953 which had finally been settled amicably with Panama adhering to the convention establishing the Inter-American Tropical Tuna Commission on September 21, 1953.

There had been continuing clashes with Ecuador and Peru involving vessel seizures and even firing on U.S. vessels with wounding of American seamen. Chile was also exercised but had seized no vessels. Tempers were short in the Americas on this issue and feelings were tense as the nations gathered in Rome in the spring of 1955 to discuss the conservation of the living resources of the sea.

While the terms of reference of this conference were restricted to the topic of the conservation of the living resources of the sea, what the Latin American and some other countries wanted to discuss was the control of fisheries in the adjacent high seas by the coastal states. The feelings of the nations at the conference were about equally divided on this issue of what were the proper terms of reference of the conference. This was indicated by the broad continental sea countries winning a critical vote one day by a margin of one vote only to have the conference decide the next day, again by a margin of one vote, that discussion of the breadth of the territorial sea, control of fisheries on the high seas, and related subjects was outside the terms of reference of the conference. The excitability of the conference is indicated by the fact that at this juncture the vice chairman, a Latin, resigned with a fiery speech, and left not only the conference, but the city and the country.

Nevertheless, the central objective of this conference could not be anything else than the consideration of ways and means, internationally, of preventing overfishing of fish stocks in the high seas of the world and in the end the conference adopted a report recommending international management of the high seas fisheries by the nations directly interested in the particular fishery, acting jointly under treaty, and on the basis of scientific information obtained jointly. The conference specifically referred to the Inter-American Tropical Tuna Commission as a good instance in point where an international conservation policy had been adopted and adequate international scientific inquiry initiated early in the history of a fishery before a conservation problem developed.

The CEP countries (Chile, Ecuador, and Peru) were the hard shell proponents of the 200-mile doctrine in the international arena. They based their contention on this logic: (a) Fishing technology was advancing so rapidly that large, efficient fishing vessels could go long distances from home port and operate in fisheries with economic satisfaction; (b) they were effective enough that they could decimate resources in an area and then move on to others elsewhere; (c) the economic and social effects of this marauding type of activity would be most damaging to the economy, nutrition, and general welfare of these smaller, economically weaker countries who could not support large efficient fleets of this nature; (d) the big countries could not effectively control their fishermen when they were long distances from home; (e) consequently, the small countries would see one after another of the resources off their coast destroyed or decimated; (f) the only way to prevent this happening was to give the coastal country jurisdiction over the fisheries in the adjacent high seas; and (g) proof that this was so lay in the far-ranging tuna vessels which were spreading all through the Eastern Pacific bringing devastation not only to the tuna stocks but to the anchovy stocks as well which the tuna fishers were using as bait.

Because one of the causative factors for the calling of this conference was the 200-mile controversy in the Eastern Pacific which, by now, largely hinged on the conservation of the tuna stocks in that large area of ocean, the role of the Tuna Commission in the conference was considerable. Its Director of Investigations had been retained by the United Nations as an independent expert to serve on the U.N. staff for the conference. When at one stage of the conference he was called upon, and was able to say, that his staff's investigations were now sufficiently forwarded to show that there was no overfishing of any of the stocks of tuna or bait fishes in the Eastern Pacific at that time, had not been in the past, and would not be in the future until there was a sharp change in the economic fortunes of the industry, the effect of the statement upon the arguments of the proponents of the 200-mile doctrine was devastating.

Indeed when the conference had laid before it (a) that three countries of the Eastern Pacific were joined together in the Inter-American Tropical Tuna Commission to prevent overfishing of tuna and bait fishes; (b) an international conservation policy had already been formulated for this fishery which was apparently working effectively; and (c) there was not, and had not been, any overfishing on any of these stocks in the Eastern Pacific, the 200-mile doctrine collapsed like a punctured balloon. As a matter of fact, it has never recovered any vitality since. From the standpoint of the U.S. Government and the California tuna industry, the Inter-American Tropical Tuna Commission had by

now fully justified its existence, and the effect of its work on this field of international law and practice was only beginning.

Prior to this Rome conference, the U.S. Government had succeeded in obtaining the commitment of the CEP powers to cease molesting U.S. fishing vessels on the high seas while this subject of fisheries conservation and jurisdiction was under review by the United Nations. In return for this commitment, it had offered to negotiate with these three countries a peaceful solution of these problems directly after the Rome conference and in the light of whatever report the Rome conference brought forward.

This U.S.-CEP conference was convened in Santiago, Chile, in September-October 1955. On the basis of what the Rome conference has brought out and the facts publicly available from the work of the Inter-American Tropical Tuna Commission, the conservation argument was not intensively pursued by the CEP countries during the conference. The conference eventually broke down and adjourned without an agreement having been reached. This breakdown did not arise out of the tuna conservation problem, however, but out of basic legal differences over the Chile-Ecuador-Peru claim to a 200-mile territorial sea. The conference indirectly achieved its objective of quieting this acrid controversy over the tuna-fishing problem among these four otherwise friendly allies. Peru shortly issued a decree giving foreign tuna vessels privileges to use its ports and territorial sea for bait fishery, supplies, etc., under licenses obtainable for a reasonable fee and much along the lines which had been long exercised by other countries to the north. Chile followed suit with a similar decree a little later. Ecuador adhered to the convention establishing the Inter-American Tropical Tuna Commission in 1961.

In the immediate wake of the Rome conference other important events took place. The International Law Commission meeting in Geneva directly after the Rome Conference brought forward a series of articles incorporating the principles of the Rome conference which were incorporated in a draft treaty on the law of the sea which was being prepared for the United Nations. This draft treaty after passing through the normal channels of review among the Nations, led to the calling by the United Nations of an International Conference on the Law of the Sea at Geneva, Switzerland, in the spring of 1958.

The First Geneva Law of the Sea Conference was a remarkably successful meeting considering the acrimony which had developed concerning the issue over the years. The issue of the breadth of the territorial sea had been taken out of the hands of fishery experts and elevated to the hands of the top diplomats and strategists. While they debated this issue, and did not resolve it, the specialized committees of the conferences went quietly to work and were highly successful. Out of this conference came four conventions, one dealing with the law of the high seas, another with the law of the territorial sea, a third with the law of the Continental Shelf, and the fourth with the conservation of the living resources of the sea.

The last of these provides an agreed method for handling any problem that is likely to arise in the conservation of the high seas fisheries and it can be said to be international law on the subject now although not quite enough countries have ratified it for the convention to have come into force. The United States has ratified it, and considers that we are bound by it.

Two paragraphs of this convention have particular application to the passage of the legislation under consideration. These are:

(1) Article 1, paragraph 2, which reads: "All states have the duty to adopt, or to cooperate with other states in adopting, such measures for their respective nationals as may be necessary for the conservation of the living resources of the high seas;" and

(b) Article 7, paragraph 1: "Having regard to the provisions of paragraph 1 of article 6, any coastal state may, with a view to the maintenance of the productivity of the living resources of the sea, adopt, unilaterally, measures of conservation appropriate to any stock of fish or other marine resources in any area of the high seas adjacent to its territorial sea, provided that negotiations to that effect with the other states concerned have not led to an agreement within 6 months."

The application of these two paragraphs to the present legislation is clear: (1) The United States has committed itself internationally to prevent its citizens from overfishing high-seas resources, (b) it has agreed that if it does not do so the country off whose coast the fishery lies may do so unilaterally. If, in

fact, U.S. fishermen are overfishing the tuna stocks the United States had the obligation to act to prevent overfishing. If the United States does not, the coastal states along the shores of the eastern Pacific have every right to take any steps they consider appropriate. The sole question remaining, therefore, is: Are the stocks of yellowfin and skipjack tuna being overfished? As we shall see, the answer with respect to yellowfin is "Yes."

The economic pressures on the California tuna fishing industry began to relax in 1959 with the institution of several technological changes simultaneously that introduced the purse seine revolution. As a consequence, the amount of fishing effort it could apply has increased sharply each year since. The Inter-American Tropical Tuna Commission's scientific staff had estimated, in 1954, that the point of maximum sustainable production from the yellowfin tuna stocks of the eastern Pacific was about 100,000 tons per year. New data since that time has merely supported this early estimate. The production was about 100,000 tons in 1960, and reached 117,000 tons in 1961. Accordingly the Commission has now recommended that the fishing effort in the eastern Pacific be so regulated that enough tuna be put back into the stock to replace the quantity over 100,000 tons that was removed in 1961.

Most of the fishing for yellowfin tuna in the eastern Pacific is done by U.S. nationals. It is necessary now for this fishing effort to be reduced somewhat by the United States. Without the passage of appropriate legislation, the United States does not have the legal power to do this.

The result is very simple. Either the U.S. Congress grants this additional authority to the Executive or the U.S. Government will be required to renege on international commitments it has undertaken. If it reneges on its obligations, the practical results will not be less on the American fishermen. All of the actions of the Tuna Commission are public knowledge, and well known to interested Latin American countries. They wish to protect the resources off their coasts. As noted above, the United States has given them its consent to do this unilaterally, in respect of its vessels, if it is not doing it.

To conclude, let us go back to the first half of the last decade. The 200-mile doctrine for fishery jurisdiction was not killed through this long series of international activities. It was only made inoperative because another system—international instead of unilateral action—was proposed as a substitute, and this substitute was more agreeable to the family of nations. But the family of nations recognized that that system might not work in all instances, and that the overfishing problem might arise quickly and require a prompt solution. This was the reason for article 7 of the 1958 convention cited above.

Under this set of conditions, the Latin Americans who favored the 200-mile doctrine had no alternative but to sit back and see if the system of international control would work. They were perfectly confident that this system would not work, and they stated so bluntly at the time. As soon as a problem came up which called for a solution, they said, the world would learn that such a system of international controls would not work. Then the coastal state would have to move unilaterally to protect its interests.

A perfect example has now arisen and it will be seen whether the framers of this system of international control were correct, or whether the framers of the unilateral system of control were the ones who understood human nature the best.

Certain events have taken place recently that are disquieting: El Salvador illegally seized a tuna vessel; Ecuador has promulgated a decree banning purse seining in a 40-mile band along a broad expanse of its coastline. Other countries are understood to be considering similar action.

None of these has used conservation as a pretext. However, if we renege, if we fail to impose conservation regulations, we may expect more and more drastic acts by other nations, but on the morally justifiable basis of conservation necessity. The effects of such moves on the tuna industry are perfectly obvious.

The United States must fulfill its responsibilities under the Convention for the Establishment of an Inter-American Tropical Tuna Commission and establish regulations in respect of its nationals to carry out the recommendations of the Commission, to prove the framers of the system of international control have been correct.

It cannot do this unless the U.S. Congress adopts S. 2568, or a bill having similar effects.

FISHERMEN'S COOPERATIVE ASSOCIATION OF SAN PEDRO,
San Pedro, Calif., July 30, 1962.

HON. ARMISTEAD I. SELDEN, JR.,
*Chairman, Inter-American Affairs Subcommittee, Committee on Foreign Affairs,
 House of Representatives, Washington, D.C.*

DEAR MR. SELDEN: The Senate, on July 18, passed S. 2568, a bill to amend the act of September 7, 1950, to extend the regulatory authority of the Federal and State agencies concerned, under the terms of the Convention for the Establishment of an Inter-American Tropical Tuna Commission, signed at Washington, May 31, 1949, and for other purposes, and referred the bill to the House for action.

The bill as passed represents the combined views of all of the major organizations in the California tuna industry. It, also, except for some amendments proposed by the Department of State which did not reach the Senate Commerce Committee in time to be considered by the committee, represented the views of several Government agencies concerned.

The proposed amendments to which I refer include the definition contained in section 1, beginning on line 24, page 9, and extending through line 5 on page 10 of the version reported by the committee. For a number of reasons the Department of State suggested a modification of the definition of the United States as it is contained therein. There has been further consultation between the Department of State and the appropriate members of the industry with regard to the Department's proposal concerning a modification of this definition. The members of the industry who participated in the several conferences and discussions with the Senate committee staff, with the interested agencies of the Government—the Department of State and the Department of the Interior—believe that the new definition proposed by the Department of State will meet the requirements of the industry to close all possible loopholes that might permit evasion of the intent of the legislation. That definition is as follows:

"(e) 'United States' shall include all areas under the sovereignty of the United States, the Trust Territory of the Pacific Islands, and the Canal Zone."

I understand this definition in its reference to "areas under the sovereignty of the United States" includes the 50 States, Puerto Rico, the Virgin Islands, American Samoa, and numerous other insular possessions in accordance with the definition contained in State Department Geographic Report No. 4, dated June 23, 1961, prepared by the geographer of the Department of State.

I understand further that this definition for the purpose of this act only, also includes the Panama Canal Zone and the Trust Territory of the Pacific Islands.

The State Department has also suggested two additional modifications of language in the interest of clarity.

These amendments are also agreeable.

These modifications are contained in section 2(c), page 13, line 9, where the word "any" should be changed to "such," and section 2(c), page 13, lines 12 to 18, which should be revised to read as follows:

"The aforesaid provisions shall continue until the Secretary of the Interior is satisfied that the condition warranting the prohibition no longer exists, except that fish in any form of the species under regulation which were previously prohibited from entry shall continue to be prohibited from entry."

I understand the foregoing modification to mean that when the Secretary of the Interior is satisfied that the condition warranting the prohibition, e.g. " * * * repeated and flagrant fishing operations in the regulatory area by the vessels of any country which seriously threatens the objective of the Commission's recommendation * * *" no longer exists, fish under regulation (for example, yellowfin), which were previously denied entry, will continue to be denied entry, but fish under investigation (for example, skipjack), which were temporarily denied entry, will now be permitted to be entered.

It is our understanding that these modifications will achieve the objectives desired by the industry, namely, that in the event U.S. fishermen are regulated, fishermen of other countries will not be able to violate the intent of the convention, thereby discriminating against U.S. fishermen. On this basis I urge the committee to report the bill favorably as expeditiously as possible. Since the bill as amended is agreeable to the concerned agencies of the Government and the affected tuna industry has no objection to passage, it would appear that public hearings on the measure could be held quickly or dispensed with entirely in the interest of obtaining passage of the measure at the earliest opportunity.

Very truly yours,

ANTHONY NIZEICH, *General Manager.*

Mr. SELDEN. In addition to these communications, we have also received correspondence from the following, concurring in general with this legislation and the proposed amendments, who have requested time to testify before the subcommittee: Cannery Workers & Fishermen's Union, San Diego, Calif.; American Tunaboat Association, San Diego, Calif., August Felando, general manager; and the International Longshoremen's & Warehousemen's Union, Jeff Kibre, Washington representative.

Their correspondence, without objection, will be included at this point in the record.

(The correspondence follows:)

CANNERY WORKERS & FISHERMEN'S UNION,
San Diego, Calif., August 3, 1962.

HON. THOMAS E. MORGAN,
Chairman, Committee on Foreign Affairs,
House of Representatives, Washington, D.C.

DEAR MR. MORGAN: The Senate on July 18 passed S. 2568, a bill to amend the act of September 7, 1950, to extend the regulatory authority of the Federal and State agencies concerned, under the terms of the Convention for the Establishment of an Inter-American Tropical Tuna Commission, signed at Washington, May 31, 1949, and for other purposes, and referred the bill to the House for action.

The bill as passed represents the combined views of all the major organizations in the California tuna industry. It, also, except for some amendments proposed by the Department of State which did not reach the Senate Commerce Committee in time to be considered by the committee, represented the views of the several Government agencies concerned.

The proposed amendments to which I refer include the definition contained in section 1, beginning on line 24, page 9, and extending through line 5 on page 10 of the version reported by the committee. For a number of reasons the Department of State suggested a modification of the definition of the United States as it is contained therein. There has been further consultation between the Department of State and the appropriate members of the industry with regard to the Department's proposal concerning a modification of this definition. The members of the industry who participated in the several conferences and discussions with the Senate committee staff, with the interested agencies of the Government—the Department of State and the Department of Interior—believe that the new definition proposed by the Department of State will meet the requirements of the industry to close all possible loopholes that might permit evasion of the intent of the legislation. That definition is as follows:

"(e) 'United States' shall include all areas under the sovereignty of the United States, the Trust Territory of the Pacific Islands, and the Canal Zone."

I understand this definition in its reference to "areas under the sovereignty of the United States" includes the 50 States, Puerto Rico, the Virgin Islands, American Samoa, and numerous other insular possessions in accordance with the definition contained in State Department Geographic Report No. 4, dated June 23, 1961, prepared by the geographer of the Department of State.

I understand further that this definition for the purpose of this act only, also includes the Panama Canal Zone and the Trust Territory of the Pacific Islands.

The State Department has also suggested two additional modifications of language in the interest of clarity.

These amendments are also agreeable.

These modifications are contained in section 2(c), page 13, line 9, where the word "any" should be changed to "such", and section 2(c), page 13, lines 12 to 18, which should be revised to read as follows:

"The aforesaid provisions shall continue until the Secretary of the Interior is satisfied that the condition warranting the prohibition no longer exists, except that fish in any form of the species under regulation which were previously prohibited from entry shall continue to be prohibited from entry."

I understand the foregoing modification to mean that when the Secretary of Interior is satisfied that the condition warranting the prohibition, e.g. "* * * repeated and flagrant fishing operations in the regulatory area by the vessels of any country which seriously threatens the objective of the Commission's recom-

mentation * * * no longer exists, fish under regulation (for example, yellowfin) which were previously denied entry will continue to be denied entry, but fish under investigation (for example, skipjack) which were temporarily denied entry will now be permitted to be entered.

It is our understanding that these modifications will achieve the objectives desired by the industry, namely, that in the event U.S. fishermen are regulated, fishermen of other countries will not be able to violate the intent of the convention, thereby discriminating against U.S. fishermen. On this basis I urge the committee to report the bill favorably as expeditiously as possible. Since the bill as amended is agreeable to the concerned agencies of the Government and the affected tuna industry has no objection to passage, it would appear that public hearings on the measure could be held quickly or dispensed with entirely in the interest of obtaining passage of the measure at the earliest opportunity. If hearings are held, we respectfully request the opportunity to be heard.

Yours sincerely,

LESTER BALINGER, *Secretary-Treasurer.*

AMERICAN TUNABOAT ASSOCIATION,
San Diego, Calif., August 1, 1962.

HON. ARMISTEAD I. SELDEN, Jr.,
*Chairman, Inter-American Affairs Subcommittee, Committee on Foreign Affairs,
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Your committee has under consideration S. 2568, as amended, a bill to amend the Tuna Conventions Act of 1950 (16 U.S.C. 951).

It is our information that the Department of State has made certain exceptions to the Senate bill and has proposed the following amendments:

(1) Section 1, beginning on line 24, page 9, and extending through line 5 on page 10:

"(e) 'United States' includes its territories, possessions, and other areas under its control or jurisdiction."

The Department of State suggests a modification of this definition as follows:

"(e) 'United States' shall include all areas under the sovereignty of the United States, the Trust Territory of the Pacific Islands, and the Canal Zone."

We have been advised of reasons for such a modification. Members of the industry, including a representative of this association, have consulted with the Department of State. Both industry and the Department of State have expressed the hope that such new definition will satisfy the necessity to close all possible loopholes that might permit evasion of the intent of the legislation.

Our acceptability of such proposed change in definition is predicated upon the belief that it will enclose the land areas or territory described as being under the sovereignty of the United States of America as set forth in paragraph III, page 3, paragraph IV, page 4, of the Geographic Report No. 4, June 23, 1961, such report issued by the Department of State, and entitled "United States and Outlying Areas." A copy of such pages is hereby enclosed.

We are particularly concerned about having "the sovereignty" of the United States include the Commonwealth of Puerto Rico, Virgin Islands, Guam, and American Samoa, as well as the Trust Territory of the Pacific Islands and the Canal Zone.

The State Department has also suggested two additional modifications of language in the interest of clarity.

(2) Section 2(c), page 13, line 9, where the word "any" should be changed to "such."

We understand that this change will restrict the discretion of the Secretary of the Interior to the country in fault. We have no objection to this proposed change if the Secretary of the Interior has no objection.

(3) Section 2(c), page 13, lines 12 to 18, as follows:

"The aforesaid provisions shall continue until the Secretary of the Interior is satisfied that the condition warranting the prohibition no longer exists, except that fish in any form of the species under regulation which were previously prohibited from entry shall continue to be prohibited from entry."

We understand the foregoing modification to refer to all of the prohibitions. We have no objection to this proposed change.

It is hoped that these proposed modifications will not affect the objectives of this legislation, namely, "an effective conservation program aimed at producing the maximum sustained yield from the resource, and a healthy, strong American

tuna industry." We also hope that these modifications will achieve one of the objectives desired by the industry; namely, that in the event U.S. fishermen are regulated, foreign fishermen will not be able to violate the intent of the convention to the injury of the American industry or to the damage of the fishery.

May we suggest that inasmuch as a proper and all-inclusive definition of the United States is important to this legislation, that the legislative history to this bill include the official description given in the above-mentioned geographic report to the territory under the sovereignty of the United States.

We request the opportunity to attend as a witness should hearings be held on this bill.

Very truly yours,

AUGUST J. FELANDO, *General Manager.*

EXTRACT FROM STATE DEPARTMENT GEOGRAPHIC REPORT No. 4, JUNE 23, 1961

III. THE UNITED STATES

The territory under the sovereignty of the United States of America is officially described as comprising, in addition to the 50 States and the District of Columbia, the following: Palmyra Island, Kingman Reef, Johnston Island, and Sand Island; Midway Islands; Wake Island, Guam; Howland, Baker, and Jarvis Islands; American Samoa (including the island of Tutuila, the Manua Islands, and all others of the Samoan group east of longitude 171° west of Greenwich, together with Swains Island); the Commonwealth of Puerto Rico; the Virgin Islands of the United States; Navassa Island; the Swan Islands; and the islands referred to in the following paragraph.

IV. THE DISPUTED AREAS

There are in the Pacific Ocean some 25 islands over which the U.S. claim to sovereignty is disputed by the United Kingdom or New Zealand.

Among the western Pacific islands the following are in dispute between the United Kingdom and the United States: (1) Caroline Atoll, (2) Christmas Island, (3) Flint Island, (4) Malden Island, (5) Starbuck Island, and (6) Vostok Island in the Line Islands; (7) Funafuti Atoll, (8) Nukufetau Atoll, (9) Nukulailai Atoll (Nukulaelae), and (10) Nurakita in the Ellice Islands, and (11) Birnie Atoll, (12) Gardner Atoll, (13) Hull Atoll, (14) McKean Atoll, (15) Sydney Atoll, (16) Phoenix Atoll, as well as (17) Canton and (18) Enderbury in the Phoenix Islands.

The following islands are in dispute between New Zealand and the United States: (19) Atafu Atoll, (20) Faksofu Atoll, (21) Nukunono Atoll, (22) Danger Atoll, (23) Manahiki Atoll, (24) Rakahanga Atoll, and (25) Penrhyn Atoll. The first three of these atolls are in the Tokelau (or Union) Islands while the remaining four are in the so-called Northern Cook Islands.

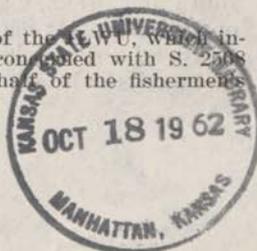
The United States and the United Kingdom agreed on August 10, 1938, to set up a regime for the use in common of Canton Island and Enderbury Island. The two governments, without prejudice to their respective claims to both islands, provided for joint control over the islands by an exchange of notes on April 6, 1939 (E.A.S. No. 145). There are also certain islets in the Caribbean Sea which are claimed by the United States and by Colombia, concerning which an arrangement with Colombia has been effected (U.S. Treaty series No. 760½); these islets are Serrana Bank, Quita Sueño Bank, and Roncador Cay. These 25 Pacific and 3 Caribbean islands are listed in "Nomenclature des pays, colonies, territoires, etc., du monde * * *" published by the International Bureau of the Universal Postal Union, Bern, Switzerland, 1951.

INTERNATIONAL LONGSHOREMEN'S & WAREHOUSEMEN'S UNION,

Washington, D.C., August 1, 1962.

HON. THOMAS E. MORGAN,
Chairman, Foreign Affairs Committee,
House Office Building,
Washington, D.C.

DEAR CONGRESSMAN MORGAN: The Fisheries Division of the U.S. which includes approximately 1,000 tuna fishermen, is vitally concerned with S. 2508 which is now pending before your committee. On behalf of the fishermen's



division, I would appreciate notification of the hearing on S. 2568 or similar bills. We testified on this matter on the Senate side and will wish to be heard when it is considered by your committee.

Very truly yours,

JEFF KIBBE,
Washington Representative.

(See also letter from International Longshoremen's & Warehousemen's Union, August 15, 1962, p. 80.)

Mr. BECKWORTH. One brief inquiry further: I am interested in your title, "Legislative Adviser." Would you give a brief résumé of your background?

Mr. CURTISS. Yes, sir. I am a graduate of the University of Washington with a B.A. degree, a graduate of George Washington University with an LL.B. degree. I served 5 years and 10 months in the Army during World War II. Thereafter, for approximately 14 years, I practiced law in Washington until about 2 years ago or 2½ years ago when I went to work for the Bureau of Commercial Fisheries.

During my practice in Washington, I had a general practice, which included representation of a retail trade association.

Is that the information, sir?

Mr. BECKWORTH. You did not represent any fishery groups at any time?

Mr. CURTISS. No, sir.

Mr. BECKWORTH. You have actually been with the Government how long?

Mr. CURTISS. Two years—well, since the 4th of April 1960.

