EMERGENCY MARINE FISHERIES PROTECTION ACT OF 1975

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 AUTHORITY 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

SEPTEMBER 19, 1975

PART 2

Serial No. 94–27

Printed for the use of the Committee on Commerce

U.S. GOVERNMENT PRINTING OFFICE
60-422 WASHINGTON : 1975

COMMITTEE ON COMMERCE

WARREN G. MAGNUSON, Washington, *Chairman*

JOHN O. PASTORE, Rhode Island
VANCE HARTKE, Indiana
PHILIP A. HART, Michigan
HOWARD W. CANNON, Nevada
RUSSELL B. LONG, Louisiana
FRANK E. MOSS, Utah
ERNEST F. HOLLINGS, South Carolina
DANIEL K. INOUYE, Hawaii
JOHN V. TUNNEY, California
ADLAI E. STEVENSON, Illinois
WENDELL H. FORD, Kentucky

JAMES B. PEARSON, Kansas
ROBERT P. GRIFFIN, Michigan
TED STEVENS, Alaska
J. GLENN BEALL, JR., Maryland
LOWELL P. WEICKER, JR., Connecticut
JAMES L. BUCKLEY, New York

FREDERICK J. LORDAN, *Staff Director*
MICHAEL PERTSCHUK, *Chief Counsel*
S. LYNN SUTCLIFFE, *General Counsel*
JAMES P. WALSH, *Staff Counsel*
ARTHUR PANKOPF, JR., *Minority Counsel and Staff Director*
GERALD J. KOVACH, *Minority Staff Counsel*

CONTENTS

Page

Opening statement by the Chairman 85

LIST OF WITNESSES

Cary, Harold F., executive director, Tuna research Foundation, Terminal Island, Calif 104
Prepared statement 110
Miscellaneous articles and letters 116–140
Casey, Thomas, manager, United Fishermen's Marketing Association, Kodiak, Alaska 175
Huizer, E. J., deputy commissioner, Department of Fish and Game, Juneau, Alaska 140
Prepared statement 144
Knauss, Dr. John A., provost, Marine Affairs, University of Rhode Island, Kingston, R.I 86
Kyros, Peter, National Coalition for Marine Conservation, Washington, D.C. 163
Maw, Hon. Carlyle, E., Under Secretary, Security Affairs, Department of State; accompanied by Thomas Clingan and David Wallace 91
Miles, Dr. Edward F. chairman, Ocean Policy Committee, National Research Council, presented by Dr. Giulio Pontecorvo, professor of economics, Columbia University 170
Rogers, Hon. George, State senator from Massachusetts 86

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

Agnew, A. W., Sunset Line & Twine Co., letter of September 19, 1975 285
Alperin, Irwin M., executive director, Atlantic States Marine Fisheries Commission, letters of:
June 24, 1975 196
September 19, 1975 284
Alverson, Dayton L., Center Director, Northwest Fisheries Center, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce, letter of August 18, 1975 252
Bardin, David J., commissioner, Department of Environmental Protection, State of New Jersey, letter of September 18, 1975 281
Barton, Donald M., Whitney-Fidalgo Seafoods, Inc., letter of September 23, 1975 289
Bevan, Donald E., assistant vice president for research, professor of fisheries and marine studies, University of Washington, letters of:
September 2, 1975 267
September 19, 1975 268
Bryant, James E., president, Balboa Angling Club, letter of September 18, 1975 282
Bryson, John C. secretary, Department of Natural Resources and Environmental Control, State of Delaware, letter of August 26, 1975 257
Chapman, Douglas G., Dean, University of Washington, letter of August 15, 1975 251
DeWitt, Frank P., DeWitt Plastics, letter of September 19, 1975 283
Doolittle, Frederick S., president, Shurkatch Fishing Tackle Co., Inc., letter of September 18, 1975 281
Dukakis, Hon. Michael S., Governor of Massachusetts, letter of September 19, 1975 283

Page

Dunton, Ammon G., Jr., Dunton, Simmons & Dunton, letter of September 2, 1975 ---- 269
Esch, Hon. Marvin L., U.S. Representative from Michigan, letter of March 20, 1975 ---- 195
Frost, W. Scott, letter of August 11, 1975 ---- 246
Fullerton, E. C., director, Department of Fish and Game, State of California—Resources Agency, letter of July 17, 1975 ---- 239
Garrison, Clayton T., executive director, Texas Parks and Wildlife Department, letter of September 25, 1975 ---- 296
Gerlach, C. W., president, ANDE, Inc., letter of September 19, 1975 ---- 283
Gravel, Hon. Mike, U.S. Senator from Alaska, statement ---- 188
Grice, Frank, director, Division of Marine Fisheries, Department of Fisheries, Wildlife and Recreational Vehicles, Commonwealth of Massachusetts, letter of September 17, 1975 ---- 278
Hart, David H., fish and game councilman, Department of Environmental Protection, State of New Jersey, letter of September 22, 1975 ---- 286
Harville, John P., executive director, Pacific Marine Fisheries Commission, letters of:
August 29, 1975 ---- 258
September 12, 1975 ---- 272
Hudson, Howard, chairman and Glenn Penn, vice chairman, Hoh Tribal Business Committee, Hoh Indian Tribe, letter of September 4, 1975 ---- 271
Hulsey, Andrew H., director, Arkansas Game and Fish Commission, letter of May 14, 1975 ---- 235
Ingersoll, Robert S., Deputy Secretary of State, Department of State, letter of April 16, 1975 ---- 195
Jensen, Ronald, chairman of the board, Shellfish Conservation Institute, letter of June 27, 1975 ---- 237
Jones, Ralph S., president, Alaska-Shell, Inc., letter of May 15, 1975 ---- 235
Joseph, Edwin B., director, South Carolina Wildlife and Marine Resources Department, letter of September 16, 1975 ---- 277
Kameon, Herbert R., executive vice president, Ocean Fish Protective Association, letter of August 19, 1975 ---- 256
Keen, E. A., associate director, Center for Marine Studies, San Diego State University, letter of August 29, 1975 ---- 264
Kissinger, Hon. Henry A., Secretary of State, speech before the ABA annual convention, Montreal, Canada ---- 179
Kruse, Thomas E., assistant director fish division, Department of Fish and Wildlife, letter of July 21, 1975 ---- 241
Laurent, William J., advertising manager, Marine/Industrial Products Operations, Chrysler Corp., letter September 22, 1975 ---- 288
Leary, Terrance R., director, shellfish program, Texas Parks and Wildlife Department, letter of August 12, 1975 ---- 248
Levering, Samuel R., secretary, U.S. Committee for the Oceans, statement 187
Lokken, Harold E., manager, Fishing Vessel Owners' Association, Inc., letter of September 12, 1975 ---- 275
Lyles, Charles H., chairman, Gulf States Marine Fisheries Commission, Mississippi Marine Conservation Commission, letter of June 20, 1975 ---- 236
Magnuson, Hon. Warren G., chairman, Committee on Commerce and U.S. Senator from Washington, accompanying letter of explanation ---- 199
Mauermann, Robert G., executive director, Texas Shrimp Association, letter of August 12, 1975 ---- 249
McCloskey, Robert J., Assistant Secretary, Congressional Relations, Department of State, letter of July 25, 1975 ---- 242
McCoy, Edward G., director, North Carolina Department of Natural and Economic Resources, letter of May 30, 1975 ---- 235
McKean, John W., director, Department of Fish and Wildlife, State of Oregon, letter of September 18, 1975 ---- 280
Mehos, John A., Liberty Fish and Oyster Co., letter of August 29, 1975 ---- 265
Moore, John Norton, Chairman, NSC Interagency Task Force on the Iowa of the Sea and Deputy Special Representative of the President for the Law of the Sea Conference, Department of State, letter of August 11, 1975 ---- 179
Morrison, David S., Woodstream Corp., letter of September 18, 1975 ---- 279
Moss, Frank T., associate editor, Yachting Publishing Corp., letter of September 28, 1975 ---- 282

Page

Murphy, Dennis J., director, Department of Natural Resources, State of Rhode Island and Providence Plantation, letter of August 28, 1975 258
National Marine Fisheries Protection and Management Act of 1975, staff working paper, June 11, 1975 200
Normandeau, Andrew A., Ragan & Mason, letter of September 25, 1975 297
Ristori, Allan J., chairman, Emergency Committee to Save America's Marine Resources, letter of September 22, 1975 285
Robinson, Irwin, vice president, marketing communications, Garcia Corp., letter of September 23, 1975 289
Saletic, William G., executive manager, Seiners Association, letter of August 13, 1975 250
Schoning, Robert W., director, National Marine Fisheries Services, National Oceanic and Atmospheric Administration, Department of Commerce, letter of 299
Schedler, Thomas R., executive vice president, American Fishing Tackle Manufacturers Association, letter of June 10, 1975 236
Snow, George W., executive director, Louisiana Shrimp Association, letter of August 22, 1975 256
Stroud, Richard H., executive vice president, Sport Fishing Institute, letter of August 19, 1975 254
Utz, William N., executive director, National Shrimp Congress, Washington, D.C., statement 192
Washburn, John N., Ph. D., L.L.B., statement 195
Weld, Christopher, M., National Coalition for Marine Conservation, Inc., letter of July 28, 1975 243
Wolff, Richard C., vice president, Garcia Corp., letter of September 23, 1975 288
Yonker, W. V., executive vice president, Association of Pacific Fisheries, letter of August 5, 1975 244

EMERGENCY MARINE FISHERIES PROTECTION ACT OF 1975

FRIDAY, SEPTEMBER 19, 1975

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

The committee met at 10 a.m. in room 5110 of the Dirksen Senate Office Building; Hon. John O. Pastore presiding.

Senator PASTORE. The hearings are in order.

We will hear a statement from Senator Magnuson.

OPENING STATEMENT BY THE CHAIRMAN

The CHAIRMAN. I think you and I appreciate this because I have to get back to the Senate floor for the HEW appropriation bill, which I am handling. I have a short statement.

This morning the Commerce Committee is conducting its final hearing on S. 961, a bill to establish a fishery management limit of 200 nautical miles. I think the time has come to move this bill toward enactment as the law of the land. The U.N. Law of the Sea Conference remains bogged down, still in disagreement. As Canada's Minister of State for Fisheries recently said so well and I quote him:

> Fishermen cannot eat negotiating texts and fish stocks cannot be built on them. Our ability to wait is limited by harsh realities.

I think we can no longer wait for a conference that offers no hope for a timely decision on fishery conservation. We can no longer delay solving the very real problem of overfishing on the basis of hope and another promise from the Department of State. Evidence of the continued failure of the international fishery agreements still grows and contributes to an overwhelming need to find a meaninful solution.

I will give an example. Between June 10 and June 20 of this year, nations party to the International Commission for the Northwest Atlantic Fisheries haggled over whether overfishing should be allowed to continue from 5 to 13 years. They finally agreed on a catch quota of 650,000 tons, excluding squid. This quota scientists say will prevent North Atlantic fish stocks from reaching healthy levels for 10 or more years. Some compromise. And the United States rightfully objected to this anticonservation quota. For the sake of our fisheries, we must do better than that. With jurisdiction out to 200 miles, this Nation will do better than that.

I believe a new rule of customary international law is developing which gives coastal nations a broad conservation authority over fisheries resources out to 200 nautical miles. The conference itself has all

Staff member assigned to these hearings: James P. Walsh.

but finally agreed on this issue. The passage of S. 961, with reasonable management provisions and control over foreign fishing, will contribute to that final result. But I know that the State Department will testify that we ought to wait again.

We lost more time this year and the next meeting of the international conference is to be held in March, I believe, in New York. Even if they came to some agreement, which I think would be a miracle in this case, in that short of time we will lose next year's fishing as well.

So it is my intention to ask the committee to proceed. Instead of taking the view that this is going to hurt our negotiations with other countries, it seems to me, it will be of great help to the United States in negotiating the finality of the 200-mile limit.

Thank you, Mr. Chairman.

Senator PASTORE. Thank you.

Our first witness is State Senator George Rogers, of New Bedford.

STATEMENT OF HON. GEORGE ROGERS, STATE SENATOR FROM MASSACHUSETTS

Mr. ROGERS. I will read the statement, if I may.

I know all of you are particularly well acquainted with the outstanding work that Congressman Gerry Studds has done with the 200-mile bill.

My presence here this morning is intended to demonstrate how important the issue is to the Massachusetts State Senate and also the city of New Bedford and my local district.

I have been appointed to officially represent the State senate and city council of New Bedford to demonstrate how important the issue is. As mayor of New Bedford in 1970 and 1971, we recognized the necessity of action of this type, but it was not until Congressman Studds took office that Congress was acquainted with the issue. It has recognized that in order for our industry to survive to provide employment for a vast number of our citizens, such a bill must be enacted. Legislation is important from a health standpoint, too, as so many of our citizens, your constituents, have enjoyed the fresh New Bedford sea products. Unless action is taken, fresh seafood will be a delicacy that most will not be able to afford. It will be necessary for those who enjoy this food to rely on foreign nations, especially the Russians, for frozen products.

Naturally, you recognize that any such limitation will possibly affect international relations. It is time to think about our people, our economy, and our country. This legislation is vital for the reasons cited by Senator Magnuson.

I must say, Mr. Chairman, that I'm honored to appear before you as a Senator from your neighboring State. I commend you. I hope this legislation is enacted.

Senator PASTORE. Thank you. Next, we have Dr. Knauss.

STATEMENT OF DR. JOHN A. KNAUSS, PROVOST FOR MARINE AFFAIRS, UNIVERSITY OF RHODE ISLAND, KINGSTON, R.I.

Dr. KNAUSS. I appreciate the opportunity to testify about S. 961. As background, I am an oceanographer who still occasionally gets to

sea, but perhaps more importantly, I am director of one of the major university oceanographic laboratories in the United States. These laboratories have an organization called the University National Oceanographic Laboratory System (UNOLS), and I am its current chairman. For a number of years, I have been associated with a group in the National Academy of Sciences who have closely followed the progress of the law of the sea and its effects on science, and I am the present chairman of this group. I have been a member of the State Department's Advisory Committee on the law of the sea since its inception, and in this capacity I have spent a few weeks at each of the preparatory meetings and the first two sessions of the Conference itself. At the recent Geneva session, I was present the entire time. I would like to emphasize that I am not speaking on behalf of any of these groups today, but in my private capacity. However, I think I have some understanding of the issues involved; if I do not, it is not because of lack of exposure.

In my view, the enactment into law of S. 961, or similar legislation which unilaterally creates the equivalent of a U.S. 200-mile economic zone, will do considerable damage to the U.S. oceanographic community. It will make what is already a very difficult task, almost impossible; namely, the negotiation of the right to do scientific research within the 200-mile economic zones of other countries. On a worldwide basis, this economic zone encompasses some 30 to 35 percent of the world oceans. In terms of its intrinsic scientific interest, the region is proportionally much greater.

