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**EMERGENCY MARINE FISHERIES PROTECTION  
ACT OF 1975**

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**HEARING**

BEFORE THE

**COMMITTEE ON COMMERCE  
UNITED STATES SENATE**

NINETY-FOURTH CONGRESS

FIRST SESSION

ON

**S. 961**


TO EXTEND, PENDING INTERNATIONAL AGREEMENT, THE  
FISHERIES MANAGEMENT RESPONSIBILITY AND AUTHOR-  
ITY OF THE UNITED STATES OVER THE FISH IN CERTAIN  
OCEAN AREAS IN ORDER TO CONSERVE AND PROTECT  
SUCH FISH FROM DEPLETION, AND FOR OTHER PURPOSES

\_\_\_\_\_  
JUNE 6, 1975

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PART 1

\_\_\_\_\_  
Serial No. 94-27

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CHAPTER 9

THE HISTORY OF THE UNITED STATES

THE AMERICAN REVOLUTION

The American Revolution was a period of political and social change in the United States. It began in 1775 and ended in 1783. The revolution was fought between the thirteen original colonies and Great Britain. The colonies were fighting for their independence from British rule. The revolution was a result of the colonies' growing dissatisfaction with British policies and their desire for self-governance. The revolution was a turning point in the history of the United States, as it led to the creation of a new nation.

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# EMERGENCY MARINE FISHERIES PROTECTION ACT OF 1975

FRIDAY, JUNE 6, 1975

U.S. SENATE,  
COMMITTEE ON COMMERCE,  
*Washington, D.C.*

The committee met at 10:25 a.m. in room 5110 of the Dirksen Senate Office Building; Hon. Warren G. Magnuson (Chairman of the Committee) presiding.

## OPENING STATEMENT BY THE CHAIRMAN

The CHAIRMAN. The committee will come to order.

Good morning. This morning the Senate Commerce Committee opens hearings on S. 961, the Emergency Marine Fisheries Protection Act of 1975, or the so-called 200-mile limit bill. This is the same bill which passed the Senate last December by a vote of 68 to 27.

The committee does not plan extensive hearings to hear arguments about whether Congress should or should not pass legislation establishing such a limit. As far as I am concerned, that question has been answered—S. 961, or something like it, will be passed by the Congress sometime this year.

We have convened these hearings to examine the practical questions of how we implement a 200-mile limit for fisheries management and how soon we can do it. We also want to learn of the least costly method of both management and enforcement. There are other questions as well.

In short, I am putting the Executive on notice that this legislative proposal is serious and will get immediate attention. Now that another session of the Law of the Sea Conference has ended without resolving the fishery conservation question, we here in Congress must do the job. And we must prepare to do it both effectively and efficiently.

What S. 961 proposes is very close to the "single negotiating text" developed in the Geneva session of the Law of the Sea Conference. That text gives coastal nations exclusive management authority over fisheries in a 200-mile zone. The countries of the world are ready to agree on this concept. What I am proposing is therefore not objectionable to the world community. In fact, it would be welcomed by most.

In summary, it's now time to set the 200-mile limit and to reverse the trend of overfishing which has been plaguing our fisheries for nearly two decades.

We are going to have some Senators here first who will be witnesses to the bill and some of the rest will be along here in a minute, but we have a long list of witnesses today, so we will hear first from the Senator from Oregon.

Staff member assigned to this hearing: James P. Walsh.

[The bill and agency comments follow:]



1 (1) Valuable coastal and anadromous species of fish  
2 off the shores of the United States are in danger of being  
3 seriously depleted by excessive fishing effort.

4 (2) Stocks of coastal and anadromous species which  
5 inhabit waters of the 3-mile territorial sea and the exist-  
6 ing 9-mile contiguous fishery zone of the United States  
7 are being depleted by foreign fishing efforts outside the  
8 12-mile combined zone in which the United States pres-  
9 ently possesses fishery management responsibility and  
10 authority.

11 (3) International negotiations have so far failed to  
12 result in effective international agreements on the con-  
13 servation and management of threatened stocks of fish.

14 (4) There is danger that further depletion of these  
15 fishery resources will occur before an effective general  
16 international agreement on fishery jurisdiction can be  
17 negotiated, signed, ratified, and implemented, unless  
18 emergency action is taken pending such international  
19 agreement.

20 (b) PURPOSES.—It is therefore declared to be the pur-  
21 pose of the Congress in this Act—

22 (1) to take emergency action to protect and con-  
23 serve threatened stocks of fish by asserting fishery man-  
24 agement responsibility and authority over fish in an  
25 extended contiguous fishery zone and over certain species

1 of fish beyond such zone, until a general international  
2 agreement on fishery jurisdiction comes into force or is  
3 provisionally applied;

4 (2) to extend, as an emergency measure, the fishery  
5 management responsibility and authority of the United  
6 States to 200 nautical miles;

7 (3) to extend, as an emergency measure, fishery  
8 management responsibility and authority of the United  
9 States over anadromous species of fish which spawn in  
10 fresh or estuarine waters of the United States; and

11 (4) to commit the Federal Government to act to  
12 prevent further depletion, to restore depleted stocks, and  
13 to protect and conserve fish to the full extent of such  
14 emergency responsibility and authority, and to provide  
15 for the identification, development, and implementation  
16 within 1 year of the date of enactment of this Act of  
17 the best practicable management system consistent with  
18 the interests of the Nation, the several States, and of  
19 other nations.

20 (e) POLICY.—It is further declared to the policy of the  
21 Congress in this Act—

22 (1) to maintain the existing territorial or other  
23 ocean jurisdiction of the United States without change,  
24 for all purposes other than the protection and conserva-  
25 tion of certain species of fish and fish in certain ocean

1 areas pending international agreement on fishery  
2 jurisdiction;

3 (2) to authorize no action, activity, or assertion of  
4 jurisdiction in contravention of any existing treaty or  
5 other international agreement to which the United States  
6 is party other than that necessary to further the pur-  
7 poses of this Act; and

8 (3) to authorize no impediment to or interference  
9 with the legal status of the high seas, except with re-  
10 spect to fishing to the extent necessary to implement  
11 this Act.

#### 12 DEFINITIONS

13 SEC. 3. As used in this Act, unless the context otherwise  
14 requires—

15 (1) "anadromous species" means those species of  
16 fish which spawn in fresh or estuarine waters of the  
17 United States but which migrate to ocean waters;

18 (2) "citizen of the United States" means any per-  
19 son who is a citizen of the United States by birth, by nat-  
20 uralization or other legal judgment, or, with respect to  
21 a corporation, partnership, or other association, by orga-  
22 nization under and maintenance, after the date of en-  
23 actment of this Act, in accordance with the laws of  
24 any State: *Provided*, That (A) the controlling inter-  
25 est therein is owned or beneficially vested in individuals

1 who are citizens of the United States; and (B) the  
2 chairman, and not less than two-thirds of the mem-  
3 bers, of the board of directors or other governing board  
4 thereof are individuals who are citizens of the United  
5 States;

6 (3) "coastal species" means all species of fish  
7 which inhabit the waters off the coasts of the United  
8 States, other than highly migratory and anadromous  
9 species;

10 (4) "contiguous fishery zone" means a zone con-  
11 tiguous to the territorial sea of the United States within  
12 which the United States exercises exclusive fishery man-  
13 agement and conservation authority;

14 (5) "controlling interest" means (A) 75 percent  
15 of the stock of any corporation, or other entity, is vested  
16 in citizens of the United States free from any trust or  
17 fiduciary obligation in favor of any person not a citizen  
18 of the United States, (B) 75 percent of the voting  
19 power in such corporation, or such other entity, is  
20 vested in citizens of the United States, (C) no arrange-  
21 ment or contract exists providing that more than 25  
22 percent of the voting power in such corporation, or  
23 such other entity, may be exercised in behalf of any  
24 person who is not a citizen of the United States, and  
25 (D) by no means whatsoever is control of any interest

1 in such corporation, or such other entity, conferred upon  
2 or permitted to be exercised by any person who is not  
3 a citizen of the United States: *Provided*, That any cor-  
4 poration, or other entity, subject to a controlling inter-  
5 est acquired prior to the date of enactment of this Act  
6 with the approval of the Secretary granted pursuant to  
7 section 9 or section 37 of the Shipping Act of 1916, as  
8 amended (46 U.S.C. 808, 835), shall be deemed to be  
9 subject to a controlling interest owned or beneficially  
10 vested in individuals who are citizens of the United  
11 States.

12 (6) "fish" includes mollusks, crustaceans, marine  
13 mammals (except the polar bear, walrus, and sea otter),  
14 and all other forms of marine animal and plant life (but  
15 not including birds), and the living resources of the  
16 Continental Shelf as defined in the Act of May 20,  
17 1964 (78 Stat. 196);

18 (7) "fishing" means the catching, taking, harvest-  
19 ing, or attempted catching, taking, or harvesting of any  
20 species of fish for any purpose, and any activity at sea  
21 in support of such actual or attempted catching, taking,  
22 or harvesting;

23 (8) "fishing vessel" means any vessel, boat, ship,  
24 contrivance, or other craft which is used for, equipped

1 to be used for, or a type which is normally used for,  
2 fishing;

3 (9) "fishing-support vessel" means any vessel,  
4 boat, ship, contrivance, or other craft which is used for,  
5 equipped to be used for, or of a type which is normally  
6 used for, aiding or assisting one or more fishing vessels  
7 at sea in the performance of any support activity, in-  
8 cluding, but not limited to, supply, storage, refrigeration,  
9 or processing;

10 (10) "highly migratory species" means those spe-  
11 cies of fish which spawn and migrate during their life  
12 cycle in waters of the open ocean, including, but not  
13 limited to, tuna;

14 (11) "optimum sustainable yield" refers to the  
15 largest economic return consistent with the biological  
16 capabilities of the stock, as determined on the basis of all  
17 relevant economic, biological, and environmental factors;

18 (12) "person" includes any government or entity  
19 thereof (and a citizen of any foreign nation) ;

20 (13) "Secretary" means the Secretary of Com-  
21 merce, or his delegate;

22 (14) "State" means any of the several States, the  
23 District of Columbia, the Commonwealth of Puerto Rico,

1 American Samoa, the Virgin Islands, Guam, and the  
2 territories and possessions of the United States;

3 (15) "stock", with respect to any fish, means a  
4 type, species, or other category capable of management  
5 as a unit;

6 (16) "traditional foreign fishing" means long-  
7 standing, active, and continuous fishing for a particular  
8 stock of fish by citizens of a particular foreign nation in  
9 compliance with any applicable international fishery  
10 agreements and with the laws of such foreign nation;  
11 and

12 (17) "United States", when used in a geographical  
13 context, includes all States.

14 FISHERIES MANAGEMENT RESPONSIBILITY

15 SEC. 4. (a) CONTIGUOUS FISHERY ZONE.—(1) There  
16 is established, for the duration of this Act, a fishery zone  
17 contiguous to the territorial sea of the United States. The  
18 United States shall exercise exclusive fishery management  
19 responsibility and authority within this contiguous fishery  
20 zone.

21 (2) The contiguous fishery zone has as its inner  
22 boundary the outer limits of the territorial sea, and as its  
23 seaward boundary a line drawn so that each point on the  
24 line is 197 nautical miles from the inner boundary.

1       (3) Notwithstanding any other provision of law, the  
2 fishery management responsibility and authority of the  
3 United States within the contiguous fishery zone of the  
4 United States shall not include or be construed to extend  
5 to highly migratory species, except to the extent such species  
6 are not managed pursuant to bilateral or multilateral inter-  
7 national fishery agreements.

8       (b) ANADROMOUS SPECIES.—(1) The fishery man-  
9 agement responsibility and authority of the United States  
10 with respect to anadromous species, for the duration of this  
11 Act, extends to such species wherever found throughout the  
12 migratory range of such species: *Provided*, That such respon-  
13 sibility and authority shall not extend to such species to the  
14 extent found within the territorial waters or contiguous  
15 fishery zone of any other nation.

16       (c) GENERAL.—The United States shall manage and  
17 conserve, and have preferential rights to, fish within the  
18 contiguous fishery zone, and with respect to anadromous  
19 species of fish, pursuant to the responsibility and authority  
20 vested in it pursuant to this section, subject to traditional  
21 foreign fishing rights as defined and recognized in accordance  
22 with section 5 of this Act.

23       (d) REGULATIONS.—The Secretary is authorized to  
24 promulgate such regulations in accordance with section 553

1 of title 5, United States Code, as are necessary to imple-  
2 ment the purposes of this Act. The Secretary is further  
3 authorized to amend such regulations in the manner origi-  
4 nally promulgated.

5 FOREIGN FISHING RIGHTS

6 SEC. 5. (a) GENERAL.—The Secretary and the Secre-  
7 tary of State, after consultation with the Secretary of the  
8 Treasury, may authorize fishing within the contiguous fish-  
9 ery zone of the United States, or for anadromous species  
10 or both, by citizens of any foreign nation, in accordance  
11 with this section, only if such nation has traditionally en-  
12 gaged in such fishing prior to the date of enactment of this  
13 Act.

14 (b) PROVISIONS.—The allowable level of traditional  
15 foreign fishing shall be set upon the basis of the portion of  
16 any stock which cannot be harvested by citizens of the United  
17 States. Allowed traditional foreign fishing and fishing by  
18 citizens of the United States annually shall not, for any stock,  
19 exceed the optimum sustainable yield for such stock.

20 (c) RECIPROCITY.—Traditional foreign fishing rights  
21 shall not be recognized pursuant to this section unless any  
22 foreign nation claiming such rights demonstrates that it  
23 grants similar traditional fishing rights to citizens of the  
24 United States within the contiguous fishery zone of such na-

1 tion, if any exist, or with respect to anadromous species  
2 which spawn in the fresh or estuarine waters of such nations.

3 (d) PROCEDURES.—(1) In determining the allowable  
4 level of foreign fishing with respect to any stock, the Sec-  
5 retary shall utilize the best available scientific information,  
6 including, but not limited to, catch and effort statistics and  
7 relevant available data compiled by any foreign nation claim-  
8 ing traditional fishing rights. The National Oceanic and At-  
9 mospheric Administration shall take steps to verify the au-  
10 thenticity of the foreign catch statistics and any other rele-  
11 vant data furnished for the purpose of this paragraph, includ-  
12 ing placing observers aboard foreign-flag fishing vessels as  
13 necessary during any fishing operations which may be  
14 authorized for foreign-flag fishing vessels pursuant to this  
15 Act.

16 (2) The Secretary is authorized to establish reasonable  
17 fees which shall be paid by the citizens of any foreign nation  
18 engaged in exercising foreign fishing rights recognized under  
19 this section. Such fees shall be set in an amount sufficient  
20 to reimburse the United States for administrative expenses  
21 incurred pursuant to this section and for an equitable share  
22 of the management and conservation expenses incurred by  
23 the United States in accordance with this Act, including the  
24 cost of regulation and enforcement.

1 (e) PROHIBITION.—Except as provided in this Act, it  
2 shall be unlawful for any person not a citizen of the United  
3 States to own or operate a fishing vessel or fishing support  
4 vessel engaged in fishing in the internal waters, territorial  
5 sea, or contiguous fishery zone of the United States or for  
6 anadromous species of fish.

7 MARINE FISHERIES MANAGEMENT AND CONSERVATION

8 PLANNING

9 SEC. 6. (a) OBJECTIVES.—It is the intent of the Con-  
10 gress that the following objectives be considered and included  
11 (to the extent practicable) in plans, programs, and standards  
12 for the management and conservation of marine fisheries;  
13 (1) evaluation of actual and foreseeable costs and benefits at-  
14 tributable thereto; (2) enhancement of total national and  
15 world food supply; (3) improvement of the economic well-  
16 being of fishermen; (4) maximum feasible utilization of  
17 methods, practices, and techniques that are optimal in terms  
18 of efficiency, protection of the ecosystem of which fish are a  
19 part, and conservation of stocks and species; and (5) effec-  
20 tuation of the purposes stated in section 2 (b) (4) of this Act.  
21 Due consideration shall be given to alternative methods for  
22 achieving these objectives.

23 (b) FISHERIES MANAGEMENT COUNCIL.—There is  
24 established a Fisheries Management Council (hereinafter

1 referred to as the "Council"). The Council shall consist of  
2 11 individual members, as follows:

3 (1) a Chairman, a qualified individual who shall be  
4 appointed by the President, by and with the advice and  
5 consent of the Senate;

6 (2) three Government members, who shall be the  
7 Secretary, the Secretary of the department in which  
8 the Coast Guard is operating, and the Secretary of  
9 State, or their duly authorized representatives; and

10 (3) seven nongovernment members, who shall be  
11 appointed by the President, by and with the advice and  
12 consent of the Senate, on the following basis—

13 (A) three to be selected from a list of qualified  
14 individuals recommended by each of the regional  
15 fisheries commissions or their successors, one of  
16 whom shall be a representative respectively of At-  
17 lantic, Pacific, and Gulf of Mexico commercial fish-  
18 ing efforts; and

19 (B) four to be selected from a list of qualified  
20 individuals recommended by the National Governors  
21 Conference, at least one of whom shall be a rep-  
22 resentative of a coastal State.

23 As used in this paragraph, a list of qualified individuals

1 shall consist of not less than three individuals for each  
2 Council member to be appointed.

3 As used in this subsection, "qualified individual" means an  
4 individual who is distinguished for his knowledge and  
5 experience in fisheries management and conservation,  
6 and who is equipped by experience, known talents,  
7 and interests to further the policy of this Act effec-  
8 tively, positively, and independently if appointed to be a  
9 member of the Board. The terms of office of the nongovern-  
10 ment members of the Council first taking office shall expire  
11 as designated by the President at the time of nomination—  
12 two at the end of the first year; two at the end of the second  
13 year; and three at the end of the third year. The term of  
14 office of the Chairman of the Council shall be 2 years. Suc-  
15 cessors to members of the Council shall be appointed in the  
16 same manner as the original members and, except in the  
17 case of Government members, shall have terms of office  
18 expiring 2 years from the date of expiration of the terms  
19 for which their predecessors were appointed. Any individual  
20 appointed to fill a vacancy occurring prior to the expiration  
21 of any term of office shall be appointed for the remainder  
22 of that term.

23 (c) POWERS AND DUTIES.—The Council shall—

24 (1) engage in the preparation of a plan or plans  
25 for marine fisheries management and conservation;

1           (2) provide information and expert assistance to  
2 States and local or regional fisheries authorities in marine  
3 fisheries management and conservation;

4           (3) adopt, amend, and repeal such rules and regula-  
5 tions governing the operation of the Council and as  
6 are necessary to carry out the authority granted under  
7 this section; conduct its affairs, carry on operations, and  
8 maintain offices; appoint, fix the compensation, and  
9 assign the duties of such experts, agents, consultants,  
10 and other full- and part-time employee as it deems neces-  
11 sary or appropriate;

12           (4) consult on an ongoing basis (A) with other  
13 Federal agencies and departments; (B) with officials  
14 of coastal States who are concerned with marine fisheries  
15 management and conservation planning; (C) with ap-  
16 propriate officials of other nations which are exercising  
17 traditional foreign fishing rights, through the good offices  
18 of the Secretary of State; and (D) with owners and  
19 operators of fishing vessels;

20           (5) enter into, without regard to section 3709 of  
21 the Revised Statutes of the United States (41 U.S.C.  
22 5), such contracts, leases, cooperative agreements, or  
23 other transactions as may be necessary in the conduct of  
24 its functions and duties with any person (including a  
25 government entity) ;

1           (6) prepare a survey of fisheries subject to the emer-  
2           gency conservation and management authority granted  
3           to the United States by this Act, including, but not  
4           limited to, depleted stocks and stocks threatened with  
5           depletion; and

6           (7) survey, study, and prepare a marine fisheries  
7           management plan setting forth the elements of a national  
8           management system to conserve and protect fish.

9           (d) REVIEW BY CONGRESS.—The Council shall sub-  
10          mit the marine fisheries management plan adopted by the  
11          Council to the Senate Committee on Commerce and the Com-  
12          mittee on Merchant Marine and Fisheries of the House of  
13          Representatives not later than 1 year after the date of  
14          enactment of this Act. The marine fisheries manage-  
15          ment plan shall be deemed approved at the end of the  
16          first period of 180 calendar days of continuous session of  
17          Congress after such date of transmittal unless the House  
18          of Representatives and the Senate pass resolution in sub-  
19          stantially the same form stating that the marine fisheries  
20          management plan is not favored. If the House and the  
21          Senate pass resolutions of disapproval under this subsection,  
22          the Council shall prepare, determine, and adopt a revised  
23          plan. Each such revised plan shall be submitted to Congress  
24          for review pursuant to this subsection. For purposes of this  
25          section (1) continuity of session of Congress is broken only

1 by an adjournment sine die; and (2) the days on which  
2 either House is not in session because of an adjournment of  
3 more than 3 days to a day certain are excluded in the com-  
4 putation of the 180-day period.

5 (e) MISCELLANEOUS.—(1) The marine fisheries man-  
6 agement plan which is adopted by the Council and which  
7 becomes effective after review by the Congress is not sub-  
8 ject to review by any court.

9 (2) The Council shall have a seal which shall be  
10 judicially recognized.

11 (3) The Administrator of General Services shall furnish  
12 the Council with such offices, equipment, supplies, and serv-  
13 ices as he is authorized to furnish to any other agency or  
14 instrumentality of the United States.

15 (4) A member of the Council who is not otherwise  
16 an employee of the Federal Government may receive \$300  
17 per diem when engaged in the actual performance of his  
18 duties as a member of the Council plus reimbursement for  
19 travel, subsistence, and other necessary expenses incurred  
20 in the performance of such duties. Each member of the  
21 Council shall be authorized such sums as are necessary to  
22 enable him to appoint and compensate an adequate quali-  
23 fied full-time professional staff responsible and subject to  
24 his control, but not otherwise subject to control by the  
25 Council.

1 (f) TERMINATION.—The Council shall cease to exist  
2 30 days after adoption by Congress of the marine fisheries  
3 plan pursuant to subsection (d) of this section.

4 (g) AUTHORIZATION.—There are hereby authorized to  
5 be appropriated for the purposes of this section a sum not to  
6 exceed \$1,000,000 for each of the fiscal years ending June  
7 30, 1975, and June 30, 1976.

8 INTERNATIONAL FISHERY AGREEMENTS

9 SEC. 7. (a) GENERAL.—The Secretary of State, upon  
10 the request of and in cooperation with the Secretary, shall  
11 initiate and conduct negotiations with any foreign nation  
12 which is engaged in, or whose citizens are engaged in,  
13 fishing in the contiguous fishery zone of the United States  
14 or for anadromous species. The Secretary of State, upon  
15 the request of and in cooperation with the Secretary, shall,  
16 in addition, initiate and conduct negotiations with any  
17 foreign nation in whose contiguous fishery zone or equivalent  
18 economic zone citizens of the United States are engaged in  
19 fishing or with respect to anadromous species as to which  
20 such nation asserts management responsibility and author-  
21 ity and for which citizens of the United States fish. The pur-  
22 pose of such negotiations shall be to enter into international  
23 fishery agreements on a bilateral or multilateral basis to  
24 effectuate the purposes, policy, and provisions of this Act.  
25 Such agreements may include, but need not be limited to,

1 agreements to provide for the management and conservation  
2 of—

3 (1) coastal species, which are found in both the  
4 contiguous fishery zone of the United States and the  
5 equivalent such zone of a foreign nation adjacent  
6 thereto;

7 (2) anadromous species, which are found during  
8 the course of their migrations in ocean areas subject to  
9 the fishery management responsibility and authority of  
10 more than one nation;

11 (3) highly migratory species which are or may be  
12 covered by international fishery agreements; and

13 (4) coastal species, which are found in areas sub-  
14 ject to the fishery management responsibility and au-  
15 thority of any foreign nation, through measures which  
16 allow citizens of the United States to harvest an appro-  
17 priate portion of such species in accordance with tradi-  
18 tional United States fishing rights in such areas.