Mr. BECKWORTH. I would like a little explanation. How would you get into the Fisheries Division with a nonfisheries background, as it were?

Mr. SELDEN. Mr. Curtiss is a legislative adviser.

Mr. BECKWORTH. I understand that. There is no aura of suspicion but there are people in the Department of Interior who have had long years of work in fisheries, I assume.

Mr. CURTISS. Yes, sir; many more years than I have had. I have been interested in fisheries over the years as a fisherman. They needed somebody to do a job and it looked interesting to me and I took it.

Mr. BECKWORTH. Thank you, Mr. Chairman.

Mr. SELDEN. Mr. Mailliard?

Mr. MAILLIARD. I do not think I have any questions.

Mr. SELDEN. Mr. Whalley?

Mr. WHALLEY. Thank you, Mr. Chairman.

Mr. Curtiss, what is the extent of the waters in which the United States catches 95 percent of the tuna?

Mr. CURTISS. Do you have a copy of the map, sir?

Mr. WHALLEY. Yes.

Mr. CURTISS. You mean, I think, a description of this area?

Mr. WHALLEY. Yes. How far out will it reach?

Mr. CURTISS. This begins at a point on the mainland where the parallel of 40° N. latitude intersects the coast. This is a point just south of Eureka, Calif. Then due west to 125°. You will notice this on the map. It isn't very far. It is a very short distance out there.

Then by these changes in direction, always south and always to the east until the line ends on the mainland just north of Valparaiso, Chile.



We laid this out in miles. My recollection is the greatest extent here at one point was something over 1,200 miles.

Mr. WHALLEY. Where would most of the fish be caught or would it be pretty much general?

Mr. CURTISS. No; it is very specific. Dr. McHugh, I think, is well prepared to show you this concentration of fishing.

Mr. McHUGH. Most of the fish are caught quite close to the coast, sir.

Mr. WHALLEY. Of the United States?

Mr. McHUGH. That is right, of the United States, and Central and South America, all the way down off the coast of northern Peru.

Mr. WHALLEY. You say close to the coast. About how close?

Mr. McHUGH. Within a couple of hundred miles. They do fish the whole area, but most of the catches are concentrated within a strip about 200 miles wide.

Mr. WHALLEY. Thank you.

Mr. SELDEN. Thank you, Mr. Curtiss.

Our next witness is Dr. McHugh, who is the U.S. Commissioner of the Inter-American Tropical Tuna Commission.

You may proceed with your statement.

STATEMENT OF J. L. McHUGH, U.S. COMMISSIONER, INTER-AMERICAN TROPICAL TUNA COMMISSION

Mr. McHUGH. Mr. Chairman, as Mr. Taylor has already told you, I am here representing the U.S. section of the Inter-American Tropical Tuna Commission in my capacity as one of the U.S. Commissioners, but I am also Chief of the Division of Biological Research in the Bureau of Commercial Fisheries.

I am speaking to the scientific aspects of the question, the need for conservation of the resource. I also have a prepared statement, but I am prepared to give you this in brief form, if you so desire.

Mr. SELDEN. Without objection, your prepared statement will be inserted in the record and you may summarize your statement if you so desire.

(The statement follows:)

STATEMENT OF DR. J. L. McHUGH, U.S. COMMISSIONER, INTER-AMERICAN TROPICAL TUNA COMMISSION

Mr. Chairman and members of the committee, I am Dr. J. L. McHugh, Chief of the Division of Biological Research in the Bureau of Commercial Fisheries, Department of the Interior, and one of the four U.S. Commissioners on the Inter-American Tropical Tuna Commission. At a special meeting at Long Beach, Calif., on September 14, 1961, the Commission passed a resolution recommending regulation of the catch of yellowfin tuna in the eastern tropical Pacific Ocean. At its regular annual meeting in Quito, Ecuador, in May 1962, the Commission reaffirmed the need for regulation. I am here today to describe the scientific basis for this recommendation. The Commission is convinced that this scientific evidence demonstrates, beyond reasonable doubt, that if regulations are not put into effect these valuable stocks of yellowfin tuna cannot continue to produce the maximum sustainable annual catch.

When the scientific staff of the Tuna Commission began its work in 1950, it was fortunate to have available an excellent fund of information on the fishery. The tuna industry was well organized and the clipper captains had kept detailed records of their fishing operations. These they made available to Dr. Schaefer, Director of Investigations for the Commission. Thus, he had a historical record of the fishery, dating back some 20 years or more. This included

information on catches, the amount of fishing effort necessary to make these catches, and the places where tuna were caught.

As early as 1957, based on a study of catch and fishing intensity, the scientific staff of the Commission determined that there is a limit to the total catch of yellowfin tuna that can be sustained year after year. Subsequent investigations have confirmed this estimate. The most probable estimate of maximum sustained annual catch is 195 million pounds, or 97,000 tons. This maximum annual catch can be made in about 35,000 days of fishing by a standard tuna clipper. Thus, a fleet of 200 such fishing boats would require 175 days of fishing to make the maximum sustainable catch.

The possible relationships between catch and fishing intensity for yellowfin tuna in the eastern tropical Pacific are illustrated in figure 1, attached. There are two possibilities to consider. The first presupposes that, over a wide range of population magnitudes, the numbers of young yellowfin tuna that survive to enter the fishery are independent of the numbers of adults that give them birth. This is the case represented by the curve joining the open circles. The second possibility is that the numbers of young produced is proportional to the numbers of spawning adults. This relationship is represented by the curve joining the closed circles.

We are not absolutely certain which curve most accurately represents the situation for yellowfin tuna. We do know that, over the past 10 years, the numbers of young yellowfin entering the fishery have not varied in proportion to the numbers of parents. Thus, the upper curve best describes the relationship in recent years. But we do know that, as the numbers of parents are reduced, a point will be reached at which the numbers of progeny will decline also. Thus, at some level of fishing intensity, the curve must fall off at least as abruptly as the lower curve. In any case, it is important to observe that there is a point of maximum yield of yellowfin tuna. This maximum lies at a level of fishing intensity substantially less than that exerted in 1961, and even less than that capable of being exerted in 1962. Thus, the fishery clearly has passed well beyond the point of maximum yield.

Figure 2 shows how the experience of the fishery compares with these hypothetical relationships. The broken lines represent the range of possible relationships between catch and fishing intensity. The numbered circles joined by solid lines represent the relationships between catch and fishing intensity since 1934. It is obvious that the prediction is well supported by the facts. I cannot go into the complicated technical details in the short time available to me, but I would like to emphasize that the Director of Investigations of the Tuna Commission is a prominent fishery scientist, held in high esteem internationally. His analysis of the effects of fishing on the yellowfin tuna resource is a masterly piece of scientific research which cannot be ignored.

It is possible by fishing harder to take more fish than this in a particular year, but only at the expense of the catch in later years. If fishing continues to exceed the rate of 35,000 standard fishing days that would produce this maximum catch, as it did in 1961, the average annual catch will be less than the maximum. In other words, by fishing harder, the fleet will catch less fish.

Rapid development of the tuna purse seine fishery, made possible by invention of the power block and synthetic nets, has raised the intensity of fishing to a point well beyond that which would produce the maximum sustainable yield. The total catch was about 117,000 tons in 1960 and slightly more than this in 1961. This means that the fishery was removing not only all the annual surplus but also some of the reserve stock. Events in the first 7 months of the 1962 fishery have confirmed this conclusion, for the fleet as a whole is fishing even harder than in 1961 and catching smaller quantities of yellowfin. Moreover, in 1961 the fleet had to fish harder than in 1960 to make its catch. In 1960 the fleet operated for about 35,000 standard fishing days to make its yellowfin catch. This is exactly the amount of fishing that will produce the maximum sustainable catch. But the fleet of 1961 expended nearly 42,000 units of effort, and the fleet in 1962 will be able to exert even greater fishing pressure unless regulations are adopted and put into effect.

It is just as if a man had invested \$300,000 in a highly remunerative business which gave him a return of \$97,000 annually. He then decided that \$97,000 was not sufficient to meet his needs and made up his mind to increase his annual income to \$117,000, taking the increase from the principal. He could continue

to do this for a few years and would not be aware that anything was wrong if he ignored his bank statements. However, each year he would be drawing less interest and removing more principal. For 6 years he could enjoy an annual income of \$117,000, but on the seventh year he would awaken to find his income suddenly reduced more than two-thirds and his principal entirely gone. The next year he would have nothing.

In this hypothetical example, the "principal" is analogous to the stock of yellowfin tuna in the sea, spawning each year to produce the "interest," which is the crop of new fish growing up to fishable size each year. The tuna fishery, of course, could not duplicate this example, for it is impossible to remove the last yellowfin tuna from the ocean and still make a profit. If the fishery were to continue at its present rate, each year the fleet would find it more difficult to catch fish, and it would soon become unprofitable to fish for yellowfin tuna alone. A small catch of yellowfin then would be taken incidentally by the skipjack fishery, and this steady attrition probably would hold the yellowfin stocks at a low productive level. This would be contrary to our objective of reaping the maximum yield from this valuable tuna resource.

The scientific work of the Commission has shown that the maximum yield of yellowfin tuna from the eastern tropical Pacific will be reached when 35,000 standard fishing days produce 97,000 tons a year. It was concluded that this point was reached at the end of the 1960 fishing season. In 1961 the total catch was slightly greater than the 1960 catch, but it took almost 20 percent more fishing effort to maintain the catch at this level. This was accomplished at the expense of future yields. In other words, the fishery was dipping into its "capital."

The question has been raised that possibly this declining yield has been caused by a change in the movements or oceanic distribution of yellowfin. Our scientists have an independent method of checking this point, for they have been tagging large numbers of fish each year. The ratio of tagged to untagged fish in the catch gives an estimate of the rate at which the fishery is removing fish. Tags were recovered at a greater rate in 1961 than in 1960, and have been recovered at an even greater rate so far in 1962. This confirms other evidence that the rate of fishing is increasing, and it also shows that the fish have not moved elsewhere. If an important part of the stock had moved beyond the range of the fishery, fewer tags, rather than more tags, would have been recovered.

The condition of the yellowfin tuna stocks also has been examined by studying changes in the death rate of fish. Once they reach a size large enough to be caught in the fishery, yellowfin are subject to a fairly constant rate of natural mortality (deaths caused by enemies, parasites, diseases, etc.). Fishing adds another cause of death (called fishing mortality by fishery scientists), and as the rate of fishing increases, so does the total death rate. When death rate increases, the average age of fish in the population decreases. This causes a decrease in average age and size of fish in the catch. The average size of yellowfin in the 1961 catch was decidedly less than in 1960.

All these facts confirm earlier estimates that the maximum sustainable annual catch of yellowfin tuna in the eastern tropical Pacific is about 97,000 tons. There is abundant evidence that the stock was overfished in 1961, so that yellowfin tuna in the eastern tropical Pacific have been reduced to a level of abundance at which they can no longer sustain an annual yield of 97,000 tons. At the present population size, it has been estimated that the sustainable yield is 10,000 tons less than this. If the population is reduced still further, as it will be under the present intense fishery, the potential annual catch will be even lower. The only practical solution is to place a limit on total catch. If the maximum sustainable yield of 97,000 tons a year is to be restored and maintained, we must restore the depleted "principal" by allowing more fish to accumulate. The Commission has recommended that this be achieved in several steps, and has proposed a total quota for all countries of 83,000 tons in 1962.

The purpose of this bill is to give authority to the Department of the Interior to respond to the recommendations of the Inter-American Tropical Tuna Commission. The Department does not now have authority either to promulgate regulations or to carry out certain enforcement activities necessary for conservation of the yellowfin tuna resource.

This ends my testimony, Mr. Chairman. I will be glad to answer questions if the committee so desires.

FIGURE 1

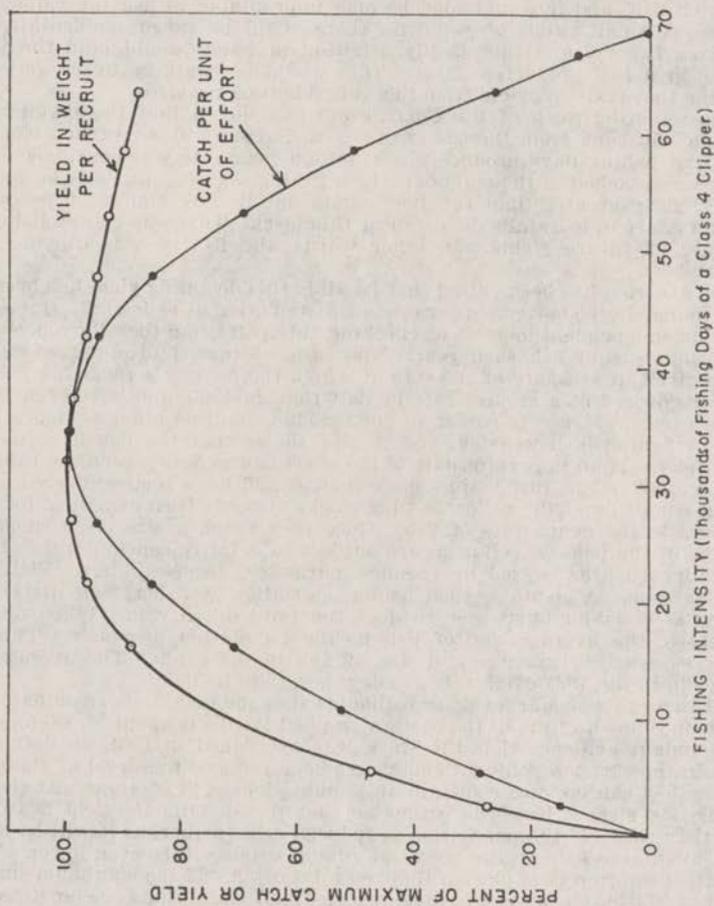
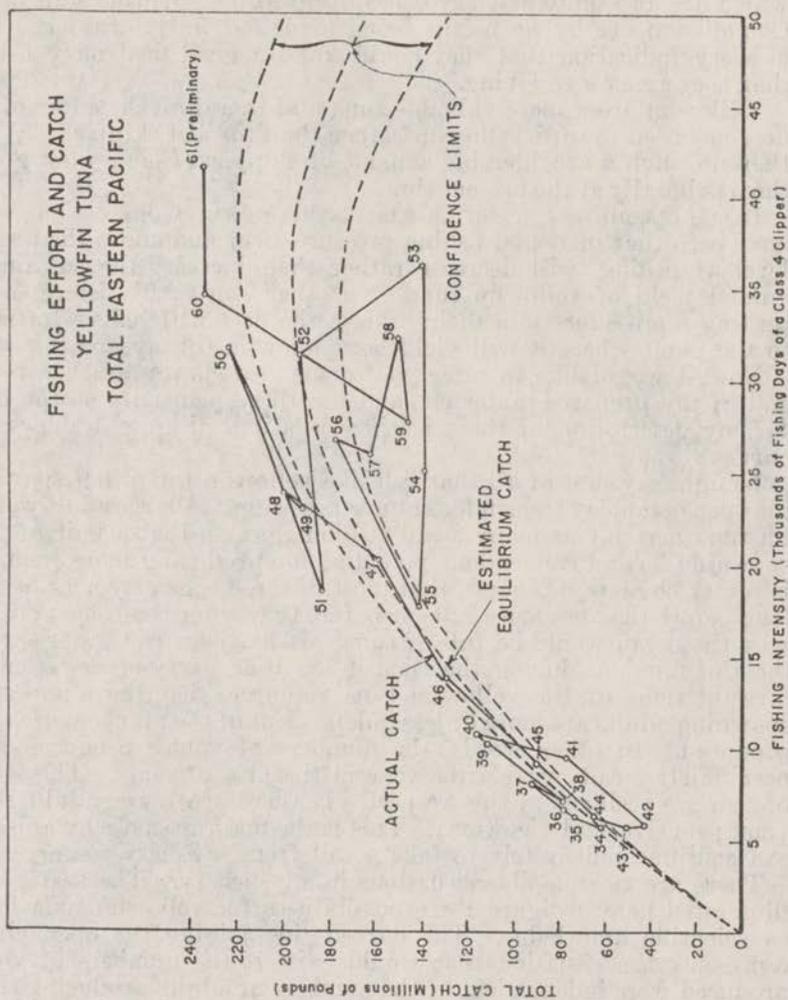


FIGURE 2



Mr. McHUGH. I should point out first of all that the Commission has responsibility with respect to all tuna within the area of concern to the Commission. The major species here, of course, are yellowfin and skipjack tuna.

The Commission has already determined, as you have been told this morning, that the yellowfin stocks have reached or even passed the point of maximum sustainable yield. But the skipjack stocks, which are also quite extensive, according to the scientific staff of the Commission are by no means being exploited fully. In fact, there is every indication that they could stand a good deal more fishing than they are now receiving.

Yellowfin are a more valuable tuna and therefore the effort of the fleet has been toward yellowfin rather than toward skipjack. While they do catch a considerable amount of skipjack, they do not go for them primarily at the present time.

In a nutshell, the scientific conclusions of the Commission's staff have been that increased fishing pressure, over and above the present level of fishing, will decrease rather than increase the sustainable annual yield of yellowfin tuna. In other words, by fishing more, putting more effort into their fishery, the fleet will reduce the stock to the point where it will yield less yellowfin tuna year after year.

Now, I would like to refer you to the two charts attached to the end of my prepared statement and use these primarily as the basis for my description of the scientific situation. Figure 1 shows two curves.

I might say first of all that fish like yellowfin tuna, that spawn in the open ocean, lay tremendous numbers of eggs. A large adult yellowfin tuna may lay as many as 10 million eggs, so that a pair of tuna spawning have a tremendous potential for producing more tuna. It is pretty obvious, of course, that most of these eggs or young fish die long before they become adults or before they enter the fishery; otherwise the ocean would be full of tuna. It has been the experience of the Commission, during the time it has been carrying on scientific investigations of the yellowfin tuna resource, that the numbers of spawning adults are more or less independent of the numbers of young produced. In other words, the numbers of young produced have been fairly steady year after year in the last 10 years. The stocks of fish are resilient in this respect. If there are fewer adults more young survive, and vice versa. This is the main reason why a fishery can continue indefinitely to take a toll from a fishery resource.

There are two possible situations in any fishery. The two I have illustrated here in figure 1 are possibilities for yellowfin tuna based on scientific knowledge. The curved line joining the open circles represents the situation that would exist if the numbers of young produced were independent of the numbers of adults producing them. This curve, as you see, rises to a maximum as fishing intensity increases, and then past a certain point, past the maximum, the curve begins to fall off again. This is because as fishing effort increases, the average age and size of the fish is decreased. Their chances for living a long life are decreased as fishing intensity increases. There is a maximum possible catch, at an intermediate level of fishing intensity, in this best of possible circumstances.

The worst of possible circumstances, the more typical situation in a fishery, is the situation expressed by the other curve, the one join-

ing the black circles. This simply says that up to a certain point, as fishing intensity increases the catch will increase, but you will reach a maximum and then you will reduce the spawning population to such a level that its potential for producing more fish is reduced.

We do not know exactly which is the true situation in the yellowfin tuna fishery. But we do know that it lies somewhere between these two curves. We do know that even in the case of the most optimistic one, the curve labeled "Yield in Weight per Recruit," that at some point as the stock is reduced, there will be an effect on reproduction and the curve will begin to drop very sharply toward the zero line.

We can be certain that, no matter what the situation is, there is a maximum beyond which, if we increase fishing effort beyond this point, annual catches will decrease.

We might now turn to figure 2, which illustrates the situation in a little more detail. The broken lines in figure 2 are simply the same curves you have seen in figure 1. The broken line in the center represents the most probable situation as we know it from scientific analysis of the data on fishing catch and effort. The other two lines represent the limits of possible error that might be involved because we are not able to measure these things quite exactly. Then superimposed on these broken lines are a series of numbered points and a series of lines joining them.

These numbers simply represent past years over which the fishery has been operating. The lines join the points in chronological order so you can get some idea of the progression of fishing intensity and of total catch year to year.

It is obvious that these points fit the theoretical lines pretty closely. Therefore the theory, insofar as it has been developed, fits the actual situation in the fishery quite well.

We have reason to believe, from the preliminary data from the 1962 fishery, that the next point will fall well below. It will be a little bit to the right of the one labeled 1961, but well below, almost certainly below the center broken line. This will show how the stocks are being affected by this heavy rate of fishing.

If you will look along the line labeled "Fishing Intensity," the horizontal axis, and go to the point where the broken lines reach a maximum you will see the best level of fishing intensity for making the greatest catch year after year is about 35,000 standard fishing days of a class 4 clipper. You can see that in 1961 for the first time fishing intensity exceeded this by quite a bit. It was about 41,500 fishing days. This year the potential fishing effort is even greater. I do not know how much effort can be exerted if the fishery is not regulated, but it certainly will be somewhat higher than this because we have some large new boats in the fishery. There have been some dropouts but these have been small boats that do not have very long range. I understand from Dr. Shaefer, Director of Investigations, that this new modern fleet can exert a considerable fishing effort, certainly beyond the optimum effort from the point of view of maximum yield.

Let me explain what might happen if we do not regulate the fishery. It is fairly clear the stock will continue to be reduced. It is already reduced to some extent and the annual catch may remain pretty close to the present catch for a while, because with the increased effort

that the fleet is able to put on the stocks, they can catch considerable numbers of yellowfin tuna even though it is becoming harder and harder to catch them. The fleet has already found in the last couple of years that the catch per unit of fishing effort has gone down rather steadily since 1960. They have had to work harder to catch the same amount of fish. The situation has been confusing to the people in the tuna fleet because they have had a radical change in their method of fishing, from the old bait method to the new, more efficient method of using purse seines. As a matter of fact, it has brought the tuna industry out of a very difficult economic situation, where back in 1959 they were really on the ropes. They were having trouble and the situation looked pretty grim.

This rather rapid changeover to purse seine fishing put them on the black side of the ledger again. Thus their own yardstick for measuring the abundance of the stocks and measuring their ability to catch tuna has changed very radically. They are able to make money even though the stocks are declining and have passed the point of maximum yield.

If the fishery remains unregulated, it is pretty clear to scientists that the stocks will continue to be reduced. The fishing can continue by making a greater effort to catch skipjack. The fishermen are gradually learning how to catch skipjack with purse seines, and eventually it may become primarily a skipjack fishery. Incidental attrition on the yellowfin stocks probably will be sufficient to hold the yellowfin catch down to a low level. It certainly cannot recover if there is an unrestricted fishery in operation. This is especially true since as yellowfin goes down, and the ability to catch skipjack increases, the price of skipjack may rise in response to scarcity of yellowfin. Then the fleet may still be able to operate without hurting too much. It is a rather complicated situation.

There are several possible ways of regulating these fisheries. They have all been considered. The typical methods are such things as closed areas, which might be used to protect young fish, or to protect the resource when the fish are concentrated in certain areas and more easy to catch than at other times. This was rejected for various reasons: These areas are awfully hard to identify and hard to control, and such tend to interfere with the efficiency of the fleet. We do not want to interfere with the efficiency of these operations. Another possibility is to have closed seasons, which might operate in somewhat the same way, to protect young fish or protect fish when they are concentrated. This, again, was rejected primarily because it increases the cost of catching tuna. We do not want to do this. Another possibility is a gear restriction, which might take the form of a regulation on the mesh size of purse seines. This might have the effect, if for example we were to increase mesh size, of actually increasing the chances for tuna to live to a greater age. This would tend to get the greatest yield in weight per fish. This would have a distinct disadvantage, for skipjack are much smaller than yellowfin. Thus, we would be penalizing the fisherman by cutting down his ability to catch skipjack when there is no need to do this.

The method of size restriction, even though it would give fishermen a greater yield in weight of tuna caught, is not considered to be a good method. The other method, and this is the one that was

recommended by the Commission, has been the method of quota. This would require a close check on the fishery and at such time as the allowable quota had been reached, then the fishery would be cut off for yellowfin but not for skipjack.

As Mr. Curtiss has already mentioned, of course, you cannot fish for skipjack and not catch some yellowfin. There has to be some allowance. It has been determined that you can probably fish pretty effectively for skipjack if you are allowed to bring back about 15 percent of yellowfin in your catch. This is the way it was determined.

You will notice also that the maximum sustainable yield of yellowfin tuna is estimated at about 97,000 tons a year. But the recommended quota for 1962 is considerably lower; namely, 83,000 tons. The reason for this is that the scientific evidence all points to the fact, as I have said before, that the yellowfin tuna stocks are already somewhat overexploited. In order to build the spawning stocks back up to the point at which they yield the maximum, it is necessary, as it were, to put money back into the bank. We are proposing to do this by holding the quota down below the maximum. Each year the Commission would meet and redetermine the quota, basing its decision on the scientific evidence.

That, very briefly, Mr. Chairman, is a summary of the testimony I have submitted in writing. I would be glad to answer questions if you have any.

Mr. SELDEN. Thank you, Dr. McHugh.

Mr. Beckworth?

Mr. BECKWORTH. No questions.

Mr. SELDEN. Mr. Mailliard?

Mr. MAILLIARD. I just want to thank Dr. McHugh for a very interesting and very clear explanation of the problem.

I do not think I have any questions.

Mr. SELDEN. Mr. Whalley?

Mr. WHALLEY. Thank you, Mr. Chairman. I want to thank Dr. McHugh. I want to thank all of the witnesses.

You say it is limited to 83,000 tons. What has been the average catch, say, in the past 5 years?