Senator PASTORE. On that point, may I interrupt for a question or two. You make a distinction between the right of navigation in international waters and the right of a coastal country to preserve conservation of its fish species. Do you see a distinction there?

Why would the 200-mile limit prevent scientific experimental cooperation? We're trying to preserve fish species. I'm told the haddock are gone. These big boats come from Bulgaria, Russia, and from all over the world. They have canning facilties. They sweep up all our fish. You come from south county in Rhode Island. You know the furor down there on the part of fishermen.

How do you accommodate in some way the need for scientific research, the need for international navigation of waters, and the right of a country to preserve its fish species in order to feed its people?

Dr. KNAUSS. Senator, later in this statement, I do address this question. I am in favor, and have been in favor, for the past 5 years, of the coastal countries, including the United States, to regulate its fisheries to 200 miles. In principle, I am in favor of what you are trying to do in S. 961, but I'm against its passage at this time. I am in favor of trying to get the agreement and working harder to get the agreement through international negotiation.

As I see it, passage of S. 961 will jeopardize and make difficult getting agreement on other parts of the 200-mile zone. Several aspects of pollution control will be more difficult if we go the unilateral 200-mile route. Most important of all to me, it will be difficult to get international agreement on international obligations for scientific research if we go 2 0-mile unilaterally.

Senator PASTORE. I don't want a dispute, but hasn't every meeting led to frustration so far?

Dr. KNAUSS. It's a long, difficult, and tedious task.

Senator PASTORE. In the meantime, we have lost all our haddock. Only a short while ago, I had to be instrumental in getting $250,000 for the Newport fishermen who lost all of their lobster gear, just swept away by the monstrous ships that come in and clean up all the fish. What do you tell these people? Tell those people to wait and wait and wait and wait until these fellows get together some kind of agreement?

In the meantime, Peru seizes our ships. We have to pay back the fishermen for the confiscation. We have to help pay the fine, and then, on top of it all, we give them foreign aid.

Dr. KNAUSS. One thing S. 961 has done, is to get the attention of the people at the top of the State Department on this issue. It seems to me that most of the nations we worry about in respect to fishing off our coast—U.S.S.R., Germany, Japan, and so forth—we deal with in a number of different ways. It would seem to me that if Under Secretary Maw or his boss would contribute a small percentage of the effort to reach agreement on these issues as they do on some other issues concerning these countries, that the kind of problem referred to in the recent ICNAF negotiations might not have happened.

Senator PASTORE. We'll hear Mr. Maw next. You may proceed.

Dr. KNAUSS. I do not really expect anything I say here today is going to change any votes. Coming from New England, I am well aware of the political and emotional momentum behind this bill. But I would be remiss in my obligations to the present and future marine science community, and to others, if I did not point out to you the probable crippling effect the passage of this bill at this time will have on our $100 million U.S. oceanographic program.

Senator PASTORE. Do you believe this is strictly a political and emotional question?

Dr. KNAUSS. I think there is a large component of political and emotional feelings behind this bill.

Senator PASTORE. Have you talked to Jake Dykstra?

Dr. KNAUSS. I have. We have discussed the issue many times and have agreed to disagree on this issue.

Senator PASTORE. That's right. He's a fisherman.

Dr. KNAUSS. I believe the long-term importance of establishing an international regime that facilitates marine science is more important than whatever short term economic advantages may be gained by establishing our own 200-mile economic zone 1 or 2 years before it is agreed to internationally. The oceans are a key to many important problems, including the understanding of climatic change and world-wide pollution, and perhaps even the development of new sources of energy and mineral resources. The United States presently has the strongest oceanographic program in the world. We should be working toward the facilitation of research through international agreements, and not the passage of laws that make this agreement more difficult.

To be fair, I must note that it will be very difficult to negotiate an acceptable regime on marine scientific research under any circumstances and it may not be possible. However, I am somewhat more optimistic now than I was a year ago, and certainly more than I was 2 years ago. It is an uphill fight, but at least the trend is in the right direction. Our hope is to establish the right to conduct bona fide scientific research in the economic zones of the world oceans assuming we live up to certain internationally agreed to obligations.

As I have said on a number of occasions, science and scientists can adjust to almost any level of bureaucracy as long as we know what the rules are, and as long as the rules do not change arbitrarily. What will cripple science is if each nation can establish its own rules for the conduct of scientific research, change these rules at will, and forbid scientific research in the economic zone.

I believe the only way we will get a uniform regime for science is through international agreement at the Law of the Sea Conference. At present, the number of coastal nations that want complete control over science outnumber those that want some form of an internationally agreed upon set of rules. I have been told that as soon as the United States establishes a 200-mile fisheries zone, other countries will do the same. In each, we can expect the relevant law to include the current national position—in most cases this will mean control of science.

There is one point about which I would like to be very clear. I am in favor of each nation having control over its coastal fisheries. My written record on this point goes back 5 years to the first paper I ever wrote on the law of the sea. In my view we stand a much better chance of successfully managing our fisheries resources by national legislation than by international agreement. Thus my argument with S. 961 is not the intent of the legislation, but the fact that passage of this legislation at this time will jeopardize reaching agreement on another major item of U.S. policy, and one with which I am vitally concerned; namely, marine scientific research. I continue to hope that there are other ways for the U.S. Government to act in the next year or 2 in order to resolve the conservation problems of the fisheries and the economic problems of the fishermen.

I am not convinced the Government has done all it could in the past on either set of problems, and I would urge Congress to find other ways to solve the short term problems of the fishermen and the fisheries.

In summary then I would urge this committee not to report out S. 961 as long as progress continues to be made at the Law of the Sea Conference, albiet slowly.

I feel somewhat like Don Quixote in making that recommendation.

Senator PASTORE. You're a smart man.

Dr. KNAUSS. In my view, we will know in the next 18 months whether we have reached an impasse on deep sea mining, the area where we are furthest from accommodation. I have been told, however, that the chances of stopping this bill within the Commerce Committee are very slight. Assuming it is reported out I would hope that the bill would not inadvertently control scientific research in the process of establishing managerial regulations for fisheries. As written we are concerned that such might occur. We have indicated our suggestions informally to your staff and I would like to make these points a matter of record.

SUGGESTED AMENDMENTS TO S. 961 SO AS NOT TO PREJUDICE THE CONDUCT OF SCIENTIFIC RESEARCH

As written the definitions of section 3 for fishing, fishing vessel, and fishing support vessel could be interpreted to include biological research done on research vessels so equipped. The bill gives to the Secretary of Commerce the right to authorize foreign fishing, section 102,

and to regulate U.S. and foreign fishing, section 201. Thus, it appears to a number of us that the bill gives the Secretary of Commerce the right to regulate biological research. So as to not leave any ambiguity on the matter we believe the declaration of policy, section 2, should be amended as follows:

In section 2C, paragraph 2, add the underlined words:

To authorize no unreasonable impediment to or interference with recognized legitimate uses of the high seas, including scientific research, except with respect to the protection and conservation of fishery resources as provided in this Act;

In section 2C add a new paragraph which would read:

Nothing in this Act shall be interpreted to include the conduct of scientific research. Any law or regulaton adopted pursuant to this legislation shall be without prejudice to the conduct of scientific research concerning fish.

Senator PASTORE. You are a good oceanographer. All of us in Rhode Island are pround of the work that you do. My colleagues and I have been interested in the development of the sea grant college program and I know what your problems are. That is an academic problem to a large extent. This one here is a real problem. You say it is political. It depends on what you want to define as being political.

But if you have a family man coming to you saying his little boat was swept aside and destroyed and that we can't compete—we work on the free enterprise system. These men buy their boats. They have to mortgage it in many cases.

Some banks are skeptical as to the soundness of the investment with boats. Other countries nationalize. They can afford to use monstrous boats. They sweep up most of the fish. It is a real problem.

It is true that, if we could negotiate an international agreement, this would be the preferred solution to the problem. But we never seem to get anywhere and we on this committee feel this bill may be the nudge that would be necessary, if it becomes law. I daresay that if the State Department is opposed to it, it may be another subject for a veto. There again we have a real problem.

It is a real problem and I want to thank you for coming. I needed your position. I hope I didn't say anything to you that may have offended you. This is a very real problem.

Dr. KNAUSS. I am not easily offended, Senator, I can assure you.

Senator PASTORE. Thank you very much.

Now, Mr. Maw.

I must say there are some people who feel we are unanimous on this. It isn't true at all. There are other people interested in long-distance tuna and shrimp fishing look at this differently. Sometimes we have had to make restitution for the fines that have been paid to other countries.

This has become a problem with many nations in the world. I repeat again it would be a wonderful thing if we could negotiate an international agreement. So far we have been led from one frustration to another, and another, and another.

How do we nudge these people into doing something? I think in the long run it will have to be an international agreement, one way or the other. There will have to be some understanding, making a distinction between conservation and navigation and scientific research.

We are glad to have you, Mr. Maw, and you may proceed.

STATEMENT OF HON. CARLYLE E. MAW, UNDER SECRETARY FOR SECURITY AFFAIRS, DEPARTMENT OF STATE; ACCOMPANIED BY THOMAS CLINGAN; AND DAVID WALLACE

Mr. MAW. Is this in operation?

Mr. PASTORE. We are in charge of communications here and I think we have the worst system in the whole capital.

Mr. MAW. Accompanying me today is Thomas Clingan, who is the deputy associate second in charge of ocean fisheries for the past year.

Also accompanying me is David Wallace from the Department of Commerce. He is active in the negotiations of fisherman's agreements.

Mr. Chairman, I wish to follow up on the statement that was made by John Norton Moore before this committee on June 3, 1975. At that time, he indicated that the administration would undertake a reevaluation of its interim policy on fisheries in view of our disappointment at the slowness with which the Law of the Sea Conference is proceeding. This reevaluation is essentially complete and I am prepared today to provide you with our conclusion and some preliminary plans.

Mr. Chairman, you and the other members of this committee have worked with skill and persuasiveness over a period of many years to foster the development of fisheries policies that will protect the long-term interests of U.S. fishermen. We have considered the strong preference of many Members of Congress for a unilateral extension of fisheries jurisdiction to 200 miles and the nearly universal acceptance of a 200-mile economic zone in the Law of the Sea Conference as part of an overall comprehensive Law of the Sea Treaty. We have considered as well the necessity to construct a policy which encourages the solution of oceans problems through multilateral agreement. The administration shares your concern over the state of the fisheries stocks, particularly the depletion of fisheries stocks off our coasts. We do differ on the means to cope with the problem. The President has decided to continue to oppose unilateral legislation, such as S. 961, extending fisheries jurisdiction off the U.S. coasts. At the same time, the President is committed to undertake immediate initiatives to deal with this problem. I will elaborate on these intiatives later in my statement.

Mr. Chairman, in evaluating the need for unilateral action, I suggest that there are three questions which should be answered. First, what are the prospects for agreement on a Law of the Sea Treaty in the near future? Second, what are the costs of unilateral action? And third, is there a way, other than unilateral action, to achieve our fisheries goals without damaging our oceans interests?

First, the negotiations in the Law of the Sea Conference have progressed more slowly that we wanted or expected. However, in two substantive sessions, totaling 18 weeks of work, the Conference has made substantial progress toward an agreement despite the broad range of interests involved. Most of the technical work of the Conference has been accomplished; it remains to be seen if the political will exists to conclude the treaty in a timely fashion.

The great potential of the world's oceans can best be developed with the stability provided by broadly based agreements. Without such agreements, we face the peril of constant dispute and confrontation which will accelerate as the need to use the oceans and its resources

grows. The President has given his strong support to the effort to reach agreement in the Law of the Sea Conference. It is our assessment that there are good prospects for a successful completion of the Law of the Sea Treaty, and it must be given every opportunity to succeed. The stakes are too great for the United States to fail to make every effort to reach an equitable agreement.

With regard to the second question which I posed, the potential costs of unilateral action, I believe the administration has made its position clear over the last several years.

As this committee is aware, our long held opposition to unilateral action does not stem from a basic objection to the need for extended jurisdiction over coastal fisheries.

Senator PASTORE. May I interrupt to ask you a question?

It would be an interesting answer if you can answer this question. Maybe the gentlemen from the Commerce Department will be versed in this. Speaking of the abundance of the fish species within the 200-mile limit or within any limits of the coast of any country, where would you place the United States of America as a continent where fish can be found? In other words, as an individual country, is this the country which has the most to lose unless this thing is brought under control? Does anybody have that answer? I don't care who answers it. It should be answered. This should be explored. We have been debating the possibility, if we passed the law, whether or not that would accelerate or terminate an international agreement. It comes to the basic pragmatic, bottom-line denominator, who has the most to lose and who has the most to gain?

Mr. MAW. The United States has the most to lose and also the most to gain from the treaty.

Senator PASTORE. When you say the most to lose, you mean most of the fish being fished out by foreign governments is usually around the continent of the United States?

Mr. MAW. We are essential coastal fishermen in our country, except for tuna.

Senator PASTORE. Why won't the passage of a law controlling these other countries which come here, why won't this then encourage an international agreement? Wouldn't they want the United States to make a concession in that regard? We aren't the only nation in the whole world, but most of the fish is being fished out here. We are up against the same thing in Latin America. Our tuna boats are being seized every day.

The big question is, these people come here from all parts of the world, many beyond the Iron Curtain and they are fishing us dry.

If we passed a law unilaterally as an incentive, would it help or would it hurt? I get this continuous argument, let's get an international agreement. If we are looking for a piece of paper with a signature on it, yes, we will get an agreement. It won't amount to much.

But the big question is if we defer and wait and wait, don't we stand the most to lose of any country in the world?

Mr. MAW. I fear the answer to your question, Mr. Chairman, is we would stand to lose by asserting a unilateral action. We cannot proclaim our resources interests in the ocean and move unilaterally to protect them without expecting other nations to act similarly in regard to their resources.

Senator PASTORE. How much do we fish in other countries, as against what we fish out of our own coast? What do our fishermen get when they go to foreign coastal waters, as compared to what other countries' fishermen get from our coastal waters? I want everything compared. There has been frustration after frustration. I have been told that we are working out our technical differences but it has become political. It is like the Russians saying, "We want complete disarmament" and when you try to get them down to the specifics, you have trouble.

Mr. MAW. We will supply this information for the committee, Mr. Chairman.[1]

Our offshore fishing is, of course, very substantial, and others fishing in our waters is also substantial. The exact numbers we will provide for you.

Senator PASTORE. I would appreciate that very much.

Mr. MAW. One of the problems of unilateral extension is that there are likely to be broader claims than fisheries claims by other nations. We are dependent on the territorial water of others for transport of oil for navigational problems. We have definite interest and other interests in the coastal waters other than the United States. We have great interest in freedom to pursue scientific research which could be impaired by others declaring unilateral interests in their water.