19 (b) REVIEW.—The Secretary of State shall review, in  
20 cooperation with the Secretary, each treaty, convention, and  
21 other international fishery agreements to which the United  
22 States is party to determine whether the provisions of such  
23 agreements are consistent with the purposes, policy, and  
24 provisions of this Act. If any provision or terms of any  
25 such agreement are not so consistent, the Secretary of State

1 shall initiate negotiations to amend such agreement: *Pro-*  
2 *vided*, That nothing in this Act shall be construed to abro-  
3 gate any duty or responsibility of the United States under  
4 any lawful treaty, convention, or other international agree-  
5 ment which is in effect on the date of enactment of this Act.

6 (c) BOUNDARIES AGREEMENT.—The Secretary of State  
7 is authorized and directed to initiate and conduct negotia-  
8 tions with adjacent foreign nations to establish the bound-  
9 aries of the contiguous fishery zone of the United States in  
10 relation to any such nation.

11 (d) NONRECOGNITION.—It is the sense of the Congress  
12 that the U.S. Government shall not recognize the limits of  
13 the contiguous fishery zone of any foreign nation beyond 12  
14 nautical miles from the base line from which the territorial  
15 sea is measured, unless such nation recognizes the tradi-  
16 tional fishing rights of citizens of the United States, if any,  
17 within any claimed extension of such zone or with respect  
18 to anadromous species, or recognizes the management of  
19 highly migratory species by the appropriate existing bilateral  
20 or multilateral international fishery agreements irrespective  
21 of whether such nation is party thereto.

22 RELATIONSHIP TO STATE LAWS

23 SEC. 8. Nothing in this Act shall be construed to extend  
24 the jurisdiction of any State over any natural resources be-  
25 neath and in the waters beyond the territorial sea of the

1 United States, or to diminish the jurisdiction of any State  
2 over any natural resource beneath and in the waters within  
3 the territorial sea of the United States.

4 PROHIBITED ACTS AND PENALTIES

5 SEC. 9. (a) PROHIBITED ACTS.—It is unlawful for any  
6 person to—

7 (1) violate any provision of this Act, or any regu-  
8 lation issued under this Act, regarding fishery within  
9 the contiguous fishery zone or with respect to anadro-  
10 mous species;

11 (2) violate any provision of any international fish-  
12 ery agreement to which the United States is party  
13 negotiated or reviewed pursuant to this Act, to the  
14 extent that such agreement applies to or covers fish-  
15 ing within the contiguous fishery zone or fishing for  
16 anadromous species as defined in section 4 of this Act;

17 (3) ship, transport, purchase, sell or offer for sale,  
18 import, export, possess, control, or maintain in his  
19 custody any fish taken in violation of paragraphs (1)  
20 or (2) of this subsection where such person knew or had  
21 reason to know that such taking was not lawful;

22 (4) violate any duly issued regulation under this  
23 Act with respect to making, keeping, submitting, or fur-  
24 nishing to the Secretary any records, reports, or other  
25 information;

1           (5) refuse to permit a duly authorized represent-  
2           ative of the Secretary, or of the Secretary of the de-  
3           partment in which the Coast Guard is operating, to  
4           board a fishing vessel or fishing-support vessel subject to  
5           his control where the purpose of such requested board-  
6           ing is to inspect the catch, fishing gear, ship's log, or  
7           other records or materials; or

8           (6) fail to cooperate with a duly authorized rep-  
9           resentative of the Secretary, or of the Secretary of the  
10          department in which the Coast Guard is operating, en-  
11          gaged in a reasonable inspection pursuant to paragraph  
12          (5) of this subsection, or to resist any lawful arrest.

13          (b) CIVIL PENALTIES.—(1) Any person who is found  
14          by the Secretary, after notice and an opportunity for a hear-  
15          ing in accordance with section 554 of title 5, United States  
16          Code, to have committed an act prohibited by subsection (a)  
17          of this section, shall be liable to the United States for a civil  
18          forfeiture in accordance with subsection (d) of this section  
19          and for a civil penalty. The amount of the civil penalty shall  
20          not exceed \$25,000 for each day of each violation. The  
21          amount of such civil penalty shall be assessed by the Secre-  
22          tary, or his delegate, by written notice. In determining the  
23          amount of such penalty, the Secretary shall take into ac-  
24          count the nature, circumstances, extent, and gravity of the  
25          prohibited acts committed and, with respect to the violator,

1 the degree of culpability, and history of prior offenses, ability  
2 to pay, and such other matters as justice may require.

3 (2) Any person who is found to have committed a pro-  
4 hibited act and against whom a civil penalty is assessed under  
5 paragraph (1) of this subsection may obtain review in the  
6 appropriate court of appeals of the United States by filing a  
7 notice of appeal in such court within 30 days from the date of  
8 such order and by simultaneously sending a copy of such  
9 notice by certified mail to the Secretary. The Secretary shall  
10 promptly file in such court a certified copy of the record upon  
11 which such violation was found or such penalty imposed, as  
12 provided in section 2112 of title 28, United States Code. The  
13 findings of the Secretary shall be set aside if found to be un-  
14 supported by substantial evidence, as provided by section  
15 706 (2) (e) of title 5, United States Code.

16 (3) If any person fails to pay an assessment of a civil  
17 penalty after it has become a final and unappealable order,  
18 or after the appropriate court of appeals has entered final  
19 judgment in favor of the Secretary, the Secretary shall refer  
20 the matter to the Attorney General, who shall recover the  
21 amount assessed in an appropriate district court of the  
22 United States. In such action, the validity and appropriate-  
23 ness of the final order imposing the civil penalty shall not be  
24 subject to review.

25 (4) The Secretary may, in his discretion, compromise,

1 modify, or remit, with or without conditions, any civil pen-  
2 alty which is subject to imposition or which has been imposed  
3 under this subsection.

4 (c) CRIMINAL PENALTIES.—Any person who willfully  
5 commits an act prohibited by subsection (a) of this section  
6 shall, upon conviction, be fined not more than \$50,000 or im-  
7 prisoned for no more than 1 year, or both.

8 (d) CIVIL FORFEITURE.—(1) Any district court of  
9 the United States shall have jurisdiction, upon application by  
10 the Secretary or the Attorney General, to order forfeited to  
11 the United States any fish or fishing gear, used, intended for  
12 use, or acquired by activity in violation of any provision  
13 of subsection (a) of this section. In any such proceeding,  
14 such court may at any time enter such restraining orders or  
15 prohibitions or take such other actions as are in the interest  
16 of justice, including the acceptance of satisfactory perform-  
17 ance bonds in connection with any property subject to civil  
18 forfeiture.

19 (2) If a judgment is entered under this subsection for  
20 the United States, the Attorney General is authorized to  
21 seize all property or other interest declared forfeited upon  
22 such terms and conditions as are in the interest of justice.  
23 All provisions of law relating to the disposition of forfeited  
24 property, the proceeds from the sale of such property, the  
25 remission or mitigation of forfeitures for violation of the

1 customs laws, and the compromise of claims and the award  
2 of compensation to informants with respect to forfeitures  
3 shall apply to civil forfeitures incurred, or alleged to have  
4 been incurred, under this subsection, insofar as applicable and  
5 not inconsistent with the provisions of this section. Such  
6 duties as are imposed upon the collector of customs or any  
7 other person with respect to seizure, forfeiture, or disposi-  
8 tion of property under the customs laws shall be performed  
9 with respect to property used, intended for use, or acquired  
10 by activity in violation of any provision of subsection (a) of  
11 this section by such officers or other persons as may be  
12 designated for that purpose by the Secretary of the depart-  
13 ment in which the Coast Guard is operating.

#### 14 ENFORCEMENT

15 SEC. 10. (a) GENERAL.—The provisions of this Act  
16 shall be enforced, together with regulations issued under this  
17 Act, by the Secretary and the Secretary of the department in  
18 which the Coast Guard is operating. Such Secretaries may  
19 by agreement, on a reimbursable basis or otherwise, utilize  
20 the personnel, services, and facilities of any other Federal  
21 agency in the performance of such duties.

22 (b) POWERS.—Any person duly authorized pursuant  
23 to subsection (a) of this section may—

24 (1) board and inspect any fishing vessel or fishing-  
25 support vessel which is within the contiguous fishery

1 zone of the United States, or which he has reason to  
2 believe is fishing for anadromous species;

3 (2) arrest any person, with or without a warrant  
4 if he has reasonable cause to believe that such person  
5 has committed an act prohibited by section 9 (a) of this  
6 Act;

7 (3) execute any warrant or other process issued by  
8 an officer or court of competent jurisdiction; and

9 (4) seize all fish and fishing gear found onboard any  
10 fishing vessel or fishing-support vessel engaged in any act  
11 prohibited by section 9 (a) of this Act.

12 (c) COURTS.—The district courts of the United States  
13 shall have exclusive jurisdiction over all cases or controversies  
14 arising under this Act. Such court may issue all warrants or  
15 other process to the extent necessary or appropriate. In the  
16 case of Guam, such actions may be brought and such process  
17 issued by the District Court of Guam; in the case of the Vir-  
18 gin Islands, by the District Court of the Virgin Islands; and  
19 in the case of American Samoa, by the District Court for the  
20 District of Hawaii. The aforesaid courts shall have jurisdic-  
21 tion over all actions brought under this Act without regard to  
22 the amount in controversy or the citizenship of the parties.

23

#### DURATION OF ACT

24 SEC. 11. (a) EFFECTIVE DATE.—The provisions of sec-  
25 tion 4 of this Act shall become effective 90 days after the date

1 of enactment of this Act. All other provisions of this Act shall  
2 become effective on the date of enactment.

3 (b) TERMINATION DATE.—The provisions of this Act  
4 shall expire and cease to be of any legal force and effect on  
5 such date as the Law of the Sea Treaty, or other compre-  
6 hensive treaty with respect to fishery jurisdiction, which  
7 the United States has signed or is party to, shall come into  
8 force or is provisionally applied.

9 AUTHORIZATION FOR APPROPRIATIONS

10 SEC. 12. Except with respect to section 6 and section 9  
11 of this Act, there are authorized to be appropriated for the  
12 purposes of this Act to the Secretary such sums as are nec-  
13 essary, not to exceed \$4,000,000 for each of the fiscal years  
14 ending June 30, 1975, June 30, 1976, and June 30, 1977,  
15 and to the Secretary of the department in which the Coast  
16 Guard is operating such sums as are necessary, not to exceed  
17 \$13,000,000 for each of the fiscal years ending June 30,  
18 1975, June 30, 1976, and June 30, 1977.

UNITED STATES DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE SECRETARY,  
Washington, D.C., April 23, 1975.

HON. WARREN G. MAGNUSON,  
Chairman, Committee on Commerce,  
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for this Department's views on S. 961, a bill "To extend, pending international agreement, the fisheries management responsibility and authority of the United States over the fish in certain ocean areas in order to conserve and protect such fish and depletion, and for other purposes."

S. 961 would establish a contiguous fisheries zone of 200 miles for the exclusive fishery management responsibility of the United States and extend United States responsibility for the anadromous fish to wherever it is found in its migratory pattern, except the contiguous zone of other nations. Foreign fishermen would be allowed to fish in the zone, at the discretion of the Secretaries of State, Commerce and Treasury, provided the foreign nation reciprocates. It would also establish a Fisheries Management Council which would prepare a plan for marine fisheries conservation and consult with Federal and State Governments on fisheries management. The bill would also authorize the Secretary of State to negotiate international fishing agreements and carries criminal and civic sanctions for violating the provisions of, or regulations promulgated under, the bill regarding-fisheries management conservation.

Because this legislation pertains primarily to commercial fisheries and because the Federal responsibility therefor has been transferred to the Department of Commerce pursuant to Reorganization Plan No. 4 of 1970, this Department has no special interest in S. 961. Accordingly, we will not plan to make comment unless, in light of the foregoing, your Committee requests us to do so.

Sincerely yours,

KEN M. BROWN,  
Legislative Counsel.

**STATEMENT OF HON. ROBERT PACKWOOD, U.S. SENATOR FROM  
OREGON**

Senator PACKWOOD. Thank you, Mr. Chairman.

Most of the witnesses here this morning have addressed themselves on the issue of a fisheries protection zone before, as I have done so many times. Last year on the Senate floor I outlined the reasons for my support of a 200-mile fisheries zone, paying particular attention to the failure of the Law of the Sea Conference to provide such protection. Many times this year I have expressed my alarm over the increased number of foreign fishing vessels working off the west coast—during the month of April alone there were 47 more than April of last year. Last month I chastized the latest session of the Law of the Sea Conference which adjourned May 10 without making further progress towards fisheries protection.

I recently asked Oregon's commercial fisherman to comment on S. 961. The response was overwhelming. In the past 2 weeks I have received over 400 letters clamoring for this committee, this Congress, and this administration to take immediate, effective action to protect our dying commercial fishing industry. I know that those here to testify this morning are filled with this resolve. However, for those who question the need for fisheries resource protection, let them here it told like it is from one Oregon commercial fisherman who is out there every day competing shoulder to shoulder with foreign adversaries for his catch:

I have been a commercial fisherman for a few years and all this time I have watched the few Russian trawlers off the Oregon and California Coast become

a fleet that should, and I'm sure would, scare hell out of you people in Washington. These boats have turned from a few to fleets of 50 to 100 in many parts of our coast.

On May 14, 1975, I left Brookings, Oregon, for California fishing ground, myself and two other commercial boats. We ran until 10:00 p.m. and drifted off Trinidad, California. While running south of Trinidad, my engine quit and I started it and put it in gear and it died again—next morning I found I had a large piece of trawl net tangled in my propeller and rudder. It took me about two hours with a fish knife wired to buoyhook to free gear. Luckily my boat is a double-ender; otherwise I would have had to call the Coast Guard for assistance. I took part of it into Eureka and a local drag fisherman advised me he felt that it was a piece of discarded Polish net. These pieces of net thrown into the sea by foreign fleets, float and the piece I picked up was about 60 feet long,  $\frac{1}{4}$  inch polypropylene and nylon which does not deteriorate and is a hazard to navigation.

May 15, 1975 I was fishing off the California Coast around the 2600 loran line at about 30 to 35 miles off shore. There were about 19 to 25 Russians, probably other countries boats in this area. The only place any of the American trollers could catch salmon was around the Russians. The National Marine Fisheries Agents say that the Russians are taking only a few salmon—Well, either these people are idiots or are afraid to check. While fishing that day I caught nothing but salmon, no hake or any other species.

For example, last fall in September, 1974, the American Troll Craft located the large, mature Chetco River fish on the Oregon Coast off Port Oxford approximately 18 miles. This area is called the "high spot," as bottom comes up to about 65 fathoms. American fishermen caught large, mature chinook salmon—two days after the American boats found the fish, 8 Russians moved onto the spot and not only took most of the salmon but harrassed two American boats to be the *Margaret T*—Harbor, owner Earl Appleton and the *Eileen*—owner Leroy Taylor also Harbor. The fall of 1974 (October, November, December) was supposed to be the best year (bumper crop) according to the Fish Commission, but turned out to be sour. The Russians must think that the Americans are the most gullible and stupid nation to allow this annihilation of brood fish.

While fishing May 15, 1975 around the 2600 loran line I observed 25 Russian trawlers and one large mother ship about 600 to 700 feet in length. The trawlers are at least 250 feet long. That day I caught no hake or other species; only 90 salmon, both silvers and chinook salmon. The Russians fish 24 hours a day. So you have to figure if a small troller like mine, 38 feet long, can catch 90 salmon one day with gear like we use, the Russians with their sophisticated electronic equipment and nets the size of football fields, which they pull through the water at speeds of 12 to 15 knots . . . then we must assume that one of these 250 foot trawlers catch more fish in one 24-hour period than 50 United States trollers in one season. They pull their nets faster than my boat will travel full speed running (not fishing, traveling to bite). We were fishing within the Russian fleet all the time.

I talked to the skipper of either the *Wasp*—*Eureka* or *Mangoe*—port unknown and they stated that they observed a Russian trawler pulling his net so that it got within 100 yards of the stern ramp and watched him pull his net aboard. Advised that he took pictures but the mesh in the drag net of the Russians is so small that he could not tell exactly what species he had in the net, but it looked like all salmon to him. Hake have a golden hue, not silver when freshly caught. If you can imagine a net the size of a football field full of fish—salmon—how long can the Pacific Coast stand that kind of fishing pressure? We will soon have another East Coast situation—barren of fish. The Russian Fleet worked Eureka about a month, then Coos Bay for about 10 days, now they are concentrating on the Heceta Banks taking salmon. The Russians have fishing gear much better than the United States fisherman—they need no license, they fish with any kind of gear, they keep all the fish they catch. American fishermen are restricted as to the type of gear, must buy licenses (which have increased from \$53 for '74 season to \$210 for '75 season in Oregon) and have a size limit . . . any infraction of the above can result in a fine and/or jail sentence; the above is strictly enforced by all States.

From the letters I've received, I can tell you, Mr. Pommarane has plenty of company. Our fishermen simply cannot compete with foreign fishing enterprises. From a practical standpoint, they have neither the equipment nor the finances with which to procure the equipment

to be competitive. From a legal standpoint, our fishermen are likewise at a tremendous disadvantage. Strict laws and regulations govern the fishermen of Oregon and other States when they go out to sea. Some of these requirements are imposed on the fishermen as citizens of a particular State and must be abided wherever those fishermen go for their catch. Other restrictions are imposed on those who land fish in a particular State, but the important point is that foreign fishermen who do not land their catch on U.S. shores can fish whenever they want, with every type of equipment they choose, and for any species of fish.

I hold here in my hand the commercial fishing laws and administrative rules for the State of Oregon; 50 pages of laws and 68 pages of regulations governing the activities of Oregon commercial fishermen. I am furnishing this copy to the committee, but let's just examine one of these pages. For example, take page 1 of the regulations, rules for the protection of salmon. All over this page you see restrictions on the type of gear that can be used, the size of salmon which may be taken, and the season during which they can be caught. These regulations don't apply to the Russians, the Canadians can thumb their noses at them, the Poles, likewise, together with all the other foreign countries fishing off our shores.

The CHAIRMAN. You should also add the Japanese.

Senator PACKWOOD. They're all going to be there eventually. We can remember 10 years ago there were just the Russians.

It is highly commendable that Oregon and other States have taken action to protect their fishery resources. It is beyond contemptible that we in Congress have not taken the step that Oregon and the other States cannot—that is to make all fishermen play the game by the same rules.

S. 961 will give us the authority to make those needed rules and an umpire, the Coast Guard, to enforce them. Those of us who support the bill would hardly guarantee that it contains all the answers. However, it will introduce some meaningful equity into a very lopsided situation.

In the future, we are going to rely increasingly upon the oceans of the world as a food source. If we do nothing now, we may very well open the cupboard door in the years to come—and find nothing inside.

The CHAIRMAN. Thank you, Senator, and I suppose you could just about close the hearing with those quotes from these fishermen. I get similar letters.

Senator PACKWOOD. His was the best I had, and it reflected everything that all of the other letters have said.

The CHAIRMAN. I think it essentially states our case. Added to the fact that the Law of the Sea Conference has been a failure.

Senator PACKWOOD. It seems to me, Mr. Chairman, we have been tolerant long enough. We passed this bill in the Senate last year and the argument was raised in the House, "Let's wait until the Law of the Sea Conference meets in the spring," and they adjourned and did nothing. These sea resources are just like forests; they can be managed well forever or depleted forever. If we can't reach an agreement with other nations, then we have to do something unilaterally or there won't be any fish for anybody.

The CHAIRMAN. It takes almost as long to replenish a fish stock as it does to grow a tree, to get it back in shape. Thank you very much. Senator PACKWOOD. Thank you.

The CHAIRMAN. The next witness we have is David Wallace from the Department of Commerce.

**STATEMENT OF DAVID WALLACE, ASSOCIATE ADMINISTRATOR FOR MARINE RESOURCES, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE; ACCOMPANIED BY WILLIAM BREWER, GENERAL COUNSEL; AND ROBERT SCHONING, DIRECTOR OF NATIONAL MARINE FISHERIES SERVICE**

Mr. WALLACE. Thank you, Senator. I have with me on my right, Mr. William Brewer who is the general counsel of NOAA; and on my left Mr. Robert Schoning who is the director of the National Marine Fisheries Service and responsible for our fisheries.

The CHAIRMAN. We are glad to have them both here.

They will have a very important role in whatever decision we are going to make.

Mr. WALLACE. Mr. Chairman, I appreciate having the opportunity to testify this morning on S. 961. As other members of the administration have stated in recent testimony—

The CHAIRMAN. Now, before you begin, I want to make it clear again for the record that S. 961 is what we like to call up here a working paper; and, we are glad to get suggestions for changes or modifications or anything that will make the bill a more practical one to handle the problem addressed.

Mr. WALLACE. Yes, sir.

The CHAIRMAN. So, when you address yourselves to certain portions of it, you might, you people particularly, you three, if you have any suggestions as to changes, we would welcome it.

Mr. WALLACE. Thank you, sir. As I was saying, others in the administration have stated in recent testimony that the executive branch is presently reviewing its policy following the Geneva session of the Law of the Sea Conference.

The CHAIRMAN. That is not new. They have been reviewing this for 12 years that I know of. Twelve? Fifteen. Go ahead.

Mr. WALLACE. Thank you, sir.

The creation of a 200-mile area of extended fisheries jurisdiction over coastal species of fish, without fisheries management authority, will not give us the opportunity to establish sound management programs over these coastal resources to assure conservation of fish stocks and permit development of efficient methods of utilization to insure that valuable protein is not wasted.

The CHAIRMAN. Do you have any idea that we are not going to tackle the management problem?

Mr. WALLACE. Mr. Chairman, in my statement I say this obligation has to be made a major component of this legislation.

The CHAIRMAN. But you cannot have management until you establish the 200-mile limit, can you?

Mr. WALLACE. You can have management in various kinds of ways.

The CHAIRMAN. We have to do first things first, but management provisions can be part of this bill, and that is why we encourage our remarks about management.

Mr. WALLACE. Thank you, sir. I would like to comment this morning on the management of the coastal species within a 200-mile fishery zone in general. I will not, therefore, discuss the well-known U.S. position regarding anadromous fish, such as salmon, or highly migratory species, such as tuna, or other law of the sea questions such as optimum utilization and traditional fishing.

Some fish resources of the United States are in trouble. Reports from our scientists on the status of the stocks show serious overfishing on many of our most valuable species. For these the catch level peaked several years ago and has been declining steadily ever since. Some suggest that all the problems with U.S. fisheries are the result of excessive foreign fishing. This is not entirely correct. While much of the overfishing has been caused by foreigners, there are instances where domestic overfishing has caused serious damage. To effectively manage and conserve fish resources, both foreign and domestic fishermen must come under a management regime. New mechanisms are required for conservation of fish resources. Therefore, creation of a 200-mile fisheries zone is not enough; it must be coupled with a domestic management regime which can effectively regulate the harvesting of fish whether done by foreign or domestic fishermen. Let me emphasize that our objectives are the same as yours.

The CHAIRMAN. Now, you are talking about the management within the 200-mile limit.

Mr. WALLACE. That is correct, sir.

The CHAIRMAN. Are you for the 200-mile limit?