Mr. MCHUGH. A little less than 100,000 tons, I would say. You can pretty well estimate it from figure 2.

Mr. WHALLEY. That is close enough.

Mr. MCHUGH. That is about it.

Mr. WHALLEY. In other words, you take about 17,000 tons a year off what has been caught?

Mr. MCHUGH. Yes.

Mr. SELDEN. Do you think that regulation of an industry in the countries that are members of this Commission will encourage other countries that are not members to increase their yellowfin tuna catches?

Mr. MCHUGH. This is quite possible. Of course, this is not a scientific question at all. This is purely an economic question. This is one of the things that worries our tuna fishermen, of course. It is something to be concerned about because if there is a limit, each country is free to take its share of this limit. There has been no question in the Commission of having country quotas; in fact, most countries are against this because it works against their own best interests.

I think our fleet feels if there is a quota they would like to have the opportunity to go out and catch their full share of this quota. I think the other tuna fishing countries have the same view.

Mr. SELDEN. However, do they realize at the same time that something must be done or the stock will drop to such an extent that it will not be a profitable business?

Mr. McHUGH. I think a good many of our fishermen are convinced. Of course, it is awfully difficult for them to see the facts. As I said before, the yardstick is changed. They tend to measure this in economic terms and I think I would, too, if I were a tuna skipper. Here is a valuable resource. They were not making money back in 1959. Suddenly they are making money, and they know there are lots of tuna out there. Why should they be forced to stop catching them? Sure, there are lots of tuna out there. There is no doubt they could catch more if they wanted to. We have told them, and I think the scientific evidence is pretty good, that if they do catch more yellowfin tuna they are doing it at the expense of later catches. They are taking "principal" out of the "bank."

Mr. SELDEN. Are there further questions? If not, we want to thank Mr. Taylor, Mr. Curtiss, and Dr. McHugh for their testimony this morning.

Also, I would like to announce that a public hearing has been set for next Wednesday, the 22d of August¹ at 10:30 a.m. in room G-3 of the Capitol, and those members of the industry who have expressed an interest in being heard will be notified.

If there are no further announcements, the committee will stand adjourned.

(Whereupon, at 12 m., the committee adjourned.)

¹ Postponed to Tuesday, Aug. 28, 1962.

CONSERVATION OF TROPICAL TUNA

TUESDAY, AUGUST 28, 1962

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
SUBCOMMITTEE ON INTER-AMERICAN AFFAIRS,
Washington, D.C.

The Subcommittee on Inter-American Affairs met, pursuant to call, at 10:35 a.m., in room G-3, U.S. Capitol, Hon. Armistead I. Selden, Jr. (chairman of the subcommittee), presiding.

Mr. SELDEN. The committee will come to order, please.

We have before us S. 2568, a bill to amend the Tuna Conventions Act of 1950.

Appearing as witnesses this morning are Mr. August J. Felando, general manager of the American Tunaboat Association. He is accompanied by Mr. Louis Guidi, master of *Lou Jean*, the vessel fired upon in El Salvador, and Mr. Gibbs Baker, representing the Tunaboat Association in Washington, D.C.

Mr. Felando, I note that you have a prepared statement. You may proceed in any way you like.

STATEMENT OF AUGUST J. FELANDO, GENERAL MANAGER, AMERICAN TUNABOAT ASSOCIATION

Mr. FELANDO. Thank you, Mr. Chairman.

My name is August Felando, a former fisherman and managing owner of a tuna vessel.

On my left is the master of the *Lou Jean*, Louis Guidi. About 1:30 in the morning of April 28, the *Lou Jean* was proceeding homeward with a load of tuna that Mr. Guidi caught on the high seas about 200 or 300 miles from El Salvador. As he was proceeding homeward at a point approximately 15 miles off the coast he was fired upon, boarded, and seized and taken into the port of La Unión, El Salvador.

Mr. Guidi is prepared to answer any questions that the chairman may have about that incident.

Mr. Guidi's brother, August Guidi, is master of the vessel *Jo Linda*. Earlier in 1962, February, the *Jo Linda* was drifting approximately 25 miles off the coast of Colombia, and this vessel was fired upon but because of the darkness and the early morning hours and the speed of the *Jo Linda* it was able to avoid the Colombian patrol vessel.

To my right is Mr. Gibbs Baker, who is representing the American Tunaboat Association in Washington, D.C.

I am the general manager of the American Tunaboat Association of San Diego, Calif. The membership of this organization is comprised exclusively of tuna fishing vessel owners and operatives of the largest American fleet.

For the purpose of this hearing, I am also representing some vessel owners that operate from Puerto Rico, and some vessel owners that operate from San Pedro, Calif.

It is a fact that for the first 6 months of 1962 the members of the American Tunaboat Association caught and unloaded over 60 percent of all the tuna landed in the United States by vessels operating from the United States. The other people I represent caught about 8 percent of such tuna production. This is why we have a vital interest in S. 2568.

We are in opposition to S. 2568 as it now stands.

S. 2568 must be amended to prevent seizure of U.S.-flag tuna fishing vessels, or harassment or discriminatory actions directed against American tuna fishermen. Such protection is consistent with the fishery conservation policy supporting this legislation. We believe the amendment should take the following form:

On page 5, between lines 13 and 14, insert the following additional subsection:

(d) In the case of seizure of or of repeated action by any country to harass or otherwise interfere with United States-flag tuna fishing vessels engaged in lawful activities on the high seas, the Secretary of the Interior shall prohibit the entry from such country of species of tuna, in any form. Such prohibition shall continue until the Secretary of the Interior is satisfied that the condition warranting the prohibition no longer exists, at which time entry from such country of species of tuna, in any form, shall be permitted, except that all such fish, in any form, which were denied entry, shall continue to be denied entry. The Secretary of the Interior shall provide reasonable opportunity for any interested person to complain and submit evidence of such seizure of, harassment of, or interference with United States-flag tuna fishing vessels. The Secretary of the Interior shall issue appropriate regulations to carry out the foregoing.

This amendment is offered at this time because recent international events force us to assert the following:

(1) That our Government has failed to protect American tuna vessels and fishermen fishing on the high seas from seizure, harassment, and discriminatory tactics by other governments;

(2) That the success of the recommendations of the Inter-American Tropical Tuna Commission is essentially dependent upon the condition that such protection be given to American tuna fishing vessels and men; and

(3) That the practical solution we suggest is the best way to handle the problems besetting the American tuna fleet.

We are in agreement with the approach to the problem recently announced by Senators Bartlett and Magnuson.

Senator Bartlett presided as chairman of the hearings on S. 2568 before the Merchant Marine and Fisheries Subcommittee of the Senate Committee on Commerce. He conducted a 2-day hearing on this bill on May 23 and 24, 1962, and was informed of the concern we have over the apparent trend, now an aggravated situation, in respect to high seas tuna fishing off Latin America.

On August 3, 1962, Senator Bartlett stated as follows (reference: Congressional Record, pp. 14564 and 14565) :

The United States recognizes territorial jurisdiction up to 3 marine miles offshore. We have never sought unilaterally to extend our own jurisdiction beyond the 3-mile limit, and we do not recognize purported unilateral extensions by other nations of jurisdiction beyond that distance.

But our lack of recognition of various nations' claims beyond the 3-mile limit has not been effective in preserving the rights of our fishermen. Our shrimp fishermen from Gulf Coast States and our tuna fishermen from West Coast States have been fired upon, their boats seized, and fines levied upon them, and we have had no practical means for protecting them. One incident may, and often does, lead to others. So long as we do nothing to protect our fishermen, so long as we do nothing to protect their rights on the high seas, we can only expect further oppressive acts against them at the hands of foreign authorities.

The longer this type of situation is allowed to continue, the more we are placing our fishermen in jeopardy, and the worse the situation becomes. We are encouraging chaos.

The solution is not to arm our fishing vessels; it is not to send fleets of armed U.S. patrol boats to the fishing grounds; it is not to declare war.

Economic force is, today, the most sensible and effective, and the only really practical solution.

This statement by Senator Bartlett gave expression and force to the following conclusions reached on page 4 of the report on S. 2568 by the Senate Commerce Committee:

Because the quota system recommended by the Tropical Tuna Commission will be open on a first-come, first-catch basis, the committee believes it is vital that the tuna vessels of all nations have nondiscriminatory access to the fishing area on the high seas.

The committee's report also stated:

If American fishermen and fishing vessels continue to be targets of discriminatory tactics by other governments, the committee expects to move promptly to recommend enactment of effective legislation to deal with the situation. In this respect, a number of legislative remedies are available, not the least of which would be to forbid the entry into the United States of fish and fishery products from countries which attempt to close off areas of the high seas to American fishermen.

On the high seas of the eastern Pacific Ocean the American tuna industry faces direct and effective competition on a major scale between U.S.-based tuna vessels and foreign-based tuna vessels. This competition is increasing annually at a substantial rate, especially in the last year. See exhibits 2, 3, 5, 6, and 7.

(The exhibits referred to are as follows:)

EXHIBIT 1

TUNA PRODUCTION FACILITIES IN PERU AND ECUADOR

Star Kist Foods, Inc.

Compania Pesquera de Coishco, S.A., controlled by Star-Kist Peruana, S.A., which is a subsidiary of Star Kist Foods, Inc. Coishco was built in 1948. The plant is fully integrated; that is, it has vessels, canning facilities, cold storage units, and a well-equipped machine shop.

In 1958 the refrigeration division could handle 2,000 tons of frozen tuna. Based upon a personal visit in April 1962, this capacity appears to have been doubled.

Van Camp Sea Food Co.

Recent Van Camp acquisitions, based upon a report to the shareholders of Van Camp Sea Food Co., dated July 9, 1962:

"On April 12 I informed you that an understanding has been reached whereby Van Camp would acquire the Peruvian interests of British Columbia Packers, Ltd., and Mr. Carl Hedreen. This transaction has just been finalized, wherefore

Van Camp is now the owner of all of the outstanding shares of two Peruvian corporations, Empresa Pesquera Peru S.A. (EPPSA) and Inmobiliaria Eppsa S.A. (Inmobiliaria).

"In a second transaction, completely independent of the foregoing, Van Camp on June 11 purchased all of the outstanding shares of two additional Peruvian corporations, Cia. de Negocios de Ultramar S.A. (CONULSA) and Empresa Pesquera Ilo S.A. (EPISA). The activities of all four companies are now being integrated into one operation with headquarters at Lima, Peru, thus enhancing the values of each of the new acquisitions.

"The two Peruvian acquisitions are of greater significance. These involve two fish-receiving stations with freezers and cold storage installations, four canneries and four fishmeal reduction plants. The properties are located at Ilo, Chimbote, Culebras, Supe, Bahia, and Moncora, all seacoast communities that are scattered at intervals from the southern to the northern tips of Peru."

Van Camp also has a cannery and cold storage facility in Manta, Ecuador. The cannery can handle about 70 tons of fish a day. The cold storage facility has a capacity of 2,000 tons.

Frigorífico Paíta, S.A.

This concern has two freezers and a cannery. Its primary function is the freezing of tuna and tuna loins for export to the United States. This plant was formerly a subsidiary of Westgate-California Corp. of San Diego. The Frispa plant can handle 1,500 tons of frozen fish. This plant is now owned by Cesar Vallarino, a Peruvian citizen. This person also owns Inter America de Navegacion y Negocios, S.A. This concern operates refrigerated carriers at Mancora and Zorritos.

EXHIBIT 2

Foreign tuna fleet

NOTE.—Does not include the 45- to 60-foot small boats operating from Mancora, Paíta, Zorritos, Ilo, Peru. Or the small vessels operating from Manta and Salinas, Ecuador. The listing only includes former U.S. fishing vessels now fishing in foreign ports.

Name of vessel	Fish capacity	Flag	Type of vessel	Base of operations
	<i>Tons</i>			
1. Emperador Azteca.....	240	Mexico.....	Purse seiner...	Mexico.
2. Princesa.....	180	do.....	do.....	Do.
3. San Geronimo.....	120	do.....	do.....	Do.
4. San Juan.....	160	do.....	do.....	Do.
5. Santa Maria.....	150	do.....	do.....	Do.
6. Stella Maris.....	120	do.....	do.....	Do.
7. Tesoro del Mar.....	180	do.....	do.....	Do.
8. Santa Isabel.....	120	do.....	do.....	Do.
9. City of San Pedro.....	125	do.....	do.....	Do.
10. New Sea Rover.....	155	do.....	do.....	Do.
11. St. Mary.....	120	do.....	Bait boat.....	Do.
12. Santa Marina.....	120	do.....	do.....	Do.
13. Barbara K.....	190	Panama.....	do.....	Peru.
14. Judy S.....	240	do.....	do.....	Do.
15. Lucy Elena.....	180	do.....	do.....	Do.
16. Mary Jo.....	210	do.....	do.....	Do.
17. Carol S.....	190	do.....	do.....	Do.
18. Sea Giant.....	140	do.....	do.....	Do.
19. Sun Splendor.....	240	do.....	do.....	Do.
20. Sun Jason.....	240	do.....	Purse seiner...	Do.
21. Mayflower.....	280	In transfer.....	do.....	Do.
22. Santa Helena.....	360	do.....	do.....	Do.
23. Frances Marie.....	180	Panama.....	Bait boat.....	Ecuador.
24. Mary C. Canas.....	150	do.....	do.....	Do.
25. Far Famed.....	180	United States.....	do.....	Peru.
26. Heroic.....	210	do.....	do.....	Do.
27. Santa Anita.....	240	do.....	do.....	Do.
28. Golden West.....	170	do.....	Purse seiner...	Do.
29. Ruthie B.....	200	do.....	do.....	Do.
30. Western Monarch.....	120	do.....	do.....	Do.
31. Intrepid.....	220	do.....	do.....	Do.
32. New Era.....	240	do.....	do.....	Do.
33. Southern Seas.....	160	do.....	Bait boat.....	Costa Rica.
34. Sun King.....	220	do.....	Purse seiner...	Peru.
Total.....	6,350			

As a comparison, tuna fleet operating from San Pedro May 1962 (all seiners) are as follows:

Name of vessel and fish capacity

	<i>Tons</i>		<i>Tons</i>
1. Anthony M.....	273	14. San Pedro Boy.....	120
2. City of Los Angeles.....	147	15. Sea Rover.....	142
3. Courageous ¹	129	16. Sea Scout.....	159
4. Defense.....	172	17. Sea Spray.....	120
5. Delores M.....	174	18. Seven Seas.....	108
6. Jo Ann ¹	119	19. Sharon B.....	115
7. Liberator.....	151	20. Sun Beam.....	174
8. Marauder.....	122	21. U.S. Liberator.....	110
9. Marsha Ann.....	152	22. Vagabond.....	110
10. Miss Universe.....	155	23. Western Fisher.....	142
11. Nancy S.....	106		
12. Pioneer.....	185	Total.....	3,388
13. Ronnie M.....	203		

¹ Operated from port in Mexico in 1st 6 months of 1962.

CONSERVATION OF TROPICAL TUNA

EXHIBIT 3
Tuna fishing vessels reported lost, abandoned, forfeited, exempt, sold alien, transferred to foreign flag, 1961, 1962

	Name	Hull construction	Tonnage (gross)	When built	Home port	Disposition
1961—February March June	Cal	Wood	150	1937	San Diego	Transferred to Costa Rican flag.
	Miss America	do	199	1945	do	Transferred to Panamanian flag.
	City of San Pedro	do	138	1944	San Pedro or Los Angeles	Transferred to Mexican flag.
	J. B. Edwards ¹	do	98	1937	Seattle	Transferred to Peruvian flag.
November December	Virginia Rose II	do	51	1945	San Diego	Transferred to Mexican flag.
	Total gross tonnage transferred to foreign flag.		645			
1962—January	Judy S.	Wood	307	1940	San Diego	Transferred to Panamanian flag.
	Lacy Elena	Steel	288	1947	do. ²	Do.
	Sea Giant	Wood	154	1936	do. ²	Do.
	Sun Jason	Steel	430	1947	do. ²	Do.
	Sun Splendor	Wood	334	1937	do.	Do.
	Victoria ³	do	119	1936	San Pedro or Los Angeles	Transferred to Peruvian flag.
	Carol S.	Steel	317	1948	San Diego ²	Transferred to Panamanian flag.
	Barbara K.	do	262	1947	do. ²	Do.
	Emperador Azteca	Wood	453	1947	do.	Transferred to Mexican flag.
	Frances Marie	do	242	1942	do.	Transferred to Panamanian flag.
	Mary C. Canas	do	198	1948	do.	Do.
	Columbia	do	238	1951	San Pedro or Los Angeles	Transferred to French flag.
	Total gross tonnage transferred to foreign flag.		3,352			

¹ Incorrectly reported as a freighter in the supplement.

² Not strictly tuna vessel, but it is a purse seiner capable of being used in the fishery.
³ These vessels were registered in Wilmington, Del., but in fact were operating from ports in Peru for the past 2 or more years. These vessels were managed and controlled by persons in San Diego before the transfer.

Source: U.S. Treasury Department, Bureau of Customs, Monthly Supplement to Merchant Vessels of United States.

EXHIBIT 4

From: Embassy Quito, Ecuador.

To: The Department of State, Washington.

Subject: Transmittal of Decree Establishing Restricted Fishing Zone off Ecuadorean Coast (unclassified).

This is an informal translation, dated May 31, 1962, of Decree No. 749, by Carlos Julio Arosemena Monroy, constitutional President of the Republic of Ecuador, prohibiting purse seiners from fishing within 40 marine miles of the Ecuadorean coast between Cabo Pasado and Punta de Santa Elena.

Considering:

That, the Manabi Association of Boat Owners (AMAPE) has presented to the Ministry of Development a petition asking that tuna fishing in Ecuadorean waters be regulated in a manner so that it does not adversely affect the national fishing fleet;

That, having sent a Special Commission of representatives of the Ministry of Development and the Ministry of Defense, it has been established that the activity of Ecuadorean tuna boats would be affected considerably by the system of fishing known as purse seiners; and,

That, in conformity with article 13 of the maritime hunting and fishing law, the executive branch is authorized to prohibit, restrict, limit or condition fishing activities,

Decreases:

Article 1. Fishing vessels are prohibited from fishing tuna by means of net (system known as purse seiner), in the section of the sea comprehended within the following limits: from the beacon of Cabo Pasado, an imaginary line, 40 marine miles to the west to the point 00°-22'00" south latitude and 81°-10'00" west longitude. From this point with a true route of 195° to another point situated in the sea at 02°-12'00" south latitude and 81°-40'00" west longitude, that is to say, to 40 miles west of Punta de Santa Elena; and from there, with a true route of 90°, until ending on land at Punta de Santa Elena.

Article 2. Said zone is declared a national reserve, in which there will be permitted only fishing by hook and line subject to pertinent legal provisions.

Under the present decree, foreign flag fishing vessels will continue subject to the provisions of Executive Decree No. 991, of May 23, 1961, published in Official Registry No. 229, of June 2 of the same year. (Note: this decree prohibits foreign flag vessels from fishing for bait between Punta de Santa Elena and Cabo Pasado.

Article 3. The prohibition provided in article 1 modifies the fishing permits granted to purse seiners, limiting their operations to outside the reserve zone.

Article 4. All foreign flag tuna fishing vessels are obligated to present themselves to the captain of the Ecuadorean port closest to their route, in order to have their documents countersigned, on entering and leaving national territory.

Article 5. Authorized Ecuadorean consuls, on granting the *matricula* and fishing permit, will receive a sworn statement from the captains of fishing vessels, that will be evidenced in writing at the bottom of such documents, that they understand the provisions of the present decree.

Article 6. Any violation of the provisions of this decree will be punished in accordance with the sanctions provided in article 52 of the maritime law of hunting and fishing.

Article 7. The Ministers of Development, Foreign Affairs, and Defense are given responsibility for enforcement of this decree.

Signed in the national palace at Quito on May 15, 1962.

CONSERVATION OF TROPICAL TUNA

EXHIBIT 5

U.S. IMPORTS OF TUNA COMMODITY, BY COUNTRY OF ORIGIN, JANUARY-JUNE 1962

Source: Compiled from information verified by customs examiners on import entries filed with customs by importers: U.S. Bureau of the Census, "U.S. Import Statistics," Report F.110.

0058400	Tunafish, yellowfin, bigeye, and bluefin tuna, whole, fresh or frozen, not cooked.
0058600	Tunafish, yellowfin, bigeye, and bluefin tuna, without heads and tails removed, fresh or frozen, not cooked.
0058700	Tunafish, yellowfin, bigeye, and bluefin tuna, without heads and tails
0058800	Tunafish, yellowfin, bigeye, and bluefin tuna, filleted, fresh or frozen, not cooked.
0058900	Tunafish, yellowfin, bigeye, and bluefin tuna, other, fresh or frozen, not cooked.
0058950	Tunafish, skipjack, fresh or frozen, not cooked.
0078350	Tuna loins and disks, other than albacore.
0065700	Other tunafish than white meat tunafish in oil, canned.
0065100	Bonito and yellowtail in oil, valued over 9 cents per pound.
0067250	Canned tuna in brine.
0067800	Bonito in brine, in airtight containers.

Factors used to convert to round weight:

Gilled and gutted multiplied by 1.12.

Dressed, headed and tailless multiplied by 1.25.

Cooked loins and disks multiplied by 2.25.

As to canned fish, total weight divided by 24 to establish number of total cases, then case and factor of $\times 39$ equals round weight.

EXHIBIT 6

[Net quantity in pounds]

Date	Country	Fresh or frozen tuna				Canned tuna		
		0058400	0058600	0058950	0078350	0066100	0067250	0067800
January	Mexico							
	Peru	1,111,761				462,027	85,266	150,481
	Ecuador				54,180		697,112	
February	Mexico							
	Peru	311,267		2,632,098		802,439		166,230
	Ecuador			800,000			153,207	
March	Mexico	408,843				428,595		
	Peru	2,538,320		1,227,396				
	Ecuador		533,513	1,924,616	48,438			
April	Mexico	258,397						
	Peru		1,015,428	661,029		537,882	25,233	143,325
	Ecuador							
May	Mexico	389,017						
	Peru			1,314,031		794,679		219,471
	Ecuador			1,135,789				
June	Mexico	536,051				(1)		(1)
	Peru	505,694				(1)		(1)
	Peru	1,449,132		193,780	12,726	(1)		(1)
	Ecuador					(1)	506,456	(1)
Total		7,508,482	1,548,941 $\times 1.25$	9,918,739	115,344 $\times 2.25$	3,025,622 $\div 24$	1,467,274 $\div 24$	699,507 $\div 24$
Total converted round weight			1,936,176		259,524	126,066 $\times 39$	61,136 $\times 39$	28,312 $\times 39$
						6,538,574	2,384,320	1,104,184

Grand total round weight: 29,649,999.

¹ Not available.

EXHIBIT 7

The California tuna fleet has produced 69.1 percent of the total skipjack and yellowfin tuna caught in the eastern tropical Pacific Ocean. The total of 115,729 tons does not include Japanese production. Other fleets have produced 30.9 percent of such total catch.

[In tons of 2,000 pounds]

From January to Aug. 18, 1962, total tropical tuna catch in eastern tropical Pacific, except Japanese production.....	115, 729
Total landed yellowfin.....	60, 890
Less landings in California.....	49, 449
Net.....	11, 441
Add transshipments.....	1, 680
Total yellowfin caught by other fleets.....	13, 121
Total landed skipjack.....	54, 839
Less landings in California.....	31, 917
Net.....	21, 922
Add transshipments.....	724
Total skipjack caught by other fleets.....	22, 646
Grand total yellowfin and skipjack caught by other fleets than those operating from United States.....	35, 767

Source: Inter-American Tropical Tuna Commission Fishery Products Rept. P-165, Aug. 23, 1962, Bureau of Commercial Fisheries.

Mr. FELANDO. As this fishing production power develops in Latin America, vocal and powerful fishing interests in those countries place pressures on their governments to harass or interfere with U.S.-flag tuna vessels.

In previous years, these pressures originated from other interests and for other motives. But, today, the picture has changed. The payment of tribute money for fishing licenses once balanced the national interest in the fishery resources in the claimed territorial waters of the country.

Payment of money is no longer an effective way of avoiding seizure and harassment of our fishermen on the high seas off Latin America. A more practical and effective solution is required.

Let me review the background of this problem. In Latin America most countries have laws that permit foreign vessels to fish off their coasts. The foreign vessels can fish if they pay a license or if they are employed by a fishing company organized in the country.

The best example of this approach is Peru. As the subcommittee knows, Peru is now in third place in world fish production. Only Japan and Red China exceed its production. United States has fallen from second to fifth place. Peru permits American-flag vessels to operate for a Peruvian company even though this company is controlled by an American company. Peru also allows American-flag vessels to purchase fishing licenses. In years past, Peru received substantial income from purchases of fishing licenses by American tuna vessels. But the presence of fish determines the necessity for licenses, and as such there has been an irregular flow of license income.

This irregular condition does not apply to fishing companies and canneries actually located in Ecuador and Peru. And so, as the de-

velopment of these canneries and fleets increased, the interest and necessity in license income decreased.

In the past, the presence of our vessels off Latin America inspired claims of a violated national pride. Today, the presence of our vessels are objectionable because they are competitors to an existing and thriving fishing industry.

Our domestic canners, the same people who buy our fish, are taking actions designed to increase the tuna production of their units stationed in Ecuador and Peru. (See exhibit 1, p. 49.) We cannot prevent competition from the fishing units located in Latin America. Nevertheless, we can ask our Government to take steps to insure that such competition acts fairly and with justice toward us.