We feel strongly, also, that in order to be effective, an extension of fisheries jurisdiction must be accomplished through international agreement. Put quite simply, we believe that uses of the oceans must be governed by agreed rules and by cooperative efforts. Such an ap-approach is the only one that truly supports all of our national interests.

Unilateral assertions of jurisdiction can only lead to confrontation. The administration continues to believe that unilateral action by the United States would have an immediate substantial negative impact on our tuna, shrimp, and salmon fishermen, and preempt efforts we are making in the Law of the Sea Conference and elsewhere to negotiate on their behalf.

Senator PASTORE. Could you be more specific on that last statement and document it? You say the administration feels we plan to lose on tuna and salmon. Can you be more specific? In what way?

Mr. MAW. If we assert——

Senator PASTORE. Where do we go and get our tuna?

Mr. MAW. If we assert the right unilaterally to control the fishing within 200 miles, it is difficult for us to deny that right to others. Others will extend that right, not only to fishery conservation but other resources. One of our main problems in the Law of the Sea Conference has to do with navigation, pollution control.

Senator PASTORE. Do we have figures as to how many of our fishermen fish within 200 miles of Japan, Bulgaria, Russia, as compared to the fishermen from those countries, for example, that come and fish off our coast? These figures are important When we speak about what will stimulate and give the initiative, it depends on what you have to win and what you have to lose. I think we are talking too much in generalities here. We ought to get to specifics.

---

[1]At the time of going to press, November 21, 1975, the information had not been submitted.

I'll admit insofar as the fishermen in Massachusetts and Rhode Island are concerned they feel a strong impact and naturally they are up in arms.

Now, that is only part of the country.

On the other hand, we have to operate as a government. The argument these people are making is, they come and take away from us and we don't take away from them. That being the situation, why don't we stand up and enforce the birthright of America? Do we have to give it away all the time?

Senator STEVENS. Mr. Chairman, the Senate Commerce Committee is conducting hearings today on S. 961, an interim fisheries conservation act. Few people, either in the fishing industry or Government, disagree that the fisheries of the United States must be protected through a 200-mile extended-fisheries zone. Controversy exists only as to how such a zone should be created.

Some of my colleagues argue that extended jurisdiction should be achieved through international agreement. An international Law of the Sea Treaty would be highly desirable and I support U.S. efforts to achieve that end. Unfortunately, it will probably be some 3 to 6 years before an international agreement can be reached, if one can be worked out at all.

Despite the efforts of the State Department, the foreign fishing catch off our coasts exceeds the maximum sustained yield for many species. If we wait the 3 to 6 years for the Law of the Sea Convention to reach an accord, our fisheries stocks will have become depleted beyond repair.

S. 961 is an interim conservation measure designed to protect the stocks of our coastal species during the negotiations of the international Law of the Sea Treaty. The bill would give the United States the authority to manage (1) fisheries within 200 miles of its coast and (2) anadromous species originating in the U.S. water, such as salmon through the entire range of their migration. Preferential rights will be given to U.S. fishermen, and foreigners would be allowed to take only a safe level of surplus fish based upon the optimum sustained yield concept. It is specifically stated in S. 961 that the legislation will be automatically terminated at such time as an internation Law of Sea Treaty is reached.

Regarding the reference to salmon in that last statement you made, Mr. Secretary, as I understand the article 1 of the draft treaty, Japan could continue to fish outside the 200-mile limit and would make the sole determination of whether or not it was suffering economic dislocation as a result of any prohibition against fishing on the high seas. Japan is the only one fishing for our salmon on the high seas. So how would the treaty benefit our salmon any more than our unilateral action would? The only real benefit, I see, is the assertion of the 200-mile limit which would give us leverage over the Japanese. Under the treaty we would have no leverage over them at all. If I understand that treaty draft correctly, we have no right to interfere with their economic dislocation.

Mr. MAW. The treaty draft does contemplate some provision for the species on the high seas.

Senator STEVENS. It contemplates that if the country suffers economic dislocation, it can continue to fish, is that not correct?

Mr. MAW. Subject to the dispute settlement provisions and this is one aspect of the treaty we hope will improve.

Senator STEVENS. I hope you will, too. Our bill doesn't have that in it. Our bill extends the fisheries zone to 200 miles, period, and, in view of the fact that the Japanese take 95 percent of the fish they take within the 200-mile limit, I think, I can get control of the 5 percent pretty fast.

Mr. MAW. It is not just them we have to be concerned about.

Senator STEVENS. As far as salmon is concerned we have no one else to be concerned with.

Mr. MAW. No one else at the moment.

Senator STEVENS. I have asked the State Department if anyone else will be fishing for salmon. It looks like the treaty is an open invitation for other countries to begin fishing for salmon because if they are fishing for salmon at the time the treaty is operable, they can continue fishing for that salmon for economic dislocation reasons. It is a defect in the treaty as far as I am concerned.

Mr. MAW. That is right. We have had one other nation fishing for salmon in the Pacific last year. It is Taiwan. We sent a commission to Taiwan and they were able to get the boat withdrawn.

Senator STEVENS. I applaud your efforts in that regard. They have not established a fishery yet. Should they establish a fishery between the time the treaty is negotiated and the time it is ratified they would be protected under the current draft of the treaty.

Senator CASE. Would the Senator yield for clarification of something that the Secretary said?

You said that Senator Stevens was essentially right in his interpretation of the effect of the draft treaty with respect to Japan's fishing and the economic problems of Japan as a justification. You said this was subject to provision for dispute, having disputes in the treaty. Would you explain how that provision works, what guidelines there are for the settlement of disputes and how the body that decides those disputes is made up?

Mr. MAW. I will turn that question to Mr. Clingan.

Mr. CLINGAN. Senator Case, as you know, it has been our intention in negotiating the salmon article in the Law of the Sea Treaty that there would be one exception and that is in the case of economic dislocation. It is also true on the first instance, it would be a claim on the part of the Japanese or another country to come within the economic dislocation provision. However, it is our view that that could not be arbitrarily exercised and would have to be exercised subject to the settlement amendment, which we are negotiating in the treaty. There could be a number of ways. It is our view there should be an appropriate tribunal to which the matter could be sent for rapid and accurate, equitable settlement of the dispute.

Senator CASE. The question I have really is directed to the point as to whether this is really a safeguard that is sound or whether it doesn't mean substantially, if Japan within this tribunal is able to establish it is in economic distress, then they can continue fishing as they wish.

Mr. CLINGAN. It should not be difficult for Japan to establish economic dislocation because of the fleet and number of people they have involved in this industry at the present time.

Senator CASE. How could the existence of this so-called dispute, machinery in any way help the situation Senator Stevens was talking about?

Mr. CLINGAN. It would not. Senator Stevens is quite correct. It would, however, provide safeguards against additional entries that might claim economic dislocation.

I might add that we have had negotiations, as Senator Stevens knows, with the Japanese. It is our intention to continue to work with the Japanese under a system which would not only enable us to keep a control on this kind of fishing, particularly the Bristol Bay run but to assure that the Japanese would take no more than they have taken in the past and undoubtedly will take a great deal less.

They are working with us on that. We have had several meetings on that. We will continue our efforts to bring the Japanese to the bargaining table to work out the agreement with them.

Senator CASE. The point is what many of us are concerned about is in a situation where a country's national interests, as with Japan, are so strong the countervailing forces to that urge and drive on that country's part have got to be strong too if we are going to maintain or create situations that are an improvement over what exists now. In circumstances in which the rest of the world essentially is against the United States, we can't very well trust an international organization to help the United States against anybody who comes against it.

It is rather boldly stated.

That is the way it looks from here.

Mr. CLINGAN. It is quite true I couldn't agree.

Senator CASE. Of course you couldn't and you shouldn't.

Mr. CLINGAN. I happen to think the solutions to the problems are through international negotiations.

Senator CASE. There all kinds of shadings. Certain instances produce different results. We have to look at it this way on the legislative side.

Mr. CLINGAN. We feel we are better off with an agreement than no agreement at all.

Senator STEVENS. I am grateful for your contribution, Senator Case. I have read a little ahead in the statement, Mr. Secretary, and I see Mr. Clingan has agreed to stay on for some particular tasks. I am delighted to hear that. I hope he is the negotiator when we have the 200-mile limit unilaterally and can talk to the Japanese about our 95 percent within the 200 miles. He has been most effective in the bilateral negotiations.

Proceed, Mr. Secretary.

Mr. MAW. In any event, the ultimate solution must be made with agreement. Your example is a good one. We have to achieve accord with the Japanese.

Senator STEVENS. We can get that accord. We have always believed or at least I have, that if we ever have control over the 200-mile limit we need not fear the loss of our salmon beyond the 200-mile limit. The Japanese have an insatiable desire for the pollock within the 200-mile limit. They will deter from the salmon if it means they get salmon and no pollock.

Mr. MAW. The next question is the question of what alternatives do we have. What other than unilateral action to achieve our fishery goals? Secretary Kissinger stated in Montreal last month that we plan to be-

gin immediately to negotiate interim agreements as a transition to a 200-mile fisheries zone off the coasts of the United States.

We are committed to that course of action and in the next few weeks will announce specific actions to be taken to implement that plan.

Our plan will be to accomplish through negotiations the following objectives within 200 miles off our coasts:

Establishment of an effective conservation regime based on the best available scientific evidence; creation of preferential harvesting rights for U.S. fishermen to the full limits of our harvesting capacity; implementation of an allocation system which will substantially reduce foreign catches to permit U.S. fishermen to harvest to their full capacity, with only the surplus allocated among foreign fishermen; implementation of a standardized system for collection of fisheries data with information contributed by both foreign and domestic fishermen; introduction of more effective enforcement procedures; implementation of satisfactory arrangements to resolve gear conflicts and insure adequate foreign compensation to U.S. fishermen in case of negligence by foreign fishermen.

Mr. Chairman, we plan to accomplish these objectives by working within the framework of existing fisheries commissions wherever possible as well as through bilateral agreements. We presently have at least 11 bilateral fisheries agreements due for renegotiation next year, as well as regular meetings of six fisheries commissions. We intend, during these negotiations, to establish the philosophical underpinnings of our plan and to accomplish through phased negotiations, rather than by unilateral action, the functional objective of a 200-mile fisheries zone. I would like to make clear, however, that the course of action which I have outlined is not necessarily linked to existing arrangements or to the timing of the Law of the Sea Conference.

We are now completing plans for specific steps to be taken and will announce these in the next several weeks. We will, of course, be consulting with you and other Members of Congress in this regard. We also intend to work closely with our neighbors to resolve potential differences, and will be developing, on a priority basis, other initiatives to resolve the problems of our distant water fishermen. Upon completion of the first round of fisheries negotiations next year, we will be able to assess more fully the success of our plan.

Senator STEVENS. Mr. Secretary, had you taken that action 5 years ago, the chairman of this committee and I would not be pressing as hard as we are for the action that we seek in terms of unilateral action. It is just a little late now to be announcing that you are going to go into bilateral negotiations to establish the concepts of the 200-mile limit after the foreign fishing fleets have established their historical data which under the treaty will lead to some grandfather rights, as I understand it.

I would like to get to that later.

Mr. MAW. Five years ago we didn't have the base on which to conduct the negotiations. The Law of the Sea Conference has produced enough of a consensus to make possible the kind of negotiations we now look forward to.

Senator CASE. How long do you think it is going to take?

Mr. MAW. I hesitate to guess on a time. We are moving as rapidly as we can within the framework of the existing agreements. We will be able to announce plans within, I hope, the next 2 weeks.

Senator STEVENS. Just so we will be clear, Mr. Secretary, will you have your people—I am sure Mr. Clingan has the statistics—put the historical data, increase in foreign fish data, in the record at this point. I think that is constantly on the increase. Mr. Clingan realizes that in terms of the increased foreign fishing activity within the waters off our shores within the last 5 to 8 years. I am sure the statistics show a continual increase in the take of foreign fishing fleets off our shores.

Mr. MAW. We will provide that information to the extent we have it. We will give you a historical record of it.

Senator STEVENS. You will find that the take now exceeds the maximum sustained yield in many places.

Mr. MAW. We hope to press these renegotiations, these agreements and to convince foreign nations that they must reduce their cuts. We have already had indications of their willingness to go along with this. We will be consulting with you and Members of Congress on this plan in the next week or so. We want to have full cooperation in how they are proceeding on this. The plan actually will be under way next week. We have a meeting in Montreal. I personally plan to attend the opening session of ICNAF in Montreal on Monday to emphasize the importance the United States attaches to a successful outcome of this meeting.

I am also pleased to announce that a special task force with interagency participation has been established in the Department of State under the chairmanship of Thomas Clingan to impleemnt our fisheries plan. We are very pleased that Mr. Clingan has agreed to stay on with the Department in this capacity to lead our efforts to solve these problems in the shortest possible time.

Mr. Chairman, I believe the executive branch and the Congress hold similar views on the fisheries objectives to be accomplished. Any course of action must meet long-range conservation requirements, and be sound from the point of view of fisheries management as well as a negotiating point of view. Our plan will be implemented aggressively and will meet these requirements.

Thank you.

Senator STEVENS. I have a series of questions but I will ask my colleagues first.

Senator CASE. Thank you, Mr. Chairman, for permitting me to sit in on an ad hoc basis.

As the Secretary knows and his associates at the table, you and I have been interested in this and the Sea Conference for a long time. We want to support the administration in every sound way we can but I do think Senator Stevens is very right that there are limits beyond which if we in the Congress don't stand up, we will be pushed off the face of the Earth. I think if we don't accomplish what you are after during this session of the Congress, we better go ahead with the legislation and perhaps we should anyway, now.

The legislation, after all, as proposed is not impossible to reconcile with the development of this international Law of the Seas Treaty or even bilateral agreements.

Thank you, Mr. Chairman.

Senator STEVENS. Thank you. Senator Weicker.

Senator WEICKER. I will have a series of questions.

To follow on the lines of Senator Case, how many nations have unilaterally declared at this time the 200-mile limit?

Mr. MAW. Several of South America, Ecuador, Peru, have declared 200-mile proprietary seas. Several have declared in effect economic zones. The total is 11 that have taken action.

The great risk of the United States taking unilateral action is that immediately it will precipitate a flood of unilateral action by other states.

Other States will have different interests which they will assert with the waters of their coasts.

It is for that reason we are msot anxious to be able to resolve this problem by agreement rather than unilateral action, because unilateral action will not be expected to be consistent as it has not been in the past.

We cannot expect it in the future.

Senator WEICKER. I defer my other questions.

Senator STEVENS. Our legislation will create an interim fisheries conservation zone only.

We are in agreement on that.

The difficulty is convincing other nations that we have the right under international law to reach out, but they do not.

When I first introduced the 200-mile limit bill—and I think it was 5 years ago—the State Department opposed a concept of any extended jurisdiction.

You have now changed your position in the negotiation of the law of the sea. You are supporting the 100-mile zone.