Mr. WALLACE. Mr. Chairman, the United States has already declared itself.

The CHAIRMAN. If you are, we will talk about the management.

Mr. WALLACE. The U.S. position is in favor of a 200-mile economic fishing zone.

The CHAIRMAN. You are in favor of it?

Mr. WALLACE. I am in favor of 200-mile economic zones. We want to protect the fish resources to insure their survival at optimum levels which in turn will provide an opportunity for recreational and commercial fishermen to catch more fish on a continuing basis, and for consumers to buy more fish for the dinner table at a fair price.

We in NOAA have been studying the implications for effective management of fisheries in a 200-mile zone, the kind of legislative authority required, and the necessary management tools to adequately protect the living marine resources. A staff report titled "Fisheries Management Under Extended Jurisdiction, A Study of Principles and Policies" was recently prepared at my direction and distributed for comment.

The CHAIRMAN. We have it here.

Mr. WALLACE. Thank you, sir.

I would emphasize at this time that many of the points which follow have neither been finalized nor fully discussed or coordinated within the executive branch.

The CHAIRMAN. Now, wait a minute. Which part of the executive branch do you mean? Who do you have to coordinate with?

Mr. WALLACE. We have to coordinate through the Office of Management and Budget in terms of our position—

The CHAIRMAN. What has the Office of Management and Budget have to do with 200 miles?

Mr. WALLACE. They coordinate the Federal positions on such legislation.

The CHAIRMAN. Do you have that now?

Mr. WALLACE. These details of how the management regime is to be done are our own proposals, Senator, and it has to be cleared by the executive branch.

The CHAIRMAN. When do you expect to clear it?

Mr. WALLACE. This matter is up before discussion and consideration in the executive branch right now.

The CHAIRMAN. Have you any indication as to when they will make a decision of some kind?

Mr. WALLACE. I really cannot respond precisely.

The CHAIRMAN. Will you find out?

Mr. WALLACE. Yes, we certainly will try to do that, sir.

The CHAIRMAN. And let us know pronto?

Mr. WALLACE. Thank you, sir.

The CHAIRMAN. If that is possible. That would be a miracle downtown, but go ahead and try it.

Mr. WALLACE. Yes, sir.

The CHAIRMAN. The 200-mile limit is a matter of international policy. The Office of Management and Budget has concern naturally with how much money it will cost if we adopt that plan. What do they know about fishing down there?

Mr. WALLACE. It is not for me to express their position.

The CHAIRMAN. Now, if you said the State Department, I can understand that. They get their nose into it pretty deep.

Mr. WALLACE. Senator, the State Department is one of the branches of the Government—

The CHAIRMAN. Who makes the decision?

Mr. WALLACE. I really cannot answer that. I will have to refer it to State.

The CHAIRMAN. Will you find out?

Mr. WALLACE. I will try to.

The CHAIRMAN. When you go and ask them, what do they say? Don't they say something?

Mr. WALLACE. Yes; "This matter is under definite consideration right now."

The CHAIRMAN. No; but this has been going on for years and in the meantime, the stocks are going—as you heard the previous testimony—down, down, down, down. I don't know why we cannot get some action down there. If they say no, that is fine; then we will take a look at their "no" and override them and go ahead. But we would like to have their opinion in the matter. Go ahead.

Mr. WALLACE. In the question of the management regime, it seems to us that there are several components that have to be part of this management; and we are offering these in this context.

The regime first must have a system for data collection and analysis. The data must include accurate and timely information on catches. The catch data supplemented by resource surveys will be the basis for

assessing the condition of the resources and the effects of fishing on the stocks.

The CHAIRMAN. All right, how long is that going to take?

Mr. WALLACE. Senator, this is a continuing process which I think we will be carrying on—

The CHAIRMAN. I am sure it is, and there is all the data you need.

Mr. WALLACE. Senator, I don't think that is correct.

The CHAIRMAN. The Commerce Committee has a warehouse full of reports if you want to look at them, or a room. It is almost as big as a warehouse.

Mr. WALLACE. I think it is pretty clear that the status of stocks changes all the time, sir.

The CHAIRMAN. We know that. We have been studying fisheries for years, the States, the Federal Government, there is all kinds of information; and, I don't know what more you need, now. Every witness—we could go on here for 2 weeks and every one will say the stocks are being depleted. Isn't that enough to get going?

Mr. WALLACE. Senator, I was not talking in that context. I was talking about the management aspects, if and when we have the 200-mile limit.

The CHAIRMAN. Then—you have to look at the present situation on management. As you say, that is a continuing process.

Mr. WALLACE. Yes.

The CHAIRMAN. It isn't my State. It isn't the State of Oregon. Fisheries is a pretty substantial part of the State government in both—California. Maybe 25 States in the Union, and they have all kinds of information about it. So, I do not know why we should be getting a delay about studies, studies, studies, studies, studies. All right.

Mr. WALLACE. May I proceed, sir.

The CHAIRMAN. Yes, if you get down to the point.

Mr. WALLACE. Well, I was trying to enunciate, Senator, the components of what we thought should be a management regime.

The CHAIRMAN. That's good. That's good. We are glad to get this.

Mr. WALLACE. The crux of my testimony was focusing on this one issue.

The CHAIRMAN. Yes.

Mr. WALLACE. I think we have to have, second, a mechanism for policy determinations and formulations of regulations. This component must consider individual, State, national, and international problems; it must be decisive and equitable in the decisions made in such areas because such decisions can affect people and how they make a living. The States should have a strong role in the development and implementation of management plans.

The CHAIRMAN. I want to say, right there, in this committee we thoroughly agree that the States should have a real strong role in how you handle this thing.

Mr. WALLACE. Counting the commercial and recreational catch together, about 70 percent of today's domestic harvest is taken within 3 miles of shore. States already have a capability for management which should be utilized insofar as is feasible and practical.

Third, the regime must have means to enforce the regulations and adjudicate violations as appropriate.

I understand that Admiral Siler is going to be addressing this part of this consideration this morning. We feel this is a key component to any program of this type.

The CHAIRMAN. I will tell you what the key is. I handle appropriations. They just want more money. That's all. Put the rest of it in the record. What I am trying to get at is let's get going here. Let us quit this fooling around. Go ahead. Maybe I should quit interrupting here, and then you can get going. But I feel this so keenly. We listen to this testimony over and over, and the same thing all adds up to one word: "Delay, delay, delay, study, review, wait until the next conference." And we cannot seem to get a handle on these things with you people in the administration—or you to get a handle on it and agree. Let's get going.

Mr. WALLACE. May I proceed, sir.

The CHAIRMAN. OK. I handle NOAA appropriations, too, sir.

Mr. WALLACE. I am aware of that, sir.

I would now like to discuss some policy considerations. It is a basic principle in the management of any wild animal populations that the stock, or population, be managed as a unit throughout its range. The 70 percent of the domestic harvest within 3 miles of shore is mostly comprised of stocks that migrate across the boundary of the 3-mile territorial sea or the boundaries of adjacent States.

There should be a single focus to manage each stock throughout its range. This focus could be vested in a regional mechanism with implementation by appropriate State and Federal authorities. For those fish stocks living farther out to sea, the Federal Government must have ultimate management responsibilities, but with substantial regional input.

Management of stocks which move along our coasts between States may require a system of strong regional fisheries organizations. This concept has been supported by almost all of those who have had the opportunity to comment on the extended jurisdiction staff report. The problems may be local, State, National, or international in scope, but their solutions may be best developed in the region by those most intimately concerned. It has been proposed that the three existing Marine Fisheries Commissions could serve in an advisory role, in any management positions, but it is our view and that of a number of those who reviewed the report that the Commissions should not be the regional fisheries management mechanism. In addition, there must be some formal mechanism for obtaining advice from concerned groups, commercial and recreational fisheries, environmental groups, and the general public.

Ideally, the States involved should get together for joint management, but to date effective interstate action has been most difficult. Much of the difficulty lies with the lack of uniform legislation which would enable the States to function effectively in interstate or State-Federal management programs, such as we envision under a regional concept. This concern has been recognized, and under contract from the National Marine Fisheries Service, the Council of State Governments has been working on model State legislation to overcome this barrier.

The CHAIRMAN. Now, the Council of State Governments is broad. It covers a great number of things.

Mr. WALLACE. That is correct, sir.

The CHAIRMAN. Would these people that would be meeting up in Massachusetts—the States would send their fisheries people; is that correct?

Mr. WALLACE. That is exactly right, Senator. In fact, it will be primarily fisheries people and legislators who are dealing with the fishermen's problem.

The CHAIRMAN. Involved in the fishermen's problem?

Mr. WALLACE. That is correct, sir.

The CHAIRMAN. I hope you will leave the lawyers out.

Mr. WALLACE. It seems to me these are the right people to be dealing with this problem.

The CHAIRMAN. These are the ones that have some expertise in this; that understand the problem, because the Council of State Governments mostly, when they meet, talk about revenue sharing. That is about all they talk about.

Mr. WALLACE. This conference, though, is very specific in this one item; and as you say, it is dealing in terms of the people who are in the States responsible for the fisheries programs.

The CHAIRMAN. Now, will you notify these people, or we will, that whatever conclusions they might—they cannot do it all, I know, in one meeting. But if they keep us advised here so that we can tailor it into our legislation.

Mr. WALLACE. Senator, I am going to be at this meeting, and I certainly will transmit this comment directed to them.

The CHAIRMAN. They certainly have some good ideas on the management.

Mr. WALLACE. Yes, Senator. I just want to make a couple of more statements. The question of enforcement and surveillance is a complex one, particularly in determining how much is enough and what is the best combination of methods to use. We are currently working very closely with the Coast Guard and other Federal agencies on a thorough analysis of the entire problem.

We feel no matter what the management program is, we must have a strong enforcement program; otherwise, the regulations will become meaningless.

The CHAIRMAN. And the Coast Guard will have to have some wherewithal to do this.

Mr. WALLACE. Obviously, they will need some support.

The CHAIRMAN. Whatever the Coast Guard can do or will do or what we hope they will do or what the law requires them to do; it is better than not having anything out there at all, isn't it?

Mr. WALLACE. No question about it, the Coast Guard is doing a excellent job.

The CHAIRMAN. Right now, no one enforces anything, because of the way the situation is now. And the Coast Guard, if you give them the wherewithal, they have a pretty good record of efficiency and the pretty good record when they have a mission they carry it out pretty well.

Mr. WALLACE. Senator, we have had the closest kind of cooperation and participation with the Coast Guard. Our National Marine Fisheries Service officers ride with the Coast Guard on their ships. They work as a team. There is no question about it. It has been a most

satisfactory arrangement. And we would want to have this strengthened and fostered—

The CHAIRMAN. Is NOAA cutting back on its involvement in Coast Guard enforcement cruises? I am talking about moneywise or personnelwise; are they?

Mr. WALLACE. I have to consult with Mr. Schoning.

[Discussion off the record.]

Mr. WALLACE. I understand from Mr. Schoning that there has not been any cutting back in this particular activity, and obviously our desire is to expand and strengthen our own enforcement capabilities.

Now, I have understood that there have been some questions that, on a temporary basis, in a certain specific situation we might not be able to deal with the problem immediately; but that is certainly not the principle we are operating on.

The CHAIRMAN. Here again we get back down to the budget about fisheries. They have a responsibility, that is true, for money; but if they have not been cutting back they are standing still; I will tell you that.

We try to make the authorization, the ceiling, as high as would be, then an appropriations committee will take it up within the next month with the Coast Guard to get the authorization ready. I hope that you would not untie your strings with the Coast Guard, because in any event, no matter what we do, you will have to work with the Coast Guard, won't you?

Mr. WALLACE. Not only do we have to work with them—

The CHAIRMAN. They are reliable.

Mr. WALLACE. That is right. They are almost the key to how the program goes. If we cannot have enforcement, you can have the best plans and they won't work.

The CHAIRMAN. All right, go ahead.

Mr. WALLACE. The management of the United States coastal fisheries is complex. The fish stocks are many and varied. We must develop fisheries management plans each tailored to specific needs of regional fisheries problems and prepared cooperatively with the States with advice and input from affected local interests. The Federal Government must hold a position of general leadership and authority for regulating the fisheries, but management must also be exercised in concert with the State governments. This approach should lead to the development of rational, uniform programs.

Mr. Chairman, I will be pleased to try to answer any questions the committee may wish to ask. Thank you.

The CHAIRMAN. Let me ask this: Senator Packwood talked about the fees of the fisherman.

Mr. WALLACE. That is right.

The CHAIRMAN. Are they State fees or Federal fees or both?

Mr. WALLACE. These are State fees only; and, at the present time, the States in many cases are licensing their fishermen who pay fees. The foreign fishermen are not paying fees at all.

The CHAIRMAN. So that if the States are participating in the management process, they are going to have to take another look at the fees, aren't they—that they charge.

Mr. WALLACE. Senator, that is part of this whole discussion that has to take place between the Federal Government and the States.

The CHAIRMAN. In some cases they have raised the fees, but in some cases they have placed a moratorium on licenses. For example, salmon is one example.

Because of the fact that there were too few fish and too many fishermen, they thought this would help. But here, again, we get down to what we are talking about, what caused the too few fish or the lack of fish.

And Senator Packwood's testimony, I think, hits the nail on the head. I know what causes it off our coast. But anyway, the limited entry theory—is that what they call it—

Mr. WALLACE. Yes.

The CHAIRMAN [continuing]. Has to be part of any management, statewide, by the States.

Mr. WALLACE. Senator, I think limited entry has to be done on a carefully controlled and selected basis, not in a shotgun kind of thing that covers everybody.

The CHAIRMAN. Oh, yes. And that will take a good look again about all the data and statistics that we have about the fish runs and everything else.

Mr. WALLACE. Precisely, and it also involves the close, working relationship between the Federal Government and the States. Our whole thesis is that this has to be a working partnership between the Federal Government and the States. Otherwise, management of our fishery stocks is going to be extremely difficult, if not impossible.

The CHAIRMAN. There is no use in having management, which includes fees or limited entry, as to areas which aren't overcrowded.

There is just less fish as long as you are going to let the foreigners come in there and take them. Isn't that right?

Mr. WALLACE. Control has to be imposed on the foreign fishermen so that we can bring about the proper management of these resources.

The CHAIRMAN. That, in my opinion, is one of the real reasons for this bill. The real guts of the matter is that we then will have control for limited entry by foreigners or even fees or whatever we decided to do; but it is under our control, the conservation. And I think we have a great record in this country for attempts to conserve our fish stocks. Anyway, we spend a lot of money.

Mr. WALLACE. That is right.

The CHAIRMAN. This is the difference. That is why the bill, 200 miles, 180, or 300, whatever number you want, is based upon the fact that within our coastal waters we will have control; and our record has been pretty good. When we have control, we are pretty reasonable about it if nations practice conservation. It's been that way over the years. And you know, I don't need to ask you, but you know some nations do not practice conservation.

Mr. WALLACE. I would certainly agree with that.

The CHAIRMAN. The best example of it in the history of fisheries in the past is that some 50 to 70 years ago the best fishing grounds of the world were off the coasts of Japan and off the islands, and they didn't practice conservation. That is why they are coming over here.

The same thing is happening in the Atlantic; and the same thing is going to happen off the bulge of Africa, which is an untouched fishery source.

Mr. WALLACE. The potential is there for development of the fisheries.

The CHAIRMAN. The countries fishing off the bulge say to the African countries: "You're not fishing off there. You're not using it."

They are a little smarter than we are. They say, "Just leave it. When we want to use it we will be able to use it. Just leave it alone."

That is what we are trying to say, but within reason. We are going to encourage agreements with other countries wishing to fish within the 200-mile limit.

We would say, "Go ahead if it adds up to conservation of the stocks, but we have control."

That is the word. And, of course, I think the members of this committee, the Members of the Senate and the House that went to the conference went there in good faith, hoping that something would be done. But they just all came home, and they all want to test what they have found out. And they aren't even too critical of the State Department; but they don't see any hope of getting this one until after our fish stocks are gone.

I never interrupted Senator Packwood, but I think there are about 10 Polish boats off the coast of California. And they are moving north now as the season changes; and the next thing coming, I know, will be Red China.

The CHAIRMAN. Now, we have your report, and I think it is valuable to obtain studies of principles and policies and how we can approach this thing.

I am optimistic about the report because I think it assumes that we are going to have a 200-mile limit.

Mr. WALLACE. The report is certainly based on that assumption.

The CHAIRMAN. Based on that, yes.

Mr. WALLACE. All right.

The CHAIRMAN. All right. Thank you very much——

Mr. WALLACE. Senator, may I ask one favor?

Since I have been jumping around in my testimony, I would like to have the text of my testimony incorporated in the record.

The CHAIRMAN. It will be so included.

The CHAIRMAN. Anything further you want to add?

The record will be open, but it won't be open too long.

Mr. WALLACE. Thank you very much, sir.

The CHAIRMAN. I understand from staff here that you are going to Scotland for some negotiating.

Mr. WALLACE. Yes, sir. I am leaving this evening to go to the International Commission for the Northwest Atlantic Fisheries. I am the U.S. Commissioner.

The CHAIRMAN. That's a separate fisheries organization, isn't it?

Mr. WALLACE. This is a multilateral convention which has been in operation for 25 years, dealing with the North Atlantic Fisheries.

The CHAIRMAN. It is limited to the North Atlantic?

Mr. WALLACE. That is right.

The CHAIRMAN. All right, thank you very much.

(The statement follows:)

STATEMENT OF DAVID H. WALLACE, ASSOCIATE ADMINISTRATOR FOR MARINE RESOURCES NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE

Mr. Chairman and Members of the Committee: Thank you for the opportunity to testify this morning on S. 961. As other members of the Administration have stated in recent testimony, the executive branch is presently reviewing its policy following the Geneva session of the Law of the Sea Conference. The creation of a 200-mile area of extended fisheries jurisdiction over coastal species of fish, without fisheries management authority, will not give us the opportunity to establish sound management programs over these coastal resources to assure conservation of fish stocks and permit development of efficient methods of utilization to ensure that valuable protein is not wasted. I would like to direct my comments this morning to the management of the coastal species within a 200-mile fishery zone in general. I will not therefore discuss the well-known U.S. position regarding anadromous fish, such as salmon, or highly migratory species, such as tuna, or other law of the sea questions such as optimum utilization and traditional fishing.

Some fish resources of the U.S. are in trouble. Reports from our scientists on the status of the stocks show serious overfishing on many of our most valuable species. For these the catch level peaked several years ago and has been declining steadily ever since. Some suggest that all the problems with U.S. fisheries are the result of excessive foreign fishing. This is not entirely correct. While much of the overfishing has been caused by foreigners, there are instances where domestic overfishing has caused serious damage. To effectively manage and conserve fish resources, both foreign and domestic fishermen must come under a management regime. New mechanisms are required for conservation of fish resources. Therefore, creation of a 200-mile fisheries zone is not enough; it must be coupled with a domestic management regime which can effectively regulate the harvesting of fish whether done by foreign or domestic fishermen. Let me emphasize that our objectives are the same as yours. We want to protect the fish resources to ensure their survival at optimum levels which in turn will provide an opportunity for recreational and commercial fishermen to catch more fish on a continuing basis, and for consumers to buy more fish for the dinner table at a fair price.

We in NOAA have been studying the implications for effective management of fisheries in a 200-mile zone, the kind of legislative authority required, and the necessary management tools to adequately protect the living marine resources. A staff report titled "Fisheries Management Under Extended Jurisdiction, A Study of Principles and Policies" was recently prepared at my direction and distributed widely for comment. I would emphasize at this time that many of the points which follow have neither been finalized nor fully discussed or coordinated within the executive branch. I would welcome the opportunity to keep this Committee continuously informed. Based on this report and the preliminary comments and discussions we have had with State and commercial and recreational fishing industry leaders, we have identified three major components of a management regime.

The regime first must have a system for data collection and analysis. The data must include accurate and timely information on catch. The catch data supplemented by resource surveys will be the basis for assessing the condition of the resources and the effects of fishing on the stocks. We must also have information on the economics of the harvesting and processing industries, and we must know about the employment in these segments in order to evaluate the impacts of any proposed regulations.

Second, the regime must have a mechanism for policy determinations and formulation of regulations. This component must consider individual, State, national, and international problems; it must be decisive and equitable in the decisions made in such areas because such decisions can affect people and how they make a living. The States should have a strong role in the development and implementation of management plans. Counting the commercial and recreational catch together, about 70 percent of today's domestic harvest is taken within 3 miles of shore. States already have a capability for management which should be utilized insofar as is feasible and practical.

Third, the regime must have means to enforce the regulations and adjudicate violations as appropriate.

It is a basic principle in the management of any wild animal populations that the stock, or population, be managed as a unit throughout its range. The 70 percent of the domestic harvest within 3 miles of shore is mostly comprised of stocks that migrate across the boundary of the 3-mile territorial sea or the boundaries of adjacent States. There should be a single focus to manage each stock throughout its range. This focus could be vested in a regional mechanism with implementation by appropriate state and Federal authorities. For those fish stocks living farther out to sea, the Federal Government must have ultimate management responsibilities, but with substantial regional input.

Management of stocks which move along our coasts between States may require a system of strong regional fisheries organizations. This concept has been supported by almost all of those who have had the opportunity to comment on the Extended Jurisdiction Staff Report. The problems may be local, State, national, or international in scope, but their solutions may be best developed in the region by those most intimately concerned.

The three existing Marine Fisheries Commissions could serve in an advisory role, but it is our view and that of a number of those who reviewed the Report that the Commissions should not be the regional fisheries management mechanism. In addition, there must be some formal mechanism for obtaining advice from concerned groups, commercial and recreational fisheries, environmental groups, and the general public.

Ideally, the States involved should get together for joint management, but to date effective interstate action has been most difficult. Much of the difficulty lies with the lack of uniform legislation which would enable the States to function effectively in interstate or State-Federal management programs, such as we envision under a regional concept. This problem has been recognized and, under contract from the National Marine Fisheries Service, the Council of State Governments has been working on Model State Legislation to overcome this barrier. A review of the proposed model legislation will be held by the Council this month in Hyannis, Massachusetts. I cannot over-emphasize the need for the States to adopt this model legislation if their existing legislation is not consistent with it.

In any event, we believe that an effective regime would provide authority to control the fishing activities of all fishermen, both foreign and domestic operating within the fisheries zone. This authority would include power to assess reasonable fees.

The whole question of enforcement and surveillance is a complex one particularly in determining how much is enough and what is the best combination of methods to use. We are currently working very closely with the Coast Guard and other Federal agencies on a thorough analysis of the entire problem.

The management of the United States coastal fisheries is complex. The fish stocks are many and varied. We must develop fisheries management plans, each tailored to specific needs of regional fisheries problems and prepared cooperatively with the States with advice and input from affected local interests. The Federal Government must hold a position of general leadership and authority for regulating the fisheries, but management must also be exercised in concert with the State Governments. This approach should lead to the development of rational, uniform management programs.

Mr. Chairman, I will be pleased to try to answer any questions the Committee may wish to ask. Thank you.

The CHAIRMAN. Admiral Siler is Commandant of the Coast Guard, and I will be glad to hear from you.

You know, I wear two hats. I wear the Commerce Committee hat, but I also wear—some days I wish I didn't have it—the Appropriations hat. So you can address yourself to both of them, if you wish.

**STATEMENT OF ADM. OWEN T. SILER, COMMANDANT, U.S. COAST GUARD; ACCOMPANIED BY CAPT. RICHARD J. KNAPP, CHIEF, OCEAN OPERATIONS DIVISION; AND COMDR. JOHN B. LYNN, CHIEF, MARITIME LAWS AND TREATIES BRANCH**

Admiral SILER. I have a short statement I would like to make, Mr. Chairman.