We merely ask that the American tuna fishermen be free of seizures and discriminatory acts designed to deny them the opportunity to stony on the high seas fishing grounds. We ask that the Government be permitted to take practical steps to give us that protection.

We believe that if our Government is going to control our production, then it should also be obligated to see to it that we have free and open access to the grounds that provide such production.

We have been aware of the actions our Government has taken to handle the Ecuadoran situation. (See exhibit 4, p. 53.) We are not satisfied with the results.

In a speech on August 2, 1962, by Senator Gruening, pages 14412-14413, Congressional Record, he noted the following facts:

There is, in our country at present, a delegation from Ecuador seeking additional aid to bail out its shaky economic structure. While continuing to spend money to purchase more arms, in order to keep up with arms purchases by Peru, Ecuador comes to the United States to have us make its budget whole.

When the President of Ecuador returned to his country, an Ecuadorian naval vessel seized the American-flag vessel *White Star* on or about August 3, 1962, and, as of today, the vessel is still under custody in Salinas, Ecuador.¹ Based upon reports obtained from members of our association, the seizure incident occurred on the high seas. The Ecuadoran naval vessel had bypassed two or three other tuna vessels as it was proceeding from Salinas, Ecuador, toward Manta. For some unknown reason, the *White Star* was stopped by the patrol vessel and taken into Manta, Ecuador. The *White Star* had an Ecuadoran fishing license, but had not been fishing at the time of seizure. After the *White Star* seizure, at a location approximately 5 miles off the island of La Plata, the tuna fishing vessel *Cabrillo* was boarded by Ecuadorans.

While this vessels was fishing, that is, in a "set," a small vessel approached. It contained armed soldiers. They came on board the *Cabrillo*. Based on information I have now received, the master was confronted by the purported military commandant from the island, and a ".45" pistol was pointed at the master of the *Cabrillo* and he was told that unless the master did something the vessel was going to be taken under custody into La Plata. So the master give him a case of whisky and 4 or 5 tons of tuna. After this was done, the vessel was permitted to continue fishing.

¹ The subcommittee was advised by the State Department of the release, on Sept. 5, 1962, of the *White Star*.

Last Friday, a vessel named *Larry Roe* or *Lois Seaver* was boarded at the Galapagos Islands. Its fishing activities were stopped by Ecuadoran officials. The papers regarding the vessel are still in the custody of the Ecuadorans. I now understand that the vessel was released for fishing. I am not sure, and haven't received any confirmed reports, but I believe there are Ecuadoran soldiers aboard this vessel with the understanding that the vessel was to proceed back to the Galapagos Islands after a passage of time. Thus, we are continuing to have additional incidents in Ecuador.

We now know how and where Ecuador gets its gunboats. Senator Gruening explained in his speech as follows:

Ecuador protested long and loud, in 1958, when it became apparent that the U.S. Congress was considering providing one of our excess destroyers to Peru. Finally, in 1959, despite the Pentagon's judgment that Ecuador did not need a destroyer to fulfill its role in hemisphere defense, and despite the State Department's concern that the upkeep of the ship would strain Ecuador's hard-pressed treasury, we bowed to political consideration, and furnished Ecuador the destroyer.

So here we are, American-flag fishing vessels being seized by a former American military ship given to Ecuador for the express purpose of hemisphere defense by Congress. During the last war, 60 percent of our tuna fleet and in some cases, with crews aboard, were taken over by the Navy.

It is a little of life's irony for our men to know that ex-U.S. Navy vessels are chasing them off the high seas.

Mr. SELDEN. Was it an ex-American destroyer that seized this ship?

Mr. FELANDO. The information that I have is that it was a destroyer formerly used by the U.S. Navy. As to whether this is the type—they also have an English corvette style vessel. Whether this vessel that seized the *White Star* was a destroyer or corvette, I don't have the information.

Mr. SELDEN. You state here it was an American vessel?

Mr. FELANDO. Yes. The reason I say that is this, that two other vessels—I talked to one fellow who was aboard one vessel that was given the first light signal by the ship, and his description to me indicated it was a large-size vessel and it most likely was a destroyer. I can't say that—

Mr. SELDEN. Perhaps you should amend your statement.

Mr. FELANDO. Since January 1961 tuna vessels have been seized by naval vessels of the Republic of Panama, El Salvador, Colombia, and now, Ecuador. Tuna vessels have been shot at by naval vessels of El Salvador and Colombia. Tuna vessels have been boarded by armed military personnel, and masters ordered off their vessels by naval vessels of Ecuador. I have affidavits from the masters of six vessels. I would like to introduce them in the record at this time. I would like to have these affidavits made a part of the record.

Mr. SELDEN. Without objection, they will be included as part of the record.

(The affidavits referred to are as follows:)

STATE OF CALIFORNIA,
County of San Diego, ss:

I, Ernest Monteiro, a citizen of the United States, and a resident of San Diego, Calif., living at 350 San Elijo Street, ACADEMY 3-8010, being first duly sworn, says:

That I am the managing owner and master of the MV *Shamrock*, official number 253-836. I have had this position of authority since 1948, the year the vessel was launched, and have been fishing for tuna in the eastern Pacific Ocean for over 30 years.

The MV *Shamrock* left San Diego for fishing grounds on January 4, 1961. We caught our first fish at Galapagos Islands, just off Culpepper Island.

On February 7, 1961, while headed for Marchena Island, we were stopped by the Ecuadoran Coast Guard. It was requested to me to leave my vessel and board the Ecuadoran ship, whereupon I showed my ship documents and licenses. This entire incident took about 1 hour, from the time signaled to stop, until continuing my vessel's course.

On March 17, 1961, the vessel entered Balboa, Canal Zone, Panama, for the purpose of obtaining fuel. We had bait aboard at this time. We left Balboa at about 1810 hours the same day of entry.

On March 19, 1961, we started looking and working for bait off the Colombian Coast, near Cape Marzo. On March 20, we obtained about 1,025 scoops of anchoveta off Cape Marzo, Colombia.

On March 21, 1961, at about 0300 hours, the vessel was anchored in 17 fathoms of water for the purpose of doing emergency repair work on the main engine. The engineer had informed me a few days before of trouble with obtaining a proper pressure on the bearings because of something faulty with the lube pump. That morning, the engineer told me that we only had 3 pounds of lube oil pressure, and so I decided to anchor the vessel and get to work on this problem. Right after anchoring, we shot some flares when I saw a boat passing by, I believe a shrimp boat. I wanted to attract its attention so he could pass the word into Panama to my broker that we were coming in. The boat didn't stop. I went down to the engine room with the engineer. We had discovered that a "key" to the gear on the lube pump was missing, and while searching the sump for this "key" two crewmembers came to the engine room and signaled me to come up topside. The engineer stayed down below. When I got up to the main deck, starboard side, I saw a number of men in uniforms holding machineguns, rifles, and pistols toward me and the crewmembers.

A man later identified to me as "Watson" asked, in English, who was the master. I stepped forward and answered his question. He then informed me that we were under arrest because we were in Panamanian waters. I told him that we were not in Panamanian waters. We then entered into a discussion about the location of the vessel. I told the navigator, Herman Lancaster, to give Watson the location of the vessel. Watson and Lancaster went to the pilothouse, and Lancaster put on the radar for purposes of locating the vessel. When we had dropped anchor that morning, I checked the location of the vessel and knew it to be as follows: Latitude 8° 39.41' N., longitude 78° 51.5' W.

After Watson and Lancaster left for the pilothouse, I was taken from my ship to the cutter. When Watson returned, he told me that he was going to take us to Panama City, and leave only two men on board my ship. I told him that there should be no less than four men left aboard, two men for deck watches, two men for engine room watches. He said no, just the cook and the engineer. I told Watson about the risks to the vessel by leaving the unexperienced cook and the engineer alone, that the vessel could be lost and the insurance company deny payment under the policy. He rejected my views. They did not allow the crew to properly dress. They shoved the men around with guns.

When we got ashore, I was permitted to buy some clothing for my men. After I made these purchases, we were taken to a "jail"; a 4- by 12-foot room. Actually, it was only a men's restroom. We were in this room for about 2 hours.

I made requests to see the American consul and contact the American Tunaboat Association constantly. They told me that as soon as they were finished with us they would contact the American consul and the ship's broker in Panama City.

We were then moved to army barracks. These buildings were empty of furniture.

On the fourth day after being placed in the "jail," I was contacted for the first time by the ship's broker, Leroy Williams. This was the same day of the trial. When I saw the broker, I asked him if he had contacted the American Tunaboat Association or the American consul. He told me that he had wired the ATA and informed the American consul. He offered any assistance. I told him that if the fine was reasonable we would pay it and get out of the country. He advised me that this was the best approach, because to argue or fight the matter in court would take 2 to 3 months. So I agreed.

In Government building, the crew and I, one at a time, went to a room containing Panamanian officials. I did not hear any questioning of my crewmembers, and will relate only what happened during my interrogation.

It was around 11 a.m., some soldiers took me and the crew to this building. They took me into this room, and there was a Government lawyer, and interpreter, a girl secretary, and Watson. The lawyer did all of the questioning. I was there for about 1 hour. During the questioning, the same matters as covered by Watson on the boat were reviewed.

I again stated to the attorney that the vessel was anchored about 11.9 miles from either the islands or the mainland, I can't recall at present, but anyway I did give them the same position as represented herein. Watson objected when I started asking him to give the attorney the vessel's position. Watson finally gave the attorney the position. It was written on a yellow piece of paper that was used by the navigator.

I overheard the conversation between the attorney and Watson—I can understand a little Spanish. They were arguing about whether the information of the ship's location should be put in the record. The attorney finally won out. After the questioning I was taken to another room, and then I saw them take the crewmembers, one at a time.

It was about 10 p.m., when we were taken back to the barracks. The next afternoon, we were taken back to the room where the interrogation took place. They asked us as a group, with me as the spokesman, many questions. At that time, they sent back two more crewmembers, and brought back the engineer and the cook. They then sent the engineer and cook back to the boat, and the rest of us went back to jail, and within an hour or so, we were released. The vessel was anchored in Panama City Bay. I asked Watson how the boat got to the bay. He said that he went out to the point of anchorage and brought it in.

At 2031, March 24, we lifted up the anchor and left Panama.

I asked the engineer and cook what happened while we were separated. The engineer told me that the Panamanians ordered him to rig a portable hand pump to raise enough lube pressure to bring the boat into the harbor. All of his work was done under guard.

The cook said that he was ordered to feed the five guards left on the boat with special meals, hams, roasts, etc. They made the cook open the icebox, get them liquor, cigarettes. I even paid the passage to shore for the guards. This action by the guards was particularly harmful, because of the low supplies. A lot of supplies were missing from the vessel after the guards left.

When I started the vessel to leave the harbor, I noticed that it would not maneuver. She was anchored in three fathoms of water. Mud had sifted through in the pumps and into the walls. We lost most of our bait. It is my opinion that the bottom of the vessel was touching bottom.

During this entire period of time, I never talked to any representative of the U.S. Government. I was told by my broker that he was not permitted to talk with me until the fourth day and final day of our stay.

Continuously during the entire period, I begged to talk to some U.S. representative. They always told me that once the trial was over, I would be permitted to talk and see the U.S. Government.

I asked my broker if I should see the U.S. consul, before leaving, and he told me that it wasn't necessary. Since there was such a commotion to get us out, I felt that we should leave as soon as possible.

ERNEST MONTEIRO.

Subscribed and sworn to before me this — day of May 1961.

[SEAL]

Notary Public in and for Said County and State.

STATE OF CALIFORNIA,
County of San Diego, ss:

Agostino Guidi, being duly sworn, says:

That during the month of February 1962 I was the master of the American fishing vessel *Jo Linda*, official number 250944;

That at 0930 Greenwich mean time, on or about the 23d day of February 1962, the DV *Jo Linda* was drifting on the high seas at 78°10' west longitude, 4°10' north latitude;

That at such time and at such place, I was informed by a crewmember on watch that a Colombian gunboat No. 71, was nearing the bow of the DV *Jo Linda*;

That I went to the bridge and saw a small boat alongside the gunboat, apparently making preparations to board my vessel;

That I reversed our engines full astern and then full ahead hard right rudder;

That while proceeding full astern, the Colombian gunboat fired several rounds at our direction;

That after proceeding full ahead, additional firing by the gunboat was noted; in all, the Colombians fired 12 rounds, 7 of them almost simultaneously.

That at no time during the incident did I stop our vessel, but continued full speed in due west.

That the Colombian gunboat gave up its chase approximately 30 minutes after my action to reverse full astern.

AGOSTINO GUIDI,
Master/Part Owner, DV "*Jo Linda*."

Subscribed and sworn to before me this 14th day of March 1962.

[SEAL] AUGUST J. FELANDO,
Notary Public in and for the County of San Diego, State of California.

My commission expires April 5, 1965.

AFFIDAVIT

STATE OF CALIFORNIA,
County of San Diego, ss:

Lou Guidi, being duly sworn says:

That I am the master and part owner of the MV *Lou Jean*, official No. 249,580.

That I have just recently completed a fishing trip off Central America, and the following incident occurred off El Salvador:

On the afternoon of April 28, 1962, at about 2:30 p.m., we were off Corinto, Nicaragua, homeward bound with a full load of tuna caught on the high seas. I made the decision to go to Acapulco, Mexico, to pick up fuel rather than stopping in Corinto. When we were abeam of Corinto, we were on a true course of 280°.

Sometime about 1:25 a.m., April 29, 1962, my brother Julio came into my quarters and woke me up with the news that a boat, about 50 yards from starboard, was placing a spotlight on our vessel. As he was talking, I could see the movement of the spotlight on our cabin. I rushed to the pilothouse, and as I was in the process of stopping the engines, I heard gunfire. I could hear splashes in the water about our vessel. I hit the deck. John Canepa was also with me in the pilothouse.

When the firing stopped, I heard people hollering from the gunboat. I couldn't understand them. I saw the wake from the gunboat cross our bow from starboard to port, then it drifted along our portside. I could clearly see that they had guncrews stationed on the bow. They had 50-caliber guns and what looked like a 20-millimeter set of guns. They were all pointed at us.

By this time, most of my crew were awake. I decided to send some crewmen to their boat to see what they wanted. Crewmembers Tarantino and Balestreri were sent aboard our small skiff to the gunboat. I sent these men because Balestreri could speak Spanish and had been involved in affairs like this in the past. As soon as my men got alongside the gunboat, I saw them yank Balestreri aboard. Tarantino said that he didn't want to go aboard. Then I saw one of the sailors shove a rifle toward Tarantino's face, and Tarantino left the skiff. After Tarantino and Balestreri got down below decks on the gunboat, they sent five of their men aboard our vessel. These sailors were all armed. They were

shouting and acting as though they were drunk or under the influence of drugs. They didn't appear to be acting like rational men. The man in charge said he wanted to inspect our fish. I had a brine tank opened, and I showed him the frozen fish and attempted to explain that the frozen fish was caught 300 or more miles away from El Salvador. The man wouldn't listen to me. I told this man that I wanted to talk to the skipper of the gunboat. I was taken to the other vessel, and attempted to show my log and other papers to the skipper. The skipper of the gunboat didn't want to talk to me or look at my papers. He just told me that we would have to go into the port of La Unión. They tried to keep me aboard the gunboat but when the engineer told him that no one could start the engine but the ship's master, they released me to my vessel. But before I could be released, three more of my crewmembers had to go aboard the gunboat—sort of as hostages. It was about 2:30 a.m., when I got back to my vessel. It took us about 7 hours and 15 minutes to get into La Unión. We anchored in that port about 9:45 a.m.

As we entered the Bay of La Unión, I informed the Salvadoran sailor in charge that I was not that familiar with the entrance. This deck officer said that he would take the vessel into the bay. As we were proceeding I saw us nearing shallow spots in the channel. According to the fathometer we were just about ready to run aground. I told the deck officer that I wanted to take over command. As I was turning the wheel, the deck officer started raising hell. As I was turning the vessel, we had practically no water under the keel. If we had continued under the control of the Salvadoran, we would have gone aground.

When we entered La Unión, I tried to explain our position to the captain of the port. He took statements from the officers on the gunboats. At about 6 p.m., I did have a chance to talk to the captain of the port. By this time, contact had been made with the U.S. consul.

With the assistance of the consul, our crewmembers were permitted to go ashore. Two or three guards were left on our vessel. The captain of the port didn't want our crewmembers to stay aboard our vessel, but by the 30th of April we were finally able to persuade him to permit them to stay aboard. The American consul and I gave our promise that we would be responsible for my crewmembers.

After they took a statement from me, the captain of the port decided that they should have a fish inspector from the Fishery Department at San Salvador, because they claimed that we had been fishing in their waters. This fish inspector was to determine where our fish were caught. How he was going to do this I don't know. On May 1 the fish inspector and two other men from the Department of Fisheries came out to the boat and had what they called a fish inspection. I was also present with the American consul. So after looking at the fish, this inspector and his aids told the captain of the port that the fish in our wells could not have been caught where they said we were fishing. They said that the water was too shallow to use our net. After the inspection they told the captain of the port that it was his decision to see if the charges would be dropped. This was May 1 and a holiday, and so I had to pay this inspector \$200 for coming down from the capital city, San Salvador. Then we had to wait for word from the Ministry in San Salvador to see what was going to be done, whether they were going to release us or hold us for further investigation, and they didn't get any word back; this happened on May 2. On May 3, the captain of the port said that they had left this decision in his hands to decide if we were guilty and he said that he would release us without any charge because he didn't have any evidence of our doing anything wrong. He said that probably our clearance papers (which we had to pay for also) would be ready about afternoon and we left at 4:50 p.m., May 3, 1962.

LOU GUIDI,
Master-Part Owner, DV "Lou Jean."

Subscribed and sworn to before me this 22d day of August 1962, by Lou Guidi, to me known.

[SEAL]

AUGUST J. FELANDO,
Notary Public in and for the County of San Diego, State of California.

My commission expires April 5, 1965.



AFFIDAVIT

STATE OF CALIFORNIA,

County of San Diego, ss:

Manuel Neves, being duly sworn says:

That I am the master of the American fishing vessel DV *Constitution*, official No. 263,476.

That on or about April 16, 1962, I was in command of said DV *Constitution* when it was stopped and boarded by an Ecuadoran patrol vessel *President Valesco*, under the following circumstances:

On April 16, 1962, I ordered a fishing license by radio for Ecuador. On the 19th of April, in the morning, I got an answer from Shreve & Hays, custom-house brokers, in San Diego. They wired me the number of the matricula and my license. On the same day at 6:30 p.m. zone 5, west time (eastern standard time) our vessel was stopped by an Ecuadoran patrol vessel named the *President Valesco*, 20 miles northwest of Punta Galera, Ecuador, or latitude 1° 05' N., longitude 80° 21' W. Using their public address system, they ordered us to stop and then ordered me to come aboard their vessel twice. I refused to leave my vessel after they so ordered. At the time they ordered us to stop, I was traveling and not looking for fish. It was just getting dark. The *President Valesco* was following us, and giving us signals about 2 miles from our stern. The *President Valesco* is a gunboat; British made, smaller than a destroyer, something like a Corvette. After they ordered me to leave my vessel on the second occasion, they drifted alongside and asked me to send a small boat to them for a boarding party. I put our big skiff over at their request. One J.G. officer, he spoke fairly good English, and five sailors armed with rifles came over to the boat and boarded us. I asked the J.G. what were the guns for. The sailors had their rifles strapped over their shoulders; the J.G. had a pistol. The J.G. was kind of embarrassed at my question. So, I repeated my question, and he said not to worry about the guns. Meanwhile, as though the procedure had been pre-planned, the sailors took positions on the bow, the radio room, the galley, and the pilothouse. The officer told me that they had an agreement with the Chilean Government to stop all boats within 200 miles of the coast. In answer, I said that our Government did not agree with this and that we could fish outside 3 miles of the coast. Then I told them what they were doing is piracy. He didn't say anything. Then he wanted to see my papers. I showed him the Costa Rican clearance papers. Four days before, on the 16th, we cleared the port Puntarenas, Costa Rica. I also showed him the telegram with our matricula and license numbers, along with the actual matricula for Ecuadoran waters. I emphasized, at this point, that the reason I had these papers aboard was just in case we decided to fish within 3 miles. After inspecting our papers, he left the vessel. This was the only time we were boarded. I had heard about a lot of other stoppings and boardings. Nearly every American tuna vessel was boarded in the area prior to our arrival, and prior to this date, the 19th of April, for about a month before, all the other tuna boats had been boarded. After our boarding incident, I didn't hear of anyone being boarded.

One hour and fifteen minutes later we were on our course again proceeding down to the fishing banks.

MANUEL NEVES,

Master/Part Owner, DV "*Constitution*."

Subscribed and sworn to before me this 5th day of June 1962.

[SEAL]

AUGUST J. FELANDO,

Notary Public in and for the County of San Diego, State of California.

My commission expires April 5, 1965.

AFFIDAVIT

STATE OF CALIFORNIA,

County of San Diego, ss:

George Cabral, being duly sworn says:

That I am the master of the American fishing vessel DV *San Joaquin*, official No. 270,154.

That on or about February 12, 1962, I was in command of said DV *San Joaquin* when it was seized by the vessel identified as the *Arc Gorgona*, a Colombian naval vessel, under the following circumstances:

That at sunrise on or about February 12, 1961, the DV *San Joaquin* was drifting approximately 18 miles off the coast of Colombia, SSW of Pt. San Francisco Solano. That at approximately 7 a.m., I was in radio contact with the American fishing vessel DV *Alphecca* who advised that they were on fish and that their position was approximately 15 miles off the beach, near Pt. San Francisco Solano. That upon receiving this information, we headed in that direction. That on the way to such location, we set our net on a school of fish. This set was made at 9 a.m. We completed this set and continued toward the DV *Alphecca*. At about 10:30 a.m., we set the net for a second time. We missed the school of fish. As we were nearing the completion of the set, I noticed an approaching vessel. It came alongside, and drifted seaward of our vessel, about 75 yards in distance. I recognized him as a Colombian vessel; it was named *Arc Gorgona*. The persons aboard this vessel made no attempt to communicate with us until we had finished our work of putting the net aboard. It was then that I noticed a few men waving their arms and shouting on the *Arc Gorgona*. These men were in uniform, and it was then that I realized that the *Arc Gorgona* was a military vessel. The managing owner of the DV *San Joaquin*, Machado Medina, and I decided that the *Arc Gorgona* must be in trouble, and desired assistance. I ordered our power skiff to the *Arc Gorgona*, and instructed our men to find out what the Colombians wanted. At this point, I did not suspect a seizure of our vessel. Two Colombians returned in our power skiff. One of them asked me if I had a Colombian fishing license. I answered that we had no license, and explained that to my knowledge the Colombian government did not issue licenses to the American tuna fleet, and that since our vessel was in international waters, there was no need for a Colombian fishing license. At the request of the Colombians, I went to the *Arc Gorgona* for the purpose of talking to its master.

The master of the *Arc Gorgona* told me that we were 4 miles off the beach. I told him that this was not true. He explained further that under such circumstances he was obliged to place us under arrest and proceed to the nearest port of call. I asked him by what right he could place us under arrest. He stated that we were fishing within Colombian waters. I told him that we were presently drifting within international waters, and that we were from 8 to 10 miles off the beach, and not 4 miles as he charged. For purposes of confirmation, I went to the wing of the bridge of the Colombian vessel, the height above the surface of the sea was about 30 feet. I could see no ocean breakers on the coastline.

On the basis of this observation, I reaffirmed my belief that we were about 8½ miles offshore. The master of the Colombian vessel then asked me to return to the DV *San Joaquin* and discuss his request with Machado Medina. I and two guards returned to my vessel. Machado and the two Colombians accompanied me to the pilothouse. They were with me when I turned on the radar. I took a compass bearing of Pt. San Francisco Solano and of Pt. Arasi. These bearings gave me a cross fix of my position. It was 7.9 miles off the nearest coastline. The current was running north and east, directing our vessel toward the beach. It was fairly strong in force, about 2 to 2½ knots per hour. It is my opinion that when we set our net, the DV *San Joaquin* was about 9 to 10 miles offshore. From the time the Colombians boarded our vessel to the time I established our position by radar, approximately 45 minutes had elapsed.

After fixing the ship's location, I entered it in my ship's log. I also wrote in the names of the two Colombian seamen. I was then ordered to proceed to a port called Nuqui, and await further instructions. I was advised that the *Arc Gorgona* was proceeding to El Valle, and that they were going to wire Bogotá as to our disposition. We anchored at Nuqui for the night. The next morning, a small boat was sent to our vessel from the *Arc Gorgona*. At about 8 a.m., the commandant of the *Arc Gorgona* ordered us to proceed to Buenaventura. When I objected, he refused to discuss the matter any further, explaining that he was following orders. We proceeded towards Buenaventura with four armed men. They all had submachine guns and sidearms. The other two guards who accompanied us to Nuqui were relieved of their duty. While they were aboard, they were armed with army carbines, each gun with a full clip of 16 rounds.

The *Arc Gorgona* entered into a port just south of Cape Corrientes; we entered Buenaventura on St. Valentines Day.

We arrived in Buenaventura at 8 a.m.; upon docking the vessel, we were boarded by the commandant of the Navy, the captain of the port, and Robert Early, American Consul. My chart, which indicated my signature next to the

mark indicating the location of our vessel at the time of arrest, and my logbook were confiscated. They still possess these articles. I was requested to come to the captain of the port for an interview when so ordered. I agreed to do so, and on the following Monday, I gave them a statement. Robert Early was present at this interrogation.