Mr. MAW. Which agreement with all nations in the multilateral treaty.

Senator STEVENS. The position of the United States has been changed in that period, has it not?

Mr. MAW. As far as the law of the sea is concerned, we have never opposed the economic zone.

Senator STEVENS. You never supported it until Ambassador Stevenson discussed it last year.

My point is, I think my friend from New Jersey has a real point, that were it not for the congressional pressure on you in the past you would not have changed your position.

You are asking for us to take the pressure off you.

Pressure on you is really what is bringing about a movement in the Law of the Sea Conference.

Do you want us to say "Boys, take your time, our fisheries resources off the American shores are not under any pressure, there is no reason for you to be concerned. Leave this all to the State Department?"

Do you want us to have that impression, Mr. Secretary?

Mr. MAW. Senator, there is no question that the pressure of the pendency of these bills is helpful.

Senator STEVENS. We are trying to help you more than you want to be helped, I think.

Mr. MAW. If you help us too much, we defeat ourselves.

Senator STEVENS. We have changed our position, too. We were trying to extend for all purposes the limit to 200 miles. Now we are changing so you can get the treaty other than with the fishing.

We wonder what will be left if you take the amount of time we think you will be taking to reach an agreement.

Do you have a realistic hope that the Law of the Sea Conference will reach an agreement at the New York session as to a 200-mile limit of fish protection that would be binding on the world? That is, after the New York session.

Mr. MAW. There is a realistic hope that the economic zone part of the treaty will receive a general consensus.

Senator STEVENS. There is still article 2 and article 3 which if I understand it, the people in my office are pretty upset with that portion of the treaty.

Mr. MAW. They are, and we hope to make progress by the end of March for that.

Senator STEVENS. You don't think you will be presenting a treaty for ratification by the nations of the world after the New York session?

Mr. MAW. I do not like to deny my optimism.

Senator STEVENS. You don't blame us for having a firm feeling that in view of the controversy that exists on the other two articles that that is just a hope and not really much more?

Mr. MAW. Senator, as Secretary Kissinger said in Montreal, if we don't get the kind of progress we should get, then we have no option except to move on.

Senator STEVENS. How about if we pass the bill and say it becomes effective on the 45th day after the Law of the Sea negotiation begins in New York next year?

Mr. MAW. The day you pass this bill, if it becomes law, you will have upset the entire negotiations in the conference with what should be the scope of the economic zone.

Other nations have different ideas of their interests in the 200-mile areas. If we proclaim our interest unilaterally, they will then proclaim theirs unilaterally.

We are quite different. We are seeking to protect our fishing, scientific research and any other national interests in the 200-mile zones of our coasts.

Senator STEVENS. We feel there is every possibility that our fish may be traded off on those issues.

Mr. MAW. No. We want a uniform economic zone that will have the necessary safeguard to prevent over-fishing and will give priority to the local fisherman.

Senator STEVENS. Were you approaching the committee with the concept that until we can obtain a consensus, internationally, that will declare a moratorum, will prevent any further additions to the foreign fishing fleets, make them go back to the level of maximum sustained yield—if there was some hope we could hold out that the fisheries of the United States would not be under increased pressure in this period, it might be a different matter.

Mr. MAW. That is the purpose of these new negotiations. It is reviewing all of our agreements. Based on the ability of our negotiators to convince other nations they must withdraw, that will be the purpose of the next month.

Senator STEVENS. We will take a 5-minute recess.

[Recess.]

Senator STEVENS. My apologies, Mr. Secretary.

We had two votes instead of one.

Mr. MAW. As long as they weren't on this bill.

Senator STEVENS. I wish they were.

The chairman, as you know, is involved in the management of the bill before the Senate at this time. He cannot be here. I don't know if you recall—and this is a question being asked for the chairman, the time that Dr. Dixie Lee Ray appeared before the committee and Senator Magnuson testified in favor of her nomination.

At the hearing he indicated she would be a fine addition to the foreign policy of the Government if the State Department would not keep her under its thumb. She resigned. Her bureau, she said, was left out of the mainstream of the decisionmaking in that department. That bureau handled the fishery affairs.

Could you tell us if there is anything being done in the Department of State to change the situation with regard to fisheries affairs?

You have told us about your task force. What about that Assistant Secretary's position?

Mr. MAW. We hope to have a nomination on that shortly. It is a hard bill to fill. We are endeavoring to find the best available person, with the management skills and technical background necessary for that particular job. It is the highest order of priority.

With respect to the first part of your question, the policy of the State Department at the highest level is very concerned about these fisheries problems and the Law of the Sea Conference.

As you know, the Secretary of State went to Montreal to speak to the American Bar Association primarily on the law of the sea. He put the full support of the administration on that.

The President on several occasions has spoken publicly of his interest and of the importance of the fishery matters and the law of the sea in particular. It has the full support of the administration, and we intend to pursue the negotiations to the best of our abilities and with the greatest possible speed.

Senator STEVENS. You have outlined these new initiatives here today. Can you tell us first what is the time frame that you perceive for those initiatives and really what assurance do we have that they too will not be bogged down in consideration of other aspects involved in the Law of the Sea negotiation?

Mr. MAW. They will be carried on simultaneously with the Law of the Sea negotiation. Each will support the other.

In the time frame—that time frame is hard to predict. The initial step will be in the meeting next Monday in Montreal. It is a regular meeting during which we will put forward the changes we think must be made in that particular treaty.

Senator STEVENS. Do you contemplate that treaty will survive a Law of the Seas agreement?

Mr. MAW. The Law of the Sea contemplates a supporting treaty. Whether it will be in that form or in the form of a bilateral, it would have to be resolved in the course of the negotiations.

We contemplate having in place, whether or not the Law of the Sea treaty is adopted, the kind of agreement we would have to have under the Law of the Sea treaty or under the legislation now pending.

Senator STEVENS. Senator Magnuson informed us after the Geneva session of the Law of the Sea Conference that you met with him in

his office and his impression was that the Department wished to work with this committee to prepare a 200-mile limit bill that would be acceptable to the Department.

In the statement I have here he indicated that in Houston you criticized the Congress and the legislaton we have before us now—is that correct—and what was the impact of the conversation with the chairman?

He made a release appearing in our papers indicating that he was pleased with the change of heart of the State Department.

Mr. MAW. I heard of that release. I was a little surprised by it.

We did suggest that we wanted to work with the Congress, but we had to have a thorough review of the policy in the administration, various departments, as to what the position should be with respect to any bill.

The decision has been taken, as you know, to oppose any bill on principle at this point.

Senator STEVENS. I must say it was my impression also that if this bill were framed to give the Department one last chance at the New York meeting, that the Department might change its position.

Has that position been discussed in the Department and, if so, what is your position on a bill in that form?

Mr. MAW. We have tried to defer that decision until we see the results of the New York meeting.

Senator STEVENS. Congress will be practically out of session at that time.

Mr. MAW. The Secretary did make a statement that we would have to move unilaterally if right progress cannot be made in other negotiations, not limited to Law of the Sea, but including the bilateral or multilateral negotiations we are now instituting independently of the Law of the Sea.

Senator STEVENS. Should we pass this bill, would it be the intent of the State Department and Secretary Kissinger to veto the bill?

Mr. MAW. That decision has not been made yet.

Senator STEVENS. Is there any form of this bill that would be acceptable to the State Department at this time, at this stage of the negotiation?

Mr. MAW. I think any assertion of unilateral jurisdiction over the oceans out to 200 miles by the United States would set off assertions not necessarily the same by many other governments.

In the course of our review we have found that a good number are waiting for an opportunity to declare their own concept of 200-mile jurisdiction.

From what we can gather from these discussions, that would exacerbate an already difficult situation. It would make negotiations extraordinarily difficult.

We have had experience of negotiating with companies who declared proprietary seas.

Senator STEVENS. Senator Weicker, do you have any questions for Secretary Maw at this time?

I do have some questions for Ambassador Clingan.

Senator WEICKER. I would only make the comment, Mr. Chairman, that like so many other things that are promised by the State Department in asking the Congress to forebear—it is not as if we were start-

ing off at this point—the State Department and the Secretary of State, have made the necessary comments that they are not kidding around, but the fact is the last 4 years is when all of this was supposed to have been done.

I can only view S. 961 as being of assistance in any sort of negotiation. It indicates that the Congress and Senate and House mean what they have said for 5 years.

For those of us who have fishing industries in our States, this is not an academic matter to be bounced around by the State Department.

You people have put my people out of business for failure to go ahead and act.

That is what worries me about the State Department. It is a world by itself. But its impact is clearly felt on people.

I don't care too much what the attitudes of some of the Nations are in this area. I care about my own people whose jobs and livelihood depend on the government that will back them up rather than some other government.

I appreciate what it is, Mr. Secretary, that you are doing. I wish you the best of luck. But I would hope we would finally go ahead and do what we have wanted to do for years and really haven't at the specific request of the State Department and executive branch of the Government.

Senator STEVENS. Thank you.

Ambassador, we are delighted you have changed your mind and are going to stay with the Department.

While Mr. Maw is here, I hope you don't mind if I put a slight hotfoot to you.

Have you received any assurances from the Department that this time you will have the resources to do your job if you stay?

Mr. CLINGAN. Let me start by eliminating the last part of that clause.

Yes, I have received new assurances. I am pleased to say from my point of view I have been authorized five additional professional on my staff, and two secretaries. For all intents and purposes this almost doubles the work force of that office and will enable us to do more work than we have done in the past.

Senator STEVENS. What about the ICNAF negotiations? Will you participate in those?

Mr. CLINGAN. No, sir. Mr. Wallace will be our chief delegate.

Senator STEVENS. I know that you have been involved in those negotiations and, as I say, we are grateful to you for what you have done.

Is our impression correct that there is an increasing resistance from the foreign nations to reduce their foreign fishing off our shores?

Mr. CLINGAN. It is my view, Senator, that during this past year, my period of experience has been just the opposite.

There have been more concessions made during the past year than had previously been made in terms of fishing effort.

Senator STEVENS. Are you talking about the California concession?

Mr. CLINGAN. California concession and concessions in Alaska and the Bering Sea in particular. These are west coast concessions.

Senator STEVENS. Do you believe the 200-mile limit bill has hindered your bilateral and multilateral negotiations in those areas?

Mr. CLINGAN. Senator, I have to say very honestly that I have used the pendency of the 200-mile legislation in my negotiations in the sense that I have made it clear that if we don't make progress through our

mutual approaches to a common problem through negotiation, that perhaps my flexibility would be a great deal reduced.

I would say in all honesty my flexibility would be gone if the 200-mile limit were to go into effect.

It is a mixed blessing. When I have other negotiations involving things other than the coastal fisheries, it is very difficult.

Senator STEVENS. Even if the bill passes and it is vetoed and the effort to override the veto fails, the next day you will have a 200-mile limit bill in back of you.

There are some of us who believe that even if we fail, that the pressure that is building up behind this legislation—I think we may lose the first attempt to override such a veto. I don't think we would lose the second one.

I don't think your efforts in negotiation would be harmed by our efforts. I hope they are not.

We are all working for the same goal.

We particularly are reassured that you are going to still be with us. Mr. Secretary, that is another vote.

I understand, Ambassador Clingan and Mr. Wallace—am I correct—that you will be available at a later time if we want to go into other matters.

Mr. WALLACE. Today.

Senator STEVENS. No, when the Senator is available also.

Mr. WALLACE. I am leaving tomorrow to go to the ICNAF negotiations. I'll be there another week.

Senator STEVENS. We may have questions that the chairman will offer you for the record. Mr. Clingan and Mr. Secretary, you'll be available. I won't want you to feel we are not appreciative of your goal. I think we share the goal of trying to have at some time an international agreement which provides an effective management regime for the fisheries of the world and all other law of the sea issues.

Those of us who are quite concerned about the living resources of the sea, however, feel we cannot wait the time you are willing to wait in order to achieve total agreement. There is the root of our disagreement, I think. We admire what you're trying to do. We hope the time will come when the State Department, too, will say it's time to protect the fish resources of our shores.

Thank you very much. We will take a 5-minute recess.

[Recess.]

Senator STEVENS [presiding]. Mr. Chairman, it's a pleasure to have you back again. I might tell you and the balance of the witnesses that we have gotten a minifilibuster over there. We'll be going back and forth about every 10 or 15 minutes. If you could assist by summarizing your statement, we'll print it in full in the record.

STATEMENT OF HAROLD F. CARY, EXECUTIVE DIRECTOR, TUNA RESEARCH FOUNDATION, TERMINAL ISLAND, CALIF.

Mr. CARY. I can make it quite short. There are 14 pages of narrative I'll capsulize except for the conclusions and ask that the entire statement be placed in the record.

Senator STEVENS. It will be included in the record.

Mr. CARY. I am appearing for the American Tunaboat Association and three of the unions, ILWU and AFL–CIO and another represent-

ing cannery workers. What I have tried to do in this is, first, to state that our position opposes the unilateral extension. I have read a million words and 10,000 pages of things and felt that we need not repeat everything in detail. I tried to capsulize these.

I won't read what I wrote. Simply, the headings and what I have to say about it. These are the arguments which are familiar to all of us.

1. INTERNATIONAL RELATIONS

I don't believe there is any doubt that we would have confrontations if we endeavor to enforce a unilaterally declared 200-mile limit.

2. NATIONAL SECURITY

We don't know a lot about. The legislation sets in motion things that affect it.

3. INTERNATIONAL CONVENTION

A third consideration has to do with the international conventions to which we are signatory, conventions on fishing and conservation of the living resources of the high seas, the high seas and the territorial seas and contiguous zone. My conclusion is, as we are signatory it does not appear there is much doubt that a unilateral 200-mile limit would be in contravention of these conventions.

4. INTERNATIONAL CONSERVATION AGREEMENT

We have conservation agreements. There are tuna treaties in the Pacific and the Atlantic.

For each of those statements under this heading, there are a multiplicity of backup statements by a number of people. If we divided the eastern Pacific into private lakes abstracting more than half of the 5 million square miles in the convention area, obviously, research would not be meaningful. It has been claimed, also, that a 200-mile unilateral declaration would affect the North Pacific treaty.

5. LAW OF THE SEA

The law of the sea has been commented on all morning. Therefore, the negotiating position would be affected as I pointed out.

6. OCEAN RESEARCH

This would be effected. Dr. Knauss commented on this. I have appended as exhibits statements from people from Scripps Institute of Oceanography in similar vein, and an interview with Jean-Michel Cousteau, too, that goes on to comment on what happens when you cut the oceans into pieces.

7. U.S. UNILATERAL ACTION

I might comment on another argument having to do with unilateral action by the United States. It appears clear that there would be some evil or ill effects deriving from this. Unilateral action by others would be set in motion. Some of it has preceded what we have been doing. It has been commented on.