I am Adm. Owen W. Siler, Commandant of the U.S. Coast Guard. As you know, the administration is currently undertaking a review of our fisheries policy in the light of the recently concluded Geneva session of the Law of the Sea Conference. With this in mind, I will be pleased to comment today on fisheries enforcement within a 200-mile fisheries zone in general.

The Coast Guard will, in the long run, be more affected by any regulations actually imposed on fishing vessels than by an extension of the fisheries zone. Those regulations will probably change from time to time depending upon such things as the status of the fish stocks off our coasts, the availability of protein from other sources, and the harvesting capacity of the U.S. coastal fishing fleet.

The CHAIRMAN. I do not like to interrupt, but I think we will save time, the harvesting capacity—are you talking about our present capacity?

Admiral SILER. Yes; as it might be affected by potential fishing.

The CHAIRMAN. Fish stocks are waydown in the world and everywhere. Our ships are getting older and less modern; but I think you have to conclude or should conclude that we can increase our harvesting capacity by doing the right things.

Admiral SILER. That is our intent here. We would want to make certain that our fishing fleet can catch its maximum potential, depending on the number of fishing vessels we have, that they would not be limited.

The CHAIRMAN. We have a loan fund, a fishermen's fund with reasonable loans at a very low interest rate.

We use the vehicle of the Small Business Administration to make the loans; but they would be certified by the fisheries service and are used to remodel some of the boats, new gear and things of that kind.

Admiral SILER. My intent here was to imply that we would want to make certain that the amount of fish available to those boats would not be limited.

The CHAIRMAN. Even if you remodel them and have more fish and ways to catch fish, that should not interfere with the amount.

Admiral SILER. We want to make sure that conservation is practiced in those areas.

The CHAIRMAN. That situation is terrible. We have a bad unemployment rate in this country; but with fishermen, it is 10 percent higher. Gloucester has a 32 percent unemployment in Massachusetts; 32 percent of the work force had applied for unemployment compensation, so it is pretty bad up there; and we have a similar situation at home, as you know.

The CHAIRMAN. All right, go ahead.

Admiral SILER. Probability of violation will vary with such things as the status of fish stocks in other parts of the world, the attitude of other coastal nations toward foreign harvesting of their coastal stocks, and the degree of acceptance of the regulations by the nations whose vessels are fishing off our coasts.

This makes it particularly difficult to develop resource requirements for an enforcement program. However, with that fact in mind, our planning for an enforcement program is designed to be (1) realistic, (2) usable with any foreseeable form of fisheries jurisdiction, and (3)

reasonably compatible with any enforcement and surveillance methods that may become available and any regulations that are actually imposed on fishing vessels.

The main thrust of our planned approach would provide various levels of coverage for known active fishing areas in direct proportion to the experienced intensity of fishing activity, that is, our enforcement efforts would concentrate on those areas where and when the fishing will most likely be done. A mix of long- and medium-range aircraft would patrol the areas to monitor fishing activity and provide fishing vessel locations to cutters on fisheries patrol. A mix of high- and medium-endurance cutters, with helicopters embarked whenever possible, would be used to monitor fishing activity through examination from the helicopter and the cutter itself as well as through appropriate boardings. The cutters would also make seizures when appropriate under the circumstances.

This part of our approach is very similar to our current efforts under:

(a) The International Convention for Northwest Atlantic Fisheries (16 U.S.C. 986).

(b) The International Convention for the High Seas Fisheries of the North Pacific Ocean (16 U.S.C. 1027).

(c) Enforcement of the prohibition on foreign taking of Continental Shelf fishery resources (16 U.S.C. 1083).

We have developed composite position plots of foreign fishing vessels for the last 3 years. The patterns change from time to time and new fisheries develop, but there is no reason to believe that these active fishing areas would change dramatically following a change of jurisdiction. Our belief is bolstered by available information on the range of coastal and anadromous fish species.

In addition to the coverage of known active fishing areas, some coverage to the full range of jurisdiction would be provided to determine if changes in patterns of fishing activity are occurring, to make our presence known throughout the area, to detect entry into the fishery zone, and to facilitate apprehension as necessary.

In addition to current operational planning, we are involved in simultaneous efforts aimed at supplementing our enforcement effort through the use of existing detection systems as well as research and development projects for alternate surveillance technologies. By congressional mandate we are, in cooperation with the Departments of State, Defense, Commerce, Treasury, and Justice, conducting a comprehensive study of all feasible methods of enforcing an extended fishery management jurisdiction. Although this study must include consideration of alternate detection systems, we see it as more far reaching in that it will emphasize an interdepartmental systems approach to enforcement which will minimize duplication of effort and make appropriate use of all technologies. In the meantime we are investigating with the Chief of Naval Operations the possibility of establishing an interagency consortium on commercial shipping information. The proposed mission of the consortium facility would be the processing, analysis and reporting of information relating to movements and operations of fishing vessels.

In our analysis of the problem we have considered the possible future use of satellites to be used for detection, interrogation, and communications.

In the detection mode large ocean vessels and ocean vessel concentrations might possibly be detected from space with a high resolution imagery system. Interrogation could be accomplished by placing a transponder on all commercial fishing vessels, both foreign and domestic. Activated by satellite interrogation, the transponder through individual codings could ascertain the identity of all cooperating commercial fishing vessels within a relatively large ocean area.

As a communication link, satellites offer high reliability over great distances which in turn offers considerable benefit to the Coast Guard enforcement of laws and treaties mission. The politically volatile nature of Coast Guard fisheries enforcement and the ever present danger of confrontation makes reliable and secure communications between patrol units and higher echelon command necessary. Provisions for satellite communications capability aboard our major vessels for fisheries enforcement is being considered. Whether considering satellites or transponders, it should be understood that, at least at this point in technological time, such devices would provide only detection capability. This capability, while aiding in the determination of the most effective deployment of air and surface facilities for on-scene surveillance, is not a substitute for local operations. Though our planned approach involves conventional aircraft and ship-helo combinations for onscene operations, we are considering research and development projects which would look to new concepts involving high performance watercraft, lighter than aircraft, and possibly remotely controlled aircraft.

That concludes the statement I have here with me this morning.

The CHAIRMAN. Obviously, I would think you are going to have to rely a lot on an aircraft.

Admiral SILER. Yes, sir.

The CHAIRMAN. Of which you are a little bit short of.

Admiral SILER. We are a little short of our aircraft right now. We are using them right now, and last night we did detect a Japanese fishing vessel.

The CHAIRMAN. Would you contemplate a better type of aircraft?

Admiral SILER. We have requested medium range search jet airplanes which would be sufficient to cover our areas.

The CHAIRMAN. Because the distance is involved. The new technology with radar—it is just amazing. That AWACS thing is almost unbelievable what you can do. I mean, you can photograph the fish right down there if you want to.

I mean one fish. It is this type of technology you are thinking about or is it use of your own deployment? That will naturally cost a little more money, not because of the plane, but because of what is in it.

Admiral SILER. That is right.

The CHAIRMAN. What about ships and helicopters? What role will they play?

Admiral SILER. We feel that the ship and helicopter team has to operate in this area because the ship has to be there with people to board the vessel, and boarding, we feel, is essential. The helicopter adds to the range that the ship can detect violation and can assist in hot pursuit, if necessary.

The CHAIRMAN. And some of your helicopters would work off deck, wouldn't they?

Admiral SILER. That is correct, to the extent possible we would have helicopters on our cutters.

The CHAIRMAN. Have you made any assessment as to what you might have to ask the Congress as an added cost, assuming the 200-mile limit would be passed.

Admiral SILER. Yes, sir, we have; and I think we provided it to you in the past. We would activate six cutters we have in storage, six additional long-range aircraft, four more medium-range search airplanes, and all the helicopters we have in storage. The cost to activate or acquire those items would be \$63 million, and the annual operating cost for that equipment and the people to operate them would be \$47 million.

The CHAIRMAN. In other words, your estimate is within a range of \$80 million to \$90 million?

Admiral SILER. That would be the first year cost.

The CHAIRMAN. Of course, that wouldn't include the building of a new ship.

Admiral SILER. Oh, no, sir. We would need replacement ships, of course, in the future.

The CHAIRMAN. That would probably come along in your replacement program.

Admiral SILER. That is right.

The CHAIRMAN. You have the same number of crews, but you just put them on a better ship.

Admiral SILER. In the future. But this cost figure I am speaking of would include the purchase of some aircraft we don't have at the present time.

The CHAIRMAN. Now, do you have any conclusions of your study—you mentioned you made a study of feasible methods to enforce this possibility. Have you any conclusions you would give the committee in the way of a document? Do you have something ready for us?

Admiral SILER. There is an interdepartmental study. It is not completed as yet.

The CHAIRMAN. When will it be completed? I mean, a rough estimate.

Admiral SILER. In the next 4 or 5 months, I think.

The CHAIRMAN. Because we would like to have whatever conclusions you arrive at.

Admiral SILER. Yes, sir.

The CHAIRMAN. The courts have been assessing foreign fishermen a much higher rate dollarwise than they have previously. What is the typical fine for violating the present limit?

Admiral SILER. The fines have been varying quite a lot.

The CHAIRMAN. Depending on the judge, I understand that.

Admiral SILER. Yes; depending on the judge and the experience of the country involved. They recently have gotten up quite high, and the last one that was assessed was the *Kalmar*, the Polish fishing vessel seized off the west coast, and that was \$350,000. In the case of the *Eikyū Maru No. 33*, which was seized in Alaska, there was an \$8,000 criminal penalty against the master of the vessel, and they forfeited the entire vessel rather than paying the penalty that was assessed against them.

The CHAIRMAN. All right, Admiral. I appreciate your testimony and it has given us some idea what the Coast Guard will need to enforce if this law takes effect.

Naturally, I think the Congress would be sympathetic to that because it's got to be enforced or it isn't of much value. It's got to be enforced.

If you start out to enforce it very strenuously, it has a deterrent effect.

Admiral SILER. Yes, sir. That is very true. We have a couple of comments on S. 961.

The CHAIRMAN. Go ahead.

Admiral SILER. We would like to make certain in the legislation that there is clear authority for the Coast Guard to board, search and, if necessary, seize the vessels involved. We also feel there must be provisions for effective penalties, and there should be a reasonable time between the enactment of the legislation and its effective date.

The CHAIRMAN. We have mention of that in the bill, but if it isn't complete enough for you—that's section 10 of the bill.

Admiral SILER. I have the bill.

The CHAIRMAN. If it isn't complete enough, we would be glad to get your suggestions to give you the authority you need to do the things that your mission is going to require.

Admiral SILER. Very good, sir.

The CHAIRMAN. We welcome any suggested amendments or any change of language.

Admiral SILER. Just about an hour ago we should have been alongside a Japanese vessel that was apprehended fishing 2 miles from Khvostof Island last night. We maintained hot pursuit of that vessel through the night and should be alongside it by now. It was first observed by a Coast Guard C-130 and they passed the word along to one of our cutters in Alaska.

The CHAIRMAN. All right, thank you very much, Admiral.

All right, Harold, we would be glad to hear from you.

This is Harold Lokken who has been executive secretary and manager of the Fishing Vessel Owners' Association in Seattle, and has been involved in fisheries for some time; I don't know what some of his members think of him, but I think he's an expert and a good one.

OK, Harold.

#### STATEMENT OF HAROLD LOKKEN, FISHERMEN'S TERMINAL, SEATTLE, WASH.

Mr. LOKKEN. My name is Harold E. Lokken. I am the executive secretary and manager of the Fishing Vessel Owners Association of Seattle, Wash., an organization of owners of fishing vessels operating in North Pacific fisheries from California to the Bering Sea. This association has a history to date of 61 years of active participation in problems of North Pacific fisheries. Unfortunately, during the latter part of this period, there has been a rapid deterioration in the health of most Pacific Coast fisheries. S. 961, therefore, comes at an opportune time, hopefully not too late to arrest further depletion and to permit the beginning of the rehabilitation of fisheries of the United States in a realistic and meaningful way.

There are two requirements needed to arrest the depletion that is now occurring and S. 961 addresses both of them. The first is to secure control of foreign fishing on the U.S. Continental Shelf. The second is to set up a domestic management system which will permit the optimum harvest of marine resources off the coasts of the United States. It is unthinkable to stop depletion caused by foreign fleets only to have it resumed by domestic fishermen.

The United States at this time has an opportunity, following the failure of the recent Law of the Sea Conference in Geneva to reach agreement, to set up a regime for its fisheries which could be a model for other nations of the world to follow. It should include the principle of full utilization so as to maintain the productivity of the oceans to the fullest extent possible in supplying food for world needs. Such a principle when implemented will maximize the opportunity for distant water fishermen of all countries to make use of otherwise under-utilized marine resources.

The first requirement, that of securing control of foreign fishing off the U.S. coasts is met in S. 961 by extending U.S. jurisdiction over fisheries out to 200 nautical miles. We favor this unequivocally. Such an extension has been debated pro and con over the last several years to the point where not much new can be said about it. May I therefore capsule our views on extension as provided in S. 961 as follows: It offers protection for anadromous species even beyond 200 miles. It allows international control of oceanic species such as tuna even within our 200 mile zone. It permits foreign fishing under controlled circumstances in our zone of jurisdiction. It is temporary legislation to be effective only until the Law of the Sea Conference reaches agreement satisfactory to the United States. We support all of these objectives.

The benefits of extension of jurisdiction are obvious. Taking into consideration the Pacific Coast alone which is most familiar to us, such extension will bring under U.S. control marine resources totaling an estimated 3 million metric tons annually with a minimum value of \$800 million. Enforcement and supervision of foreign fishing in our zone will be greatly simplified as any foreign vessel fishing in the zone without our authorization would be in violation. Accuracy of statistics of foreign fishing off the United States will be greatly improved.

It must be obvious to almost everyone that extension of fisheries jurisdiction is a concept whose time has come. It is the first step that has to be taken if we are to save a most important source of food for the world. Without it, domestic fishermen will not support the restrictions that will be necessary to restore U.S. fisheries to a point where they will yield an optimum supply on a sustained basis.

The second requirement, that of setting up a domestic system for managing fisheries in the 3 to 200 mile zone, is a most necessary step to implement extension of jurisdiction. Legislation providing for extension should include management as well to demonstrate to other nations that we are not merely extending our jurisdiction to replace foreign depletion with domestic depletion.

S. 961 provides for setting up a council which is charged with preparing a domestic management plan for submission to committees of Congress not later than 1 year after enactment of S. 961. The Congress then has 180 legislative days to disapprove the management plan. This means that there can be no domestic management in the 3- to 200-mile zone for a minimum of 1½ years and most likely longer depending upon the working days of Congress. This is too much of a delay in our opinion. It is also unnecessary as there are governmental bodies in existence today which can take on the job with a minimum of cost and time. All that is needed is Federal approval of sufficient authority for these bodies to undertake the task. This can be done by appropriate amendment of section 6 of S. 961 which provides for marine fisheries management and planning. We would replace section 6 with language which would set up immediately a system in the 3 to 200 mile zone with the following management elements:

A. The Secretary of Commerce or his duly authorized representative or representatives. These would no doubt be the Administrator of the National Oceanic and Atmospheric Administration and the National Marine Fisheries Service.

B. The regional fisheries commission consisting of the Atlantic States Marine Fisheries Commission, the Gulf States Marine Fisheries Commission and the Pacific Marine Fisheries Commission. The member States of these commissions would have their input through the commissions rather than by direct participation.

C. Advisory committees to the three regional commissions. These committees should be selected by the member States and should include all user groups.

This proposed management system would function as follows:

1. Whenever any element of the management system deemed it necessary to have management control over a stock of fish, it would notify the Secretary of Commerce. The Secretary after consulting with other interested governmental departments would then notify the regional commission in whose area the stock of fish existed. Requests for management of a stock of fish could be made by members of the general public to the Secretary who then would determine whether the request had sufficient merit and support to warrant further consideration.

2. Once a request for management of a stock of fish is received, the affected regional commission would be required to call a meeting of its membership to consider management of the stock concerned.

3. While all members of a regional commission should be entitled to participate in the discussion of management proposals, only members and advisers from a State or States having a significant interest in the harvest of the stock under consideration would be entitled to vote.

4. Consideration would first be by the appropriate State advisory committees to the regional commission. Their recommendations in writing would be transmitted to the commission for whom they were advisers. Where voting on recommendations is not unanimous both majority and minority views would be requested. The minority views would be requested in writing from the advisers holding such views.

5. Upon receipt of the views of its advisers the commission would take action upon the recommendations. It could accept, reject, or modify them. If the recommendations were rejected or modified, the reasons therefore would be transmitted to its advisers in writing.

6. The recommendations of the regional commission would be transmitted to the Secretary of Commerce. The transmission would include both majority and minority views in writing of not only the commission itself but those of its advisory committee.

7. Upon receipt of the regional commission's views, the Secretary would be required to hold a hearing in order to give all interested parties an opportunity to be heard.

8. Following the hearing, the Secretary, after consultation with other appropriate Government departments, would be empowered to accept, reject, or modify the recommendations of a regional commission. In the event of a rejection of modification, the Secretary would be obligated to transmit his reasons to the interested regional commission.

9. Following this procedure the regulations approved by the Secretary would have the force of law.

10. Representatives of the Secretary and other appropriate Government departments would be entitled to participate in meetings of the regional commissions and advisory committees but would not be entitled to vote.

11. Appropriate time limits would be placed upon action on management proposals by all levels of consideration.

12. The power given proposed councils in other suggested systems for management of U.S. fisheries would be unnecessary. If such councils ever do become activated, the present regional commissions would be superfluous and therefore their existence should be terminated. In this regard we are referring to councils which might be given management authority rather than those having authority to make recommendations only.

13. All management plans approved by the Secretary should be subject to review by the Senate Commerce Committee and the House Merchant Marine and Fisheries Committee but such review should not delay any management plans. The management plans, however, could be terminated at any time by normal congressional action.

14. In general, those participating in consideration of management proposals would receive compensation and expense reimbursement through their respective Federal or local government affiliations. Extraordinary expenses of the regional commissions should be provided by Federal appropriations.

15. Existing international commissions having and exercising management authority such as the International Pacific Salmon Fisheries Commission, the Inter-American Tropical Tuna Commission and the International Pacific Halibut Commission should be exempt from the provisions of the proposed management regime.

16. Fishing by foreign vessels in the U.S. zone of jurisdiction should be determined by use of the proposed management system.

17. The proposed management regime would have jurisdiction over highly migratory species such as tuna not covered by international treaties but such jurisdiction should apply only to U.S. citizens and legal residents of the United States.

18. Existing local management of fisheries would continue as long as standards approved by the proposed fisheries regime were followed. These standards would be broadly defined with day-to-day details of management being left to local management agencies.

In addition to providing a quick method of setting up a management regime requiring a minimum of additional funding, the proposed system has the advantage of making full use of regional expertise and of disturbing the existing system only to the extent necessary to achieve as far as possible the objectives of sound management. It has the further advantage of being applicable to both spot and commercial fisheries.

Concerning enforcement of the provisions of S. 961, we believe section 10 should be amended to allow the Secretary of the department in which the Coast Guard is operating to utilize the personnel, services and facilities of State agencies in addition to those of the Federal Government. The States have many trained, experienced enforcement officials who should be utilized under the proposed new system.

Our final recommended change concerns section 11 (b) of the bill. It should be amended to provide for termination of the provisions of the act referring to extension of jurisdiction in the event the Law of the Sea Conference comes up with a satisfactory substitute for provisions of S. 961 but provisions of the bill setting up a marine fisheries management system should be retained as this will be needed regardless of any agreement reached by the Law of the Sea Conference.

As we see it, the need for extending U.S. fisheries jurisdiction to 200 nautical miles and creating an efficient domestic management system is urgent. We therefore urge the passage without delay of S. 961 with appropriate amendments to provide for effective immediate management in the area of extended jurisdiction.

Thank you, and I would be happy to answer any questions you might have.

The CHAIRMAN. On the recommendation which you suggest of section 11, we fully intend to have such language that would make it clear that there would be a termination of the effective part of the bill if and when the Law of the Sea Conference came to some agreement. But as you point out, the management features have still got to be there regardless.

Mr. LOKKEN. That is correct.

The CHAIRMAN. I think we ought to make it clear, the Law of the Sea Conference may come to an agreement. We have to be sure that the nations involved will ratify it. That may take some time.

Mr. LOKKEN. Of course, as far as we are concerned, the agreement reached has to be satisfactory to the United States.

The CHAIRMAN. And the terms and the timing would have to be up to us to take a look at.

Now, you talk about the regional approach, and I think some of your suggestions as to management or the procedural matters involved in management are very good, and I am sure the committee appreciates the work you have put into this looking down the road a bit; but when you talk about the regional approach, what do you mean by a "region"? How large would it be or how small?

Mr. LOKKEN. It would depend upon the resource or the stock of fish that the regional commission would wish to manage. In some cases, it would be wide. In other cases, it would be narrow. As far as I am concerned in the Pacific, it should include the entire North Pacific. It also is provided in the event that some States have no interest in the stock of fish being considered for management. They would not participate in management decisions.

The CHAIRMAN. You, probably just looking at it, would include Alaska, Washington, or Oregon, and maybe California.

Mr. LOKKEN. That is right. The present membership of the present Marine Fisheries Commission.

The CHAIRMAN. And say the Senator from Maine, there would probably be a New England regional authority up there.

Mr. LOKKEN. That could be. Of course, I am speaking only for the Pacific coast.

The CHAIRMAN. The regions that you envision are fairly large?

Mr. LOKKEN. Correct.

The CHAIRMAN. Now I am not going to ask you too many questions but I think, as I told you earlier, when you say the first goal is to secure control of foreign fisheries on the Continental Shelf, I think that is the nub of the whole bill, giving us control to manage and conserve the tocks. We have the control which we do not have now.

Mr. LOKKEN. This is essential if there is to be any management at all.

The CHAIRMAN. Now, you have also mentioned that part of that control would be in the enforcement that a vessel fishing in a zone without our, I underline the word our, o-u-r, our authorization would be in violation.

Mr. LOKKEN. Correct.

The CHAIRMAN. That is the whole nub of this bill. I just want to ask you one more question. Is it your belief that the management, I am speaking of a legislative problem here, should be part of any bill, any extension bill, that it should be in the bill?

Mr. LOKKEN. Yes.

The CHAIRMAN. Section 1 or section 2. But, in other words, you think that they ought to come simultaneously?

Mr. LOKKEN. This is correct; but if there is too much disagreement on management, then I think it is most essential that we pass extension of jurisdiction first but I would prefer to have management included.

The CHAIRMAN. At least some guidelines, as you point out here, for, say, a regional approach and advisory committees and things of that kind in the States.

All right, the Senator from Alaska, do you have anything at the present time to ask?

Senator STEVENS. I know Mr. Lokken very well and am happy to see him again. I just finished a meeting with my State fish and game people. They are interested in the regional aspect, too. I am sure you know they advised me that they would like to have the Alaska region, which could lead to some disagreement, I am sure.

The CHAIRMAN. This is going to be one of the problems we are going to have to look at, yes.

Senator STEVENS. I wonder, following up on the chairman's question to you—do you think we might pass the 200-mile extension and have what might be called a National Law of the Sea Conference to see if we can iron out some of these things and not have the disagreement over

management be a matter before the Congress until you really had a meeting of all the people in the country that were thinking about how the 200-mile management concept outside the jurisdiction.