While in port, we repaired our net. We were not restrained in any manner while in port. The Colombians were very courteous. Armed guards and a customs official were aboard ship on a 24-hour basis.

I visited with Robert Early every day during the period of retention. The delay in releasing the vessel was explained in part as follows: The commandant of the *Arc Gorgona* did not give his statement on the release until a week after the arrival of the DV *San Joaquin* in Buenaventura.

During our arrest, a crew member reported the loss of \$20 and 10 pesos from his bunk. Machado Medina reported that his wallet was missing from his room.

Immediately after our arrest at sea, I made radio contact with the DV *Alphecca* and the DV *Sun Europa*, and advised them of the situation. I requested them to contact the American Tunaboat Association.

At the time of the arrest, two other fishing vessels were drifting 2 to 3 miles ESE of our position. I believe they were the DV *Marsha Ann* and the DV *Ronnie M.* I also saw the following vessels seaward of our position: DV *Alphecca*, DV *Crusader*, and DV *Western Sky*.

GEORGE CABRAL,
Master, DV "San Joaquin".

Subscribed and sworn to before me this 10th day of April 1962.

[SEAL]

AUGUST J. FELANDO,

Notary Public in and for the county of San Diego, State of California.

My commission expires April 16, 1965.

AFFIDAVIT

STATE OF CALIFORNIA,
County of San Diego, ss:

August Da Silva, being duly sworn says:

That I am the master of the MV *Normandie*, official no. 237,622.

That I have just recently completed a fishing trip off Central and Latin America and the following incident occurred off Ecuador.

On March 21, 1962, we radioed for a license to Panama requesting an Ecuadoran fishing license. At the time I was located off Panama. We received the license on March 22.

On the 3d of April we arrived off of the shore of Ecuador. That's the day we were stopped by Ecuador's Coast Guard. It was 28 miles west of Cape Pasado, 80° 59' W., 00° :08' S., that is the position that they stopped us the first time. The patrol vessel crossed our bow and we were instructed to stop. To avoid a collision, I slowed down our vessel. I stopped and he asked me to go aboard and take the logbook. I left the *Normandie* and went aboard the Ecuadoran patrol vessel. They made a few calls themselves. He used the radio to contact someone on shore and after an hour he told us that we could continue. The name of the patrol vessel was *Esmalda*.

Then on April 17, we were stopped again by a second Ecuadoran patrol vessel; there was no name on this vessel, but it did have a number. It looked like a destroyer, it was a very large size vessel.

At the time this patrol vessel came upon us we had our net in the water. Our position was 81° :08' W., 2° :10' S., about 8 miles off West San Elena. He ordered me aboard the vessel but because we were working I could not leave my vessel. Four or five men then boarded our vessel. They looked around the vessel and inspected our logbook and the license number. These five Ecuadorans left our vessel and returned to their patrol vessel. Then via the use of a loudspeaker the Ecuadoran patrol vessel informed me that my license was out of order and that he would have to bring us into port. He told me within 4 hours I had to be in port. The patrol vessel after being advised by me that it would take from 3 to 5 hours for us to complete our work and get into port and he told me that they would be waiting for me. About 5 hours later we came into the port of Salinas. The patrol vessel was not there. I contacted the

captain of the port and paid him \$60 for the clearance. I showed the captain of the port the license. The captain of the port told me that as far as he could see all the papers were in order and I paid the clearance fee of \$60 and left port.

Out at sea I discussed what had happened to me with the other vessels. The captains told me they had run into the same problem. Most of these vessels were fishing the same general area. They were also stopped at least once and some twice.

Actually on a third occasion a patrol boat circled about us at night but we were not stopped, we were drifting at the time and I was not given orders to board the Ecuadoran vessel.

On a previous voyage, on the 29th of November 1961, our vessel was stopped by an Ecuadoran patrol vessel about 15 miles west of Cape Pasado. We were working on a school of fish at the time and the Ecuadoran patrol vessel made us stop working and as a result we lost our opportunity to set our net around the fish. The patrol vessel stopped us for the same reason, they wanted to look at our papers. When they looked at our papers we had a license aboard at that time, they let us alone but it was too late to work on the school of fish.

Also, during a voyage in May 1961, off Manta, Ecuador, approximately 11 miles from shore, our vessel was ordered to stop its fishing activities and have the master come aboard the Ecuadoran vessel for inspection of the ship's documents. On the patrol vessel, the ship's documents and an Ecuadoran fishing license were examined. After the examination, our vessel was permitted to fish.

AUGUST DA SILVA,
Master—MV "Normandie."

Subscribed and sworn to before me this 10th day of August 1962, by August Da Silva, to me known.

[SEAL]

C. C. PAYNE,

Notary Public in and for the County of San Diego, State of California.

My commission expires January 22, 1965.

Mr. FELANDO. These affidavits illustrate there is no one isolated situation off the Pacific. We see a marked movement in the increase of these actions as the fishing industries of these countries develop. And more problems are on the way. I have been reliably informed that we will have trouble off the coast of Peru within a short period of time.

Last night I received information that there is a Peruvian military plane and a military patrol vessel off the coast and that our vessels are approximately—eight vessels off the coast of Ecuador—these vessels have reason to believe that the Peruvian patrol vessel is out to locate American-flag vessels.

Two tuna vessels were chased off a fishing location 25 miles off the coast by a Peruvian gunboat a few months ago. Within the past few weeks, the Peruvian Navy was requested by Peruvian citizens to chase or seize American-flag tuna vessels off the Peruvian coast.

American citizens and others who are operating U.S.-flag vessels or foreign-flag vessels from ports in Peru have been ordered to report the presence of U.S.-based tuna clippers off the coast of Peru.

We are also informed that a strongly financed newspaper campaign will soon be inaugurated in Peru for the express purpose of putting pressure on the Peruvian Government. We have been advised that this program has been delayed because of recent political events in Peru. The trend of increased harassment of U.S.-based tuna vessels off Latin America is unmistakable and very apparent. And this trend will be accelerated when conservation controls go into effect upon American tuna fishermen.

It is clear to us that our Government's policy in merely denying recognition of various nation's claims beyond the 3-mile limit has not been effective in preserving the rights of tuna fishermen operating in the eastern tropical Pacific Ocean.

This policy is ineffective today, and we have no reason to believe that it will be effective tomorrow. To merely deny recognition is totally insufficient. To deny recognition and then attempt to negotiate problems has proven impractical. Our Government's policy to protect vessels of the United States on the high seas is sadly lacking in effective implementation. This appraisal is also applicable to the Fishermen's Protective Act (Public Law 680, 83d Cong.).

Under the Fishermen's Protective Act, a shipowner can recover the fine imposed by a foreign country in a case where the vessel is seized by a foreign country.

During my visit to Colombia this last April, I was informed by the Director of Fisheries that the money paid under the fines paid by the tuna vessels *San Joaquin* (\$2,318.20) and the *Princessa* (\$2,897.75) did not go into the Government treasury, but to his department. He requested the seizure, he controls the fishing license privilege, and he uses the income derived from the fines imposed upon our vessels. And, under the Fishermen's Protective Act, he has the U.S. Government as guarantor for payment of the fines.

But, under the Fishermen's Protective Act, there exists no remedy for the costs incurred for time spent under arrest in a foreign port. The *Shamrock* lost 5 days (March 21-25) and never did come in with a full load of fish. The *San Joaquin* lost 12 days (February 12-24) and this vessel also failed to come home with a load of fish. The *Lou Jean* lost 5 days (April 28-May 3). The *White Star* is going on its fourth week.

Based on the record of catch per day for the prior fishing year, the demurrage cost for tuna vessels runs approximately \$500 to \$1,000 or more per day.

Nor does the Fishermen's Protective Act provide remedies against a foreign country's actions that are designed to harass or otherwise interfere with the lawful activities of our fishing vessels.

Thus our Government's action to implement our 3-mile policy has been totally ineffective, and the statute now on the books, the Fishermen's Protective Act, is inadequate to handle the problems now faced by our high seas tuna fleet.

We are opposed to the contention that our Government should seek leverage with these countries as a method of implementing the non-recognition policy by assisting the country's fishing industry. This plan has apparently already failed.

I refer you to exhibit 7, of Senator Gruening's speech on August 2, 1962, pages 14419-14440 of the Congressional Record. This exhibit indicates the billions of dollars of American economic and military aid granted to South America during the period 1946-61.

For instance, Ecuador has received \$100.5 million in economic and military aid. I might add that our tuna fleet has helped out also—from January 1 to August 20, 1962, Ecuadoran consuls in California and Panama have received about \$300,000 in fishing license income. In previous years, our vessels used to average about \$500,000 each year.

Peru has received over \$376.1 million in economic and military aid. The money granted or loaned to other Latin American countries is in the record.

Now, it appears to us, that if this amount of aid through the years doesn't give our Government any so-called leverage in the negotiation of its nonrecognition policy with these countries, then surely any aid now directed to the fishing interests in these countries will also be inadequate.

Our Government representatives tell us that time will solve our problems. They argue that our troubles are only spasmodic in nature, and not very serious. In opposition to this type of thinking, we believe that the events we have described represent an unmistakable trend.

The best evidence of this trend is the decree placed into effect by Ecuador on May 31, 1962, prohibiting foreign tuna purse seiners from fishing within 40 miles of the Ecuadoran coast. This unilateral action by Ecuador was taken while the Inter-American Tropical Tuna Commission was meeting in Ecuador and expressing recognition by them, including Ecuador, that conservation of tuna required joint action by all nations fishing in the eastern tropical Pacific Ocean. (See the informal translation of this Ecuadoran decree, by the U.S. Embassy in Quito, Ecuador, exhibit 4.)

It is obvious to us that as tuna production units are numerically increased, and as canning and cold storage facilities are expanded in Latin America, fishing interests in those countries will act to remove competition from U.S.-based tuna vessels as effectively and as quickly as possible. Time will not solve the problem.

We also think it obvious that as conservation controls are applied to American fishermen and to other foreign fishermen, the desire of Latin American fishing interests to keep out American competition intensifies, and the problem becomes even more aggravated.

At first we thought the remedy we now request, and the type of solutions suggested in Senator Bartlett's speech and mentioned in the Senate Commerce report, would confuse the need for an amendment of the Tuna Convention Act of 1950.

We were advised that such a remedy would prevent passage of the bill. So, we gave in when the bill was in the Senate. However, due to recent serious developments which I have mentioned, we have been forced to conclude that continued existence of an American tuna fleet depends to a large extent on effective protection of U.S.-flag tuna fishing vessels on the high seas.

The legislative history of the Tuna Conventions Act of 1950 will reveal the fact that the American Tunaboat Association strongly supported the creation of the Inter-American Tropical Tuna Commission. In fact, the author of the law, W. M. Chapman, former Special Assistant for Fisheries and Wildlife to the Under Secretary of State in 1949, was employed by the association after he left Government service. Our organization has an extremely close and friendly relationship with the Commission. Then, why the strong objection to S. 2568, and why now?

As I have pointed out, seizure, harassment and discrimination by Latin American countries against American tuna fishermen has increased with the increased pressure of our Government for conservation of tuna resources. At the same time, the tuna fishing industry

in Latin America has substantially increased at the expense of the tuna industry in the United States. Our Government has greatly increased economic aid to Latin America but has failed to protect American tuna fishermen.

Although the tuna conventions have been in existence for the past 12 years without consequential foreign tuna fishing countries becoming members, in spite of inducements by our Government, it has been asserted that unilateral action by the United States to regulate its tuna fishermen will bring about multilateral conservation of tuna.

We doubt this, and if it does, we believe that it will be almost entirely at the expense and detriment of the U.S.-flag tuna fishing fleet. When we are told that in time S. 2568 will solve our problems, we agree if what our Government has in mind is elimination of the American tuna fishing fleet in favor of foreign tuna fishing fleets.

We strongly believe that if S. 2568 is not amended, as we request, then our fleet will be subject to fishing conditions in the eastern Pacific that will mean the extinction of the country's only high seas fishing fleet. It seems incredible to us that the United States would follow a policy of allowing other countries to develop high seas fishing fleets, and deny American fishermen such development.

A few weeks ago, in a meeting held in San Francisco, we were advised by Government representatives that under the provisions of S. 2568, American fishermen could be subjected to the following intolerable conditions:

1. The countries who fish within the regulated area would agree that on an agreed date each of the countries would place into effect laws upon their fishermen that would implement the recommendations of the Commission.

Thus, American fishermen would be under regulation on a certain date agreed upon with other countries.

2. The other countries could adopt laws identical to the Ecuadoran decree, and such a fact would not suspend the regulation of American fishermen or prevent agreement with our country.

We were advised that the United States could not compel agreement from the other countries, even as to those countries that are members of the Commission, as to the contents of the laws that they would apply. The net effect of this situation would best be illustrated by the conditions now in existence today.

Suppose, we are regulated as to yellowfin production, and free to fish skipjack tuna. Ecuador, Peru, and Colombia are good areas for skipjack fishing. Effective enforcement of the Ecuadoran decree would mean disaster for our fleet.

Our idea is not based upon mere speculation. Look at what is happening to the *White Star*. Will a man risk his business, a vessel worth from \$250,000 to \$1,200,000, the lives of his crew, under these conditions?

It is both logical and imperative for us to charge that if the Government is to be given the power to control tuna production, then it should protect the tuna fishermen in gaining access and use of the source of such production.

Under the terms of S. 2568, the Government is given the power to prohibit fish from those countries who violate conservation policies of the Commission. In this instance, the embargo power is justified.

Such power is granted, because a wrongdoer should not be unjustly enriched. So also should not the embargo power be exercised when a country entertains actions that constitute a violation of the rules of fair competition under the guise of conservation? Should we fail to take such action it will be possible for those countries to frustrate the aims of the conservation policy.

Therefore, it was this interpretation of S. 2568, and the present frustrating conditions off Latin America that gave rise to our return to the position of requesting protection clauses in the bill. We must give our Government representatives the practical tools to protect our country's interest in the tuna fishery of the eastern Pacific.

The embargo provision we request is consistent with the intent and purpose of the Tuna Conventions Act of 1950. The prohibitions against seizure and harassment of the tuna industry is within the scope of the only Federal law dealing with tuna.

We must be given the right to expect Government protection in our search for tuna production if our Government is going to get the right and power to control our tuna production.

Senator Bartlett's comment that "Economic force is, today, the most sensible and effective, and only really practical solution" is the approach utilized in our amendment to S. 2568.

As representatives of the tuna industry stated in their letter dated June 18, 1962, addressed to the Acting Chairman, Merchant Marine and Fisheries Subcommittee, Senate Commerce Committee:

The interference with our right of access to high seas fishing grounds off Latin America will seriously injure, if not destroy, the opportunity of American tuna fishermen to earn their livelihood as well as endanger the industry's tremendous investments in vessels, gear, and other facilities. We are fearful that a failure to protect American fishing interests will encourage the practice of transferring U.S.-flag vessels and fishing activities to the Latin American countries who can assure the freedom of access and use of tuna fishing grounds.

In conclusion, I wish to emphasize that the recent seizure of the *White Star* by Ecuador, as previously related, is not just one more incident, but is a seizure following the recent visit here of the President of Ecuador to get more aid from us, and is directly in the face of the present bill and of the State Department's efforts to protect U.S.-flag vessels.

Further, the Ecuadoran Government quickly released a Panamanian-flag vessel operated without fishing license by a Peruvian, namely *Judy S*, which was seized by Ecuador about the same time as the *White Star*, which now, after almost 4 weeks since its seizure, still remains in the hands of the Ecuadoran Government. In doing so, Ecuador has consistently violated the rights of American fishermen.

Therefore, Ecuador seems determined to seize American tuna vessels in complete and utter disregard of the United States. If Ecuador is permitted to continue to do this, not only will Ecuador increase her wrongful acts, but other countries will closely follow suit. Therefore, the United States should here and now take effective action to protect the rights of American fishermen.

Before I complete my statement, I would like to make reference to these exhibits. Exhibit 1 relates to the actions of Star Kist Foods, Inc., Van Camp Sea Food, and a company called Frigorifico Paita, S.A. Based on what information I have, I think there is approximately 10,000 to 12,000 tons of cold storage facilities in South America now to handle tuna.

Exhibit 2 indicates the fact that there are 34 former tuna vessels that operated out of San Pedro or San Diego that are now operating in Peru, Ecuador, and Costa Rica. You notice that the tuna carrying capacity is 6,350 tons. As a comparison, I took the regular seiner fleet that operates from San Pedro. The total tuna carrying capacity is 3,088 tons. If we took the total fish carrying capacity of the bait boat tuna fleet operating out of San Diego and that of the regular tuna seiner fleet operating out of San Pedro, the total amount of fish carrying tonnage below the border would exceed the combined tonnage of the regular tuna seiner fleet in San Pedro and the bait boat tuna fleet in San Diego.

The bulk of our fleet in San Diego are purse seiners and our tonnage exceeds that of, I think, two or three times of the foreign tuna fleet. However, I have not included in my listing the small boats that operate out of Peru and Ecuador.

The third exhibit is the trend of transfers for the complete year of 1961. There are 5 transfers of former tuna fishing vessels, and for the first 6 months of 1962 there have been 12 transfers. We think this trend will continue.

Exhibit 4 is an informal translation of the Ecuadoran decree. I think the preamble clause indicates this is to merely eliminate competition off the coast.

Exhibit 5 makes reference to the import statistics of tunafish.

Exhibit 6, we have tried to convert the total weight of fish brought in. There is one correction here. It should be "canned tuna including bonito." The explanation is on the previous page. So some of this canned tuna includes bonito, of which our fleet catches a minor amount. This is one of the main fisheries in Peru.

Exhibit 7 indicates that the California tuna fleet has produced 69.1 percent of the total skipjack and tropical tuna caught in the eastern tropical Pacific Ocean from January to August 18, 1962. It indicates that the fleets operating from bases other than California is 35,767 tons. This total includes some landings, approximately 8,000 to 10,000 tons in Puerto Rico.

It is difficult to establish the correct figure in Puerto Rico, because the statistics that we receive include the combined landings in American Samoa, Hawaii, and Puerto Rico. We think these exhibits indicate there are substantial tuna fishing interests in Latin America and that it justifies our concern about the trend that is now continuing.

Mr. SELDEN. Thank you, Mr. Felando.

Off the record a moment.

(Discussion off the record.)

Mr. SELDEN. Mr. Guidi, do you have any statement that you would like to make in connection with this bill?

**STATEMENT OF LOUIS GUIDI, MASTER OF THE "LOU JEAN,"
SAN DIEGO, CALIF.**

Mr. GUIDI. None other than the seizures—I believe if these continue somebody is going to get hurt down there. It just about happened to us.

Mr. SELDEN. How long were you held?

Mr. GUIDI. We were held 5 days. When they stopped us, they didn't have any reason to stop us. We were just passing through.

The captain of the port there tells us they don't stop boats just passing through. They stopped us.

They claimed that we were fishing in their waters—in the first place, when they stopped us they couldn't give us any reason for stopping. They started firing immediately, you know, they never even talked to us or anything. They thought we didn't want to stop, I guess. Our boat was stopped and they were still firing at us.

We asked them why they were doing this. They just couldn't give any reason. When these people stopped us, I think they were actually just like wild Indians. You couldn't reason or talk with them. I tried to show them our papers and logbook and they wouldn't look at them. They threw them in the corner and treated us like a bunch of animals.

Mr. SELDEN. Where were you?

Mr. GUIDI. We were 16 miles off the coast of El Salvador.

Mr. SELDEN. Were you fishing?

Mr. GUIDI. No; we had been en route home. We caught our fish about 80 miles southwest of the coast of Costa Rica. We had proof of this. I think the only reason we were released after 5 days was on account of the proof, from fish spotter planes. We use spotter planes to help us in our fishing. They sent wires in this country verifying we were fishing off Costa Rica. If this had not been done, I think we would have still been there.

Mr. SELDEN. Congressman Fascell, do you have any questions you would like to ask Mr. Guidi?

Mr. FASCELL. No.

Mr. SELDEN. Mr. Mailliard?

Mr. MAILLIARD. No questions.

Mr. SELDEN. Mr. Felando, what percentage of the catch of the tuna industry of the other countries to which you have referred is sold to the United States?

Mr. FELANDO. I don't know. But I would venture to say about 90 percent. The main market right now for yellowfin and skipjack tuna, whether frozen or canned, is the United States, although there are increasing markets in Europe.

Mr. SELDEN. Do you think that the amendment that you have suggested would have the effect of stopping these seizures, or do you think it would have a reverse effect and perhaps cause more harassment to fishing vessels in those waters?

Mr. FELANDO. I don't think it will cause a reverse effect. I think it will give our Government representatives some power they don't have now. I think that the fishing interests in those countries will realize that our Government has an interest in maintaining our fisheries, that in order to do business in the United States we are going to have to accept what we call the principles of competition, and that if they want to send the tuna as they have been through the years to the United States, that they should not place pressures on the Government to eliminate us, their competitors.

I feel in dealing with these foreign governments, the foreign government representatives would be able to tell those fishing interests there that they are not doing the right thing. What they should do is increase their competitive skills in catching tuna.

That is what our Government tells us when we are confronted with competition from other countries. I think that is what those governments should tell their fishermen.

Mr. SELDEN. What percentage of your tuna catch—that is, U.S. tuna catch—is made in waters outside the United States?

Mr. FELANDO. I would say that as to yellowfin and skipjack, 100 percent. We operate from San Diego and it is about 6 miles from the border.

As to albacore and bluefin, that is not necessarily so. As to bluefin, many times—right now in fact—the bluefin is located off San Diego. As to tropical tuna, we have to leave the continental United States.

Mr. SELDEN. I understand from your testimony that you are in favor of the purposes of this bill, and that is to conserve certain species of the tuna; however, you do want an amendment to it.

Mr. FELANDO. Yes.

Mr. SELDEN. Would you oppose the bill without an amendment?

Mr. FELANDO. I am afraid we would have to take that position, Mr. Chairman. We would have to oppose the bill. We think that our right of access to the fishing grounds is essentially connected with the intent and purpose of this conservation policy.

If we are going to have conservation, it seems to me that all countries that are going to be subject to the rules of conservation should have access to the grounds. And if we don't have the access, de facto, we are denied that production. That is why we have to take this position.

Mr. SELDEN. Congressman Fascell.

Mr. FASCELL. As I understand it, you are assuming that you are going to be denied access.

Mr. FELANDO. We are being denied access.

Mr. FASCELL. That is total?

Mr. FELANDO. No. Our vessels are taking chances, our vessels are taking the risk.

Right at the present time, take the instance of what happened to the *White Star*. You are in command of a vessel. This is a business, each vessel is a business. The replacement cost would exceed \$300,000. You are approached by a destroyer or gunboat. The fellow blinks a light. You don't know whether you are going to be stopped or not, whether you are going to be taken into port or not. He passes by. So he approaches another vessel.

Under these conditions, you don't know whether you are the next one on the list to be seized or whether you are free. You don't know whether they are going to stop you during the day or night, and this is no way to fish.

Mr. FASCELL. The same thing occurs with the shrimpers. We have had this problem for a long time.

Mr. FELANDO. I understand they have had a hundred seizures.

Mr. FASCELL. Don't misunderstand me. I don't condone it and I don't think it is smart competition on the part of Latin American countries, but they think it is smart competition. They don't like to see American fishermen come down there and take the money.

Mr. FELANDO. That is right.

I have an opinion and feeling about the statement that "It is our fish." This is a migratory fish. We have to move up and down the Pacific coast in a fishing area encompassing 3,000 or 4,000 miles.

Mr. FASCELL. It is an old story. It becomes their fish when they claim it.

Mr. FELANDO. That is right.

Mr. FASCELL. It doesn't make any difference where the fish is. It could be out in the middle of the Pacific, if one can keep it from somebody else.

Mr. FELANDO. I might state that off the California coast we have Mexican fishing vessels that compete right along with us, and we make no basic objection to their competition. We just feel if we are going to get whipped out there, let's make it a fair game.

Mr. FASCELL. This one exhibit here interests me. I think it is No. 2. I am not sure I catch the purport of it, the vessels transferred to a foreign flag and which hire foreign personnel.

Mr. FELANDO. Under S. 2568, it would be possible for an American citizen to operate a foreign-flag vessel and escape the enforcement provisions of S. 2568. He would be under foreign flag and the question would be—

Mr. FASCELL. It is true it would be foreign nationals.

Mr. FELANDO. That is how it works out. You have skilled men such as the master, the engineer, and someone else who knows how to handle the fishing equipment, and you employ other people.

Mr. FASCELL. What is the difference in labor cost between a crew—an American crew on an American-flag vessel and a foreign crew on a foreign-flag vessel?

Mr. FELANDO. We operate in the United States on a share basis. We have trip expenses. You can picture in your mind—we have a gross sales figure. This is the tonnage of the fish times the price of the fish. We reduce this gross sales figure by trip expenses. Then through agreements with unions, we establish the percentage allotted to the crew and the percentage allotted to the vessel owner. The crew's percentage is then divided by the number of crewmembers aboard. This is how we establish our compensation rate.

With reference to the compensation setup in, I understand, Peru and other countries, it is based on a dollar a ton or some measure in that respect. Say it is \$1 a ton for each fish. If your boat holds 200 tons, you get \$200, if that is the rate of compensation.

To my knowledge, I don't believe this compensation in those other countries exceeds \$4 a ton. This is pretty high. If they caught 200 tons, it would be \$800 for that man. Our figure would be higher than that.