8. UNILATERAL ACTION BY OTHERS

Costa Rica in July designed some legislation particularly aimed at the tuna fishery. President Echeverria of Mexico, in his state of the union message September 1, spoke on the 200-mile limit. Iceland, following the International Court of Justice decision, has extended its limits to 200 miles. We'll see what happens there.

Hence, one declaration begets another.

9. FISHERMEN'S PROTECTIVE ACT

I have a statement here by the Chairman of the International Security Council and Interagency Task Force. We believe this to be true, that if we have a 200-mile limit we will be hardly in a position to protect our vessels for some lesser limits off the shores of other countries.

10. EFFECT ON TUNA INDUSTRY

The effect on the tuna industry has been documented rather extensively. It's our largest canned item in the U.S. market. It's one of our important fisheries. We have our own sort of problems which you're fully aware of and generally have been commented on this morning, having to do with the activities of Ecuador principally.

11. U.S. PRESENCE ON THE HIGH SEAS

Another item which has been mentioned but not extensively is perhaps philosophic but it has its practical aspects. The effects of U.S. presence on the high seas. In earlier things I wrote some time ago, I traced out the effect of the tuna industry activity in some 30 or 35 countries or areas of the world. Should we be kept at home, this would bring about the demise of the industry and with it the effect which is beneficial to the foreign industry because if it isn't beneficial to our industry you can't afford to do these other things. The benefit it has brought to other countries in the expansion of their industry would not exist.

So, in saying all this as I say here, it is a reasonably full, but not complete, list of reasons why the United States should not adopt a 200-mile fisheries limit. Other fisheries have also made their cases. So far, this presentation has limited itself to most but not all of the well known reasons so I sat down to think what can be said that hasn't been said.

And there are several items and I'll read this.

One. A unilaterally enacted 200-mile limit would largely eliminate the Commonwealth of Puerto Rico as the world's second largest tuna canning center. Tuna landings there are made by U.S.-flag purse seine tuna vessels, and in 1974 represented 30 percent of all domestic tuna landings.

Canned tuna, byproducts, and pet food are important products of Puerto Rico, rank second in value of shipments to the United States, and form an important employment base in an area where the official unemployment rate is 17 percent and unofficially runs about 30 percent.

Puerto Rico is an important area for imports of tuna in many cases supplied by nations who would be affected by imposition of 200-mile limits reducing this supply. The domestic supply is affected by the

same territorial and jurisdictional decisions which affect our mainland tuna fisheries delivering to Calfornia, Oregon, Washington, Hawaii, and Maryland.

Two. A unilaterally enacted 200-mile limit could destroy the industrial tnd employment base of American Samoa. The tuna industry is nearly the sole industrial and employment base of this U.S. possession. If a decision of the United States gives rise to additional 200-mile claims, the vessels which supply American Samoa would be fishing in restricted ocean areas as delineated in the map presented to this committee by Charles R. Carry at a previous hearing.

If these vessels were restricted in this way, the industrial and employment base of American Samoa would be wiped out.

There are maps available which show that in the area where the fish is caught supplying American Samoa, most if not all, that fish would be caught in areas which would require the permission of some nation-state to operate.

Senator STEVENS. Mr. Cary, I know you represent a very valuable and important segment of the fishing industry. Let me ask you this. I'm sure you know my acquaintance with your tuna people in particular goes back some 25 years. In regard to your comments about Puerto Rico and American Samoa, isn't it true that the vast majority of those vessels are now registered in another country? In Peru, while they have nationalized their industry——

Mr. CARY. They have nationalized fisheries.

Senator STEVENS. They didn't nationalize canneries, did they? My understanding is there is American capital in those canneries. In spite of the 200-mile limit, canneries are still flourishing.

Mr. CARY. It's my understanding that the principal activity in Peru has to do with fishmeal and anchovies are the product side. The entirety of the production at sea and on shore has been taken over by the government and recently compensation paid to all the companies who were active. So far as I know, there's no money now in Peru in fisheries. This is a matter of record; I don't assert it's absolutely true, but I think it is.

Senator STEVENS. I had no information about that. I thought just the contrary, that American fisheries were still intact in Peru.

Mr. CARY. As with the principles of the bill, we're quite on opposite sides on this. It has all been expropriated.

Senator STEVENS. How about Ecuador?

Mr. CARY. In Ecuador, American capital is the genesis of their tuna fishing business. It plays a part in the shrimp business.

Senator STEVENS. You've saying that the South American countries are dependent on tuna caught within the areas where there is already a 200-mile limit.

Mr. CARY. No. I'm saying should the idea achieve much greater popularity and adoption, then that production would be affected. The supply of tuna to American Samoa comes from Taiwanese, South Koreans, Japanese.

Senator STEVENS. This bill was drawn, I thought, so it would not abrogate any existing treaties. Aren't those tuna operations being pursued under an existing international treaty.

Mr. CARY. Not in the central Pacific. No. This is a supposition, so be quite clear on that. If the idea of claiming 200-miles became largely

universal, it's within those areas that the vessels which fish and deliver to American Samoa operate. It could have a consequential effect on the fish supply of American Samoa.

Senator STEVENS. That is implying the assumption that other nations would follow the United States in claiming an extension of jurisdiction would exclude the foreign vessels that now deliver tuna to these canneries.

Mr. CARY. Based upon data provided in "Current Fisheries Statistics No. 6700—Fisheries of the United States, 1974," only 10.1 percent of the landed volume and 18 percent of the landed value of fish and shellfish would be protected by a unilaterally declared 200-mile limit.

Only those species caught between 12 and 200 miles would be protected by a 200-mile jurisdictional limit.

Using 1974 figures, the category can be analyzed as follows: The table shows 634 million pounds. Now some of this takes in alewives and some of these figures take in creatures of the Continental Shelf which leaves you 519 million pounds, which would have been protected by a 200 mile limit in 1974, if effective.

Senator STEVENS. So we understand one another, our figures, the ones we have been supplied, indicate that there were about 11.6 billion pounds of fish harvested off the United States in 1973, which is our last statistic.

Mr. CARY. I discuss this later. Some unknown percent caught off the U.S. shores within the 200-mile limit were, in fact, caught by foreign fishermen.

I discuss this under item 5 in part. I have here appended a table that shows how this works. According to the figures which I pick out from Fisheries of the United States then, we have a minority of the fish landings by volume and value affected.

Four: The cost of the administration, management, and enforcement of the 200-mile zone appear to be excessive with respect to this value, which is $172-plus dollars.

Department of Commerce costs are given in a broad range of 21 to 40 million for administration and management.

The Coast Guard has estimated with respect to an extension 200 miles an operating fun of $47.2 million and startup cost of $36.2 million. I took the 4-year average of what the Coast Guard turned in and it is $104.6 million. Adding the Department of Commerce figures and the Coast Guard figures, we came out with $135 million cost.

I am not forgetting your question.

I am laying this cost alongside the 174 million fish value. It is 78 percent of that value.

Five: One purpose of the 200-mile legislation is to decrease foreign catches and increase U.S. catches in the area.

There is no useful information available exhibiting the amount which can be reasonably expected to be gained by U.S. fishermen.

The Committee on Commerce issued a committee print detailing the economic value of ocean resources to the United States, December 1974. This report, which we understand was contracted for by National Marine Fisheries Service, is a source that was quoted in the national fisheries plan as particularly relevant. This source illustrates that U.S. fishermen could add a net catch of 900 million pounds after deducting a loss of tuna and shrimp aggregating 350 million pounds.

The net value gain—it is a difference in scenarios—is given from $200 to $300 million. This scenario assumes that fishing rights within 200 miles of the U.S. shore line are reserved largely for U.S. vessels. It also accommodates some loss of U.S. tuna and shrimp catch inside the 200-mile limits of several Latin countries.

These losses are given, tuna and shrimp, at around 350 million pounds. We instituted an inquiry of NMFS to give us a species and volume composition of gain and losses.

The answer was an expression of regret that the information couldn't be provided as it did not exist in Government in a useful form.

I have appended the correspondence.

Senator STEVENS. Mr. Cary has done a good job of representing the tuna people with his statement. We understand your position. I want to assure you it is our intent not to interfere with the existing treaty arrangements which currently protect tuna. We are trying our best to treat the problems you have outlined.

Mr. Cary's statement is in the record in full. Because of the situation on the floor of the Senate, we will recess and reconvene at 1:15.

AFTERNOON SESSION

Senator STEVENS. You may proceed, Mr. Cary.

Mr. CARY. I was, as we left, looking over things I might renew that I had not observed or at least observed in detail and one I last mentioned was the decrease or increase in catches that would result. If we knew the aggregate, we ought to know the parts.

I have not been able to know what the parts are. So, I can't do much further on the cost-benefit ratio.

Six: My final item 6 is, in my words, to determine whether we have a national problem or a problem concerning specific species.

I prepared my tables of State landings and I took a 15-year span covering seven States. In summary, using 1960 as the beginning and 1974 as the last year, Rhode Island shows an increase in landings over the period and Maine shows a major overall decline attributable primarily to sea herring and ocean perch.

Massachusetts shows a major overall decline attributable primarily to haddock, ocean perch and whiting. Alaska shows a decline in salmon (which is under management) and halibut, but the aggregate as offset by shrimp.

Oregon shows a major increase. Washington shown no substantial change overall, except for decline in halibut and the increase in salmon.

And California, with respect to species other than tuna, shows an overall increase, and as I observed, these are cold, statistical presentations out of a book and are offered so that we might have an overview of our areas most active in the 200-mile matter. They show declines in sea herring, ocean perch, haddock, whiting and halibut.

Senator STEVENS. These are U.S. landings?

Mr. CARY. Yes. The sources are given.

Declaration, therefore, of the 200-mile zone is not necessary for protection of most U.S. species. It is logical, therefore, that we approach our problems analytically and operate with a scalpel instead of a meat ax.

Bilateral discussions have been held. These are claimed to be without effect except that testimony has been offered respecting arrangements that have been made with other countries resulting in agreements to lessen fishing pressures.

As it is true that we have only a few species threatened by foreign fisheries, why is it not possible and prudent to utilize article VII of the Convention on Fishing and Conservation of the Living Resources of the High Seas? This would permit notice to foreign nations that overfishing of one or more species is taking place or has taken place and, after a period of 6 months of negotiations, the U.S. Government could institute conservation measures binding upon domestic as well as foreign vessels within the area designated.

As this as I say, is eminently preferable to the problems which will certainly ensue should the United States unilaterally establish a 200-mile fisheries zone for its exclusive use except as permission is given to foreign nations to fish therein under specified conditions.

That, Senator, completes my statement.

Senator STEVENS. Thank you very much.

Has your organization changed its position with regard to the 200-mile limit bill?

Mr. CARY. Under the term species concept, is that what you're referring to?

Senator STEVENS. I mean that the United States is supporting the Law of the Sea Conference.

Mr. CARY. So far it is slightly obscure to us—I have not attended any sessions but others have. So long as it follows the species concept and migratory species are not forgotten and some accommodation is reached which permits us to continue to fish then we would continue—we would say that we approve that position.

Senator STEVENS. Thank you very much.

Mr. CARY. Thank you.

Senator STEVENS. We appreciate your courtesy in returning, Mr. Cary.

[The statement follows:]

STATEMENT OF HAROLD F. CARY

My name is Harold F. Cary. I am appearing before this Committee on behalf of: Tuna Research Foundation, Inc., Terminal Island, California; and American Tunaboat Association, San Diego, California, both of which organizations have testified extensively before this Committee on 200-mile legislation and have identified themselves in previous hearings.

I am active in the industry as General Manager of Ocean Fisheries, Inc., a corporation owning and operating 12 large high seas tuna fishing vessels.

Today my statement also represents the views of the following organizations which previously testified:

Fishermen's and Allied Workers Union, Local 33, San Pedro, California; Fishermen's Union of America, Pacific and Caribbean Area, affiliated with the Seafarers' International Union of North America, AFL-CIO; and United Cannery and Industrial Workers of the Pacific. AFL-CIO.

POSITION

The organizations represented oppose a unilateral extension of fisheries jurisdiction to 200 miles, which is a reiteration of our previous position.

There has been vlouminous, detailed testimony presented to this Committee with respect to previous bills having the same extension as the objective. As these views are well documented, I will not restate them in detail, but review them briefly to determine whether the validity initially claimed for them has been sustained or diminished.

Additionally, I will bring to the attention of this Committee information not previously presented and information requiring amplification of it as originally presented.

1. Internatonal relations

The key statement is:

"* * * (A)ny effort to enforce a unilaterally established 200-mile fisheries zone against non-consenting foreign nations would likely lead to serious confrontations."—Secretary of State, September 22, 1974.

This is only one of a number of similar statements.

There does not appear to be any doubt that confrontations would take place. A unilateral declaration will certainly draw protests from nations fishing off our coasts. Enforcement over these protests will bring confrontation.

2. National security

We in the industry are not experts in national security. The Department of Defense, in commenting on unilateral extension, stated there would be "serious impact on national security interests of the United States".

The Mayaques affair is a case in point.

3. International conventions

We are signatory to what are called the Geneva conventions. Of particular applicability is the Convention on Fishing and Conservation of the Living Resources of the High Seas, which provides:

All States have the right for their nationals to engage in fishing on the high seas subject (a) to their treaty obligations, (b) to the interests and rights of coastal States as provided in this convention, and (c) to the provisions contained in the following articles.

Another is the Convention on the High Seas, which provides:

The high seas being open to all nations, no State may validly purport to subject any part of them to its sovereignty * * * It comprises, *inter alia*, both for coastal and non-coastal states: * * * 2. Freedom of fishing.

Article 1 of the Convention defines the term "high seas" as "All parts of the sea that are not included in the territorial sea or in the internal waters of a State".

Another is the Convention on the Territorial Sea and Contiguous Zone, which provides:

The contiguous zone may not extend beyond twelve miles from the baseline from which the territorial sea is measured.

There appears to be no doubt that a unilateral declaration would conflict directly with these conventions, to which the United States is signatory.

4. International conservation agreements

A key statement is:

"In our opinion, S. 1988 will destroy the IATTC (Inter-American Tropical Tuna Commission) and ICCAT (International Commission for the Conservation of Atlantic Tuna) and will make the creation of new international fisheries organizations an impossible dream. This opinion is supported by factual information developed during the 25 year history of the IATTC."—August Felando, Statement to Senate Committee on Commerce, April 1974.

If the Eastern Pacific is divided into a series of private lakes 200 miles from the coast, a comprehensive research program covering the aggregate of the tuna species would present insurmountable problems and, therefore, bring about the asserted destruction alluded to above. The present regulatory area would be reduced from 5.0 million square miles to 2.1 million square miles, thus reducing the breadth of useful international research.

"It (200-mile legislation) could lead to abrogation by other nations of existing fisheries agreements, one of the most critical being the International Convention for the High Seas Fisheries of the North Pacific Ocean, which provides protection to salmon of U.S. origin."—Secretary of Commerce, September 25, 1974.