Mr. LOKKEN. Both are possible. As far as I am concerned, I spent enough time on the management problem to be prepared to act on it at this present time. If others have not, and if this would be a controversy that would delay jurisdiction, then I think management and jurisdiction should be separated. I would like to speak on your first comment of establishing an Alaska regional commission separate from those down below. To me, both proposals are the same. If Alaska is included in the Pacific Marine Fisheries Commission, questions covering species of marine resources that are local to Alaska would be decided by people in Alaska. In other words, and by the same token, on a resource in California that was not also located in the other States, decisions then would be made by Californians.

Senator STEVENS. I think you are very fair. I am not sure other people would understand it. Maybe we ought to have some sort of law-of-the-sea type of meeting for our own Nation within this 200-mile concept. I do not think most people realize that the 200-mile extension is not self-implementing as far as the institution of an entry system is concerned. I congratulate you. I think you have got a reasonable one, but I think it would take some time to explain that to some people from Senator Muskie's area and, perhaps, mine. But again, just to comment, I think you have done a good job, and I appreciate it very much.

Mr. LOKKEN. Thank you.

The CHAIRMAN. Ed, do you have anything you want to ask Harold Lokken?

Senator MUSKIE. I did not hear the full statement. I do not know that I could ask intelligent questions. The fact that people with background and experience in these areas are addressing themselves to the management problem is all to the good. It suggests that maybe we are closer to getting the extension than we thought we were a year ago. So I compliment Mr. Lokken; and I might, upon reading his statement, find some points to disagree, so—but that is the beginning of anything of this kind, so I do compliment you and I thank you.

Mr. LOKKEN. Thank you.

The CHAIRMAN. Now, the Senator from Maine wants to testify. We are glad to hear from you.

#### STATEMENT OF HON. EDMUND S. MUSKIE, U.S. SENATOR FROM MAINE

Senator MUSKIE. Thank you very much, Mr. Chairman. Senator Stevens, I do appreciate the opportunity to testify.

Again, I'm not sure that we enlighten each other further by continuing a dialogue among the three of us. We have discussed this legislation for so long. I'm not sure anything further I have to say contributes that much. Nevertheless, I think that the Law of the Sea Conference, having recessed, that it's important to take stock again of the diplomatic session as well as the legislative session here in Washington. So I would like to take this opportunity, Mr. Chairman, to commend you and Senator Stevens for your tireless and effective

work on behalf of coastal fishermen in your own States around the country, including my State in New England.

It is a measure of how far we have come, in the Senate at least, that the issue before the committee today is not whether a 200-mile fisheries zone is necessary, but rather what are the problems associated with regulating and policing such a zone.

The Coast Guard was able to send me a preliminary cost estimate last year and I will be interested to learn of their current plans and expectations.

I would be happy to send that report to the commission.

The CHAIRMAN. We just heard of that from Admiral Siler. We will be glad to add that to it. I might say for your benefit they're preparing what they need to do, how much more personnel, things of that kind, aircraft, and so forth, anticipating that there will be a 200-mile limit. They're working on it right now and we'll see you get a copy of their study.

Senator MUSKIE. I appreciate that, Mr. Chairman.

Twelve months ago, a hearing like this might have been considered premature. The Law of the Sea Conference was about to open in Caracas, and we heard optimistic reports from the administration. We were told the 10-week session would produce substantial progress toward an early and successful conclusion of a new regime for the world's oceans. Well, the optimists woefully underestimated the task facing the negotiators. For many emerging third world nations, this was their first major international conference. Many were still in the process of developing a negotiating position.

The conference was able to do little more than clarify the areas of disagreement among the 150 nations represented.

About the only concrete accomplishment was an agreement to meet again in 1975.

With the failure of the Caracas Conference, momentum began to build behind a unilateral U.S. 200-mile limit.

But time and again, the administration came to Congress asking for more time, and pointing optimistically toward the planned Geneva Conference.

Geneva has come and gone, and Ambassador Stevenson, himself—our chief Law of the Seas negotiator—conceded earlier this week that the Geneva session did not achieve as much progress as our delegation had hoped for, or as the pressures for a prompt agreement on a new Law of the Sea demand.

He added, "It remains to be seen whether or not the will exists to reach pragmatic solutions where wide differences of view still exist."

The Draft Treaty, drawn up in Geneva, includes a 200-mile economic zone. But the issues which remain unresolved at the Law of the Sea Conference are massive, and it is unrealistic to expect an enforceable international agreement in the immediate future.

Perhaps the chief remaining roadblock to adoption of a 200-mile limit is the administration, which strongly supports the concept of international negotiations.

I agree with the administration, and I think, with the majority in Congress, that international negotiations are the only long-term solution to the problems caused by increasing competition for the world's fish and other ocean resources.

But the present structure of international agreements is clearly inadequate to provide the interim protection our fish stocks so desperately need.

That's a point, Mr. Chairman, that I'd like particularly to emphasize this morning.

Maine's experience demonstrates just how serious the situation is, especially, in view of the fact that so many Maine residents depend on these fish stocks for their living.

In 1950, Maine fishermen landed 353 million pounds of fish of all species. By 1970, that total had been more than cut in half, and in 1974, fish landings totaled only 148 million pounds.

For individual species of fish, the statistics are even more dramatic. Since 1966, Maine's whiting catch has declined by 90 percent, from 30 million pounds to 3 million pounds in 1975. The catch of sea herring has declined 75 percent; ocean perch, 61 percent; cod, 30 percent; pollock, 42 percent; and haddock, 97 percent, from 6.5 million pounds in 1950 to 220,000 pounds last year.

At present, the United States is party to 22 international fishing agreements and virtually all of the fish stocks depleted or threatened with depletion are subjects of those agreements. Obviously, further steps must be taken to prevent the depletion of our offshore stocks—for the sake of conserving the world's fisheries resources as well as preserving the U.S. fishing industry.

The key to a 200-mile limit worldwide, according to the U.S. position at the Law of the Sea Conference is a responsibility that coastal States have to insure the highest and best use of offshore resources.

I concur. But I think the major fishing nations of the world are demonstrating no great sense of responsibility toward our offshore stocks, and no great sense of urgency toward reaching agreement at the Law of the Sea Conference.

And I think the United States has a responsibility to protect our stocks of fish from extinction pending the conclusion of a new regime for the oceans. If we ignore our responsibility, the Japanese, the Russians, or the English and the Polish, will certainly not step forward to accept it.

To meet that responsibility, I believe the United States should adopt a 200-mile fisheries management zone, on a temporary basis, until the international community can reach agreement on an enforceable regime for the world's oceans.

I believe the 200-mile limit is also important as a sign of good faith to our fishing industry. Our fishermen in Maine and nationwide are an independent group. They have not been anxious for regulation of any kind, and in fact, they suffer under various Government restrictions and tariffs which hamper their ability to compete.

They seek no relief from these restrictions. But the 200-mile limit has become a symbol—a rallying cry for fishermen who see the livelihood of generations threatened by rapacious foreign competition.

Government's failure to adopt a 200-mile limit will be nothing more than a desertion of this traditional segment of our economy.

I believe the United States has the responsibility to act now, or there will be no stocks left to protect.

Mr. Chairman, I would like to add that I believe the U.S. responsibility toward our oceans extends to environmental regulation of the seas off our shores.

May I add this, Mr. Chairman, I think as a result of your leadership and the efforts that we have tried to contribute, I think there is a growing interest on the part of people who don't have our parochial interest in the issue understand what is threatened is a worldwide resource, not only a national resource. I noted an editorial in the Washington Post shortly after the Geneva Conference recessed recognizing this point. I think that is the point we must build our case on. This is not a parochial interest, but a case of protecting a worldwide fishing resource.

I don't know whether you, Mr. Chairman or Mr. Stevens, have had an opportunity to read a very exciting book entitled "Supership."

The CHAIRMAN. I read it.

Senator MUSKIE. It's a shocking revelation of the fragility of our oceans, especially with respect to producing food. That is restricted to the continental shelves. Outside of those shelves we're talking about migratory fish or mineral resources. But the fisheries' resources including the plankton and the food for these species is pretty much confined to the continental shelves and it's that resource which is under pressure from the world's fishing boats and also under pressure from the world's pollution. Unless we take steps as rapidly as possible, such as this 200-mile limit, we're going to be talking about a moot question when the Law of the Sea Conference finally comes around to writing an international regime.

You have my continuing support in this legislation without any question, and I just want to put my shoulder to the wheel wherever I can.

The CHAIRMAN. We appreciate your testimony and it comes at a particularly opportune time for us because you have not only attended, but you have followed these Law of the Sea Conferences for some time as a member of the advisory committee. Senator Stevens has been to the last three, I believe, and the bill will expire, as you know, if there is something satisfactory to us, not to everybody else, too, but satisfactory to us and they will arrive by some miracle at a conclusion, the law, as they say downtown, will be inoperative. I'm hopeful, as you and Senator Stevens are, that they will do this because there won't be any fish around for anybody, unless we do something. The best example off your coast is we didn't do anything about tuna and tuna is just gone, commercial fishing of tuna.

Senator MUSKIE. That is right.

The CHAIRMAN. It takes years to build it back. It's coming back a little, I think. But Alaska had an awful experience with the depletion of halibut off their shelf.

Senator MUSKIE. May I add my special concern for a fish that Senator Stevens is interested in, and that is the salmon. It's pretty much disappeared as a commercial fishery in my State. It used to be a great commercial fishery. We have had an undertaking on the State level to restore it. I don't know if you gentlemen remember an old tradition connected with the Bangor Salmon Pool on the Penobscot River. The first salmon came down and I can remember that. They disappeared and reached a point where you could no longer catch them. This year for the first time they have begun to appear again and fishery men are catching them. We are beginning to do this. If these fish are not respected and protected in the oceans, they're going to

disappear. It would be sad if your Pacific salmon meet the same fate our Atlantic salmon met years ago.

Senator STEVENS. Well, it's near that situation. I might join the chairman in assisting us along the line and I think the bipartisan support we have had has been significant. We used to have 44 canneries in the Bristol Bay region, and I'm informed only two will operate this year. There will be 23,000 people employed on the Alaska pipeline and only for 2 years maximum. The Bristol Bay salmon runs used to support annual employment and were sufficient to maintain the people there that want that type of life out in the rural areas of Alaska. I think we're all worried about the survival of our salmon and all those species that have declined and been depleted. So I, too, join the chairman in thanking you. We'll have to stay shoulder-to-shoulder, I think, this year.

The CHAIRMAN. The amazing thing about all this, too, is here we are, we don't fish off other country's shores.

Senator MUSKIE. No.

The CHAIRMAN. And we have no intention of doing it. Except the tuna situation, and some shrimp off Brazil, but generally speaking, we don't go off the shores of the countries that are involved in this matter, and we spend a lot of money, I don't know how many millions we spend to keep our stocks up and our fishermen are under strict regulations.

As you point out, they don't ask to get out from under those at all. They just say, "Don't let these other people come in."

Well, we thank you very much.

Senator MUSKIE. Thank you very much.

The CHAIRMAN. All right, Mr. Berger, president of the National Fisheries Institute, and Mr. Weddig, the executive director.

**STATEMENT OF MURRY BERGER, PRESIDENT, NATIONAL FISHERIES INSTITUTE; ACCOMPANIED BY LEE WEDDIG, EXECUTIVE DIRECTOR**

Mr. BERGER. In the interests of time, I would like to summarize my statement by submitting it in its entirety in the record.

Senator STEVENS. [Presiding.] Yes, sir.

Mr. BERGER. My name is Murry Berger. I'm president of NFI. With me is Lee Weddig, the association's executive director. As you know, the NFI represents the processing and marketing segment of the fishing industry.

We are concerned about fisheries jurisdiction because we believe the growing demand for seafood around the world will necessitate that our domestic industry produce more of the product needed by the consumer. We believe we have the potential of becoming an exporter of seafood in addition to supplying much more of the product sold in this country.

Our production industry will not become totally healthy until the resources can be managed and protected from depletion. Management will not be possible until the jurisdiction issue is settled.

We at NFI have in the past advocated waiting for the Law of the Sea Conference to reach international agreement. At our board of directors meeting last month, we unanimously agreed that we have

waited long enough, that we would support interim unilateral action including the establishment of a fisheries zone.

We believe, however, that unilateral action of this type must be done carefully and thoroughly so that we provide as much protection as possible to our distant water shrimp and tuna operations and to our salmon fisheries. The principle of full utilization must be maintained. The concept that food is the basic primary use of our renewable resources must be emphasized.

Taking unilateral action and declaring a 200-mile management area involves some risks. It is essential that the declaration be done in a manner that assures great benefits to the Nation. Therefore, NFI supports S. 961 with the following recommendations:

I. Congress must state that the purpose of this action is to preserve and protect an irreplaceable food resource—one that must be managed carefully in order to provide nutrition to our own citizens and to others. The Congress must state that it is the policy of the United States to become, once again, a great fishing nation. We are a major source of agricultural food for the world. We can and must add fish to our market basket. Our exports of seafood today amount to more than \$200 million. We have potential to make fishery products a net export trade item, helping our balance of trade and providing great employment potential.

We believe that a firm declaration of policy of this type would provide a reason for unilateral action. It would support our concepts of full utilization and the different approaches to the management of various species. Such a declaration would necessitate followup to make certain that we use our newly declared authority to the greatest benefit possible.

II. S. 961, as presently drafted, appears contradictory in that it establishes management authority and a management zone and, yet, leaves present bilateral and multilateral agreements in a rather open status. Since the greatest pressure comes from nations involved in international agreements, it would seem that continuance of the present treaties would render the extension of authority meaningless. To be sure, newcomers and our own vessels would be regulated, but the source of the problem would continue for an indefinite period.

Thus we recommend the following timetable:

A. Declare authority immediately and then give notice that this authority will be exercised 1 year from passage of the bill. From that time, no new national entries would be allowed to fish coastal and anadromous stocks without negotiation of a specific bilateral agreement.

B. Establish management programs to become effective 18 months from the passage of the bill.

C. Upon passage of the bill, inform all parties to pertinent international agreements that we wish to renegotiate those agreements at the earliest date possible under the agreement terms. These negotiations would be required to be completed no later than 24 months from the date of the passage of the bill in order that, at the time, all fishing of our coastal and anadromous species would come under the terms of the management programs. Top priority in the negotiation schedule would be to reaffirm reciprocal agreements with neighboring nations where resources are shared.

III. Our third recommendation is extremely important. We do not believe that the concept of a new fisheries management council, as presented in S. 961, is the way to approach the need for management. It is our belief that management development and operation must be accomplished locally and regionally with a minimum of national overview. We believe that a series of national guidelines can be developed and that this should be done by the department in which the National Fisheries Agency resides.

This agency should exist for the purpose of providing scientific knowledge and expertise. It should have the responsibility of developing the guiding principles of resource management, to be approved by Congress, which are then turned over to the States and existing regional fisheries compacts for implementation.

Implementation must depend on the active participation by representatives of the fishermen if it is to be effective. Enforcement could be conducted by the States at landing points. Enforcement of management provisions on foreign vessels would be conducted by the Coast Guard and the National Fisheries Agency except where it would be delegated to the States in certain areas where such capabilities exist.

IV. Our distant water fleets must be protected. At a minimum, the Fishermen's Protective Act must be continued. There must be developed a monetary cushion for the inevitable displacement of certain distant water activities. The principle of full utilization and international character of migratory species must be maintained and used in our own management program. A portion of license fees collected from users of our resources could be used to pay for licenses to other nations on behalf of our distant water fleets. This procedure merely would be trading access to some less desirable species found near our shore for other species found in other parts of the world which are more in demand by our consumers. There undoubtedly are other tradeoffs in this vast economy which can be used to protect our distant water fleets.

V. The last, and perhaps the most important step, has to do with followup activity to assure benefits from extended jurisdiction. Firm jurisdiction and management will provide the climate for investment so necessary to modernize many parts of our fleet. But this climate should be fostered with concentrated Government assistance. This idea relates again to the need for a basic commitment by this Nation that it desires to be a great fishing nation. Such a policy would demand that the State Department be provided the funds to properly staff the Bureau of Oceans and International Environmental and Scientific Affairs so that the many necessary negotiations can be effected in the time frame required.

Such a policy would require a determination of the proper level in our Government for fisheries matters. The chairman spoke Tuesday of the fact that many other nations have fisheries ministers representing them.

And I must state here, Senator, it is most embarrassing to anyone that does international trading, to be involved with the minister of fisheries of another nation and then be told that he would like to meet with our minister or secretary of fisheries and have to state we don't have one.

We have a Secretary of Agriculture, and the meat people know who to go to, and the grain people and the farmers know who to go to.

We don't have anybody to go to in our industry. It is about time there is some maturity on the part of the Government in giving us someone to represent our industry which is over a \$6 billion industry, when you bring canned goods into our industry.

In this respect, perhaps the hodgepodge of underfunded loan and guarantee programs now in effect could be consolidated into one, truly meaningful industry assistance program.

To be beneficial, the assertion of authority requires new efforts in the area of training, a strengthening of the sea grant program, and all of the many other aids that have been given "a lick and a promise" through superficial treatment in the past.

If these major steps are taken, based on a firm policy and coupled with the assertion of authority, then our jurisdictional action will have true meaning and will bring to this Nation all of the benefits which a truly great industry can provide.

Thank you very much for the opportunity to comment on this measure.

Senator STEVENS. Thank you very much. We appreciate your statement.

Mr. Weddig, do you have a statement?

Mr. WEDDIG. No, sir. I agree with what he said.

Senator STEVENS. I agree with what he said.

I don't have any questions for Mr. Berger. I was honored to appear before your institute and have on my mantelpiece your beautiful trophy. And I am happy to be working together with you.

Mr. BERGER. Thank you.

Senator STEVENS. I have no question but that we can work together. You have some very interesting suggestions about the coordination of this effort, and I think we will perhaps have to study those and get back to you about some questions about the impact, particularly of your suggestions regarding delegation to the States of the responsibility for implementing national guidelines.

That relates to what I was talking to Harold Lokken about, too, I think. We need an agreement, naturally, as to what roles the States and the Federal Government should play in planning for the 200-mile limit. That seems to be one of the primary questions left for us to resolve.

Mr. WEDDIG. Senator, you had brought up the idea of a national law of the seas conference. The industry is working on putting together a national fisheries policy conference within the next couple of months at which, I am sure, the topic of management would be discussed.

Senator STEVENS. That's good. I think we would welcome your initiatives in that regard.

We appreciate very much your appearance and your testimony. We will put it in full in the record.

[The statement follows:]

#### STATEMENT OF THE NATIONAL FISHERIES INSTITUTE

My name is Murry P. Berger. I am president of the National Fisheries Institute. With me is Lee Weddig, the institute's executive director.

The National Fisheries Institute is a trade association with nearly 600 members who represent the large majority of the fresh and frozen seafood processing and distribution industry in the United States.

Our association has long been concerned with fisheries jurisdiction and its many related matters. Various of our officers, including a number of my predecessors and our executive director, have served on the many advisory committees of the State Department and the fisheries agencies which have been wrestling with this problem.

Many of our processor members operate fishing vessels and, as such, are directly concerned with fishing rights. The primary reason for the interest and involvement of the institute in this subject, however, is our overriding objective of providing more quality seafood to the consumers of the United States.

In this regard, there is little need to cite statistics on fish and seafood consumption. The committee is well aware of the very rapid increase in such use by the consumers throughout the world. It is this major and growing dependence upon food from the sea as a protein source that necessitates this discussion of a new jurisdictional scheme for the living resources of the sea.

Members of the institute serve consumers throughout the world. We comb the markets of the world for products to help fill consumer needs of this Nation. This need is growing as shown by steady growth curve in the quantity of seafood consumed here over the past 10 years. This growth pattern reflects both the population increase and a steady per capita consumption increase. Although the pattern dipped somewhat in 1974, we fully expect total consumption patterns to return to an upward growth curve again as our economy recovers and meat protein prices increase.

In the past, it is well known, and often lamented by many, that the increase in fishery products consumed in this country has been supplied mainly through imported items. My own company—a major marketer of a full line of fish and seafood—imports part of our overall requirements. In addition, we also operate plants in the United States which rely on domestic production and market other items which are exclusively domestic in origin.

Because of a total involvement in the international seafood industry, I can readily attest to the validity of the institute's basic concern—the perpetuation of the fisheries supply needed to satisfy the Nation's nutritional and market demands.

In this respect, we believe that the nation will not be able to continue to look overseas for increased supplies of fisheries products. The relationship of the energy shortage to fertilizers and the demand for better diets by the developing nations will increase pressures on agricultural protein sources. This means that more nations will turn to the seas for food, and the United States will have to compete more for overseas sources of fisheries products. The average consumer may not be willing or even able to pay the price such products will demand. Indeed, if the trend continues, the product may not be available at any price.

With this background firmly in mind, it is only logical to come to the conclusion that the objective of providing more seafood to the U.S. consumer will have to be met by increased supplies from domestic sources. In this regard, we are fortunate that our coastal regions have the potential for greatly increased supplies. This potential can be translated into fish products in the marketplace and on the table only through the achievement of a multistep process.

To be acceptable in our market, a product must be available in a consistently abundant quantity, at a high level of quality, and at competitive prices. This combination is possible only if the production industry can modernize in those areas where its greatest potential lies.

Modernization requires investment. Investment capital is available only when sound business judgment says there will be a return. In the fishing industry, such a judgment could be made only with the assurance of a continued supply of fish to catch. This assurance, of course, rests on resource management to prevent resource depletion. And as the last step in the process, management will be possible only when jurisdictional authority can be established.

Thus, we see that the first essential step in the process of maintaining and increasing a valuable supply of protein for the Nation is the establishment of jurisdictional authority followed by the development of effective resource management.

The Institute's previous position on jurisdictional authority over the past several years has been to rely on the International Law of the Sea Conference (LOS) as the proper forum for determining any basic change in world law. As with the rest of the Nation, we have been hopeful that efforts at the International Conference would result in defining a new fisheries jurisdiction policy which would be acceptable to all nations. In this regard, we believe that, since jurisdiction is a prerequisite to resource management, the jurisdictional authority must be varied to enable efficient management of the different species of fish. Although we believe

the unified draft that emerged from the most recent Law of the Sea session in Geneva does address the need for different management schemes, we also believe that the progress made during these conferences is much too slow.

A year ago at the hearings on S. 1988, we advocated that the United States take unilateral action to preserve coastal resources. At that time, however, we felt obligated to give the Law of the Sea Conference additional time in the hope they could arrive at an internationally acceptable program. In this vein, we cushioned our request for unilateral action on the use of Article 7 of the convention of fishing and conservation of the living resources of the high seas.

While imperfect, we believe that this approach would place any unilateral action by the United States within the context of an international convention already agreed upon by many nations. This action would have stopped short of establishing a new mile marker in the ocean that could be used as evidence in the rationale of other nations which were considering unilateral action. In short, we were and are greatly concerned with the adverse effects the establishment of a fishery zone might have on the chances of effecting a meaningful Law of the Sea treaty.

Now, however, two more comprehensive LOS sessions have been held. An acceptable treaty appears to be years away and may not even be achievable. This is not to say that we are against continuing efforts for an acceptable treaty. It is just that we believe that the time for waiting with no really meaningful accomplishments is past.

In this regard, the NFI board of directors, at its May 1975, convention, unanimously passed a resolution urging the U.S. Government to take interim action to protect, conserve, and manage overfished stocks and to protect our domestic fisheries industry. This resolution calls for the unilateral invocation of a regulatory conservation system based on the establishment of a zone or the management of species which are depleted or threatened with depletion.