Mr. FASCELL. How much?

Mr. FELANDO. It would be at least three times. Between two and three times that figure, depending on the trip expense factor.

Mr. FASCELL. In other words, \$1,600 to \$2,400?

Mr. FELANDO. That is right. If you catch it right out of San Diego the expense is low. And if you have to go—

Mr. FASCELL. That is the difference between an American-flag vessel and American crew and a foreign vessel with their own crew?

Mr. FELANDO. Yes.

Mr. FASCELL. Would this same relationship apply to an American owner under a foreign flag?

Mr. FELANDO. Yes.

Mr. FASCELL. In other words, his costs would drop down to \$800?

Mr. FELANDO. The thing is, he makes an arrangement to operate the vessel on \$1 per ton, he would either get a percentage of the gross and make arrangements with the foreign crew.

Mr. FASCELL. In view of the great disparity of costs here and effort to be competitive, why wouldn't everybody transfer to a foreign flag?

Mr. FELANDO. That is what I am trying to show in exhibit 2. There have been a lot of transfers lately. This factor of the less cost of operation—

Mr. FASCELL. What is going to stop it?

Mr. FELANDO. We are getting much more competitive in our equipment.

Mr. FASCELL. This legislation is not going to stop transfers to foreign flags.

Mr. FELANDO. I think it will increase it.

Mr. FASCELL. In other words, the great difference in profit, as I see it, is the incentive to transfer to foreign flags. Is there anything that mitigates against it?

Mr. FELANDO. The other incentive is this: If you can transfer your flag to Peru, and operate in Peru, as a U.S. citizen—even though I will probably get a lower price for my fish, and I will have probably a cheaper crew, I will have more problems in handling that crew and more problems in handling my vessel, but I also know that the enforcement of any regulations on the production would be quite less than the trouble I would get in operating in the United States. Because under this foreign-flag arrangement, if I have a foreign flag, let's say Panama, or I have a Peruvian-flag vessel, I have to follow the Peruvian law and the Peruvian law doesn't have the same type of provisions as S. 2568, then I have a little better setup than the fellow who operates from the United States under the law.

Mr. FASCELL. I don't know anything about fishing. It would seem that normally you would follow your source of production to get as close to the base of operations as you could and you would normally get the cheapest labor costs and normally get the highest sales price for your product. Those would be the factors and all the others would be supplementary. Regardless of the law, wouldn't these factors determine where your fleet is going to be and how they are operating and under what laws?

Mr. FELANDO. I will give you another look at this thing. At one time there were 6 canneries in San Diego with 6 vessels, and now there is 1 cannery and 90 vessels. This is the competition that we have from Japan.

Mr. FASCELL. You say "the competition from Japan." Are you talking about Japanese tuna that came in under another label—

Mr. FELANDO. Frozen and fresh tuna—

Mr. FASCELL. Under their own labels?

Mr. FELANDO. Frozen and fresh tuna is not canned. It comes in fresh or whole frozen. There are no quota restrictions on it.

Mr. FASCELL. Who eats it?

Mr. FELANDO. I don't know what kind of tuna you are buying right now.

Mr. FASCELL. I don't know. But I am buying canned tuna. I don't know whether it is Japanese or not. That is the point I am making.

Mr. FELANDO. It is very difficult and it is costly for our vessels to travel 200 miles back and forth from San Diego and San Pedro to

unload our catch. Frankly, we like to live in the United States. We have our facilities in San Diego. We have lived there all our lives. We started in business in southern California.

There are other attractions in other locations. There are other lower costs. It is probably a much more efficient way of catching the fish. But we do a pretty good job as it is and we like to keep on operating from the United States. The only thing is it gets pretty rough when you not only have to outfish somebody but you have to outrun gunboats.

Mr. FASCELL. I don't blame you for sticking to what you have. I don't blame you at all.

Mr. SELDEN. Mr. Mailliard.

Mr. MAILLIARD. What would be the difference in the price you would get for your fish in the United States as against South America.

Mr. FELANDO. At the present time, let's take some comparison figures. The price of skipjack landed in the United States is \$250 at the present time. The price of skipjack landed in Puerto Rico is \$20 less, \$230. The price of skipjack based on what information I can get in Ecuador, the cannery pays in Ecuador \$60 a ton.

Mr. FASCELL. What do they do with that fish?

Mr. FELANDO. They import it in the United States.

Mr. FASCELL. They can it there?

Mr. FELANDO. They have a cannery there. They also send frozen fish from Ecuador to Puerto Rico.

Mr. FASCELL. It is under an American label. They couldn't sell an ounce of Ecuadoran fish in the United States unless it had an American label?

Mr. FELANDO. I don't know why people buy things. I know they are buying a lot of tuna. The sources of supply are very many.

Mr. FASCELL. I am trying to find out actually whether or not, taking Ecuador as an example, whether or not you have an Ecuadoran trademark on canned tuna in the United States.

Mr. FELANDO. No. We found out that we might as well set up a cannery, in order to offset Japanese competition, so we established an American Tuna Can Co., a group of boat owners, with the idea of—this is American-caught tuna.

I understand the albacore fishermen tried the same thing, called the American Pack. Competition is rough in the canned tuna game. Both efforts failed.

Mr. MAILLIARD. Most of the Japanese tuna was brought in frozen and not canned?

Mr. FELANDO. That is correct.

Mr. MAILLIARD. This is not I gather true of the South American tuna? A great deal of that is canned?

Mr. FELANDO. No; that is not necessarily true. As you see in my exhibit here, on the import statistics, you see that quite a bit of frozen—fresh or frozen tuna is imported from Mexico, Peru, and Ecuador directly to canners, principally Puerto Rico.

I believe there is very little tonnage brought into southern California this year, the first 8 months. Most of the fish that you see on this exhibit 6 has been sent to Puerto Rico.

Mr. MAILLIARD. Canned in Puerto Rico—

Mr. FELANDO. Sent to the eastern market.

Mr. MAILLIARD. Then it operates on a complete par with that canned in the continental United States?

Mr. FELANDO. Yes.

Mr. MAILLIARD. This amendment that you suggest, as I understand it, it merely gives another cause for which the Secretary can impose this embargo?

Mr. FELANDO. That is correct. He has two other ways of placing an embargo on fish from other sources as contained in the bill.

Mr. MAILLIARD. How in the world would you enforce this provision, "of such fish which were denied entry shall be continued to be denied entry"?

Mr. FELANDO. My only answer is that I believe there is contained in the record an explanation of how the Department of the Interior intends to enforce that provision. That is merely a duplication of the language contained in subsection (c).

Mr. MAILLIARD. I think it would be hard to identify a can of tuna—

Mr. FELANDO. That is one of our principal objections—there was a lot of compromise in this thing. I spent quite a few days here in Washington arguing about legislation. One of our principal objections is how are you going to tell yellowfin tuna once it is in a can whether it is caught in the Indian Ocean, Atlantic Ocean, central Pacific or elsewhere. It is hard for us to tell, and we have been in the fishing business for a long time.

Mr. MAILLIARD. Do you think this bill if amended as you suggest is really going to be beneficial, or are you just sort of willing to accept it?

Mr. FELANDO. We think that this is the best we can get right now, Congressman. This Commission has been in existence for 12 years. We believe in the management of fisheries. We think it is the proper idea.

There are objections by fishermen as to the conclusions reached. We feel we have to back up the man who has been doing the job for 12 years. He has come out with this decision and we hope for the best on the decision.

The Japanese have some objection to the basic proposal. I do not think it is wise, personally, to set a line in the eastern tropical Pacific and say that the species of yellowfin is concentrated, is only concentrated in this area. The Japanese believe that the yellowfin specie of tuna goes east-west.

The Commission apparently is of the belief, based on what evidence they have received, that it goes north and south.

Other species of tuna—albacore, skipjack, and other fish travel in a circular motion.

I believe the Tuna Commission should be established for the Pacific, rather than try to isolate various areas in the entire Pacific. I think tuna is common in the entire Pacific Ocean, not just merely to the eastern tropical Pacific. Other people do not have this opinion.

We believe we should support the Commission. We think that our amendment is proper and consistent as to the intent and purpose of the original treaty as it was written. We are in a difficult position at this time because we think that if you get—to bring out a proper conservation program you also have to have some way to see to it that we have a right to catch the fish.

It is a long answer to your question, but we think if this amendment is in there we will be satisfied with the bill and try to live with it.

Mr. MAILLIARD. That is all.

Mr. SELDEN. Any further questions, Mr. Fascell?

Mr. FASCELL. I am trying to—maybe this has already been put in the record—the percentage of total tuna production in this exhibit. I think you touched on it. Maybe I don't understand it.

The California tuna fleet has produced 69.1 percent of the total skipjack and yellowfin tuna caught in the eastern tropical Pacific Ocean. That is one of the areas.

Mr. FELANDO. The eastern tropical Pacific Ocean, as the original treaty states its coverage, includes the eastern Pacific Ocean. That is the area geographically from the tip of Chile to California. That is what we call the eastern tropical Pacific Ocean.

Mr. FASCELL. You say that area is established by the original convention?

Mr. FELANDO. The language in the original convention is not that clear. It merely states that the convention applies to the waters of the eastern Pacific Ocean.

Mr. FASCELL. In the interpretation of this language, where does the line come, from the coastline all the way up and down? Does it vary according to each—

Mr. FELANDO. There is a map. I believe that it would indicate the markings of the area.

Mr. FASCELL. Is the major part of the tuna production inside that line or outside that line?

Mr. FELANDO. The major part of the production is in the eastern tropical Pacific, at least as to the California fleet and the other fleets located in that area. There are also Japanese—

Mr. FASCELL. You say "in that area." Inside the line; between the coast and the line?

Mr. FELANDO. That is right.

Mr. FASCELL. That would be south of California basically?

Mr. FELANDO. Yes. It is a tropical tuna, and we have to go to the tropics to catch it.

There is one qualification here. The Japanese long liners operate in and around the lines. We do not know the production of this Japanese fleet. It has been estimated that the annual production of yellowfin tuna is from 1,500 to 5,000 tons.

You have to realize that fishing production power doesn't discriminate between yellowfin and skipjack tuna.

Mr. FASCELL. This coastline we are talking about—is that agreed to in the convention or subsequent agreement, or is this by declaration by each country?

Mr. FELANDO. It was designated by the Director of Investigations of the Commission, and accepted by the commissioners of each country, the members of the Commission. Those countries are the United States, Panama, Costa Rica, and Ecuador.

Mr. FASCELL. These figures in exhibit 7 indicate the comparative amount of production by the U.S. fleet as against other fleets in that area?

Mr. FELANDO. That is not true.

Mr. FASCELL. That is what I am trying to get at. What is it?

Mr. FELANDO. These figures were supplied to me by the Inter-American Tropical Tuna Commission. And I have an information sheet from the Bureau of Commercial Fisheries.

During the period of time January 1 to August 18, 1962, with the exception of the Japanese production, they estimated the total landed yellowfin and total skipjack by all fleets in that area came to 115,729 tons.

In order to compute, in order to find out just what our fleet in California is producing, we refer to this Fisheries Product Report that is issued by the Bureau of Commercial Fisheries in San Pedro, Calif. It tells us that the landings in California by our domestic fleet came to—as to yellowfin—came to 49,449 tons.

There is a transshipment figure of 1,680 tons. The “transshipment” means this fish was caught basically off Peru by American-flag vessels, but these American-flag vessels have changed flag by February—February or March. So these are basically foreign-flag vessels, and that is why they are considered transshipments.

The total yellowfin caught by other fleets came to 13,121 tons. There are a group of boats that deliver in Puerto Rico. We don't know the exact production of those vessels in Puerto Rico, but I don't believe it exceeded 3,000 or 4,000 tons. These are American-flag vessels that operate from Puerto Rico, operate through the canal, and operate in the Pacific, and then return to Puerto Rico or to the United States.

This is the explanation of this exhibit 7. I can only figure out pretty closely what the California tuna fleet has produced, and basically I have computed a percentage figure of 69.1 percent.

Mr. FASCELL. Thank you. I appreciate your explaining that.

Mr. SELDEN. Mr. Felando, has this harassment of U.S. fishing vessels increased greatly in the last 6 months?

Mr. FELANDO. Yes. I have had problems now with four different seizures since January 1961. Unfortunately we did not establish a program that upon the return of each vessel to interrogate the skipper and find out what happened to him.

You will find, in the affidavits, there are many statements where an Ecuadoran vessel will stop an American vessel, order the master to leave the ship and go to the Ecuadoran vessel and show his papers. In some instances this was done while a vessel was fishing.

We have now instructed our captains not to leave their vessels, to let a boarding party come aboard but not leave the command of your vessel.

We have noticed within the last 6 months we have had more and more problems, particularly off the coast of Ecuador. The reason we are having problems off the coast of Ecuador is that our fleet is concentrated off Ecuador.

I am afraid when our fleet starts moving down the coast later on this year toward Peru and Chile, we will have more problems. We see agitation being built up in Peru.

Mr. SELDEN. Did you testify on this legislation before the Senate committee?

Mr. FELANDO. Yes; we had six skippers who also testified.

Mr. SELDEN. Did all of them testify favorably?

Mr. FELANDO. Subject to the fact that we would have proper amendments to the bill.

Let me say that the first S. 2568 was introduced in September 1961. Then the administration introduced a revised S. 2568 on April 27, 1962. We took the position that we opposed that legislation. We opposed the legislation unless it was properly amended.

Senator Bartlett requested that all segments of the industry and Government representatives sit down and see if they could come out with anything.

I came back to Washington and tried to work out the problem. During the discussions we were quite concerned about this business of what was happening to us. Now we are more concerned. That is why we have reversed our position.

Mr. SELDEN. Your position was in favor of this bill when you testified before the Senate?

Mr. FELANDO. On June 18 we submitted a list of amendments which are substantially contained in that document. This was the result of an industry agreement with the support of Government representatives from the Department of the Interior and the Department of State.

We stated at that time we were in support of that legislation. There was a question about the definition of the "United States." The definition we had supplied was objectionable to the State Department, and we worked out a modification of that language.

I think the record will reveal a letter as of August 1 where we accepted those modifications.

Mr. SELDEN. Was the amendment that you have now offered part of the list of amendments that you proposed?

Mr. FELANDO. No.

Mr. SELDEN. This is something new?

Mr. FELANDO. That is right. We had talked in the letter of June 18—you know, we talked about this problem which was the concern of all industry segments. It was felt that we should not confuse this approach—

Mr. SELDEN. I might point this out to you, Mr. Felando. When this legislation was sent to this subcommittee and a hearing was requested, I was notified that all segments of the fishing industry were in favor of it. We brought it up with that understanding.

To change this bill at this late date doesn't enhance the possibility of it being passed.

Mr. FELANDO. It was with some difficulty that we took this position, Mr. Chairman, that we would have to insist on this type of amendment.

If you notice, the State Department requested a change in the language because they felt that there was some interest in changing the definition of the "United States." They requested a change in the House side.

It was only after a somewhat agonizing appraisal of what was happening to us that we just felt we had to tie in this protection to this bill.

Mr. SELDEN. I should like at this time to insert in the record correspondence received from the International Longshoremen's & Warehousemen's Union and the Cannery Workers & Fishermen's Union, expressing their views on S. 2568; and, in addition, letters from my colleagues, Congressman Hosmer and Congressman King, in connection with this legislation.



(The letters referred to follow :)

INTERNATIONAL LONGSHOREMEN'S & WAREHOUSEMEN'S UNION,
Washington, D.C., August 15, 1962.

HON. ARMISTEAD I. SELDEN, JR.,
Chairman, Subcommittee on Inter-American Affairs, House Foreign Affairs
Committee, House Office Building, Washington, D.C.

DEAR REPRESENTATIVE SELDEN: This communication is in regard to S. 2568, and answers your telegram of August 14.

I am advised by ILWU Local 33 of San Pedro, which is vitally interested in the above-mentioned bill, that it supports and urges enactment of this legislation as amended and passed by the Senate.

Our organization has long supported sound fishery conservation and management. Our principal concern with this legislation was to see that it contained adequate safeguards to protect the interests of U.S. tuna fishermen. This objective, we feel, has been substantially accomplished through the amendments perfected by the Senate Commerce Committee.

In urging favorable action on S. 2568, as amended, ILWU Local 33 strongly urges that your attention be directed to that portion of the Commerce Committee report under the heading "Discrimination Against Americans." This item is found on page 4, Senate Report No. 1737.

As the report points out, it is basic to the success of the program contemplated by S. 2568 that U.S. tuna vessels "have nondiscriminatory access" to the tuna fishing areas of the high seas off the coasts of Central and South America. Such a policy demands prompt action to remove the kind of harassment mentioned in the Senate report.

We are aware that the problem is complex, and that the appropriate Government agencies are seeking a solution. At the same time, however, we hope that your subcommittee will give consideration to this matter by requesting reports on what progress has been accomplished.

Likewise, we urge that, if a solution remains in the speculative stage, early consideration be given to an enabling statute which would arm the appropriate Government agencies with adequate authority to put an end to unreasonable discriminatory acts on the high seas which fall within the scope of the Inter-American Tropical Tuna Convention waters. Such a statute might properly utilize embargo machinery similar to the provisions of S. 2568.

Unless U.S. vessels enjoy nondiscriminatory access to the high seas tuna stocks which are to be regulated under the authority granted by S. 2568, we fear for the long-range success of this needed management program.

May we take this opportunity to commend the State Department and the Department of Interior for the constructive and cooperative attitude their representatives have displayed throughout the history of S. 2568. We also highly appreciate the courtesies you have extended our organization.

Very truly yours,

JEFF KIBBE,
Washington Representative.

CANNERY WORKERS & FISHERMEN'S UNION,
San Diego, Calif., August 17, 1962.

HON. ARMISTEAD I. SELDEN, JR.,
Chairman, Inter-American Affairs, Subcommittee, Committee on Foreign Affairs,
House of Representatives, Washington, D.C.

DEAR CONGRESSMAN SELDEN: You no doubt have in your file my letter of August 3, 1962, addressed to the attention of the Honorable Thomas E. Morgan, chairman of the Committee on Foreign Affairs, wherein we take the position of being in favor of S. 2568 as amended. We were of the opinion then that all of our fears of harassment and piracy on the high seas that have been practiced by some of the Latin American countries against the American-flag vessels had been taken care of through negotiations by Government agencies with these various countries. We came to this conclusion after consultation with people of the State Department whose responsibility it is to handle affairs of this nature. However, since our hearings on this bill before the Senate Committee on Commerce, American-flag vessels have been harassed and seized on the high seas by the Ecuadoran Government. This then leaves us with the opinion that Senate bill 2568 should be amended for the purpose of protecting American-flag vessels and fishermen from these unlawful acts.

Under Senate bill 2568 you will note that it calls for an 83,000-ton bag limit for yellowfin tuna in an area in the South Pacific as designated. When this bag limit is reached on yellowfin, the American tuna fishermen must then turn to the skipjack fishery. The principal skipjack fisheries lie within 40 miles of various Latin American countries. If other Latin American countries along with Ecuador establish the same type of legislation as Ecuador already has, this would make it absolutely impossible for the American fishermen to survive as such.

Mr. August Felando, who is the general manager for the American Tunaboat Association in San Diego, is preparing such amendments that I have mentioned. The intent of such amendments would be to place an embargo on tuna and tuna-like fishes from any country that prohibits American-flag vessels from fishing outside the lawful 3-mile limit. We think if Senate bill 2568 is to do what it is intended, namely, to conserve the fishery, that it must be done without discrimination. We therefore would strongly support such amendments and urge that the bill not be passed without safeguards along the lines I have mentioned.

I am enclosing for your information a copy of the legislation recently passed by the Ecuadoran Government. I am sure that you and your committee will will be adamant through your deliberations that the American fishermen's rights on the high seas are protected.

Sincerely,

LESTER BALINGER, *Secretary-Treasurer.*

From: Embassy, Quito, Ecuador.

To: The Department of State, Washington.

Subject: Transmittal of decree establishing restricted fishing zone off Ecuadoran Coast (unclassified).

This is an informal translation, dated May 31, 1962, of decree No. 749, by Carlos Julio Arosemena Monroy, Constitutional President of the Republic of Ecuador, prohibiting purse seiners from fishing within 40 marine miles of the Ecuadoran coast between Cabo Pasado and Punta de Santa Elena.

Considering:

That, the Manabi Association of Boat Owners (AMAPE) has presented to the Ministry of Development a petition asking that tuna fishing in Ecuadoran waters be regulated in a manner so that it does not adversely affect the national fishing fleet;

That, having sent a special commission of representatives of the Ministry of Development and the Ministry of Defense, it has been established that the activity of Ecuadoran tuna boats would be affected considerably by the system of fishing known as purse seiners; and,

That, in conformity with article 13 of the maritime hunting and fishing law, the executive branch is authorized to prohibit, restrict, limit, or condition fishing activities,

Decrees:

Article 1. Fishing vessels are prohibited from fishing tuna by means of net (system known as purse seiner), in the section of the sea comprehended within the following limits: from the beacon of Cabo Pasado, an imaginary line, 40 marine miles to the west to the point 00°22'00" south latitude and 81°10'00" west longitude. From this point with a true route of 195° to another point situated in the sea at 02°12'00" south latitude and 81°40'00" west longitude, that is to say, to 40 miles west of Punta de Santa Elena; and from there, with a true route of 90°, until ending on land at Punta de Santa Elena.

Article 2. Said zone is declared a national reserve, in which there will be permitted only fishing by hook and line subject to pertinent legal provisions.

Under the present decree, foreign-flag fishing vessels will continue subject to the provisions of Executive Decree No. 991, of May 23, 1961, published in Official Registry No. 229, of June 2 of the same year. (NOTE.—This decree prohibits foreign flag vessels from fishing for bait between Punta de Santa Elena and Cabo Pasado.)

Article 3. The prohibition provided in article 1, modifies the fishing permits granted to purse seiners, limiting their operations to outside the reserve zone.

Article 4. All foreign-flag tuna fishing vessels are obligated to present themselves to the captain of the Ecuadoran port closest to their route, in order to have their documents countersigned, on entering and leaving national territory.

Article 5. Authorized Ecuadoran consuls, on granting the matricula and fishing permit, will receive a sworn statement from the captains of fishing vessels, that will be evidenced in writing at the bottom of such documents, that they understand the provisions of the present decree.

Article 6. Any violation of the provisions of this decree will be punished in accordance with the sanctions provided in article 52 of the maritime law of hunting and fishing.

Article 7. The Minister of Development, Foreign Affairs and Defense are given responsibility for enforcement of this decree.

Signed in the National Palace at Quito on May 15, 1962.

HOUSE OF REPRESENTATIVES,
Washington, D.C., August 4, 1962.

Re S. 2568.

HON. THOMAS E. MORGAN,
Chairman, Foreign Affairs Committee,
House of Representatives,
Washington, D.C.

DEAR CHAIRMAN MORGAN: It is my understanding that the above-captioned Senate-passed bill has been referred to the Inter-American Affairs Subcommittee of the House Foreign Affairs Committee, and the subcommittee has scheduled no action on this measure at the present time.

This legislation would amend Public Law 764 of the 81st Congress, an act to give effect to the convention for the establishment of an Inter-American Tropical Tuna Commission. Mr. Charles R. Carry, executive director, California Fish Cannery Association, Inc., Terminal Island, Calif., has written to me to express the urgency with which his industry views passage of this legislation in the current session of Congress, in order that the United States may live up to its commitments under the treaty.

As I understand that Mr. Carry has also transmitted the views of the industry on this matter to Chairman Selden of the Inter-American Affairs Subcommittee, I will not go into further detail but will limit myself to the expression of my own interest in seeing S. 2568 brought to the floor of the House for action before the 87th Congress adjourns.

Thank you for your courtesy.

Sincerely yours,

CRAIG HOSMER, *Member of Congress.*

HOUSE OF REPRESENTATIVES,
Washington, D.C., August 14, 1962.

HON. ARMISTEAD I. SELDEN, JR.,
Chairman, Inter-American Affairs Subcommittee,
Committee on Foreign Affairs,
The Capitol, Washington, D.C.

DEAR MR. CHAIRMAN: In 1950, I was one of the authors of an act to give effect to the convention for the establishment of an Inter-American Tropical Tuna Commission, which ultimately became Public Law 764, 81st Congress. The U.S. section of the IATTC has been functioning under that law ever since.

At the time Public Law 764 passed, there was no need for regulatory provisions. At that time we simply wished to get the necessary scientific investigations started so that we would know whether, in fact, we were engaged in overfishing the tropical stocks of tunas. It was clearly then our intention of amending the legislation, when such action became necessary, to provide a means of regulation that would enable the member countries to conserve the stocks of tuna.

Now, 12 years later, the scientific research staff has advised the Commission that the stocks of yellowfin are, in fact, being overfished, and that regulation is necessary. The Commission in turn has notified the U.S. Government of the need of regulation of U.S. fishermen, as it has also notified the other member governments—Costa Rica, Panama, and Ecuador. Before the U.S. Government can regulate U.S. fishermen, however, Public Law 764 must be amended to provide a technique for such regulation.

In September 1961, the Secretary of State, by letter to the Speaker of the House and to the President of the Senate, proposed legislation that would provide the means for regulating the yellowfin fishery.

I am assured that S. 2568, as amended and passed by the Senate, has the support of all elements of the southern California tuna industry, and it is my hope, Mr. Chairman, that your committee will find it possible to report the bill promptly.

Thank you for your usual kind cooperation.