5. Law of the sea

"For the United States to adopt unilateralism * * * would seriously undercut the credibility of U.S. negotiators not only on the fisheries issue but also on our basic commitment to international agreement."—Deputy Secretary of Defense, September 14, 1974.

With respect to fisheries, the question which can logically be asked is: Why would we have international negotiations at all if the United States had already decided to settle the matter outside the provisions of the Geneva conventions?

The Fishermen's Union has stated that:

"Passage (of a unilateral 200-mile zone by the United States) will contribute to failure of the * * * Law of the Sea Conference."—I.L.W.U., September 19, 1974.

6. Ocean research

"The effect (of U.S. extended jurisdiction) could be to jeopardize other vital American interests at sea * * * such as * * * the opportunity to conduct scientific research off foreign coasts."—New York Times, September 21, 1974.

Two recent articles comment on this probable and actual effect.

In an interview, Jean-Michel Cousteau states: "I am against a 200-mile limit. That is no solution to a very difficult problem. Cutting the ocean into pieces just has to be a source of conflict * * *." The full article is attached as Exhibit 1.

Dr. George Shor of Scripps Institute of Oceanography complains that "researchers must plow through huge amounts of red tape to get the clearances which are necessary to carry out research in foreign waters." The article states: "As the nations of the world become increasingly possessive toward their natural resources, they are making it difficult for U.S. oceanographic ships to conduct studies off their coasts." The full article is attached as Exhibit 2.

7 Unilateral action by the United States

"Implementation of this legislation would constitute unilateral action by the United States at the very time the world community is seeking a new regime for international fisheries through international agreement. Such unilateral action, in our opinion, runs counter to international law."—Chairman, NSC Interagency Task Force on the Law of the Sea, September 3, 1974.

The International Court of Justice (in the U.K.-F.R.G.-Iceland case) found that the "method for (a) coastal state to implement such preferential rights is (by) bilateral or multilateral agreement with other states concerned", as stated in Exhibit 7, a Department of State telegram.

8. Unilateral action by others

"A unilateral extension of jurisdiction for one purpose will not always be met by a similar extension but rather may encourage broader claims which could have serious implications, for example, with respect to our energy needs * * * our defense and national security interests in the unimpeded movement of vessels and aircraft in the world's ocean and in the protection of marine scientific research rights in the ocean."—NSC Interagency Task Force on the Law of the Sea, September 3, 1974.

"If the U.S. abandons its opposition to unilateral claims in the ocean, we will inevitably be faced with an increasing number of competing retaliatory or unrelated claims."—Deputy Secretary of Defense, September 14, 1974.

Costa Rica is moving on a 200-mile claim directed against the tuna fishery of the U.S. and, presumably, other nations. Exhibit 3 is a letter to the President detailing this matter. Exhibit 4 is a reply from the Department of State.

The President of Mexico, on September 1, 1975, recommended a 200-mile limit. Exhibit 5 details this.

On July 15, 1975, Iceland extended its fishery limits to 200 miles. The attached Exhibit 6 from National Marine Fisheries Service details this action, which is to become effective October 15, 1975. A summary of the International Court of Justice rulings in the U.K.-F.R.G.-Iceland case on Iceland's earlier claim to 50 miles is enclosed as Exhibit 7.

The validity of the assertion that one unilateral 200-mile declaration begets another is affirmed.

9. Fishermen's Protective Act of 1967

Our distant water fishing interests, such as the tuna and shrimp industries, would actually be prejudiced by our unilateral action. The United States would be compelled, in effect, to recognize extended fishery zones of other coastal states, at least to the extent of our own uilateral claim, and, in addition to a direct effect on our distant fishing rights, this would have detrimental implactions for the coverage of the Fishermen's Protective Act of 1967."—Chairman, NSC Interagency Task Force on the Law of the Sea.

The foregoing quotation says it all with respect to this Act, which is the one tangible evidence of support given our high seas fishermen. A unilateral declaration would remove it.

There is an extended record of seizures of U.S. fishing vessels on the high seas by foreign countries with extended claims to 200 mile sovereignty, which seizures have become the subject of claims under the Act.

10. Effect upon the tuna industry

Previous industry testimony before this Committee has established that the United States tuna fleets represent over 30 percent of all U.S. investment in commercial fishing vessels and have recently represented over 50 percent of all investment in new construction.

These are efficient vessels. Fortune magazine, in an article on U.S. fisheries (September 1973), states:

Today Americans excel in only one segment of the world's fishing industry. The efficient U.S. tuna fleet based in San Diego and Puerto Rico * * *.

Canned tuna is the largest segment of the domestically produced canned fish market, representing 69 percent of its volume and an equal amount of its value. (Fisheries of the United States 1974 CFS 6700.)

Domestically produced light meat tuna species provide about 40 percent of the volume of raw material, the overwhelming majority of which is caught off foreign countries—88.7 percent in 1974—with the majority of that percentage caught within 200 miles.

Considering the actions on 200-mile sovereignty already taken by some countries in our fishing areas, the interference with our activities that continues to take place (especially off Ecuador), and the moves under way by other nations to increase jurisdiction to 200 miles, any similar unilateral action by the United States will confer a blessing on actions already taken and provide all the basis needed for other nations to follow. Our domestic fishery would be largely, if not entirely, eliminated. The United States' largest over-all fish industry (production and processing) would cease to exist as we know it. The effect on investment and employment would be catastrophic.

11. Effect on U.S. presence on the high seas

If U.S. fisheries were thus confined to our coastal area by our inability to operate within 200 miles of foreign shores, this form of access to the world's oceans would be eliminated. That access lost would in many cases be to areas where the U.S. flag does not otherwise appear.

World fisheries development in many areas has moved ahead because of that presence and because what it produces enables us to work in many world areas.

We would become a nation of home-area fishermen.

This completes a reasonably full, but not necessarily complete, list of reasons why the United States should not unilaterally adopt a 200-mile fisheries limit. Other fisheries—shrimp and salmon—have made their cases. In aggregate, these fisheries make up over half the value of United States fisheries.

So far, then, this presentation has limited itself to most, but not all, the reasons why a 200-mile limit should not become the law of the land.

There are some important additional items to be considered which have either been under-emphasized, understated or overlooked. Let us examine these.

1. *A unilaterally enacted 200-mile limit would largely eliminate the Commonwealth of Puerto Rico as the world's second largest tuna canning center.*

Tuna landings there are made by U.S. flag purse seine tuna vessels, and in 1974 represented 30 percent of all domestic tuna landings.

Canned tuna, by-products and pet food are important products of Puerto Rico, rank second in value of shipments to the United States, and form an important employment base in an area where the official unemployment rate is 17 percent and unofficially runs about 30 percent.

Puerto Rico is an important area for imports of tuna in many cases supplied by nations who would be affected by imposition of 200-mile limits reducing this supply. The domestic supply is affected by the same territorial and jurisdictional decisions which affect our mainland tuna fisheries delivering to California, Oregon, Washington, Hawaii and Maryland.

2. *A unilaterally enacted 200-mile limit could destroy the industrial and employment base of American Samoa.*

The tuna industry is nearly the sole industrial and employment base of this United States possession. If a decision of the United States gives rise to additional 200-mile claims, the vessels which supply American Samoa would be fishing in restricted ocean areas as delineated in the map presented to this Committee by Charles R. Carry at a previous hearing.

If these vessels were restricted in this way, the industrial and employment base of American Samoa would be wiped out.

3. *Based upon data provided in Current Fisheries Statistics No. 6700—Fisheries of the United States, 1974, only 10.1 percent of the landed volume and 18.0 percent of the landed value of fish and shellfish would be protected by a unilaterally declared 200-mile limit.*

Fish and shellfish catches are listed in distances caught from shore, as:

0 to 3 miles,
3 to 12 miles,
12 to 200 miles, and
In international waters off foreign shores.

Only those species caught between 12 and 200 miles would presumably be protected by a 200-mile jurisdictional limit. Using 1974 figures, this category can be analyzed as follows:

Total: 634,319,000 pounds.
Less:
(a) (10,700,000) Alewives—Great Lakes.
(b) (104,656,000) Creatures of the Continental Shelf: Clams, crabs, lobsters, scallops.

This leaves 518,963,000 pounds which would have been protected by a 200-mile limit in 1974, if effective.

The United States landings in 1974 were 5,118,000,000 pounds. The amount that would have been protected was 10.1 percent of that total.

The total value of United States landings in 1974 was $957,400,000. The value of the 10.1 percent protected landings was $172,464,000, or 18 percent of the U.S. total.

A summary of 1974 volume and value by these distances shows:

Distance from U.S. shores	Volume times 1,000 pounds	Percent of total	Value	Percent of total
0 to 3 miles	3,013,052	58.9	$424,315	44.3
3 to 12 miles	907,595	17.7	145,782	15.2
Off foreign shores	563,834	11.0	176,489	18.4
12 to 200 miles not requiring protection	115,356	2.3	38,350	4.1
Subtotal	4,599,837	89.9	784,936	82.0
12 to 200 miles presumably protected	518,963	10.1	172,464	18.0
Total	5,118,800	100.0	$957,400	100.0

A proposed 200-mile unilaterally declared fisheries jurisdictional zone protects a minority of fish landings by volume and value based on 1974 data.

4. *The costs of administration, management and enforcement of a 200-mile zone appear to be excessive with respect to the $172,464,000 value of the catch to be protected.*

Department of Commerce costs are given in the broad range from $21 to $40 million for administration and management.

The United States Coast Guard has estimated, with respect to an extension of jurisdiction to 200 miles, that:

"We will need to increase our operating facilities * * * To operate these facilities will require an increase in our annual operating funds of $47.2 million. The start-up, acquisition and reactivation costs are estimated at $63.2 million."—Commandant, U.S. Coast Guard, March 1975.

A table of four-year procurement/activation, start-up and operating costs provided a combined annual average of $104.6 million.

If we use the mid-point of the Department of Commerce estimate, $30.5 million, and the four-year average of the Coast Guard, we arrive at an annual cost of $135.1 million.

This represents 78 percent of the 1974 value of the catch to be protected, without taking into account the cost of losses in our distant water fisheries.

5. *One purpose of 200-mile legislation is to decrease foreign catches and increase United States catches in the area. There is no useful information available exhibiting the amount which can reasonably be expected to be gained by U.S. fishermen.*

The Committee on Commerce issued a committee print on "The Economic Value of Ocean Resources to the United States" (December 1974). This report, which we understand was contracted for by National Marine Fisheries Service, is a source which has been quoted in the National Fisheries Plan (Draft—June 1975) as "particularly relevant".

This source illustrates in its Table 21 that the United States fishermen would add a net catch of 900 million pounds after deducting the loss of tuna and shrimp, aggregating 350 million pounds. The net gain in value in Table 21 (difference between Scenario E and Scenario F) is given as from $200 to $300 million by 1985.

This Scenario F (page 57) "assumes that fishing rights inside 200 miles of the U.S. shoreline are largely reserved to U.S. vessels." The estimate of increased catch "allows for diversion of most U.S. marketable catch recently taken by foreign fishing fleets * * *." It also accommodates "some loss of U.S. tuna and shrimp catch inside the 200-mile limits of several Latin countries." These losses are given in a footnote as "at around 350 million pounds".

With this report we instituted an inquiry of N.M.F.S. as to the species and volume composition of the gains and losses. By this means we felt a needed value judgment could be assessed.

The answer was an expression of regret that the information could not be provided as it did not exist in government in any useful form.

The entire correspondence appears as Exhibits 8A–D.

While additional landings could be expected if a 200-mile limit were effective and enforceable, there appears to be no definitive volume or value figure by species, or in any other detail.

This means that the cost-benefit ratio cannot be determined. However, if we accept the unreasonably low estimate of tuna and shrimp losses, we can estimate a loss of about $100 million.

Adding this loss of $100 million to the costs of $135.1 million previously calculated means a total of $235.1 million in costs and losses to cover 1974 values in the 12 to 200 mile zone of $172.4 million.

To this $172.4 million we can add something in the way of "diversion of most U.S. marketable catch recently taken by foreign fleets." How much this is is apparently not detailed; or, if it is, we cannot obtain the amount for analytical purposes. Even if it were $300 million, as the maximum unsupported claim suggests, the cost-benefit ratio would remain unfavorable.

6. *We need to determine whether we have a national problem or a problem concerning specific species.*

In the time available since being advised that I was to attend these hearings, 15-year tables of landings in some of the leading fishery states were prepared.

Rhode Island shows an increase in landings over the period. (Exhibit 9)

Maine shows a major overall decline attributable primarily to sea herring and ocean perch. (Exhibit 10)

Massachusetts shows a major overall decline attributable primarily to haddock, ocean perch and whiting. (Exhibit 11)

Alaska shows a decline in salmon (which is under management) and halibut, offset by shrimp. (Exhibit 12)

Oregon shows a major increase. (Exhibit 13)

Washington shows no substantial change overall, except for decline in halibut and increase in salmon. (Exhibit 14)

California, with respect to species other than tuna, shows an overall increase. (Exhibit 15)

These are cold, statistical presentations and are offered so that we may have an overview of our areas most active in the 200-mile matter. They show declines in sea herring, ocean perch, haddock, whiting and halibut.

Declaration of a 200-mile zone is not necessary for protection of most United States species. Declaration can damage our tuna, shrimp and salmon fisheries and eliminate our distant water fishing rights in historic areas.

It is logical, therefore, that we approach our problems analytically and operate with a scalpel instead of a meat axe.

Bilateral discussions have been held. These are claimed to be without effect except that testimony has been offered respecting arrangements that have been

made with other countries resulting in agreements to lessen fishing pressures. Some are detailed in a statement by the Chairman of the NSC Interagency Task Force on the Law of the Sea (May 9, 1975).

As it is true that we have only a few species threatened by foreign fisheries, why is it not possible and prudent to utilize Article VII of the Convention on Fishing and Conservation of the Living Resources of the High Seas—one of the Geneva conventions? This would permit notice to foreign nations that overfishing of one or more species is taking place or has taken place and, after a period of six months of negotiations, the United States government could institute conservation measures binding upon domestic as well as foreign vessels within the area designated.

This is eminently preferable to the problems which will certainly ensue should the United States unilaterally establish a 200-mile fisheries zone for its exclusive use except as permission is given to foreign nations to fish therein under specified conditions.

[From the San Diego Union, Saturday, Sept. 13, 1975]

Sea Territory Claims Criticized

JEAN-MICHEL COUSTEAU CALLS THEM A SOURCE OF CONFLICT

The current trend to extend offshore territorial claims is rapidly creating a dangerous source of international conflict, marine innovator Jean-Michel Cousteau warned yesterday.

Cousteau, 37, the eldest son of aquatic adventurer Jacques Cousteau, said he believes the only solution is for the economically powerful nations to agree on regulations to keep the high seas a global sanctuary not subject to nationalistic expansion.