With the backing of this unanimous sentiment of our board of directors, the NFI supports the principles and objectives of S. 961. We support the interim nature of the bill; the willingness to subordinate the provisions of the program to an acceptable international agreement, if and when it should develop.

We support totally the distinction between the types of the authority required for coastal, anadromous, and migratory stocks. We support the assertion of management responsibility over coastal species and believe that this conservation regulatory authority can best and perhaps only be effected through the establishment of specific enforcement areas. We support totally the concept of full utilization, consistent, of course, with scientific management principles and practices that provide for the perpetuation of the resource. This concept of full utilization must recognize completely the overriding principle that the primary objective of guarding our renewable resources is to provide food for mankind. All other uses of these resources are subordinate to this goal.

While we agree with and support the basic principles and objectives of S. 961, we do believe that additional work must be done in many areas before putting the newly declared authority and responsibility into effect. The rationale for a declaration of extended authority is to preserve resources that are in danger of depletion. Since there are areas off our coast where foreign fishing pressure has not been such that the depletion of resources is threatened, we believe that the declaration of authority will, of necessity, require a somewhat staggered implementation of regulations. This is so, not only because the need is not universally present but also, because our own ability to develop management schemes will not enable a single stage implementation of the new jurisdictional area. Thirdly, the existence of many bilateral and multilateral treaties with varying timetables for renegotiation and/or abrogation will require multistage exercise of authority. Fourth, utmost care and caution must be taken to avoid disruption of our shrimp, salmon and tuna fishery efforts which presently constitute 42% of the value of our total catch.

NFI believes that we should immediately assume the responsibility and authority to manage coastal species and anadromous stocks. We again should declare our insistence that migratory species should be regulated by international agreement. We should immediately designate a timetable for implementation of our coastal stock authority in an area extending to 200 miles from our shores. Such a timetable should provide an orderly but a rapid transition from existing multilateral and bilateral agreements to a new system.

The NFI supports this unilateral action with the full recognition that it poses some potential damage to our Nation's overall law of the sea posture. We recognize that the unilateral extension of authority and, specifically, the establishment of

a zone, may weaken the position of our own distant water fleets, despite the fact that many of these fleets already operate in unilaterally declared zones. We can expect that other nations near whom we fish which have not yet extended fisheries jurisdiction will do so soon after our own declaration. It is incumbent upon us to do all that is possible to enable our distant water fleets to continue to operate under the very reasonable principles of traditional rights, full utilization, and the international character of migratory species.

The dangers of unilateral action are not confined to fishing declarations alone. By condoning unilateral action in an area of great importance to us, we logically must agree, at least tacitly, to the right of unilateral declarations by other nations in areas that are of great importance to them. To be sure, we would hope such actions would not be contrary to anticipated results of the LOS convention; but, nonetheless, it would seem each nation could rationalize a great many unilateral steps in such areas as scientific research, passage through straits, and a myriad of other issues under discussion.

As the United States takes the unilateral step of extended fisheries jurisdiction and is willing to risk the potential negative actions by others, it becomes a matter of crucial importance that the results of our action be truly beneficial to our Nation. In order to accomplish this, NFI believes that S. 961 must be modified in several areas and that Congress must take several additional steps to make this momentous declaration worthwhile.

NFI respectfully recommends the following:

I. Congress must state that the purpose of this action is to preserve and protect an irreplaceable food resource—one that must be managed carefully in order to provide nutrition to our own citizens and to others. The Congress must state that it is the policy of the United States to become, once again, a great fishing nation. We are a major source of agricultural food for the world. We can and must add fish to our market basket. Our exports of seafood today amount to more than \$200 million. We have potential to make fishery products a net export trade item, helping our balance of trade and providing great employment potential.

We believe that a firm declaration of policy of this type would provide a reason for unilateral action. It would support our concepts of full utilization and the different approaches to the management of various species. Such a declaration would necessitate followup to make certain that we use our newly declared authority to the greatest benefit possible.

II. S. 961, as presently drafted, appears contradictory in that it establishes management authority and a management zone and, yet, leaves present bilateral and multilateral agreements in a rather open status. Since the greatest pressure comes from nations involved in international agreements, it would seem that continuance of the present treaties would render the extension of authority meaningless. To be sure, newcomers and our own vessels would be regulated, but the source of the problem would continue for an indefinite period.

Thus, we recommend the following timetable:

A. Declare authority immediately and then give notice that this authority will be exercised 1 year from passage of the bill. From that time, no new national entries would be allowed to fish coastal and anadromous stocks without negotiation of a specific bilateral agreement.

B. Establish management programs to become effective 18 months from the passage of the bill.

C. Upon passage of the bill, inform all parties to pertinent international agreements that we wish to renegotiate those agreements at the earliest date possible under the agreement terms. These negotiations would be required to be completed no later than 24 months from the date of the passage of the bill in order that, at that time, all fishing of our coastal and anadromous species would come under the terms of the management programs. Top priority in the negotiation schedule would be to reaffirm reciprocal agreements with neighboring nations where resources are shared.

111. Our third recommendation is extremely important. We do not believe that the concept of a new fisheries management council, as presented in S. 961, is the way to approach the need for management. It is our belief that management development and operation must be accomplished locally and regionally with a minimum of national overview. We believe that a series of national guidelines can be developed and that this should be done by the department in which the national fisheries agency resides.

This agency should exist for the purpose of providing scientific knowledge and expertise. It should have the responsibility of developing the guiding principles of resource management, to be approved by Congress, which are then turned over to the States and existing regional fisheries compacts for implementation.

Implementation must depend on the active participation by representative of the fishermen if it is to be effective. Enforcement could be conducted by the States at landing points. Enforcement of management provisions on foreign vessels would be conducted by the Coast Guard and the National Fisheries Agency except where it would be delegated to the States in certain areas where such capabilities exist.

IV. Our distant water fleets must be protected. At a minimum, the Fishermen's Protective Act must be continued. There must be developed a monetary cushion for the inevitable displacement of certain distant water activities. The principle of full utilization and the international character of migratory species must be maintained and used in our own management program. A portion of license fees collected from users of our resources could be used to pay for licenses to other nations on behalf of our distant water fleets. This procedure merely would be trading access to some less desirable species found near our shore for other species found in other parts of the world which are more in demand by our consumers. There undoubtedly are other tradeoffs in this vast economy which can be used to protect our distant water fleets.

V. The last, and perhaps the most important step, has to do with followup activity to assure benefits from extended jurisdiction. Firm jurisdiction and management will provide the climate for investment so necessary to modernize many parts of our fleet. But this climate should be fostered with concentrated Government assistance. This idea relates again to the need for a basic commitment by this Nation that it desires to be a great fishing nation. Such a policy would demand that the State Department be provided the funds to properly staff the Bureau of Oceans and International Environmental and Scientific Affairs so that the many necessary negotiations can be effected in the time frame required.

Such a policy would require a determination of the proper level in our Government for fisheries matters. The Chairman spoke Tuesday of the fact that many other nations have fisheries Ministers representing them.

Such a policy would demand that a source of long-term, low-interest funding be established for vessel construction, rebuilding, new gear, shore facilities, and working capital. In this respect, perhaps the hodgepodge of underfunded loan and guarantee programs now in effect could be consolidated into one truly meaningful industry assistance program.

To be beneficial, the assertion of authority requires new efforts in the area of training, a strengthening of the sea grant program, and all of the many other aids that have been given "a lick and a promise" through superficial treatment in the past.

If these major steps are taken, based on a firm policy and coupled with the assertion of authority, then our jurisdictional action will have true meaning and will bring to this Nation all of the benefits which a truly great industry can provide.

Thank you very much for the opportunity to comment on this measure.

Senator STEVENS. We will recess this hearing subject to the call of the Chair.

(Whereupon, at 12:20 p.m. the committee was adjourned, subject to the call of the Chair.)

[The following information was subsequently received for the record:]

STATEMENT OF AMMON G. DUNTON, JR.

Mr. Chairman, members of the Committee, I am Ammon G. Dunton, Jr., a member of the firm of Dunton, Simmons & Dunton. We are counsel for Zapata Haynie Corporation, a major participant in the American menhaden fishing industry. Zapata Haynie Corporation operates approximately 39 modern fishing vessels and 27 spotter aircraft in the Atlantic Ocean and Gulf of Mexico. As such, this constitutes the largest American menhaden fleet in operation. Plants and offices of the company are located in Virginia, Maryland, Mississippi and Louisiana. The plants produce fish meal and fish oil, the latter being an important fisheries export item.

Other speakers, both here and in hearings held during the previous Congress on a generally similar Senate bill and in numerous hearings with respect to the House versions of the bill, have expressed the urgent need for an interim extension of the contiguous zone to one extending 200 miles from our shores. Zapata Haynie Corporation, in company with most American fishermen, strongly supports the proposed legislation.

The underlying theory behind S. 961 and related legislation introduced in the House of Representatives is that American fisheries should be reserved for American citizens, who alone have the true incentive to conserve and maintain our domestic fishery resources; and further, that over-fishing of the waters adjoining our present reserved American area by foreign fleets have seriously affected the domestic fishery. Unlike the operations of foreign controlled fleets, which have systematically destroyed many of the fisheries in which they have operated, the American fishermen have generally considered the importance of long term maintenance of fishing stocks, upon which they depended for their future livelihood. The portion of the American fishery that I know best, the American menhaden fishery (which is the largest fishery in America by volume), has exhibited a fiduciary quality with respect to the management of its fishing effort for many years. These American companies have assisted in studies regarding the life cycle and movement of menhaden and responded to requests from the National Marine Fisheries Service for reductions in fishing efforts in certain years. As a result the present menhaden stocks are relatively plentiful in areas where foreign fishing has not interfered with the resources, such as in the Chesapeake Bay and in portions of the Gulf of Mexico. On the other hand, where foreign controlled vessels have harvested unknown amounts of unknown species, which we suspect include substantial quantities of menhaden, large scale reductions in availability of menhaden have occurred. It would therefore appear that the extension of the outer limits of the contiguous fisheries zone from 12 to 200 miles from our shore line would be a major step in eliminating this type of destruction of our resources by foreign users.

Unfortunately, the proposal as drafted in the form of S. 961 will not achieve its intended purpose. For in the bill there is a loophole so large and so gaping that the bill will be largely ineffective. The bill would push the protective fence out to the distance of 200 miles, but leave the back gate open to foreign controlled fisheries. An unlimited number of vessels controlled by foreign nationals will be permitted to fish in the zone we are attempting to reserve for Americans.

The back gate which I have referred to operates quite simply: Foreign nationals either organize American corporations, which in turn acquire American fishing vessels, or better still, acquire American corporations which already own American fishing vessels. The Secretary of Commerce must grant permission for the transfer of each vessel to the foreign controlled corporation but this is done, under existing policy, in a rather summary fashion.

The back gate or loophole in the existing law is hidden in its definitions. Section 3(2) appearing on pages 4 and 5 of the bill states that a citizen of the United States includes, in addition to individual citizens, corporations or other business associations organized in a State if (a) certain management personnel are individual citizens, and (b) the controlling interest of the corporation is owned or beneficially vested in individuals who are citizens of the United States. The definition of "controlling interest" is thus the key to determining whether a United States corporation is or is not a United States citizen favored under the terms of this law. In paragraph 3(5), appearing on pages 5 and 6 of the bill, a version of the Shipping Act definition of corporate citizenship is set forth. If left in the original Shipping Act form this would be a good and effective definition of corporate citizen, one which has been incorporated in other statutes governing maritime activities and proven to be effective.

However, a grandfather clause is added commencing on the third line of page 6 of the bill. This provides "that any corporation, or other entity, subject to a controlling interest acquired prior to the date of enactment of this act with the approval of the Secretary granted pursuant to Section 9 or Section 37 of the Shipping Act of 1916 as amended (46 U.S.C. 808, 835) shall be deemed to be subject to a controlling interest owned or beneficially vested in individuals who are citizens of the United States."

This proviso substantially eliminates the benefits of the bill by permitting numerous companies who would purport to qualify as approved American citizens, despite their foreign ownership, to fish in the protected American fishery zone. At least 14 corporations have substantial foreign ownership which would cause them to be deemed non-U.S. citizens if the usual Shipping Act corporate definition were applied. Most of these are Japanese controlled companies, and two are controlled by British interests. In this way Japanese investors have already acquired most of the American salmon fleet. British interests now control U.S. corporations owning approximately one-half of the documented American menhaden fishing vessels.

Within a few years after the Japanese acquired control of the bulk of the domestic salmon fishery, it has become necessary for the Marine Fisheries Service

to declare that fishery a "conditional fishery" because of the overfishing of domestic salmon stocks. On April 2, 1975, Robert White, Administrator of National Oceanic and Atmospheric Administration, declared in the Federal Register his intent to promulgate regulations recognizing that the salmon fisheries in the states of Washington, Oregon and California be deemed a "conditional fishery". He stated that the available domestic salmon stocks were being overfished and were endangered, and therefore he proposed the conditional fishery status for salmon along our western coast. The irony of this declaration is that it will affect only the American fishermen who have been attempting to modernize their operations in the salmon industry, since it will have the effect of depriving them of the aid given other American fishermen in the building of a modern fleet. It will not interfere with the operation of the foreign owners in the least.

Turning to the menhaden segment, we find approximately 135 vessels are documented in the American manhaden fishery, of which 67 are owned by corporations controlled by foreign nationals. The menhaden is a delicate resource requiring reductions of fishing efforts periodically to sustain maximum yields. At the time that the foreign owners requested permission of the Maritime Administration for the transfer of American fishing vessels to foreign controlled American corporations they stated that they would basically continue the policy of the former American owners. In testimony before a hearing officer the operators of the foreign controlled company stated that they did not expect to operate more than 32 vessels. Nevertheless, it has rushed to document 67 of its 68 fishing vessels. If even a portion of these vessels were used to harvest existing stocks of menhaden, the fishery could be destroyed.

Far from reducing this threat to the American fishing industry, the proposed bill would institutionalize foreign control of our domestic fishing industry and make existing foreign controlled corporations conduits for other foreign ownership.

Under the terms of the grandfather clause written into the proposed bill these existing corporate footholes can be expanded indefinitely without violating S. 961. Furthermore, the ownership of these companies can be transferred into the hands of different foreign nationals who would have the benefit of the same grandfather privileges. What this clause does, is to reward handsomely the foreign owners of American fishing companies in existence at the time of the enactment of S. 961, since it provides these owners with the sole means by which foreigners can fish within the American fishery limits.

A careful analysis of legislative history since the first days of the Republic will show that it has been the consistent policy of the successive Congresses to reserve American fisheries for American citizens. Attached to this statement is a comprehensive analysis of legislative history and current interpretation of existing law. Because vessel documentation laws have not been kept up to date with respect to fisheries, in the way that they have been kept up to date for the coastwise trade, administrative agencies have permitted, without regard to the Congressional resolutions supporting exclusive American fisheries, the transfer of American fishing vessels to foreign controlled companies. Legislation was finally introduced in the last Congress by Congressman Downing and numerous co-sponsors which would make it clear that no further administrative decisions of this type would be tolerated. Unfortunately, although receiving large support, the bill was not enacted before the close of the last session. The grandfather clause included in S. 961 is running entirely at cross currents with the efforts of the Congress to close the loophole through which foreign entry has been obtained in recent years within the domestic fisheries.

I believe that the Congress should prohibit this back gate entry by foreign ventures into our domestic fishery and therefore there should be no grandfather clause at all. The Shipping Act definition of corporate citizen should be used in this bill, just as it is in numerous other maritime acts. The foreign nationals that acquired American fishing companies or controlling elements of such companies did so with the full knowledge that they were treading upon perilous ground. They recognized that henceforth the companies would be deemed aliens under various maritime laws and not entitled to the same privileges of American owned fishing companies. They subjected themselves to controls under Sections 9 and 37 of the Shipping Act of 1916 as alien companies at the time of their entry into the domestic fishery. They cannot come at this time and say that they thought that they were Americans and should be entitled to all the privileges of American citizenship.

If it is felt that the operation of presently documented fishing vessels owned by American corporations controlled by foreign nationals should be phased out rather than prohibited, an appropriate grandfather clause can be provided for

this purpose; but a grandfather clause that allows an endless expansion of the fleets of these foreign owned American fishing companies is entirely contrary to the intent of the act and would and could defeat its operation.

I would also point out that the grandfather clause included on page 6 of the proposed bill involved a misunderstanding of legislation referred to in the clause. For example, it speaks of the controlling interests of corporations acquired with the approval of the Secretary of Commerce pursuant to Sections 9 and 37 of the Shipping Act of 1916. The Secretary of the Commerce never has approved the transfer of controlling interests in corporations under such sections. The corporation's stock can be sold to foreigners at any time without the intervention of the Secretary of Commerce. On the other hand, the Secretary of Commerce must grant permission for the transfer of an American vessel to a foreign controlled American corporation. Therefore, upon the sale of controlling stock in a corporation to foreign nationals, such nationals would immediately acquire effective control of all assets except vessels. Proceedings would then have to be undertaken to obtain the permission of the Secretary of Commerce for vessel transfers and it would have to be agreed that such approvals were required as a condition of the sale. Thus there has never been any general approval of corporations pursuant to Sections 9 or 37 of the Shipping Act but merely approval of vessel transfers. Orders issued pursuant to Sections 9 and 37 of the Shipping Act relate solely to vessels and never to corporations. Any possible grandfather clause relating to hardships created by virtue of vessel transfer approvals granted under Sections 9 and 37 of the Shipping Act should therefore relate to vessels transferred under such sections and not to corporations owning such vessels. The corporations were deemed alien corporations at the time of the application of approval and were still alien corporations at the conclusion of the approval. There was absolutely no sanitization of the corporations by virtue of vessel transfers approved by the Secretary of Commerce. Apples and oranges have been badly mixed in the grandfather clause proposed, and it will only cause major problems of interpretation if enacted, as well as defeat the general intent of the bill.

As I have mentioned, with the exception of the grandfather clause, the definition of corporate citizen in the bill generally follows the Shipping Act definition with one exception. The Shipping Act definition provides that no more of the corporation's directors than a minority of the number necessary to constitute a quorum shall be non-citizens, thus making it impossible for a small group of alien directors to convene a quorum or operate as an executive committee in the conduct of corporate affairs. The existing bill, on the top of page 5, merely requires that two-thirds of the members of the board of directors be composed of individuals who are citizens of the United States. If there is a large board and a small quorum requirement, or an executive committee composed largely of aliens, the intent of this section would be frustrated. I also note that the present draft eliminated the requirement that the chief executive officer of the corporation be an American citizen as provided in the Shipping Act. It would therefore be highly desirable to track the effective language in the Shipping Act definition of corporate citizen in this bill, in this way retaining an effective bill.

I have attached to this statement proposed language that would cure the defects I have pointed out. In the case of the grandfather clause, two basic approaches would appear available and still retain the basic intent of the bill, *viz.*, (i) eliminate it altogether, thereby following the Shipping Act definition of corporate citizen or (ii) substitute a provision for the phasing out of foreign controlled fishing vessels engaged in our protected domestic fishery. This latter approach would cure with minimal economic hardship the administrative errors of the previous administration, which did not follow the expressed intent of Congress to reserve the American fisheries to American citizens. Under the proposed substitute language, the foreign owners would have five years to which to have their governments negotiate a treaty allowing them entry into the American fishery in accordance with Section 7 of the bill. They of course would have the option to relocate their fishing activities, or sell their vessels to other users, during this period.

I wish to thank you for your kind attention to my remarks. I will be happy to answer any questions that you may have or provide the answers in a subsequent submission if the answer is not readily available.

## ADDENDUM TO STATEMENT OF AMMON G. DUNTON, JR.

## SUMMARY OF LEGISLATION RESERVING AMERICAN FISHERIES TO AMERICAN CITIZENS AND CURRENT INTERPRETATIONS OF EXISTING LAW

In the early days of the Republic Congress saw fit to reserve the American fisheries and the coasting trade to American citizens. The act of February 18, 1793, which made that determination, has continued in force until the present day. It provides that only vessels enrolled pursuant to the documentation laws of the United States may engage in the American fisheries or the coasting trade. This protective legislation, in its present form, is expressed in Section 251 of Title 46 of the United States Code, which states in pertinent part:

"Vessels of twenty tons and upward, enrolled in pursuance of sections 251-255, 258, 259, 262-280, 293, 306-316, 318, 321-330 and 333-335 of this title, and having a license in force, or vessels of less than twenty tons, which, although not enrolled, have a license in force, as required by such sections, and no others, shall be deemed vessels of the United States entitled to the privileges of vessels employed in the coasting trade or fisheries . . ." (Emphasis added.)

Section 252, derived from the same 1793 law, provides that in order for any vessel to be enrolled it shall possess the same qualifications, and the same requirements in all respects shall be complied with, as are required for registering a vessel in the United States.

The provision setting forth registry requirements for vessels, 46 U.S.C. Sec. 121 (the act of December 31, 1792, as amended), states quite clearly that only three classes of vessels are to be registered in the United States: (1) Vessels built in the United States and belonging wholly to citizens thereof, (2) prize vessels or vessels forfeited for breach of laws of the United States, and (3) certain vessels engaged in trade with foreign countries and with certain specified islands.

The word "citizen" was not defined in these early laws. A citizen was, quite simply, an individual having United States nationality. However, as corporations became a more popular form of business organization in the 19th century a question arose as to the meaning of the term "citizen" in this context. Until 1825 corporations were not permitted to document vessels under United States documentation laws for use in the coasting trade or the American fisheries. From 1825 to 1858, by administrative determination, a corporation could document vessels in these restricted trades only when United States nationals owned 100% of the stock of the corporation. In 1858, commencing a process of revising laws related to the coasting and foreign trades but neglecting the fisheries, Congress permitted alien stockholders to participate as stockholders of corporations which owned vessels engaged in domestic and foreign trade. Further refinements in documentation laws relating to the coasting and foreign trades were made in the Panama Canal Act of 1912 which permitted recently built foreign owned vessels to engage in foreign trade, but not the coastwise trade.

In 1916 the Shipping Act was enacted which, among other things, prohibited the sale of American documented vessels to foreign interests without the consent of the United States Government. In this act for the first time a very precise and evasion proof definition of citizenship was adopted which required that U.S. corporations be controlled by U.S. national officers, directors and stockholders.

In 1920, the Merchant Marine Act of 1920 was enacted, which in Section 27 limited the coastwise trade to vessels built in the United States, documented under the laws of the United States and owned by citizens of the United States as defined in Section 2 of the 1916 Shipping Act, as amended. The Shipping Act definition of corporate citizen was also amended by the 1920 Act so that the U.S. nationality requirement for stockholders was increased from 50% to 75% for vessels enrolled and licensed in the coastwise trade. In this way, the Shipping Act definition of corporate citizenship was applied to the coastwise trade for purposes of enrollment and licensing, except that the coastwise trade had a higher United States nationality requirement for stockholders than did shipping in general.

In 1950, while still not focusing on citizenship requirements for the documentation of American fishing vessels, Congress evidenced its continuing support for an exclusively American fishery by adopting an act which provided that no foreign flag vessel, except such as may be permitted by treaty, shall land fish taken on the high seas in any port of the United States.

In 1959 the definition of corporate citizen appearing in Section 2 of the Shipping Act and Section 11 of Title 46 (the registry section) was amended by striking the references to managing directors of corporations and inserting in lieu thereof the words "or corporations organized and chartered under the laws of the United States, or any state thereof, of which the President or other chief executive officer

or the Chairman of the Board of Directors shall be citizens of the United States and no more of its directors than a minority of the number necessary to constitute a quorum shall be non-citizens." This change was made necessary because the Maritime Administration construed each director to be a managing director while the Bureau of Customs (then charged with vessel documentation) interpreted managing directors differently, resulting in a conflict between the two agencies.