Sincerely,

CECIL R. KING, *Member of Congress.*

Mr. SELDEN. Are there any further questions?

There are representatives here of the State Department, the Department of the Interior. If you have any questions that you would like—

Mr. FASCELL. How about canners? Those are the people I want to question regarding this amendment.

Mr. SELDEN. The canners submitted a letter saying they were fully in accord with the legislation.

Mr. FASCELL. Where do they stand on this amendment?

Mr. SELDEN. Are there any representatives of the Canners Association here?

STATEMENT OF GEORGE E. STEELE, JR., REPRESENTING THE NATIONAL CANNERS ASSOCIATION

Mr. STEELE. I am with the National Canners Association and represent all of the canners. But as far as this amendment is concerned, we have not seen this amendment before this morning and I would hesitate to comment on it without further study.

Mr. SELDEN. Here it is. It is very short.

Mr. STEELE. I would have to go back to my canner members, and I will forward it to them as soon as the hearing is over.

Mr. SELDEN. If this committee is going to take any action on this legislation, it will have to take it quickly. I would hope that you would submit a statement at an early date as to your views in connection with it.

Mr. STEELE. Mr. Chairman, I will pass on your request to Mr. Charles Carry, who represents the tuna canners specifically, for comment on this. I think the subcommittee has received a communication from Mr. Carry.

Mr. SELDEN. Not in connection with this amendment, however.

Mr. STEELE. This is the first time we have seen the amendment.

Mr. SELDEN. Would the subcommittee members like to hold the representatives of the executive branch here and go into executive session to discuss some of these matters?

Mr. FASCELL. Yes.

Mr. SELDEN. All right.

The committee will recess momentarily to give the other witnesses time to gather up their material.

We will now go into executive session briefly to discuss with the Department of State and the other affected branches of the Government their views on this particular amendment.

(Whereupon, at 11:50 a.m., the subcommittee proceeded to executive session on S. 2568.)

THE UNIVERSITY OF CHICAGO

THE UNIVERSITY OF CHICAGO
DIVISION OF THE PHYSICAL SCIENCES
DEPARTMENT OF CHEMISTRY

REPORT OF THE COMMITTEE ON THE
PROGRESS OF CHEMISTRY

FOR THE YEAR 1954

CHICAGO, ILLINOIS

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CONSERVATION OF TROPICAL TUNA

THURSDAY, AUGUST 30, 1962

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FOREIGN AFFAIRS,
SUBCOMMITTEE ON INTER-AMERICAN AFFAIRS,
Washington, D.C.

The Subcommittee on Inter-American Affairs met, pursuant to call, at 10:50 a.m., in room G-3, U.S. Capitol, Hon. Armistead I. Selden, Jr. (chairman of the subcommittee), presiding.

Mr. SELDEN. The meeting will come to order, please.

We have with us this morning Mr. Charles R. Carry, executive director of the California Fish Cannery Association, and he is accompanied by Mr. George E. Steele, Jr., of the National Cannery Association.

We are meeting to discuss S. 2568, a bill to amend the Tuna Conventions Act of 1950, and an amendment proposed by Mr. August Felando, representing the American Tunaboat Association.

Mr. Carry, we will be glad to hear from you, sir.

STATEMENT OF CHARLES R. CARRY, EXECUTIVE DIRECTOR, CALIFORNIA FISH CANNERS ASSOCIATION

Mr. CARRY. Thank you, Mr. Chairman.

I might start out by requesting, which I have already done by letter, that the lengthy statement I submitted to you be included in the record at this point or some other appropriate place.

Mr. SELDEN. Your prepared statement has already been included in the record. (See p. 23.)

Mr. CARRY. Mr. Chairman, I think you know I didn't want to come to Washington to testify. Nobody ever does. But this was a particularly difficult time for me. However, Mr. Steele advised that your staff and some of the members of the committee had requested that somebody representing the cannerymen come here to express their views.

Consequently, in order to cooperate fully with your committee, I came in night before last, flew all night to get here, and spent part of yesterday trying to review this proposed amendment. But frankly we have not had enough time to study it very carefully. However, we do have some views on it.

I do not have a prepared statement. I have just some notes which will serve as a basis for my remarks.

Before getting to the question—

Mr. SELDEN. We asked you to come and testify because we felt that certainly your group would be tremendously interested in this legislation.

We also felt that time was of the essence if this legislation is to be considered before adjournment, since we are in the closing weeks of the session. Consequently, we set up this hearing and requested that someone from your group come as soon as possible.

Mr. CARRY. I am aware of that. I am very much aware of the time element. That is why in one of my communications to you setting forth the position of my organization in favor of this legislation I suggested it might not be necessary to have a hearing since at that stage of the game we were all in agreement on the legislation as passed by the Senate. I am sure you have been aware of that. I regret very much that we may have seemed to have misled you. It was not our intention to do so.

Before discussing the amendment I would like to make a few brief points with respect to the legislation itself.

First of all, failure to enact S. 2568 in some form will have the following effects: (1) It will be a repudiation of the commitments made when the convention was negotiated back in 1949.

Incidentally, I was one of the advisers to the U.S. delegation at the time that the convention was negotiated.

(2) On the broad international scene it will make a mockery of all our statements about conservation at every international fishery conference or law of the sea conference and so forth, in which the United States has participated. This is particularly true, by the way, in connection with shrimp, salmon, and other fisheries that are subject to international conventions at this time.

(3) In the same connection it will be a violation of the 1958 Geneva Convention which the United States has ratified and under which all states have the obligation to conserve fishery resources.

(4) Failure to enact the legislation in view of the above will provide an excuse for Ecuador, Peru, Mexico, Colombia, and other Latin American countries to enact restrictive decrees such as the present Ecuadoran decree. However, they will do it on the basis of the 1958 Geneva Convention, using conservation as the pretext.

We cannerymen are not only sympathetic with Mr. Felando's objectives, but our objectives are exactly the same. Of the 145 boats in the tuna fleet, only 66 belong to the Tunaboat Association. A substantial number, and I don't have the total with me, are cannery owned. These boats for the most part are not members of the Tunaboat Association for reasons that have to do with the marketing activities of the association.

Cannerymen are no different than any other boatowners. The *White Star*, about which there has been a considerable amount of discussion is owned by a cannery, the Van Camp Sea Food Co. That company has exerted every possible effort to get the boat released, every effort consistent with their obligations to the United States. They have worked through the appropriate agencies of the Government to get this accomplished.

As far as I know, the boat is not officially released, although we did have a report yesterday, that we are still trying to confirm, that the boat is out fishing but has an armed guard aboard.

We have told Mr. Felando from the beginning that we would join with his organization and all others in the industry, in an effort to seek a solution to the problem of seizures.

Mr. Felando's quarrel, we feel, is with Public Law 680, 83d Congress, known as the Fishermen's Protective Act, not with S. 2568. We believe Public Law 680 should be amended to provide more adequate compensation to a boatowner whose vessel is seized than the mere remission of any fine levied. We believe a boatowner should be compensated for the fishing time he loses or for any fish that is confiscated or spoils because the boat is detained. We believe also that he should be compensated for any net or other equipment that is confiscated.

Actually, Mr. Chairman, we have tried several times in the past to have Public Law 680 amended to give boatowners this additional protection but have not been successful. Perhaps if your subcommittee gave the necessary study to this problem, we might have some better success.

The proposed amendment is not a solution to the problem of seizures for the following reasons, and is unacceptable to us:

(a) Mr. Felando has now reversed the position he took as recently as July 16 when the Senate passed S. 2568. This is not important although, with the exception of the seizure of the *White Star*, which we understand may now be fishing again, conditions are no different than they were in June or July when the Senate passed the bill.

(b) The amendment is badly drafted and would require complete revision to put it into a form any official could understand. For example, should the Secretary of the Interior enforce the embargo, or should the Secretary of the Treasury through the Bureau of the Customs? Normally embargoes are handled by Customs. What is the meaning of "lawful" manner? Whose laws—ours or the other government? What are the "high seas" or, stated in reverse, what are the "territorial seas" of the nation making the seizure or doing the "harassing"? Does our interpretation control or does the other government's? Is there any way of adjudicating this point? Can we get any country with which we have a controversy into the International Court of Justice? I don't think so.

(c) The amendment would be effective against only 2 or at most 3 of the 11 countries bordering the eastern Pacific. There are 11 countries that potentially could seize or could harass tunaboats running all the way from Mexico to Chile.

I have a tabulation I will leave with the reporter, if you wish, and I will read the figures showing just exactly how much fish would be embargoed from any country or would have been embargoed against any country in past years.

You have heard a lot about this El Salvador seizure. Mr. Guidi told you a shocking story about what happened to him. We don't believe that this should happen to any citizen.

What would an embargo do to El Salvador? Not a thing. They haven't sold a pound of tuna in the United States in history. They are not likely to in the foreseeable future.

What about some of the other countries? Colombia—they haven't sold a pound of tuna to the United States. I have checked this from the FT-110 reports published by the Bureau of the Census. They haven't sold a pound of tuna in any form to the United States in the past 5 years.

Costa Rica, for example, is another country on the coast. In 1960 Costa Rica sent us a mere 660,000 pounds of fresh and frozen tuna.

Panama sent us 1,113,000 pounds in 1959; 661,000 pounds in 1960.

The only two countries really that could be hurt by an embargo are Peru and Ecuador. They have sold us fairly substantial quantities of tuna, although in the overall picture I don't know whether they would consider the dollar value involved here as being as significant as we think it would be.

Mexico is in the same position. Mexico sells us some tuna. The quantities are small. In 1957 they sent in 414,000 pounds; in 1958, 3½ million pounds; in 1959, 5 million pounds; in 1960, 4 million pounds; and in 1961, 2½ million pounds.

(The table on tuna imports is as follows:)

Tuna imports
[In thousands of pounds]

	1957		1958		1959		1960		1961	
	Canned	Fresh and frozen								
Costa Rica.....								660		
Ecuador.....	147	461	806	1,340	1,127	9,160	1,521	2,497	3,107	6,972
Mexico.....		414		3,583		5,129		4,061		3,495
Panama.....						1,113		661		
Peru.....	651	23,581	800	28,562	1,054	53,695	1,512	40,748	1,564	6,807

Mr. CARRY. It seems to me, therefore, that since only possibly two or at most three countries would feel the effect of an embargo, this is not the way to handle this problem.

Furthermore, this bill is a conservation bill. We would like to keep it a conservation bill and not involve other problems in the field of conservation. The bill is complicated enough as it is. It is almost an impossible bill to enforce. It can be enforced but any further amendment will make it just that much more difficult.

We are wondering, as a matter of fact, whether this harassing and seizing really has any implication with respect to conservation. We certainly don't condone the seizures or harassing. In fact, we condemn them just as bitterly as anybody else. We don't see that this proposed embargo belongs in a conservation measure.

Yesterday it was brought to our attention that section 620(e) of the Act for International Development might provide a more effective means of handling the seizure problem than would this proposed amendment.

Frankly, we haven't had time even to study that possibility. We don't know. We haven't had time to take it up with any of the legal people who would know something about it. But it presents a possibility.

My members are opposed to the amendment on other grounds, too. The effects of these embargoes will actually fall directly on two, three, or possibly on all of our southern California canners. There are 10 companies in all. They will be the principal victims of any embargo of this kind.

As a matter of fact, we can see the possibility that this embargo, if it should become law, could be used by a skipper as a means of wreaking vengeance on one of our members if he happened to be angry about some fancied wrong done him by the canner. There is no great risk

in going down the coast and provoking an incident and getting a boat seized and thereby having all the fish from the country involved embargoed. This hurts a particular member or it hurts two members or it hurts the whole industry. This is a very simple thing to accomplish.

Frankly, even if we wanted to go along with Mr. Felando's proposed amendment, we just haven't had time to contact all the people that it would be necessary to contact to get us to change our position on this amendment. I don't think even when we do we would change the position we had previously adopted.

We haven't had time since yesterday afternoon, when I first had a chance to read this proposed amendment, to get in touch with some people. Some are out of the country; others are out of town; some vacationing. This is the vacation season, though you Members of Congress don't seem to be able to take advantage of it. We haven't been able to get to all of our people. It takes time to do that, and as you said, Mr. Chairman, time is one thing we don't have right now. We don't see the urgency for this amendment at this time. We see an urgency for the legislation but not this amendment.

We would like your committee to take time to study this whole question of embargoes and of seizures and harassment of our vessels and that sort of thing.

We are just as much interested, by the way, in maintaining the freedom of the seas as anybody else. Representatives of my association or representatives of the canners have attended practically every conference dealing with the law of the sea or fisheries matters that the United States has participated in since 1947. We intend to keep on doing so. Freedom of the seas is just as important to us, not just as boatowners, as canners, but as American citizens, as it is to anybody else.

That is about all I have to say. Since you asked that a canner representative be here and be available for questioning by your subcommittee, I am very happy now to answer any questions that you may have.

Mr. SELDEN. I gather from what you have told us, Mr. Carry, that you are very much in favor of the bill as a conservation measure. You feel, however, the proposed amendment of Mr. Felando would perhaps serve a better purpose if it were introduced in separate legislation or as an amendment to Public Law 680. Am I correct in that assumption?

Mr. CARRY. Roughly so, Mr. Chairman. I am not prepared at this moment to agree to any type of embargo without studying it very carefully, without seeing the language that we are dealing with and knowing exactly what the implications are.

I am strongly in favor of the passage of S. 2568. I think it is a must. I think if it is not passed in this session it will be in the next session. I think at that time the boatowners and everybody else will be in here to ask you to pass it.

Mr. SELDEN. Mr. Fascell.

Mr. FASCELL. Do we have American canners in South American countries?

Mr. CARRY. We have American canners who have companies in South America, who operate national companies, shall I say?

Mr. FASCELL. Wholly owned subsidiaries?

Mr. CARRY. In most cases I would say. I am speaking partly from ignorance. Some of these things are intimate details of my members that I don't concern myself with.

It is my understanding in most of these foreign countries 51 percent or more of the stock has to be owned by nationals of the country.

We do have companies, three of them, who have interests in Ecuador and Peru, perhaps even some in Mexico. I am not certain about that.

Mr. FASCELL. Do you know whether or not the majority of the canning production in Latin American countries is substantially American owned?

Mr. CARRY. I think it is becoming so at this time. For a time, most of the canning production in Peru was not American owned. However, there has been a big shift in the ownership of a lot of companies, as was mentioned in one of the appendixes to Mr. Felando's statement. The Van Camp Co. has bought up a lot of facilities recently.

Peru is mentioned as being the second or third largest fish-producing country in the world today. The implication is that that is in tuna. This is not so. The big production in Peru is the production of anchovetas, which are ground up and made into fishmeal, used for poultry, cattle, and swine feed.

In Ecuador there is one cannery that I know of that is owned by the Van Camp Sea Food Co.

Mr. FASCELL. Did I understand you to say that there are 125 tuna fishing boats on the Pacific coast?

Mr. CARRY. Approximately 145 boats of a particular type and class. Let's call them the tuna purse seiners or bait boats.

Mr. FASCELL. Sixty of those 145 are owned by the canners?

Mr. CARRY. I said 66 of those boats are members of the American Tunaboat Association. I think Mr. Felando can check my figure on that. Many of the others are owned by canners or are boats that the canners have such a strong financial interest in that the fish is contracted to the canners and delivered only to them. As a matter of fact, in most cases all of the boats have contracts with a particular canner.

Mr. FASCELL. Those are American-flag vessels?

Mr. CARRY. Yes, sir.

Mr. FASCELL. They deliver their production in California?

Mr. CARRY. Some of them deliver their production in California. Some of them deliver their production in Puerto Rico. Some of them deliver either to California or Puerto Rico, wherever the canner wants the fish.

There are times when some of them will stop off at a port, say Panama, and transship fish up to California. Perhaps they will take the rest of the load to Puerto Rico, or perhaps if they have only a partial load they will go back fishing again.

Mr. FASCELL. The foreign-flag vessels that fish off the Pacific coast, do they land their catch in Latin American countries?

Mr. CARRY. Yes, sir.

Mr. FASCELL. Are they under similar type contracts to the canneries there?

Mr. CARRY. I believe most of them are but I can't say positively. There is one fleet to which Mr. Felando refers owned by a gentleman

by the name of Vallarino in Panama. I don't know where he delivers his fish. He has 11 or 12 boats.

Mr. FASCELL. They have to ship to a cannery or ship frozen?

Mr. CARRY. Yes, sir. I would say all the fish taken out of the eastern Pacific end up in a cannery somewhere, either in Puerto Rico or in California.

Mr. FASCELL. What percentage of the tuna consumption in the United States would this agreement cover, or this Pacific area cover that we are talking about, the conservation area?

Mr. CARRY. I am guessing, sir. I cannot give you the answer now. I will be glad to check and supply it for the record. I would guess this would cover in the area of 50 to 55 percent of the fish consumed in the United States ultimately in canned form.

Mr. FASCELL. The rest of the production is Japanese?

Mr. CARRY. A good bit of it is Japanese. They have nearly 50 percent, considering what they ship in frozen and canned. The rest is the little bit that comes out of Latin America.

Mr. SELDEN. Where do the Japanese fish?

Mr. CARRY. They fish all over the world, sir. They fish to a limited extent in the area covered by this convention, as the definition has been spelled out by the director of investigations for regulatory purposes. But they fish by a technique known as long-lining, one we do not use. They catch mostly bigeye tuna, which is not one of the species that is of immediate concern to us.

Mr. SELDEN. My question was in reference to the yellowfin tuna.

Mr. CARRY. They catch skipjack and yellowfin anywhere in the world where they can find it, sir. That takes in the Atlantic, the Indian Ocean, the Western Pacific, the Eastern Pacific, all over the world.

Mr. FASCELL. We have no problem with their coming into this convention area?

Mr. CARRY. There is a potential problem, but the Japanese have indicated that they will abide by a conservation regime that will be equivalent to what we will impose.

Mr. FASCELL. Even though they are not signatories to it?

Mr. CARRY. They have to. There is a very strong bit of moral persuasion in here. If you don't conform, you can't ship your fish into the United States.

We, by the way—the canners who buy all this fish from the Japanese, agreed to this provision. We didn't agree to it willingly in quite the form it is in there now, but in the interest of getting harmony—as you know this is a compromise bill—we did agree to provisions that normally we would object to most strongly.

Mr. FASCELL. In other words, you have the embargo principles already in this bill. That is what I am getting at. If you don't abide by the terms of the agreement, then you can't get the benefit of the market?

Mr. CARRY. That is right.

Mr. FASCELL. You are denying the market to the person who is going to have the benefit of the convention. If you set up that principle in one case, what is wrong with setting it up in another case where there is a violation of the convention?

Mr. CARRY. That is a real good question, sir, and I don't know quite how to answer it at this point.

Mr. FASCELL. Suppose it was possible to spell out as part of the terms of the convention that it is inherent that members of the convention and those who have the benefit of the market would guarantee free access without harassment to all signatories, all participants, and that anybody who violates the guarantee of free access without harassment within the terms of the convention would also be denied the market?

Mr. CARRY. We don't feel that is part of the conservation question, sir.

Mr. FASCELL. It may not be. I say I don't know. I find it very difficult to follow the logic. You have 10 fellows who are going to fish for tuna, and 9 are going to agree with the law and the 10th doesn't.

Mr. CARRY. If he doesn't agree with the law he doesn't ship his fish in here. It has nothing to do with seizing our boats.

Mr. FASCELL. But it has a lot to do with conservation. If the 10th man violates the convention and continues fishing and destroys your production, whether he does it deliberately or without remuneration or not, it is still destroying the theory of conservation.

Mr. CARRY. That is quite true. On that basis we would say there should be an embargo against this production.

There is a distinction between a country or an individual in the country fishing in violation of the principles of conservation and a country seizing a boat for some other reason, a reason that is frequently obscure. We don't always know why these boats are seized. We don't know why the *White Star* was seized.

Mr. FASCELL. A question of violation of national law.

Mr. CARRY. We don't know that. There were presumably two or three other boats in the same area. I don't know the facts about it.

Mr. FASCELL. Part of the answer, it would seem to me, is that there is no way you could write into this kind of legislation all of the problems attendant to the question and the dispute arising whether or not a national law had or had not been violated by a participant to the convention. That is your biggest obstacle to writing in this kind of enforcement provision into the legislation; is it not?

Mr. CARRY. It is almost impossible to write into legislation anything to prevent harassment. It is fine to stop harassment if it can be done.

Mr. SELDEN. Mr. Mailliard.

Mr. MAILLIARD. Isn't there a connection still between this question of harassment and the conservation from the point—what I am getting at is, if you pass this bill and in any given season begin to approach the limit of the agreed catch for that year, what would be the effect of harassment of our vessels while perhaps the vessels of that nation were catching the remainder of the year's catch?

Mr. CARRY. This would tend to interfere with our right to fish but it would not interfere with the conservation of the species at all.

As a matter of fact, Mr. Mailliard, whether or not we had a necessity for conservation as we have, according to the statements of the director of investigations for the Tuna Commission, we would probably have harassment and seizure problems.

We had them, as I said, for 10 years or more when we were not in any danger of overfishing the resource. We continued to have them. As I say, they erupted and then they died down, and then they erupted again.

We had a real bad seizure a few years back by Panama. The boat was held in port something over 60 days. The only way that was stopped was by the rest of the boats refusing to buy licenses from Panama, cutting off the revenue they derived from that source, and which was useful to them. They saw the light of day and released the boat. The other boats bought licenses.

Panama further saw the light of day and saw the Tuna Commission was a good thing, and they joined and they have been a constructive member.

These harassments have been going on for years, long before we got into the question of conservation.

Mr. MAILLIARD. One other thing to get it in the record and refresh my own memory: What is the competitive situation between yellowfin that we are talking about here and, say, albacore and one of these other types of tuna? Are they directly competitive or not so competitive?

Mr. CARRY. In the minds of some consumers they are. In the New England area the preference is for albacore or white meat tuna as it is called when it is in the can. It is fairly difficult to sell yellowfin or skipjack, which is called light meat, in that area. They are competitive but they are packed in most cases by the same company.

Mr. MAILLIARD. Speaking of Japan, my understanding of Japan is possibly they take very much yellowfin.

Mr. CARRY. They take a lot of yellowfin but they use a lot of it domestically. They ship over here mostly the white meat because this is the type of fish that is not used so much in Japan domestically for their Sashimi and Katsuobushi. They use a lot of yellowfin in Japan and practically no albacore, although the usage of that is now growing a little bit. They ship over here all the albacore they can.

This year the albacore catch in Japan has been rather small and they are expecting to ship in about 50 percent in the form of white meat, which is albacore, and 50 percent light meat, which will be skipjack or yellowfin.

Mr. MAILLIARD. Because you were saying that Japan would be induced to adhere to the conservation because of the threat of being denied the market, as I read the bill they would be denied the market only on such fish as they caught in the regulatory area.

Mr. CARRY. There is a further point with respect to Japan, I feel. Japan is involved in so many fisheries and in so many parts of the world that Japan cannot afford to violate a conservation regime of this kind because it would destroy her position, which in many cases is really delicate anyway, with other countries. Therefore Japan is more likely to adhere to the principles and the goal of this convention and of this legislation than are some of the other countries.

I firmly believe we will have no problem with Japan in this thing. There are some who will disagree with my thinking. This nevertheless is my opinion.

Mr. MAILLIARD. That is all.

Mr. SELDEN. Are there any further questions?

If not, Mr. Carry, we want to thank you and Mr. Steele both for appearing before the committee this morning. If you have any additional information that you would like to submit for the record after you have had a chance to contact your other cannerys, we will be very pleased to include such information as part of the record.

Mr. CARRY. I would like to do that, and I would like to take some of Mr. Fascell's questions and study them overnight or tomorrow, and perhaps try to give him a more responsive answer than some of my answers may seem to be.

There is one point that came up in some of the testimony. I briefly scanned some of Mr. Felando's testimony. I don't know if it was in the statement or the questions. There was an impression left that foreign-flag vessels escaped the provisions of this legislation. As I have indicated here today, they don't escape at all. They are caught real tight we think.

Thank you, Mr. Chairman, for the opportunity to tell you our views on this subject.

Mr. SELDEN. Thank you, sir, for appearing.

The committee will now go into executive session to hear from the Department of State, and also from the Department of the Interior, in connection with this legislation and the suggested amendments thereto.

(Whereupon, at 11:30 a.m., the subcommittee continued in executive session in consideration of S. 2568.)

EXECUTIVE SESSION

Mr. SELDEN. In addition to the witnesses from the California Canners Association, we have with us today Mr. Herbert May, the Deputy Assistant Secretary of State for Inter-American Affairs; Mr. Fred E. Taylor, Deputy Special Assistant for Fisheries and Wildlife to the Under Secretary of State; and Mr. William M. Terry, Director of the Office of International Relations, U.S. Fish and Wildlife Service, Department of the Interior.

These gentlemen will testify today in connection with an amendment to S. 2568, suggested by Mr. August Felando, representing the American Tunaboat Association.

Mr. May, you may proceed.

STATEMENT OF HERBERT MAY, DEPUTY ASSISTANT SECRETARY OF STATE FOR INTER-AMERICAN AFFAIRS

Mr. MAY. First, I hope you will accept my apology for being so very late. I had to testify before the House Public Works Committee on the Inter-American Highway, and they just released me.

Mr. SELDEN. It is quite all right. We had some other witnesses that we had an opportunity to hear before you arrived.

Mr. MAY. I will state directly that the Department of State has carefully considered the proposed amendment, and we feel it necessary to state that we recommend strongly against the amendment, for a number of reasons, and if you will permit me to do so I will try to summarize them.