Space Monitoring

"The earth should be monitored from space, with a cop in the sky appointed by an international commission to enforce the laws of the high seas," Cousteau said in an interview.

A marine architect, an educator, an audiovisual specialist and, like his father, an undersea explorer, young Cousteau is in town for the 11th annual Underwater Film Festival, where he is presenting a film and acting as master of ceremonies.

"I'm against a 20-mile limit, he said. "That is no solution to a very difficult problem. Cutting the ocean into pieces just has to be a source of conflict.

"The oceans of the world should be treated as one thing—an indivisible world ocean for the use of all and abuse of none."

Cousteau said he believes the Law of the Sea Conference has little chance of success and no existing international organization is likely to deal effectively with the problem.

He said the major stumbling blocks to an agreement are exploitation of ocean resources and pollution. He said the majority of the world's countries, because they are nonpolluting and too poor to mount major resource exploitation efforts, have little real interest in these two key problems.

"So, what we need, I think, is to get together all of the countries responsible for the major ocean problems like pollution and resource claims and get them to agree on some rules and regulations," Cousteau said. "The countries that should participate probably number no more than 20."

Cites Resistance

One of Cousteau's current projects is the design of a small floating island to be constructed for a marine museum along the San Francisco waterfront within the next year.

Cousteau said a few places in the world would create valuable new land areas with such floating islands, but it may never happen because of some mysterious innate resistance to the idea in human nature.

"I think there must be a psychological barrier against the idea of floating islands among people not oriented to the ocean. I think they get scared thinking about it."

Cousteau said he was hired to design such islands for Monaco, where they would have been of enormous benefit because of the inflated land values there, but the scheme was never carried out.

Backs Scripps Plan

Cousteau also had good words for the floating breakwater concept developed by scientists at Scripps Institution of Oceanography, agreeing that the idea seems to be the answer to providing deep water ports and storm protection.

He disagreed, however, with the suggestion that the ability to create safe seadromes might return the flying boat to air transportation.

"Land-based airplanes are just too numerous and versatile today," Cousteau said.

[From the San Diego Union, Aug. 4, 1975]

SOME NATIONS CURB STUDIES OFF SEACOASTS

U.S. OCEANOGRAPHERS SAY PERMITS INCREASINGLY DIFFICULT TO OBTAIN

(By Mark Dumont)

As the nations of the world become increasingly possessive toward their natural resources, they are making it difficult for U.S. oceanographic research ships to conduct studies off their coasts.

Dr. George Shor of Scripps Institution of Oceanography complains that researchers must plow through huge amounts of red tape to get the clearances which are necessary to carry out research in foreign waters.

The problem may get much worse, if as now seems possible, the international Law of the Sea Conference decides to extend national jurisdictions to 200 miles from shore.

At present, scientists from one country who wish to do research less than three miles from another country's coast or at a depth of less than 200 meters (656 feet) on another country's continental shelf must get that country's permission before starting work.

Time element

Researchers at Scripps are finding it increasingly difficult to get this permission. Applications must be submitted months before a cruise begins. Clearances often have to be obtained from five different countries for a single cruise.

Some nations claim their control extends 12 and in some cases 200 miles from shore. The United States refuses to recognize these claims and will not let scientists apply for permission to work more than three miles from foreign coasts.

As a result, Shor says the ships at Scripps frequently must plan their routes to come within three miles of these countries so that the U.S. State Department will help them obtain their clearance.

Efforts are made wherever possible to include in the research teams scientists from the countries whose permission is needed for the cruise. In this way the foreign researchers can try to expedite the bureaucratic procedures of their own countries.

Some flat denials

In some cases, countries flatly deny permission to do research. Occasionally, to the consternation of the oceanographers, permission is granted only after the ship has left the part of the ocean where the research was to be done. "This way they can't count it as an official denial," Shor said.

The South American nations, and especially Brazil are generally acknowledged to be the hardest to deal with. A fear of economic exploitation appears to motivate the developing nations' general reluctance to allow research off their coasts.

Few nations are technologically developed enough to be able to extract resources from the sea on a large scale. The nonindustrial nations do not want ocean resources developed until they are in a position to get their fair share. They fear that oceanographic research will lead to the discovery of resources, which will be usurped by the industrial powers.

A different problem has been encountered by Shor in dealings with countries which are trying to lease offshore drilling sites to oil companies. These countries

are worried that they will lose the revenue from the leasing if oceanographers discover that they have no oil.

Suspicious of U.S.

Some of the problems encountered in obtaining permission to do research off foreign shores stem from pure suspicion of the United States.

"Imagine how we would feel about a Soviet ship doing research in the Great Lakes," Shor points out.

The recent incident in which the CIA reportedly used the Glomar Explorer, an oceanographic research and mining ship, to raise a Russian submarine is thought to have increased the suspicions of U.S. ocean research efforts.

It now seems likely that all coastal nations will take control of a zone extending to 200 miles from shore. Scripps scientists expect that this would greatly increase their problems.

U.S. oceanographic vessels spend about half their time within 200 miles of some coast. Important fisheries and geological research must be done less than 200 miles from land.

Oil interests

The controversy over the 200-mile limit involves the interests of oil companies, mining companies, and the fishing industry. Complex international legal and economic problems enter the discussion. Oceanographers are afraid that, compared with these other interests, their voices do not carry much weight, even with the U.S. government.

"Even if the State Department were backing us up all the way we would have problems," Shor said, "and they are not."

A basic difference between the point of view of the U.S. and that of the less technologically developed countries is the way they view basic research.

OCEAN FISHERIES, INC.,
San Diego, Calif., July 25, 1975.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am attaching a copy of an embassy dispatch from Costa Rica which gives the details of a new law extending the jurisdictional waters of Costa Rica to a distance of 200 miles. As observed in the dispatch, the law is designed to assist local interest groups. It is clearly designed to eliminate United States flag tuna vessels (which are in the majority) and other foreign flag tuna vessels (which are in the minority) from fishing within the designated new area in order to give complete control of that portion of the international high seas to Costa Rica.

The effect upon United States tuna fisherman will be immediate and drastic in at least three ways:

1. By driving tuna vessels from one of their historic and productive fishing grounds;

2. By interdicting and rendering nearly impossible the travel of tuna fishing vessels to and from the Panama Canal and the supply base in Panama. (The Canal is one of the life lines supporting the tuna canneries in Puerto Rico, the world's second largest processing center); and

3. By encouraging other coastal nations to take similar actions to extend their territorial and/or jurisdictional claims seaward to affect the fishing activities of many participating nations including those of their neighboring states.

Costa Rica's action is an outgrowth of nearly a quarter century of contest since Ecuador seized its first U.S. tuna vessel on the high seas in 1951. While over the years it has appeared from time to time that the differences between the United States and Ecuador over the latter's claim to 200 miles of sovereign territorial waters were capable of resolution, recent events have solidly confirmed that this is now not the case. In 1975 seven United States flag tuna vessels were seized at great distances from the coast of Ecuador, fined, their catches confiscated

irrespective of where caught and many days of fishing time lost, all at a cost running into millions of dollars.

It is not the dollars which will embolden other nations to follow a progressively more militant course, but the fact that Ecuador has been able to do what it wants to do with impunity and without regard for the rights of other nations, international law, practice and policy.

It is therefore of the utmost importance that the United States seek resolution of this matter at the source. This should not be accomplished, however, by an acquiesence in international forums to recognition of extended jurisdiction by other nations which destroy the United States high seas fishing capability, ignore its historic rights or fail to recognize the characteristics of a fishery—in the case of tuna that it is a migratory species not capable of control by any single nation.

Two events in 1975 have given encouragement to those United States citizens who follow the sea and, more broadly stated, those who have been concerned about decline in the assertion, long held by most nations, that the freedom of the seas for peaceful uses should be maintained.

The first encouraging event was the decision of the International Court of Justice in the Iceland-United Kingdom case. This held that: "Iceland's unilateral action thus constitutes an infringement of the principle enshrined in the 1958 Geneva Convention on the High Seas which requires that all states, including coastal states, in exercising their freedom of fishing, pay reasonable regard to the interests of other states." The Court concluded that the Icelandic regulation establishing an exclusive 50 mile fishing zone was "not opposable to the United Kingdom" and therefore, the United Kingdom" is under no obligation to accept the unilateral termination by Iceland of United Kingdom fishery rights in the area." The same ruling applied to West Germany. (It should be noted that in 1955, the United States asked Ecuador to submit the 200 mile matter to the International Court of Justice without agreement by Ecuador.)

The second encouraging event was the case of the Mayaguez seized off Cambodia and its hard-won release through United States military intervention which clearly upheld the right to peaceful use of the sea beyond the limits of sovereignty recognized as the high seas by this nation and a majority of others.

I am writing this letter to respectfully request that as our President you again act appropriately in the matter of this Costa Rica decision by proclaiming the United States position in opposition to any extensions of jurisdiction which pay no reasonable regard to the interests of other states and which exceed the limits of jurisdiction and sovereignty recognized by the United States; taking such steps as are necessary to protect our rights, as well as renewing efforts to settle the long-standing differences with Ecuador.

Anything less will continue to diminish United States rights on the high seas, reduce the area of the international high seas, affect our ability to operate thereon in peaceful pursuits including fishing, subject our particular fishery to harassment and penalty, eliminate our historic rights which have extended forty years or more in the tuna fishery, eliminate, in turn, this same fishery as an American presence on the high seas, diminish our national economic diversification and production of protein food, and ultimately and inexorably affect our military and air rights.

The American tuna industry will greatly appreciate your study and assistance.

Very truly yours,

HAROLD F. CARY.

Attachment.

Subject: Costa Rica claims jurisdiction over tuna fishing within 200-mile limit.

1. The Costa Rica legislative assembly has passed in first debate a law which would regulate tuna fishing within 200 miles of the Costa Rican coast and 12 miles of the Costa Rican owned Coco Island. The law, which is expected to pass in the near future, would require all foreign boats fishing in this area to register with the Costa Rican Government. The registration fee would be $5 per ton capacity a year. In addition, vessels would be required to obtain a fishing permit good for sixty days for each fishing trip into the area. Permits would cost $30 a

ton capacity for vessels of 400 tons or less and $60 a ton for vessels of more than 400 ton capacity.

2. Those vessels fishing with live bait and harpoon, as opposed to those using nets, would pay only 50 percent of the above listed fees. Foreign vessels of less than 400 tons which agree to turn over a minimum of 100 tons of their catch to local canneries within the 60-day period of validity of the permit would be granted a free extension of said fishing permit. Foreign boats agreeing to enter into regular contracts with local canning companies will be granted the same treatment as national flag vessels (i.e. presumably not subject to the registration and permit requirement). Crews of such vessels could be required to be at least 75 percent Costa Rican.

3. This law would seem to be designed to assist two Costa Rican interest groups. The first obviously would be the local tuna canneries. The second is a regional university center to be located near the Pacific Port of Puntarenas. Vessels found to be in violation of the new law would be required to pay a fine and their catch would be seized. Money obtained in this way would be turned over to the regional university center.

4. Regulations governing the enforcement of this law will be drawn up by the executive upon passage of the law by the assembly. It is expected that the ministry of agriculture will be the governmental entity designated to administer the law. One fisheries officer in that ministry told an emboff that he expects early implementation of the law.

DEPARTMENT OF STATE,
Washington, D.C., September 3, 1975.

Mr. HAROLD F. CARY,
Ocean Fisheries Inc.,
San Diego, Calif.

DEAR MR. CARY: Your letter of July 25 to the President regarding the details of a new Costa Rican law extending the jurisdiction of Costa Rica to 200-miles from its coasts has been forwarded to this office for reply.

The issues which you raise are among those currently under consideration by the Third United Nations Conference on the Law of the Sea. Article 53 of the Committee II single negotiating text produced at Geneva, a text drawn up at the request of the Conference President, provides for the establishment of an appropriate international organization which would ensure conservation and promote optimum utilization of the highly migratory species throughout the region, both within and beyond the exclusive economic zone.

The Department of State strongly supports the establishment of such an international organization and endorses the principles of conservation and optimum utilization.

The Administration greatly appreciates the legitimate concerns which you raise and the constructive comments both you and the American tuna industry have made. I assure you every effort is being made to further all U.S. law of the sea interests, including that of highly migratory species.

Sincerely,

JOHN NORTON MOORE,
Chairman, the NSC Interagency Task Force on the Law of the Sea and Deputy Special Representative of the President for the Law of the Sea Conference.

OCEAN FISHERIES, INC.,
San Diego, Calif., September 10, 1975.

Hon. LEONOR F. (MRS. JOHN B.) SULLIVAN,
Chairwoman, Committee on Merchant Marine and Fisheries, U.S. House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR MRS. SULLIVAN: Thank you very much for your informative letter of August 25 and for taking the time to prepare it in such detail. We in the tuna industry are engaged in reviewing the final bill as approved by the Committee, as well as the Committee Report—both enclosed with your letter.

As legislation of this nature directly affects us, as you have clearly stated, I think it necessary to the common good (not the tuna industry alone) to examine some of the statements and documentation provided to the Committee and appearing in the report.

On page 23, the idea is expressed by the National Security Council Interagency Task Force that: "2. Such unilateral action runs counter to established fundamental law and would encourage similar jurisdictional claims by other countries. . . ."

The Costa Rican action preceded final Committee approval of H.R. 200. Following the Committee action, the President of Mexico recommended the adoption of a 200-mile limit in his state of the union message on September 1. Two newspaper clippings are attached covering this development.

This lends almost immediate validity to the viewpoint expressed in the report.

There are several critical items in the report that will be examined in following letters which, I believe, will show that some of the data provided for inclusion in the report and instrumental in affecting decisions are subject to question. As soon as examination is complete, I will take the liberty of writing you.

Thank you again for your interest and your efforts on behalf of our industry.

Very truly yours,

OCEAN FISHERIES, INC.,
HAROLD F. CARY.

Attachments.

[From the San Diego Union, Tuesday, Sept. 2, 1975]

ECHEVERRIA SEEKS NEW SEA LIMITS

200-MILE ZONE LAW ASKED OF MEXICO CONGRESS

By Vi Murphy, Mexico Special Writer, The San Diego Union

MEXICO CITY—President Luis Echeverria Alvarez asked the Mexican congress yesterday for legislation extending Mexico's offshore claims 200 miles out to sea.

Echeverria called the claim "an exclusive economic zone extending 200 nautical miles from our (Mexico's) coast."

The economic zone, also called a patrimonial sea concept, would reserve all resources on the surface of the water, in the water, on the ocean floor and subsoil, he said.

However, the offshore 200-mile zone would not interfere with international overflight, navigation or laying of communication cable along the ocean floor, the president said.

Annual Message

Echeverria called for the legislation in a State of the Union message delivered yesterday at the opening session of the Mexican congress.

The president's speech was four hours and 15 minutes long, was punctuated by frequent applause and ended in four minutes of standing applause and cheers.