When Congress approved these changes relating to managing directors it apparently thought that corporate citizenship was defined for all purposes in Section 2 of the Shipping Act. The Senate Committee Report adopted on August 18, 1959 indicated that "The net effect of the amendment cited would be to include in the definition 'citizen of the United States', corporations (excepting those under Title VI Merchant Marine Act 1936, as amended) which meet stock ownership requirements of Section 2 of the Shipping Act, 1916, which are organized under the laws of the United States, or any state thereof, and which have some alien directors, but not so many as to make possible a lawful meeting of the Board of Directors without a majority of the directors present being citizens of the United States." Irrespective of this legislative history, vessel documentation officers have not applied the Section 2 Shipping Act definition of corporate citizen to laws governing registry or enrollment of fishing vessels.

No additional changes concerning citizenship requirements of vessel documentation have been made since 1959.

In 1966 the Congress adopted the present 12 mile limit bill, providing a nine mile contiguous fisheries zone.

In 1973, early in its first session, the 93rd Congress reaffirmed its support for the American fishery, and its intent to deal firmly with the threat of foreign controlled fishing operations off of our coasts, by adopting a Joint Resolution finding "that intensive foreign fishing along our coasts has brought decline in stocks of a number of species with resulting economic hardship to local domestic fishermen dependent upon such stock", and it therefore resolved "that it is a policy of the Congress that our fishing industry be afforded all support necessary to have it strengthened, and all steps be taken to provide adequate protection for our coastal fisheries against excessive foreign fishing and further, that the Congress is further prepared to act immediately to provide interim measures to conserve overfished fish stocks and to protect our domestic fishing industry."

Despite its interest in supporting the domestic fishing industry, and reserving it for American citizens, Congress did not pay attention to the definition of corporate citizenship for purposes of documentation of fishing vessels until Congressman Downing and others, in the fall of 1974, introduced bills to require the Shipping Act definition of corporate citizen to be applied to fishing vessel documentation.

#### CURRENT INTERPRETATIONS OF EXISTING LAW

United States Coast Guard regulations provide that partnerships organized under the laws of any state may document an American built vessel for the American fisheries only if 100% of the partners are American nationals. Also, if such a vessel is owned by an individual, this individual must be a U.S. citizen. However, Coast Guard regulations contain no provisions with respect to stock ownership of corporations wishing to enroll or license a vessel in the American fisheries. The regulations provide that if the vessel is an American bottom, is owned by a corporation organized under the laws of any state, has citizens as its chairman and chief executive officer and has as alien directors no more than a minority of those needed to constitute a quorum of its board of directors, it may document a vessel in the American fisheries. As a matter of practice corporations owned 100% by foreign nationals, but having the requisite American officers and board members, have been permitted to document vessels in the American fisheries. According to the Coast Guard, the problem arises because neither the enrollment nor the registry sections incorporate the Shipping Act definitions of citizenship expressly. Furthermore, unlike the experience of the coasting trade, where citizenship requirements are already set forth in the 1920 Merchant Marine Act, no subsequent statute adopted by the Congress overrides the existing enrollment and registry sections for the American fisheries.

In its notice of final policy on foreign investment in United States fishing companies published in the Federal Register on September 20, 1974, the National Oceanographic and Atmospheric Administration, Department of Commerce, has taken the position that, subject to its review, foreign controlled corporations may own and operate vessels in the American fisheries. Such permission may be

granted conditionally or unconditionally. In fact, the Department has granted in summary fashion, sometimes without a public hearing and despite objections from industry, unconditional approvals for the transfer of American fishing vessels to corporations controlled by foreign interests.

On October 19, 1973, Kyokuyo Co., Ltd., a diversified sea products company with its principal place of business in Tokyo, acquired 97.9% of the stock of Whitney-Fidalgo Seafoods, Inc., a major American seafood company. Whitney-Fidalgo was incorporated in the State of Maine in 1904 and has its present principal place of business in Seattle, Washington. It has plants in the States of Washington and Alaska. Seventy-five per cent of the company's sales are salmon products and sales for the fiscal year ended March 31, 1973 were \$35,000,000. At the time of the sale Whitney-Fidalgo owned 47 light or small seining vessels, 27 gill net vessels and various other fishing boats and tenders. Because of the proposed transfer of ownership of American documented fishing vessels from control by American nationals to control by Japanese investors, and in accordance with 46 U.S.C. Secs. 808 and 835, application was made to the Secretary of Commerce for approval of the transfer. The Secretary of Commerce adopted a policy of favoring foreign investment in the American fisheries and accordingly transfer orders were issued on August 28, 1973 approving the transaction without conditions. Through this transaction Japanese investors acquired a major position in the American salmon fishing industry. No public hearing was held on the matter.

On December 31, 1973, Hanson Trust, Ltd., a British corporation acting through two wholly owned Delaware corporations, acquired all of the outstanding stock of J. Howard Smith, Inc. for about \$32,000,000 in cash. In recent years J. Howard Smith has been responsible for approximately one-third of the catch of the United States menhaden industry, which by itself is responsible for more than 40% of the total tonnage of fin and shell fish landed by all U.S. fishermen. In addition to the transfer of certain parcels of real estate the sale involved four menhaden processing plants, two shipyards and the transfer of 68 American documented fishing and related vessels. Application was again made to the Secretary of Commerce on January 24, 1974 for approval of the transfer of the vessels and shipyards pursuant to 46 U.S.C. Secs. 808 and 835. Although a public hearing was held in Washington on March 20 and 21, 1974 at which objections were raised by certain members of the fishing industry, the transfers were approved by the Secretary of Commerce, without conditions, thus eliminating American control of a major segment of the domestic menhaden fishing industry. Fishing vessels are documented in the name of Seacoast Products, Inc. or The New Smith Meal Company, Inc.

In addition to the companies discussed above, the following corporations, which do not meet the definition of corporate citizen under the Shipping Act now own vessels documented in the American fisheries, pursuant to the current interpretation of existing law:

- Adak Aleutians Processors, Inc.
- B & B Fisheries
- Hilton Seafoods
- King Crab, Inc.
- Marubeni Alaska Seafoods, Inc.
- Nichiro Pacific, LTD.
- North Pacific Processors, Inc.
- Alaska Inc. & Storage
- Ocra Pacific Packing
- Togiak Fisheries, Inc.
- Western Alaska Enterprises, Inc.

#### PROPOSED CHANGES IN S. 961

I. Delete clause (B) appearing in line 1-5 of page 5, and substitute the following clauses:

(B) the president or other chief executive officer and the chairman of the board of directors, if any, or the managing partner or partners, as the case may be, are individuals who are citizens of the United States, and (C) no more of its directors, general partners, or other members of its managing board or committee, as the case may be, than a minority of the number necessary to constitute a quorum are not individuals who are citizens of the United States.

ii. Delete the proviso appearing on lines 3-11 of page 6 of the bill, and substitute the following:

*Provided*, That any documented fishing vessel of the United States transferred to a non United States citizen as defined in this Act pursuant to transfer orders issued by direction of the Secretary of Commerce under Section 9 and 37 of the Shipping Act of 1916, as amended (46 U.S. Code 808, 835), may be operated as part of the domestic fishery of the United States, protected by this Act, for a period not longer than five (5) years after enactment of this Act or a change in ownership of such vessel, whichever event shall earlier occur.

U.S. DEPARTMENT OF COMMERCE,  
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION,  
Rockville, Md., June 30, 1975.

HON. WARREN G. MAGNUSON,  
*Chairman, Committee on Commerce,*  
*U.S. Senate,*  
*Washington, D.C.*

DEAR MR. CHAIRMAN: This is in further response to your letter of June 6, 1975, which asked a number of questions which were raised during the hearings on S. 961, the Emergency Marine Fisheries Protection Act.

Enclosed are our responses to your questions. Several of these responses are rather general in nature in an attempt to meet your needs in getting material for your Committee's hearing record. However, in some cases, if you feel it would be helpful, we could work with your committee staff to develop some more specific information. For example, the various institutional arrangements for fisheries management could be further discussed with examples of present arrangements. As you indicated in your letter you may have additional questions and possibly at that time we could provide you or your staff additional material if desired.

If we can be of further assistance, please let me know.

Sincerely,

ROBERT M. WHITE, *Administrator.*

Enclosures.

*Question 1.* Briefly, what is the present institutional arrangement by which fisheries in this country are managed? In your opinion, is this system adequate to manage fisheries within an extended fisheries zone?

*Answer.* Existing institutional arrangements in the marine fisheries of the United States are split between the State and Federal governments. State authority is derived from the grant of jurisdiction in the Submerged Lands Act of 1953. The Federal management authority stems largely from legislation which implements various international treaties and conventions, and certain executive agreements between the United States and foreign countries. In practice, the Federal role in fisheries management has been broadly based on a variety of activities designed to effectively implement the Federal obligation arising out of these international agreements. These activities include resource assessment, international negotiation and enforcement. In addition, the Federal government has engaged in patrols to enforce the fisheries exclusion aspect of the so-called Bartlett Act (16 USC 1081).

This existing system would not provide an adequate level of fisheries management activities in the event of extended jurisdiction; the States jurisdiction ends at the 3 mile line and there is no general Federal management authority in the contiguous zone. With simple extension of the fisheries zone, a jurisdiction void would exist.

*Question 2.* What would happen to existing treaties covering fishing by other nations within 200 miles of our shores if we established an exclusive 200-mile fishery management zone? Can you provide us a legal analysis of the problems in this regard? Could you also have someone in your office prepare a map showing the areas within 200 miles covered by fishing treaties?

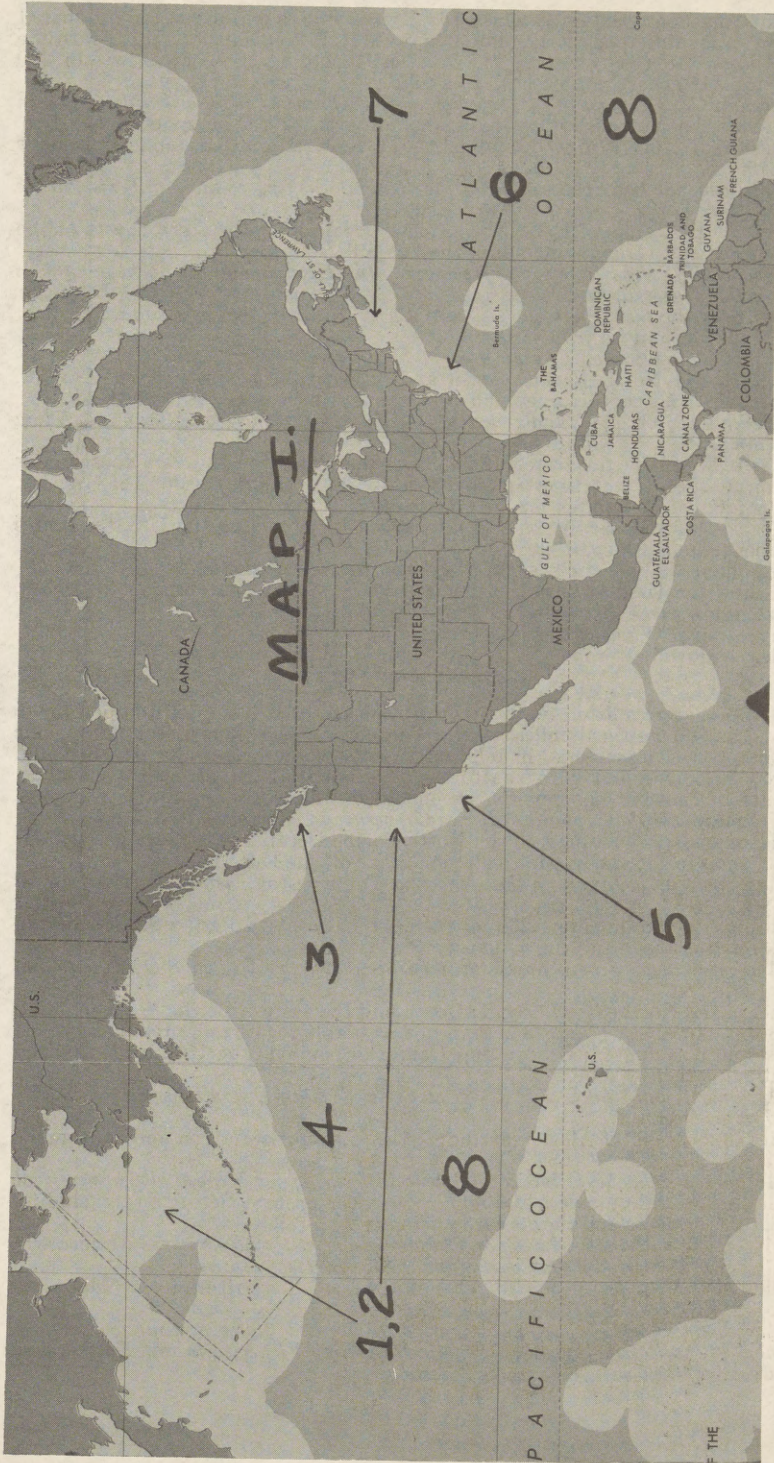
*Answer.* It has been held that as a matter of domestic law where a treaty and a subsequent Act of Congress are inconsistent with each other and the two cannot be reconciled, the one later in point of time must prevail. (See Hackworth, Vol. V.) On the other hand, the treaty may still subsist as an international obligation (and perhaps enforceable in an international forum), although it may not be enforceable by the domestic courts or the administrative authorities. However, in this later regard we must defer to the Department of State.

Two matters should be mentioned. First, section 2(c)(2) of the bill contemplates contravention of existing treaties in certain instances. (We invite your attention to section 7(b) which appears to contemplate the contrary—that treaty provisions will not be abrogated. For purposes of this discussion we have chosen an interpretation which creates the problem). Second, some bilateral executive agreements to which this Nation is a party allow for termination within a short period of time after notice is given (from one to two months). In such instances, any potential conflict between such existing agreement and the enactment of a bill such as S. 961 could be avoided by exercising termination prerogatives. We defer to the Department of State, however, for specific views involving particular agreements.

LOCATION OF JURISDICTIONAL AREAS OF INTERNATIONAL TREATIES AND BILATERAL AGREEMENTS ON FISHING AS RELATED TO A 200 NAUTICAL MILE ZONE ADJACENT TO THE UNITED STATES

The attached maps and descriptive information relate to areas within 200 miles of the United States presently covered by international conventions and bilateral agreements, relating to fishing, to which the United States is a party. It was not possible to include all the overlapping treaty and agreement areas on one map.

The international treaties are all listed on Map I by their approximate location, with accompanying descriptive text in Part I. Bilateral agreements are described in Part II, with individual maps for each agreement, where available, which describe jurisdictional areas in specific terms. Authoritative maps do not exist for many of the treaties and agreements, as is noted where appropriate. Comments on the applicable areas covered are included where the maps are unavailable.



**Global Effect of 200 Nautical Mile Maritime Zone Claims**

## I. TREATIES

The international treaties to which the United States is a party are numbered below corresponding to areas as numbered on Map I (200 Nautical Mile Maritime Zone Claims). Areas covered by the treaties, including those areas within 200 miles of the U.S. coast, are described as follows:

1. *International Convention for the High Seas Fisheries of the North Pacific Ocean*  
Applies to the North Pacific Ocean, including the 200-mile zone off the U.S. west coast and Alaska, but excluding the U.S. territorial sea and contiguous fishery zone.

2. *Convention for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea*

Applies to the waters of the North Pacific Ocean off the western coasts of the United States and Canada, including the 200-mile zone.

3. *Convention for the Protection, Preservation and Extension of the Sockeye Salmon Fishery of the Fraser River System*

Applies near the coast between 48° and 49° N. lat., the Strait of Juan de Fuca, the Fraser River and its tributaries.

4. *Interim Convention on Conservation of North Pacific Fur Seals*

Applies to the North Pacific Ocean and adjacent seas north of 30° N. lat., excluding the U.S. territorial sea and contiguous fishery zone.

5. *Convention for the Establishment of an Inter-American Tropical Tuna Commission*

Applies to waters of the eastern Pacific Ocean. Waters off the U.S. coast under regulation at the present time are south of 40° N. lat. and east of 125° W. lat.

6. *International Convention for the Conservation of Atlantic Tunas*

Applies to the Atlantic Ocean and adjacent seas, including the U.S. territorial sea and contiguous fishery zone.

7. *International Convention for the Northwest Atlantic Fisheries*

Applies off the U.S. Atlantic coast north of 39° N. lat., and east of 71°41' W. long., excluding the U.S. territorial sea.

8. *International Whaling Convention*

Applies worldwide.

## II. BILATERAL AGREEMENTS

All of the bilaterals listed, with the exception of three (as noted), appertain to areas within 200 nautical miles of the United States. Maps detailing specific provisions of the agreements, in relation to geographic areas, are attached and numbered to correspond with the following sequential list of each agreement. Comments on specific agreements are included where explanation is required.

9. *Agreement with the Republic of Korea Concerning Cooperation in Fisheries*

Applies east of 175° W. long. in the North Pacific Ocean and eastern Bering Sea, including areas inside and outside a 200-mile zone off the U.S. (Map 9).

10. *Agreement with Japan on the King and Tanner Crab Fisheries of the Eastern Bering Sea*

Applies inside and outside a 200-mile zone in the eastern Bering Sea, excluding the U.S. territorial sea and contiguous zone (Map 10).

11. *Agreement with Japan on Certain Fisheries off the United States Coast and Salmon Fisheries*

Applies in the Northeastern Pacific Ocean and the eastern Bering Sea, excluding the U.S. territorial sea (Map 11). Map not available for certain area closures off the coasts of Washington, Oregon and California, outside the U.S. territorial sea and contiguous fishery zone.

12. *Agreement with the U.S.S.R. Relating to Fishing Operations in the Northeastern Pacific Ocean*

Applies in the Gulf of Alaska, excluding the U.S. territorial sea and contiguous fishery zone (Map 12).

13. *Agreement with the U.S.S.R. Relating to Fishing for King and Tanner Crab*

Applies inside and outside a 200-mile zone in the eastern Bering Sea, excluding the U.S. territorial sea and the contiguous zone (Map 13).

14. *Agreement with the U.S.S.R. on Certain Fisheries Problems in the Northeastern Part of the Pacific Ocean off the Coast of the United States of America*

Applies in the northeast Pacific, excluding the U.S. territorial sea (Maps 14a and 14b).

15. *Agreement Between the Government of the United States of America and the Government of the Polish People's Republic Regarding Fisheries in the Northeastern Pacific Ocean off the Coast of the United States*

Applies in the northeast Pacific, excluding the U.S. territorial sea (no map available).

16. *Agreement with Poland Regarding Fisheries in the Western Region of the Middle Atlantic Ocean*

Applies to the western region of the middle Atlantic Ocean, excluding the U.S. territorial sea (map not available).

17. *Agreement with Romania on Fisheries in the Western Region of the Middle Atlantic Ocean*

Applies to the western region of the middle Atlantic Ocean, excluding the U.S. territorial sea (map not available).

18. *Agreement with the U.S.S.R. on Certain Fishery Problems on the High Seas in the Western Areas of the Middle Atlantic Ocean.*

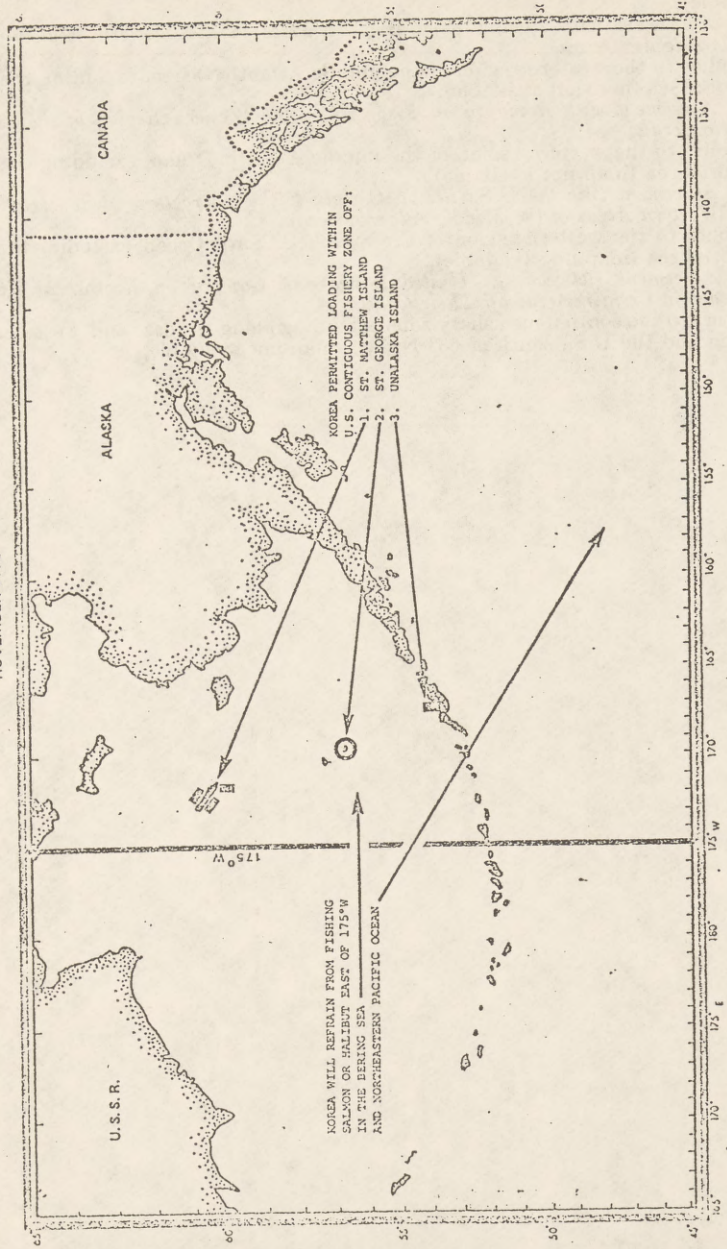
Applies to the western region of the middle Atlantic Ocean, excluding the U.S. territorial sea (map not available).

19. *Agreement Between the United States and Canada on Reciprocal Fishing Privileges in Certain Areas off Their Coasts*

Applies to the contiguous fishery zone extending along the east and west coast of Canada and the U.S., south of 63° N. lat. (map not available).