We believe, firstly, that the inclusion of such an amendment would very probably be interpreted in a number of Latin American countries as an effort by the U.S. Government to impose its interpretation of the law of the sea, its interpretation as to proper boundary limitations upon those countries through the instrumentality of a law which is not directly related to the law of the sea. They would in all likelihood take offense and believe we were using our economic power for the

purpose of forcing them to accept juridical conclusions which are not their own.

I think, secondly, that they might very well consider such an amendment as reflecting bad faith on the part of the U.S. Government in our negotiation of a tuna convention directed toward conservation of tuna supplies.

This amendment is not really related, certainly is not directly related, to the conservation of tuna supplies, and by incorporation in this fashion, these other countries might be led to the conclusion that the United States is not really much concerned with the conservation measures, or at least is not sufficiently concerned with the conservation measures, to resist the requirements, legitimate requirements of one industry or one phase of an industry in the United States.

Thirdly, I think there is a very serious danger that by provoking resentment in these other countries of Latin America, through the inclusion of such an amendment, we might very well lead to retaliation which would be very much against the interest of the fisheries themselves.

[Security deletion.]

Mr. SELDEN. We are in executive session.

Mr. MAY. A number of the countries have for many years had laws—in at least one case it is a constitutional provision—which provide for as much as 200 miles as their home territorial waters, permitting them, within their own laws, to enforce regulations which would be against any foreign fishermen conducting their business within those limits.

[Security deletion.]

Mr. MAY. There have been remarkably few cases to my knowledge—and I did look into it a little—remarkably few cases over the years where any of these governments have taken any action again U.S. tuna vessels.

[Security deletion.]

Mr. MAY. If you like I could mention some of the countries that have such laws, Peru, Chile, Ecuador, El Salvador; each of them provides for 200 miles as compared with our limit of 3.

[Security deletion.]

Mr. MAY. Mexico has 9 miles. Panama and Colombia, 12 miles. Argentina has what they call the Epicontinental Sea, which apparently extends as much as 300 or 400 miles. [Security deletion.]

A fourth point is that we in the State Department believe it is our responsibility to protect U.S. industry as a whole. While we have great sympathy with the problems of the fishermen and in particular the *White Star* problem in Ecuador right now, we have to recognize also that we do have American businessmen abroad, specifically the canners, who are affected by this legislation, or would be.

I am sorry I was late and I didn't hear the testimony of one of the representatives of the canners. But I would imagine that he would be somewhat disturbed by the possibility of such an amendment.

The fifth and final point that I will mention now is that we in State don't really believe the measure is necessary. The specific decree and implementing action which has worried many of us is that of Ecuador, which several months ago enacted a decree establishing a special 40-mile restricted zone. We were worried then and tried to discourage enactment of that decree.

[Security deletion.]

Mr. MAILLIARD. May I ask a question on this. We have been getting various stories about this *White Star* incident. How do you account for the fact, if it is a fact, that there were a number of vessels fishing apparently in the same area and they come along and pick out this one?

Mr. MAY. I don't know how to answer that. I don't mean to be facetious about it. I have seen a good number of cars speeding down a road and a policeman grabs one of them.

Mr. FASCELL. It is always me. The other fellow gets away.

Mr. MAY. I am not being facetious. I can conceive of it as having been accidental. We have no real reason to think it was anything else.

Mr. MAILLIARD. Have we not gotten any explanation from Ecuador?

Mr. MAY. I do not know of any explanation. I don't think we have gone out of our way to tell them that there were a number of other vessels fishing in the same area, if in fact there were others.

Mr. MAILLIARD. Haven't we had some explanation from them as to what this is all about?

Mr. MAY. Their explanation is that it was one officer who saw this ship fishing in waters that he considered were forbidden territory.

Mr. SELDEN. And why are they still holding the boat?

Mr. MAY. We have talked to a considerable number of officials of Ecuador, a number of Cabinet officers.

Mr. SELDEN. Off the record.

(Discussion off the record.)

Mr. SELDEN. Back on the record.

Mr. FASCELL. Mr. Secretary, the Cabinet just quit the other day, didn't they?

Mr. MAY. Yes, they did.

Mr. FASCELL. Were they reinstated?

Mr. MAY. We received word this morning that almost all of them were reinstated. The Minister of the Treasury was replaced. Except for him and one other Cabinet officer they are all back again.

Mr. FASCELL. One thing that interests me is that the Tunaboat Association is using the case of the *White Star* to make a case for its amendment, and yet the canners who own the boat are using the case of the *White Star* as a case against the amendment and it is their boat.

So I really find it very hard, in other words, Mr. May, to get upset when the owner is not upset. The other people are upset and yet their boat is not involved.

One of the answers to Mr. Mailliard's question was that somebody determined in advance this was a Van Camp boat and it was a good one to get. I don't know. It is entirely possible.

Mr. MAY. I am inclined to think this is just one of those things.

Mr. FASCELL. It is possible.

Getting back to the idea of some kind of an enforcement provision on the question of free access, and freedom from harassment and seizure, I can see the validity of the reasons which you have laid out, and yet on the other hand there is something to be said about trying to assure, if there is any way to do it, free access and elimination of harassment.

As you say, it has been with us for a long time. And a lot of people feel it should be taken out of the diplomatic level if it is possible, so you wouldn't have to argue each case.

There might be a possibility of doing this when you have a convention. It seemed like a really reasonable vehicle to try to solve this problem, if you could find a back-door way of doing it. I haven't even read the convention, don't know the legality and all; however, it occurs to me you might say in the convention that inherent in the convention itself is the right of access. If this is the case, then each country has the right to make, as I understand it, the implementing laws for its own regulation, which is what we are doing, what we did in 1950 with the act and what we are amending now.

In addition to that, the Commission has certain rights under the convention. One of those rights is to promulgate regulations and enforce regulations.

One of the regulations they might pass might deal with free access, or it might be just an interpretation, with no regulation, but just an interpretation that inherent in the convention is the right of free access and no harassment as long as the individual or country is abiding by the terms of the convention.

In the regulatory implementation of this thing, it might read like this: "It is unlawful for any participant of this convention to violate the laws of any country which is a participant, and when there is an alleged violation, seizure shall be prima facie evidence of such violation and then all importation of tuna from that country shall stop until that country has made a determination of the violation."

That might be one way to stop this foolishness and you are not insulting anybody. As a matter of fact, you are putting it right on the basis of their national sovereignty.

Mr. MAY. I think we would hesitate to accept the determination of any government as binding on us.

Mr. FASCELL. Of course. So would I. All I would want to do is stop the importation of the tuna.

Mr. MAY. I understand that. I don't see how we could be in a position of saying to the Government of Ecuador, or whether we would want to be in the position, if I understand your suggestion—

Mr. FASCELL. All we are saying, in effect, is that you seized our vessel and what you are doing is alleging a violation of the law, and from our standpoint this is a prima facie case.

It may take you 5 days, 5 years, or 50 years to make your determination pursuant to your own law. In the meantime we may take it up diplomatically with them. Until the matter is resolved we are stopping the importation of tuna, because we don't condone violations of your national law.

Mr. MAY. You mean that if one of our fishermen did something improper, let's suppose he—

Mr. FASCELL. Suppose he doesn't—

Mr. MAY. Suppose he does or doesn't, but the Ecuadorans think he has. As soon as they think he has done something improper we must stop importation of tuna from Ecuador? I don't see how we could have any kind of a treaty at all. We would be exposed to a situation where we have no means of controlling the operation of the convention because any government party to the convention can immediately stop the implementation.

Mr. FASCELL. That is right.

Mr. MAY. What kind of an agreement would that be?

Mr. FASCELL. As soon as they want to get rid of their market that is fine. They seize one of our vessels and that closes off the market. As soon as they decide anyone is not violating the law, they can start selling fish again.

Mr. MAY. I don't see how we can do that.

Mr. FASCELL. All I am saying is, write the embargo in the affirmative sense rather than the negative sense.

Mr. MAY. I am afraid the State Department would not like that one very much.

Mr. SELDEN. Mr. Mailliard.

Mr. MAILLIARD. I don't have any questions.

Mr. SELDEN. Mr. May, I know you are familiar with the confiscation provision in the foreign aid bill, because we discussed it prior to its passage. Would that provision apply to the seizure of vessels?

Mr. MAY. This is a legal question which I have to admit the Department of State has not yet determined. I asked the same question myself. We don't yet have a legal answer.

Mr. SELDEN. I am of the opinion the confiscation provision under the AID bill would apply to the seizure of vessels from this country.

Mr. FASCELL. That depends on the legal definition of the word "expropriate."

Mr. MAY. It is more than "expropriate"—

Mr. MAILLIARD. Which is lawful, too.

Mr. MAY. It is a question of interpretation also of what is U.S. business. There are various questions here which have to be determined because this—

Mr. MAILLIARD. What happens if they seize a vessel correctly in accordance with their law but we don't admit that law is a proper law? Then I doubt it would apply. It would seem to me that you could make an argument that this was lawful.

Mr. SELDEN. If they didn't properly compensate for the vessel, then aid could be cut off under the terms of the mutual security bill.

Mr. FASCELL. I don't agree with that.

Mr. MAILLIARD. If that was true, then an American company operating one of those boats could act in violation of the law and if they put a penalty or fined them in accordance with their own law—

Mr. SELDEN. It is perfectly all right to penalize and fine them but not to confiscate the property.

Mr. FASCELL. Suppose that is the fine.

Mr. SELDEN. Then they have expropriated, and we ought to discontinue aid.

Mr. MAILLIARD. I don't think you could stretch it that far myself.

Mr. MAY. I don't want to try to interpret the law.

Mr. SELDEN. We would be interested in having, when you reach a decision on it, a copy of your decision.

Mr. MAY. Yes.

Mr. FASCELL. We better have it pretty fast, if we are going to do something about this legislation, Mr. Chairman.

Mr. SELDEN. I don't think our discussion on the legislation before us would necessarily depend on a decision on that particular point.

Mr. FASCELL. If you are going to give my weight to the Secretary's position as to why the amendment should not be adopted, we should have the legal opinion around here to put in the report and for use on the floor.

Mr. MAY. If you are looking for other instrumentalities—because that is what you are asking for—if there are other instrumentalities for accomplishing the same objective as intended by this amendment, I think perhaps it would be useful if I were to expand my statement a little bit.

Obviously it is not possible to give broad sweeping generalizations about how the U.S. Government can exercise influence in another way. There are many ways.

I might just indicate this particular action in the case of the *White Star* was provoked because the fishermen around the Bay of Manta were disturbed by their conclusions that the big and powerful foreign companies were able to take away fish that they could not get for various reasons—

Mr. FASCELL. What were their conclusions?

Mr. MAY. Whether they could have gotten to the fish is a question. They don't have the boats, the expertise.

One thing we are thinking about is the possibility of some measures to make their life a little bit easier for them. We have not proposed anything to them, but we have discussed with our industry, with our fisheries industry, various possibilities that we might ultimately propose which would not be onerous to our own people but might be helpful to other people. We haven't made any proposal to them.

Mr. FASCELL. I thought we had sent technicians down there.

Mr. MAY. That is what I am referring to. We have. Our technicians came back with a whole range of things that we have discussed with our fishermen. They don't like some of the recommendations, because they feel they would be prejudicial to their own activities.

Some they seem inclined to accept as possible proposals would be along the following lines, if I remember them correctly: One of them would be technical assistance in finding whether there are fish other than tunafish in those waters which they could get at, which they could use. Perhaps give them some help getting at those fish.

Another one is to help through technical assistance in organizing cooperatives. They seem anxious to get themselves into some sort of cooperative endeavor to strengthen their own ability to do some fishing and perhaps with some assistance from us help them move forward in this desire.

The third is perhaps of a longer run nature, but I think important. We are thinking about some way of encouraging industry conversations designed to eliminate some of the stresses which have developed as people shout at each other on these boats and do various other things to irritate one another. If we can get the U.S. fishermen together with them, work out rules of the road, some way of harmonizing their separate activities, that may help.

There are a number of other things which the U.S. Government can do. I don't want to say we will do any of these. I do want to indicate we haven't really gone all out on this and we can still exert some influence we believe without depending on such amendments as are here proposed.

[Security deletion.]

Mr. MAY. We do have our AID program there. There may be ways of utilizing the AID program so as to divert their energies in some other fashion. I really haven't exhausted all the ways we can influence them.

Mr. MAILLIARD. You mean if they seize a ship they get better treatment and they seize more ships. That is very logical.

Mr. MAY. You are very right. That is one of the things that we have been afflicted with around the world. Very often this has been something we have been forced into, we have often done more for countries that have caused trouble for us than countries who have not.

We have to go at it quietly and softly and not provoke issues and divert them. We have been pretty successful in the rest of Latin America so far as the tunafish industry is concerned.

[Security deletion.]

Mr. MAY. I think there are ways of using the various tools we have. That is all I meant to suggest. They are there. We are using them for other reasons. While they are there, why can't we also use them to some effect for this purpose. We are trying.

Mr. MAILLIARD. I can understand the point of view of the tuna-boat boys. This isn't very much comfort to them because they can never tell under a certain situation like this when their interests may become subordinated to some other interest. They are looking for something in black and white that guarantees them protection. I don't blame them.

Mr. MAY. I don't either.

I would like to come back to one point I made earlier. I hope you will accept it as an honest point, that you can provoke more trouble for them through this type of legislation than you can escape through this type of legislation.

[Security deletion.]

Mr. MAY. I am not suggesting that we be nice and soft, that we avoid any confrontation with the Latin American countries because the nationalists will get sore at us or the commies will get sore at us. We have to defend our interest.

Mr. MAILLIARD. We can get a little nationalistic ourselves.

Mr. MAY. Certainly.

Mr. SELDEN. Off the record.

(Discussion off the record.)

Mr. SELDEN. Are there any further questions that anyone would like to ask Mr. May or Mr. Taylor?

Mr. FASCELL. I have been swirling something around in my mind. It has me a little bit upset in consideration of this legislation. There seems to be a dispute between the Tunaboat Association and the canners. The thing I have to get clear—maybe somebody here can explain it to me—is that all the tunaboat boys who are either independent or heavily financed by the canners all have contracts and they can only sell their produce to the canners.

At that point, am I wrong? Do they sell some of this stuff frozen to somebody else? Are they off the hook, or is every man who owns a boat on the hook to the canner?

STATEMENT OF FRED E. TAYLOR, DEPUTY SPECIAL ASSISTANT FOR FISHERIES AND WILDLIFE TO THE UNDER SECRETARY OF STATE

Mr. TAYLOR. I don't know in detail what the contractual relationships are out there. I believe that contracts are made for the catch before the vessel leaves.

Mr. FASCELL. On each trip?

Mr. TAYLOR. With reference to independently owned boats, not the company boats of course, and the price is negotiated and the whole of the catch comes in and goes to that particular canner.

Mr. FASCELL. The point is that an individual who has a tuna boat can only fish for tuna. He can't sell his catch to an anchovy factory or a shoe factory. He has to go to a tuna factory whether he has a contract or not. This fellow is on the hook. He is stuck with an investment of a half million dollars, or whatever the amount is. Where is the competition here? I don't get it.

Mr. MAILLIARD. It is practically industrywide as far as that goes—

Mr. FASCELL. You mean all the canners get together and decide on what are they going to pay for tuna and all the boatmen say "Ok?"

Mr. MAILLIARD. I don't think they would admit that and it would be against the law.

Mr. FASCELL. That is what steel seems to do.

Mr. MAILLIARD. Pretty much.

Mr. FASCELL. As I understand it, foreign-flag production must all be deposited in Latin America, is that correct? Or can it be sent to California direct?

Mr. MAILLIARD. No. Our laws will not permit landing of a catch by a foreign-flag vessel.

Mr. FASCELL. It must land its catch in South America?

Mr. TAYLOR. They wouldn't have to process it there.

Mr. MAILLIARD. They can freeze it.

Mr. FASCELL. And transship it.

As I see it, a tunaboat operator under a foreign flag has two alternatives. One, he sells it to a canner which is substantially American owned, or he can freeze it and send it to the United States to a cannery.

Mr. TAYLOR. I think you will find all the vessels operating out of foreign ports, tuna vessels, that is, have firm contractual commitments with companies in these countries. They don't have the freedom and latitude to sell it to this one or that one. There might be individual exceptions—

Mr. MAILLIARD. They could do it but it is to their advantage to have the assurance that their catch will be salable when they come back. This is a mutual arrangement.

Mr. FASCELL. A tunaboat operator would be foolish to go out without making a deal to the cannery. This same person—now they are talking about the American who comes into California with his catch, but he is selling to the company which has a substantial interest in this cannery in Ecuador—what he wants to do is cut this cannery's throat from the standpoint of importation of its own product. Isn't that right? That is the way I see the economics of this.

Mr. TAYLOR. That is what Mr. Carry testified could very well happen. It could be brought into play by the activities of an individual American fisherman by getting himself racked up with one of these foreign claims.

Mr. FASCELL. That is the net effect of it. What you are really saying is that American canneries would be able to bring in their foreign production. That is what it boils down to.

Mr. TAYLOR. It would not be limited to American canneries.

Mr. FASCELL. Of course not. But the big market is here.

Mr. MAILLIARD. There are still foreign-owned canneries. They are not all American. The American interest is substantial now but it has been only for a short time.

Mr. FASCELL. The great percentage, as I understand the testimony of the canning witnesses, are American owned, whether it is here or abroad—

Mr. MAILLIARD. Or partly American owned.

Mr. FASCELL. Substantially. A 51-percent deal. The Americans are running it pretty good, even if it is in Peru.

Mr. TAYLOR. That is what I understood the witness to say, sir. The brunt of this embargo—

Mr. MAILLIARD. I don't think anyone has testified with positive knowledge here as to the percentage of the American ownership of the canneries in Latin America.

Mr. FASCELL. He just did.

Mr. MAILLIARD. I don't think anybody has given us—

Mr. FASCELL. I think it is an important point. Somewhere we have to have it country by country, plant by plant, ownership by ownership. I think it is important to understand the economics and politics of what is involved in this fight. It looks to me as if it is not an international situation at all. It is the tuna fishermen against the canners.

Mr. MAILLIARD. Couldn't we get this information easily as to the tuna canneries?

Mr. TAYLOR. I don't know how much it would involve trade secrets. I couldn't answer that categorically.

Mr. MAILLIARD. Don't you think we would have readily available, though, the information as to how many of the tuna canneries, of which there are not such a tremendous number, I don't believe, in Latin America, are at least partially American owned and what are not American owned? I should think that would be readily available.

Mr. TAYLOR. By country.

Mr. MAILLIARD. I think we should recognize also that there is an internal Latin American market, that there is some consumption of tunafish within Latin America.

Mr. SELDEN. It is very small, is it not?

Mr. MAY. It is probably small as compared with the U.S. market.

In referring to canneries in Latin America which are not U.S. owned, it may be those canneries are concerned primarily or almost entirely with consumption within their own countries.

Mr. MAILLIARD. I would be willing to bet that those who export to the United States are either partly American owned for the most part or have some direct association because they have to have an American label. You couldn't sell Chilean-labeled tuna very successfully in this country.

Mr. MAY. I would, too. It is because of that I am led to the conclusion that you would need little more than the statistics of the importation of the various Latin American countries to have a pretty good idea of where the cannery interests are because they are probably all American canneries.

Mr. FASCELL. In the testimony by Mr. Felando, didn't he say that 70 percent of the tuna production on the Pacific, whatever you call that eastern Pacific shore, was American, 30 percent was Latin?

Mr. MAILLIARD. Sixty-nine I think was the figure.

Mr. FASCELL. The Americans already have 70 percent of the market. I don't see why they would use this device to close off the 30 percent.

Mr. MAILLIARD. How could you reconcile that with the statement that 96 percent is caught by American fishermen in the beginning? I haven't been able to put those figures together.

Mr. SELDEN. We have a diversity of figures.

Mr. MAILLIARD. I think this record, if you start analyzing it, you would find that we really don't have authoritative figures. We have figures but they don't jibe.

Mr. SELDEN. Perhaps in the correcting of the record we can get the correct figures.

Mr. MAILLIARD. Because the original statement, 96 percent, given to us by the representative of the Commission, I believe—

Mr. CROMER. That was corrected to 95 percent.

Mr. FASCELL. Ninety-five percent of what?

Mr. CROMER. Of yellowfin.

Mr. MAILLIARD. Are caught by Americans in this area was the statement that was made.

Mr. MAY. Isn't it possible that some of them have contracts with Latin American countries?

Mr. SELDEN. As we understand it, there are very few factories. Most of them are American owned.

Mr. FASCELL. An American-flag vessel can't land its catch in Ecuador? It can. But not vice versa.

Mr. TAYLOR. It is done.

Mr. FASCELL. Notwithstanding the disparity in the price paid?

Mr. MAILLIARD. A fellow fishing off Ecuador and the fishing is really good and he wants to sell his catch even at a lower price and go out and fish some more—

Mr. FASCELL. Bill, it doesn't work that way. The man who has that tunaboat under the American flag made a deal before he left. If there is subsidiary in Ecuador he is going to get credit for 500 tons here and 500 tons up here. He just has a delivery point. That is why they went down there and built those plants. I bet it is a book-keeping entry for that plant. They don't have time to change that guy's contract unless they write it in the alternative.

Mr. MAILLIARD. Which they may well do. It would be uneconomic to pay American prices in Latin America. The moment they put it in a can it is dutiable. They would price themselves out of business. It wouldn't work. Frozen and sent up here, yes.

Mr. SELDEN. Are there any further questions that any of the committee members would like to ask Mr. May or Mr. Taylor?

If not, I have a communication from the Assistant Secretary of the Interior in connection with this amendment that I will make a part of the record at this point, if there is no objection.

Mr. MAILLIARD. Is he "agin" it?

Mr. SELDEN. He would prefer it not to be included in this legislation. I will read one paragraph:

We agree in principle to the amendment offered by the American Tunaboat Association as an effective means of dealing with the greater part of the problem, but we would prefer that the objective which it seeks be accomplished by separate legislation.

Without objection, this communication will be included in full as part of the record at this point.

(The document referred to is as follows:)

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., August 30, 1962.

HON. ARMISTEAD I. SELDEN, JR.,
Chairman, Subcommittee on Inter-American Affairs, Committee on Foreign Affairs, House of Representatives, Washington, D.C.

DEAR MR. SELDEN: Subsequent to the hearing on S. 2568 on August 28, the Department was requested to comment upon the amendment to the bill offered at that hearing by Mr. August Felando, representing the American Tunaboat Association.

We are cognizant of the increase of fishing vessel seizures experienced of late by tuna fishermen off the coast of Latin America. This interference with a U.S. fishery has been of great concern to us, and we have worked with the Department of State to accomplish the release of vessels seized and to create a working relationship with the countries concerned to prevent such seizures in the future.

We recognize also the difficulty there could be for the tuna fishing industry if the enactment of S. 2568 resulted in a regulated U.S. fishing industry which was denied access to the resource by a foreign government during the periods of the year when such regulation permitted them to fish.

We agree in principle to the amendment offered by the American Tunaboat Association as an effective means of dealing with the greater part of the problem, but we would prefer that the objective which it seeks be accomplished by separate legislation.

We take this position because we distinguish the embargo provisions of the proposed amendment from those contained in the present bill as dealing with the question of territorial waters and freedom of the seas rather than conservation. The embargoes in the present bill are designed to protect the efficacy of the conservation recommendations of the Commission, while the embargo in the proposed amendment is designed to protect the U.S. concept of territorial waters.

In addition, the amendment raises foreign policy problems which doubtless will require careful review.

While it is true that there have been incidents involving seizure of U.S. vessels in this area of sufficient number to emphasize the problem, it appears that the number of such incidents has not been such as to show that U.S. tuna fishermen are being denied access to the resource on a broad scale. To simplify a statement of the situation, we can say that the incidents indicate the danger and suggest that legislation is necessary, but they do not indicate a need great enough to make such amendment a condition precedent to enactment of this conservation measure.

We recognize, however, that in the light of the known seizures of the recent past, the fishing industry concerned sees great uncertainty for them in this bill. Accordingly, subject to a review of its implications in respect of U.S. foreign relations, we would be prepared to accept the amendment in order that this Government can move forward with the task which, in our judgment, is of paramount importance—that of putting into effect the conservation recommendations of the Tuna Commission.

If the amendment is to be considered further, there are changes in language which should be made in order to conform the amendment to the general style and format of the bill, to eliminate certain extraneous phrases, and to insure the

effectiveness of the proposed embargo. We will be prepared to suggest changes at an appropriate time.

The limited time available for preparation of this report has precluded our obtaining the advice of the Bureau of the Budget as to the relationship between this report and the President's legislative program.

Sincerely yours,

FRANK P. BRIGGS,

Assistant Secretary of the Interior.

Mr. SELDEN. If there are no further questions, and since we have a few moments, I would like to discuss this legislation with the subcommittee members who are here.

Mr. FASCELL. It will take more than a few minutes for me.

Mr. SELDEN. I want to discuss whether we can meet again, if we can't reach any conclusion.

Thank you, gentlemen, for coming.

(Whereupon, at 12:05 p.m., the subcommittee adjourned.)



THE HISTORY OF THE UNITED STATES

The first part of the book is devoted to the early history of the United States, from the discovery of the continent by Christopher Columbus in 1492 to the establishment of the first permanent settlements. The second part covers the period from the American Revolution to the Civil War, and the third part deals with the Reconstruction period and the subsequent years.

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