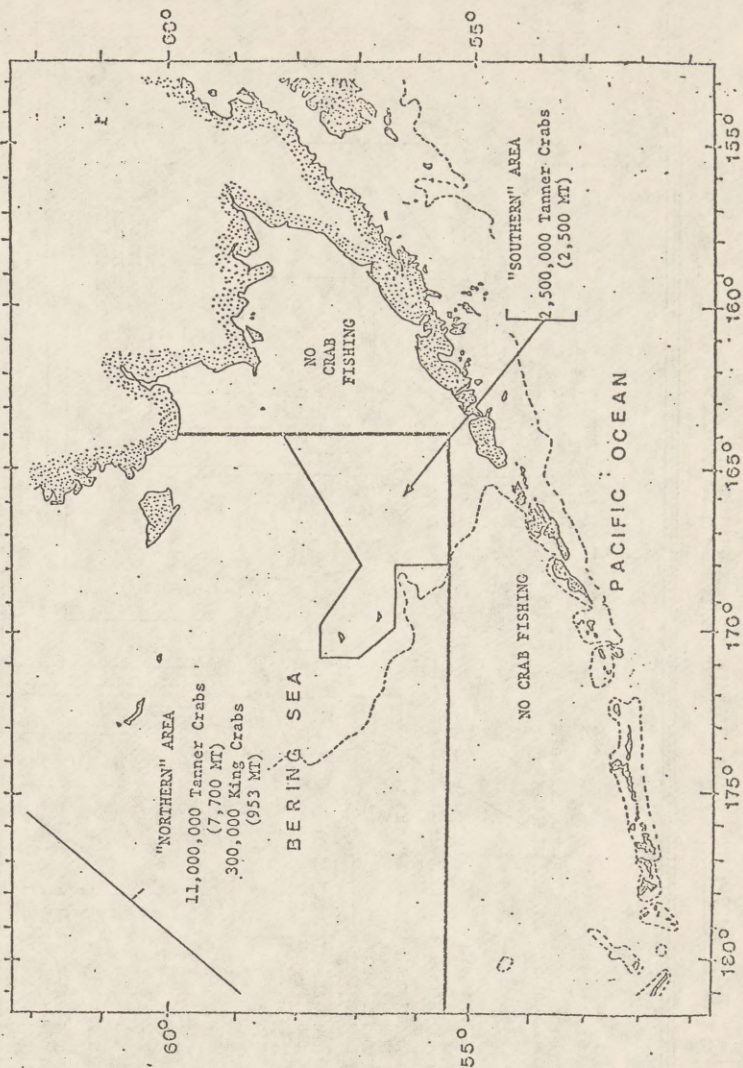
U.S.-REPUBLIC OF KOREA (SOUTH KOREA) FISHERIES AGREEMENT  
NOVEMBER 1972

MAP 9.



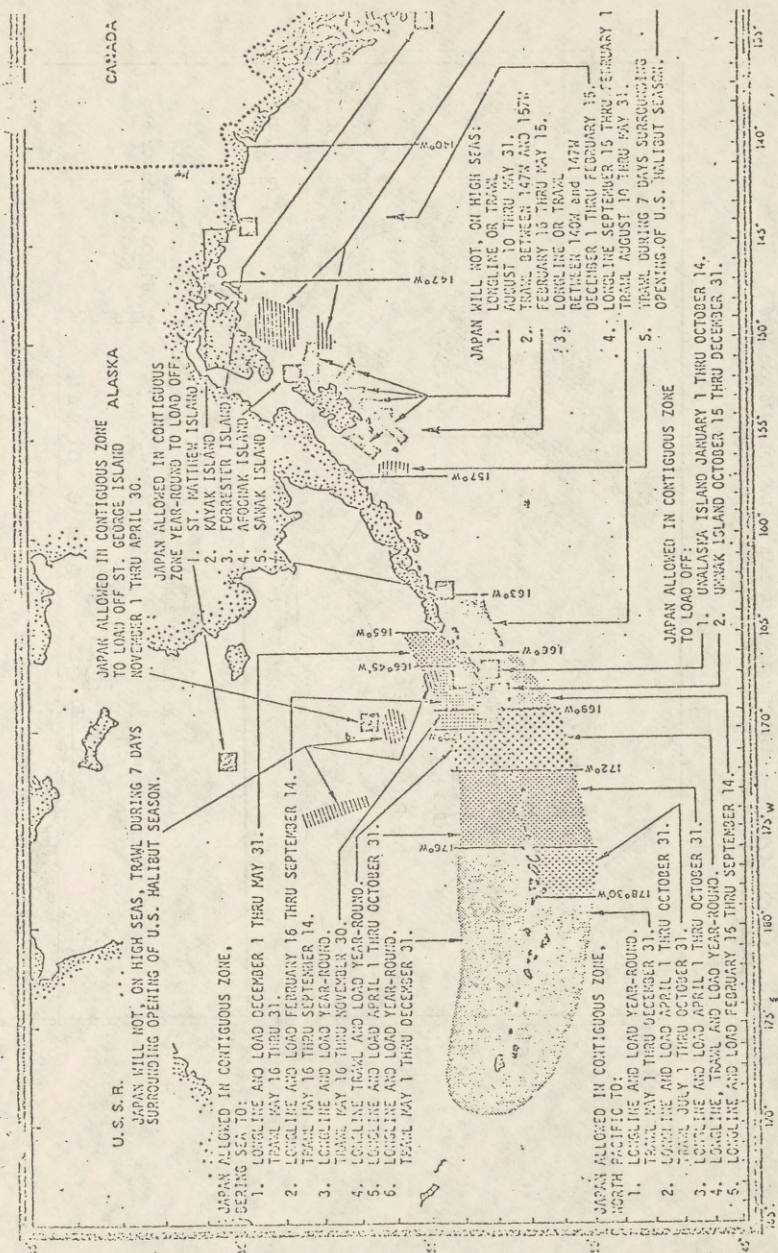
Prepared December 1972  
National Marine Fisheries Service  
Juneau, Alaska

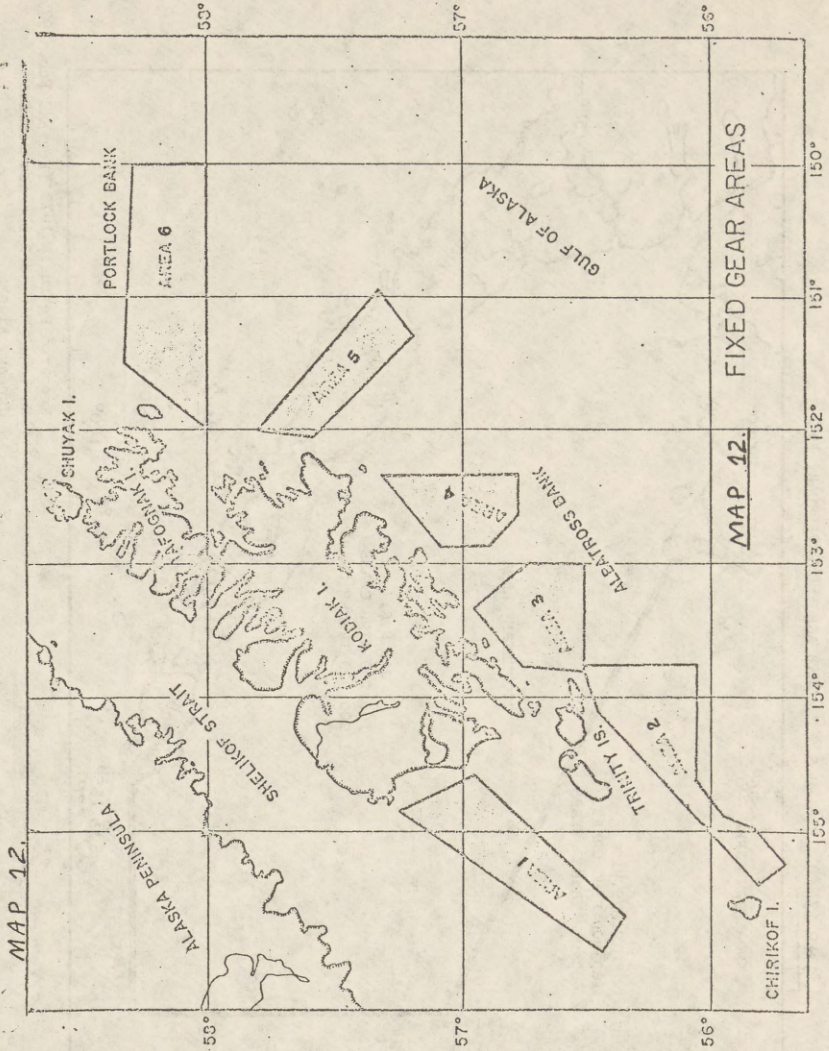
MAP 10.  
 EASTERN BERING SEA CRAB QUOTAS FOR 1975 AND 1976  
 ESTABLISHED BY U.S.-JAPAN AGREEMENT DECEMBER 1974



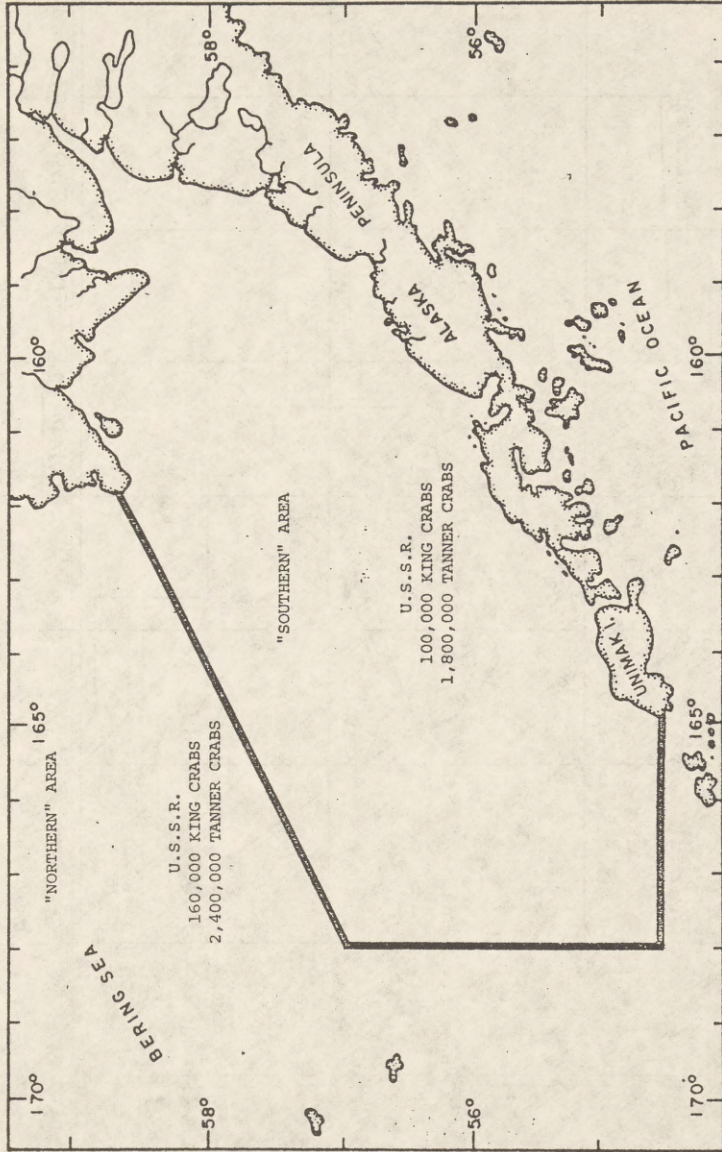
## MAP 11.

U.S.-JAPAN FISHERIES AGREEMENTS CONCERNING  
THE U.S. CONTIGUOUS FISHERY ZONE OFF ALASKA DECEMBER 1974





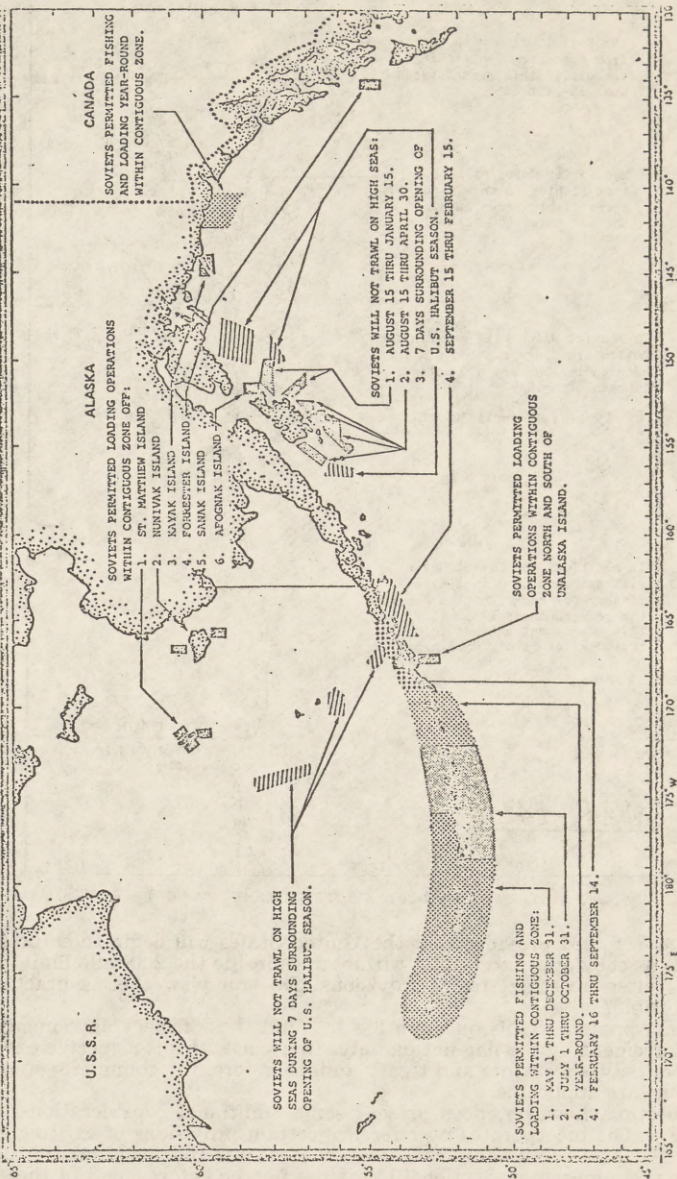
MAP 13. U.S.-U.S.S.R. CRAB AGREEMENT FEBRUARY 1975



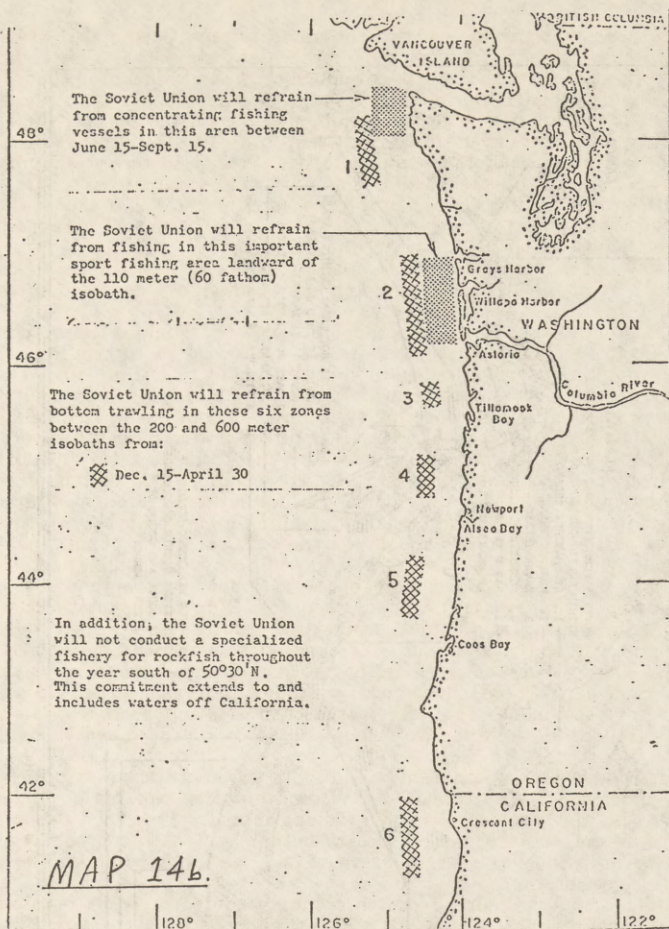
Prepared February 1973 (Revised Feb. 1975)  
 National Marine Fisheries Service  
 Juneau, Alaska

U.S.-U. S. R. FISHERIES AGREEMENTS CONCERNING  
THE U. S. CONTIGUOUS FISHERY ZONE OFF ALASKA FEBRUARY 1973

MAP 14a.



Prepared March 1973  
National Marine Fisheries Service  
Juneau, Alaska



U.S.-U.S.S.R. CONTIGUOUS FISHERY ZONE AGREEMENT (PACIFIC IN AREA) - FEBRUARY 1973

Question 3. S. 961 provides that the United States will begin to enforce treaty provisions as they apply to fishing within areas inside the 200-mile limit. In most cases this alters existing treaty provisions. Do you view this as practically or legally possible?

Answer. Apparently this question has in mind those fishery agreements which allow enforcement by the flag nation only. In a sense, this is a specific example of the conflict between statute and treaty and, therefore, the comments on question number one are applicable.

The question, however, does present some additional considerations. Section 5(a)(2) of S. 961 incorporates by reference certain provisions of existing international agreements, presumably conservation measures and then makes it unlawful to violate these measures. Section 10 provides for the enforcement of the Act and thus enforcement of the treaty provisions incorporated. It is an open question whether by violating the enforcement provisions of a treaty, the entire treaty is abrogated. Depending on the treaty, whether it has other provisions which are desirable, one may not wish to run the risk of abrogating it. Moreover, it is not clear from section 9(a)(2) whether recommendations regarding conservation developed by a commission created pursuant to a treaty are to be adopted. What happens if the United States would have preferred stronger recommendations, but deferred to the majority? Must the United States still adopt such recommendation as domestic law? Perhaps a method of avoiding such problems would be to allow the Secretary to adopt by regulation conservation measures identical to those in existing treaties (with the ability to pick and choose) and then to enforce the regulations.

*Question 4.* Can you provide us with the monthly reports compiled by NMFS concerning foreign fishing off our shores for the past 12 months? Can your office chart the information in these reports graphically for easy understanding?

Answer. The attached material is in response to question 4.<sup>1</sup> Tab A contains Regional monthly summaries of foreign fishing activity off the coast of the United States. These summaries cover the period from June 1974 to May 1975. Tab B contains monthly statistical tables which reflect activity in terms of number of vessels by type, area of operation, and flag state. These tables cover the period from June 1974 to April 1975. Tab C contains a summary of Tab B tables, showing the number of vessels, area of operation, and flag state. Again, the period covered is from June 1974 to April 1975.

*Question 5.* What is NOAA's opinion on the "citizenship" provisions (Sec. 3(2), (5)) in S. 961? What policy do you recommend to foreign investment in the domestic fishing fleet?

Answer. Although we believe subsections 3(2) and (5) would ultimately benefit the United States fishing industry, there are questions of international trade policy which should not be overlooked in your consideration of these bills. We defer, consequently, to the Department of State and the Department of Treasury for a more thorough explanation of those policy implications. It is the view of the Administration that the operation of free market forces generally dictates worldwide investment flows in the way most beneficial to the United States and all other nations. The ownership requirements which have applied to merchant vessels engaged in the coast-wise trade were deemed in the national interest of maintaining a strong, domestically-owned, coastwide shipping capability—both from the standpoint of national commerce and fleet availability in times of national emergency. Perhaps this interest is even more compelling for the fishing fleet, since it is engaged in producing a basic element in the national food supply.

Under existing fishing vessel ownership requirements, foreign nationals could readily acquire major U.S. companies owning U.S. fishing vessels. The result could well be foreign-ownership of nominal U.S. companies operating a major portion of the U.S.-flag fishing fleet engaged in harvesting fisheries resources within an exclusive U.S. fisheries zone. Takeover by foreign nationals of U.S. companies owning fishing vessels has, in fact, recently accelerated and probably can be expected to continue to do so in view of the possibility of an expanded U.S. fisheries zone.

We do not believe such a situation would be in the long-term best interest of a viable, self-sufficient, citizen-owned, U.S. fishing industry capable of adequately competing in the marketplace. The U.S. fishing industry is keenly aware of the magnitude of recent acquisitions by foreign nationals of U.S. companies owning fishing vessels, and, there is grave concern within the industry about the consequences of this acceleration.

Many foreign countries already have fishing vessel ownership requirements similar to those contemplated by S. 961 which would restrict U.S. citizen purchase of companies owning fishing vessels registered in those countries. This can be expected to become increasingly the case after international accord on extended national fisheries jurisdictions, whether or not the United States has effected requirements similar to those contemplated by S. 961.

*Question 6.*—What institutional arrangements, involving State and Federal government, should be established to manage fisheries in the 200-mile limit? How long would it take to put these institutions in operation? Assuming some delay in establishing such institutions, what would you recommend on an interim basis to begin the job of managing fisheries if S. 961 is enacted?

Answer. The management of the United States coastal fisheries is complex. The fish stocks are many and varied. We must develop fisheries management plans, each tailored to specific needs, prepared cooperatively with the States, with advice and input from affected local interests. The Federal Government must hold a position of general leadership and authority for regulating the fisheries, but its powers should be exercised in concert with the State Governments. This approach should lead to the development of rational, uniform management programs.

Three major components of a fisheries management regime have been identified.

First, the regime must have a system for data collection and analysis. The data must include accurate and timely information on catch. The catch data supplemented by resource surveys will be the basis for assessing the condition of the resources and the effects of fishing on the stocks. Information must be obtained

<sup>1</sup> This material is in the Committee files.

on the economics of the harvesting and processing industries, and on the employment in these segments in order to evaluate the impacts of any proposed regulations.

Second, the regime must have a mechanism for policy determinations and formulation of regulations. This component must consider individual, State, national, and international problems; it must be decisive and equitable in the decisions made in such areas because such decisions can affect people and how they make a living. The States should have a strong role in the development and implementation of management plans. States already have a capability for management which should be utilized insofar as is feasible and practical.

Third, the regime must have means to enforce the regulations and adjudicate violations as appropriate.

The institutional arrangements should provide that the data collection and analysis, and the enforcement functions be performed by the States or the Federal Government, wherever the needed capability may reside. There is a requirement that coordination and uniformity be ensured and this can best come from national guidelines and criteria.

The institutional arrangement for policy determination and regulation must have a strong regional framework with State and Federal participation. The generally agreed upon mechanism for this participation is Regional Fisheries Management Councils composed of both State and Federal fisheries administrators who would develop specific fisheries management plans. These plans would, of course, be applicable to domestic as well as foreign fishermen who might be permitted to participate in fisheries within the extended zone.

Informal Regional Fisheries Management Councils in an embryonic stage already exist in several major coastal areas under the National Marine Fisheries Service State/Federal Fisheries Management Program. Experience has been gained in the creation and operation of these institutions. Consequently, formal establishment of such councils could occur shortly after passage of enabling Federal legislation. However, an operational management regime could take up to a year to implement and begin publishing binding regulations because of the time involved with plan preparation, and the normal public hearing and rule making procedures. If the legislation provides for emergency regulation, some important fisheries could come under active management much more quickly, such regulations being subject to continuing review and refinement.

*Question 7.* What should the guiding principles for management be with regard to an extended fisheries zone?

*Answer.* It is a basic principle in the management of any wild animal populations that the stock, or population, be managed as a unit throughout its range, whether that range be in State waters, in the waters of two or more States, or on the high seas. Counting the commercial and recreational catch together, about 70 percent of today's domestic harvest is taken within 3 miles of shore. Most of these stocks migrate across the boundary of the 3-mile territorial sea or the boundaries of adjacent States. Hence, there should be a single focus to manage each stock throughout its range, and whether that focus is State, regional, or Federal must depend on the individual species involved, although most of these resources also occur beyond 3 miles. Failure to have a single management focus is likely to result in overfishing in instances, and inefficiency in production.

The guiding principles for effective fisheries management in an extended fisheries zone are:

1. A single focus to manage each stock, throughout its range.
2. A maximum amount of State-Federal cooperation and communication.
3. A recognition of regional interests consistent with national policy.
4. A timely and effective research and analysis system.
5. An ability to be flexible and to make rapid decisions when necessary.
6. A comprehensive and effective data collection and retrieval system for each fishery and stock under its jurisdiction.
7. An efficient enforcement system.
8. A system for rapid and equitable settlement of disputes.
9. A mechanism for appropriate input by advisory groups and the interested public.