Extension of the offshore claim, even in a patrimonial sea concept, would reserve all fish in the reserved area, minerals, petroleum and other resources for Mexico.

A Mexican official said after the speech that there is little likelihood that migratory species of fish, such as tuna, would be excluded from the claim.

Views on Tuna

"We would consider tuna fish as part of the economic zone resources, I am sure," he said.

The 200-mile zone will include a part of one of the richest yellowfin tuna fishing grounds in the world by cutting into the Pacific Ocean area where the fish migrate each year.

By Mexico's claiming the 200-mile economic zone, the seiners in the American tuna fleet will be forced farther out to sea for their catch.

"With approval of the bill, the nation will assert its sovereignty over the natural resources in a marine area of some 1.5 million square miles," Echeverria said.

"In addition, this measure will establish the nation's right to sovereignty over all the renewable and nonrenewable natural resources in the entire Gulf of California," the president said.

Nonrenewable resources include minerals and petroleum.

The proposed legislation for the 200-mile extension also would nationalize the Gulf of California for Mexico and reserve all its resources for Mexican development.

An official with Petroeos Mexicanos, he government run controlled petroleum industry, said last week that recent geological explorations have shown "good indications" of possible oil deposits both on the Baja California shoreline and the western Mexican mainland coast bordering the Gulf of California.

Other Nations

Inextending her offshore claims, Mexico will join Argentina, Brazil, Chile, Costa Rica, Ecuador, El Salvador, Panama, Peru, Trinidad and Tobago and Uruguay in claiming all offshore resources within 200 miles.

Echeverria told the congress he "soon" would have a bill ready for the members to approve and met with the congressmen in a general session that followed the formal opening, to outline the forthcoming legislation.

The president's proposal of the 200-mile limit was met with applause by the members of the Mexican congress and there is no doubt here that it will pass.

Full-Page Ad

A full-page newspaper advertisement recently printed in Mexican newspapers urging the 200-mile extension and nationalization of the Gulf of California was signed by Gov. Milton Castellanos Everardo of the northern state of Baja California; Francisco Santana Peralta, equivalent of lieutenant governor; Fernando Marquez Arce, mayor of Tijuana; the mayors of the state's other cities and officials representing farming, fishing, industrial, tourism interests, chambers of commerce and many of the peninsula's leading private businessmen.

"The growth of our economy calls for a maritime policy that will permit the exploitation of our ocean resources and a dedicated effort to protect our maritime heritage," Echeverria told the congress.

He said, "To aid in the task, the Mexican navy has, received seven new patrol vessels, which have already been commissioned. Five more will be placed in service during the coming month."

Fishery Schools

In preparation for an expanded fishing industry, 30 technological fishery schools have been created during the past five years of Echeverria's six-year administration, which ends Dec. 1, 1976.

In addition, a marine science and technology center has been created along with Mexico's first Technological Fisheries Institute.

The Echeverria administration also has been expanding Mexico's tuna fishing industry and a fleet of more than 30 seiners now operates under the Mexican flag.

Port Development

Mexico has also been expanding and improving her port facilities.

More than $1 billion was spent last year in port development and almost $2 billion has been expended in the past five years to deepen harbors and build new port facilities throughout the country.

[From the San Diego Union, Sept. 3, 1975]

MEXICO CONGRESS BACKS ECHEVERRIA 200-MILE LIMIT BID

(By VI Murphy, Mexico Special Writer, The San Diego Union)

MEXICO CITY—The Mexican congress is uniting behind President Luis Echeverria Alvarez to extend Mexico's offshore claims to a 200-mile economic zone and nationalize the Gulf of California.

A 25-member bloc of congressmen from the Partido Accion Nacional (PAN), the opposition party to the president's Partido Revolucionaro Institucional (PRI), will vote in favor of the bill if it contains the measures that are expected.

Esrain Gonzalez Morfin, national chairman of the PAN party, said here yesterday in an interview that the presidential proposal is similar to a bill introduced in 1965 by PAN party congressmen.

"The bill was defeated then because the PRI congressmen, who control the Congress, would not support it," said Gonzalez Morfin.

"Now, with the president of Mexico proposing the measure and the PRI congressmen behind it we will also support it if it contains the provisions we feel are necessary, because we believe the importance of the measure transcends politics.

"So far as we know of the president's proposal at this time, we are in agreement."

Echeverria announced Monday in his State of the Union Message, that he soon will send a bill to the Congress to extend the off-shore claim and nationalize the Gulf.

Gonzalez Morfin said yesterday his party is most interested in acquiring dominion over the 200-mile off-shore territory and the Gulf to give Mexico the exclusive right to harvest the marine resources.

He said his party agrees with the economic zone principle of claiming only the marine and sub-soil resources in the 200-mile zone and the Gulf, including the petroleum thought to be in both areas.

"We are in accord with the president that the off-shore claim should not restrict or interfere with international navigation, over flight, or laying of trans-ocean communication cables," he said.

"However, we feel strongly that the resources in the 200-mile zone and the Gulf should be reserved for Mexican exploitation."

The 200-mile extension not only will affect the operation of the American tuna fishing fleet of more than 100 seiners, it also will restrict operations of the U.S. shrimp fishermen based in Texas, Louisiana and other Gulf of Mexico coastal areas.

U.S. Department of Commerce,
National Oceanic and Atmospheric Administration,
National Marine Fisheries Service.

Iceland Extends Fishing Jurisdiction

The Icelandic fishery limits were extended to 200 miles on July 15, 1975 and the new law will enter into force on October 15, 1975. Iceland extended its jurisdiction to 50 miles in 1972, and hopes that the latest extension will further protect its major resources: 75 percent of Iceland's foreign exchange comes from the fishery exports. Since the country's imports are equal to about 50 percent of its GNP, the exchange it receives from fish exports is essential to the economy. The Government of Iceland claims that the country's fish stocks can no longer support fishing by foreign fleets, and that the Icelandic fishing fleet is capable of fully utilizing the resource. Iceland must therefore extend its jurisdiction.

The new law specifies the precise limits of the 200-mile boundary, and allows for the areas between Iceland and Greenland and the Faroe Islands, when those countries are separated by less than 400 miles, to the demarcated by an equidistant boundary. Further specific regulations and restrictions to both foreign and Icelandic vessels in certain areas and at specific dates are listed in the new regulations.

The Government of Iceland hopes that extended jurisdiction will help the fishing industry, which continues to be depressed. Having greatly over-extended itself, the industry hopes to improve its position by early 1976. The outlook for 1975, however, is unpromising. During the period January through April, fishery catches declined except for demersal catches by stern trawlers. The total catch was only 1.4 percent higher than during the same period in 1974, and rising fuel costs have dramatically affected profits. In addition, a strike by the stern trawler workers which ended June 13 also affected the industry. The attached tables show total catch from 1972–1974, and list exports by destination and species. (Sources: Ministry of Foreign Affairs, Reykjavik, July 15, 1975 and U.S. Embassy, Reykjavik, May 30, 1975)

Further statistics for the Icelandic fishing industry may be obtained by mailing a pre-addressed envelope to R. V. Arnaudo, International Fisheries Analysis Division, NMFS, NOAA, Washington, D.C. 20235.

For regional market news office only.—Please use this summary if space limitations do not allow you to publish the entire release.

Summary.—The Icelandic fishery limits were extended to 200 miles on July 15, 1975 and the new law will take effect on October 15, 1975. The industry has shown no signs of recovery from its present depression, and the Government hopes that extended jurisdiction will improve the industry. (For more details, contact this Statistics and News Office.)

TABLE 1.—FISH CATCH

Species	1,000 metric tons		
	1972	1973	1974
Ling	7	4	4
Cod	229	236	239
Haddock	30	35	33
Saithe	60	57	65
Ocean perch	33	29	37
Plaice	5	4	4
Greenland halibut	6	3	4
Other demersal	25	21	27
Total demersal	395	389	413
Herring	41	43	40
Capelin	277	442	465
Lobster	4	3	2
Shrimp	5	7	6
Scallop	7	5	3
Other	6	12	9
Total	735	901	938

Source: Statistical Bureau of Iceland.

TABLE 2.—ICELAND: EXPORT OF FISH AND SHELLFISH, 1973–74

Product	1973			1974		
	Metric tons	M. Kr.	$1,000 [1]	Metric tons	M. Kr.	$1,000 [1]
Salt and dried fish	37, 434	3, 349	40, 060	41, 408	6, 695	66, 950
Fresh herring	42, 787	1, 027	12, 284	38, 984	1, 082	10, 820
Fresh fish, other	17, 925	572	6, 842	17, 133	724	7, 240
Frozen fillets	63, 698	7, 013	83, 888	59, 996	8, 141	81, 410
Frozen fish, other	24, 336	900	10, 766	24, 812	1, 458	14, 580
Frozen lobster	665	382	4, 570	672	469	4, 690
Frozen shrimp	1, 421	557	6, 663	1, 135	542	5, 420
Frozen scallops	505	177	2, 117	357	115	1, 150
Canned fish	1, 751	294	3, 516	1, 621	491	4, 910
Cod meal	26, 316	1, 110	13, 277	22, 613	877	8, 770
Capelin meal	63, 467	2, 376	28, 433	58, 237	2, 348	23, 480
Fish meal, other	4, 718	217	2, 596	2, 078	66	660
Fish oils	23, 730	467	5, 586	28, 567	1, 078	10, 780
Other	17, 026	749	8, 959	7, 350	501	5, 010
Total	325, 879	19, 190	229, 557	304, 963	24, 587	245, 870

[1] Rates of exchange: 1973 $1=83.60 krona (this figure varied, e.g. in June $1=91 krona) 1974 $1=100 krona (average annual rate).

Note: Whale products included.

Source: Statistical Bureau and Embassy estimates.

TABLE 3.—ICELAND: EXPORTS OF FISH AND SHELLFISH TO THE UNITED STATES

Product	1973		1974	
	Metric tons	$1,000	Metric tons	$1,000
Frozen fillets and blocks	51, 161	73, 409	42, 876	62, 700
Frozen lobster, nephrops	356	2, 763	499	3, 870
Frozen scallops	505	2, 105	356	1, 150
Other	1, 851	1, 770	2, 593	3, 039
Total	53, 873	80, 047	46, 324	70, 759

TABLE 4.—ICELAND: EXPORTS OF FISH AND SHELLFISH BY MAJOR DESTINATION

Destination	1973				1974			
	1,000 kilograms	Percent	$1,000	Percent	1,000 kilograms	Percent	$1,000	Percent
West Germany	32,780	10	17,057	8	29,831	9	13,340	5
EC (6) other	31,030	10	19,509	8	14,157	5	13,770	6
Subtotal	63,810	20	36,566	16	43,988	14	27,110	11
United Kingdom	37,179	11	20,335	9	21,371	7	11,240	5
Denmark	59,699	18	38,696	16	48,998	16	15,850	6
EC (9)[1]	160,688	49	95,598	41	114,357	37	54,200	22
United States	53,873	17	80,047	35	46,324	15	70,579	29
Soviet Union	12,144	4	7,864	3	26,678	9	21,160	9
Other	99,174	30	46,016	21	117,605	39	99,761	40
Total	325,879	100	229,507	100	304,964	100	245,880	100

[1] Includes exports to Ireland.

Source: Statistical Bureau and Embassy estimates.

Routine: Oslo.

Routine: Bonn, Caracas, Copenhagen, London, Reykjavik, Stockholm.

Caracas for Los Delegation.

Tags: ICJ, PLOS, IC, NO, UK, GU.
Subject: International Court of Justice Judgment In Fisheries Jurisdiction Case.
Reference: Oslo 3647.

1. ICJ ruled on Iceland's unilateral extension of exclusive fisheries zone on basis of international law that is generally applicable. Not on basis of any special agreements applicable to these cases. Although there may be some support for Eliassen's interpretation since court did not directly rule on first UK submission, i.e. That Iceland's action illegal on its face. Reading judgment of the court as a whole we do not consider his interpretation correct.

2. ICJ found that two rules of customary international law had developed in recent years: (1) A State may claim exclusive fisheries jurisdiction up to 12-mile limit from baselines, and (2) Coastal State has preferential rights of fishing in adjacent waters in situation of special dependence on its coastal fisheries. UK case para 52; FRG case para 44. Court further found that method for Coastal State to implement such preferential rights is bilateral or multilateral agreement with other States concerned, and in case of dispute, through means of peaceful settlement as provided in article 33 of the United Nations charter. UK case para 57; FRG case para 47. Court found that Icelandic regulations constituted claim to exclusive fishing rights in 50-mile zone and thus went beyond concept of preferential rights. UK case para 61; FRG case para 55. "Iceland's unilateral action thus constitutes an infringement of the principle enshrined in article E of The 1958 Geneva Convention on the high seas which requires that all States, including Coastal States, in exercising their freedom of fishing, pay reasonable regard to the interests of other States. UK case para 67; FRG case 59. ICJ held Iceland could neither assert nor enforce exclusive fisheries jurisdiction as against UK or FRG, both of which had established fishing rights in the area. UK case paras 67, 71, 79; FRG case paras 59, 63, 77. Court also held that parties under a mutual obligation to undertake negotiations in good faith to arrive at equitable solution taking into account Iceland's preferential rights beyond 12 miles as well as established rights of UK and FRG. UK case paras 73–79; FRG case paras 65–69, 77.

3. Court's ruling on merits was based on principles of customary international law and not on specific agreements between parties. 1963 exchange of notes between Iceland and UK and Iceland and FRG provided basis for jurisdiction of court (see Feb. 1973 jurisdiction cases), but not for substantive judgment.

Cf. UK case paras 47–48; FRG case paras 39–40. 1973 interim agreement between Iceland and UK found to be provisional in nature [it had 2-year term] and not to prejudice rights of parties; court stated that it was therefore appropriate to pronounce on the rights of the parties under existing international law to guide parties in their actions after termination of the interim agreement. UK case para 40. There was no such interim agreement between Iceland and FRG.

4. While its clear that court ruled on merits on basis of applicable international law, court used carefully chosen language and avoided making broad general statements with regard to legality of Iceland's action. While court said Iceland's action an "infringement" of "principle" in article 2 of the 1958 Convention, it did not explicitly call that principle a rule of customary international law, but rather said the drafters considered the convention generally declaratory of established principles of international law." UK case para 50; FRG case para 42. Nevertheless, since Iceland not a party to 1958 Convention on the high seas, the court in order to arrive at its holding, must have also considered the principle in article 2 to be customary international law. Thus, ICJ in substance found Iceland in violation of customary international law. In addition, court indicated assertion or enforcement of exclusive fisheries zone as against UK and FRG illegal, but did not make statements with regard to other States. Despite this, it is clear to us from judgment that Coastal State has no right to assert exclusive [as opposed to preferential] fisheries zone beyond 12 miles. It also is clear that actions of Coastal States in enforcing such zone as against any other State with established rights are illegal.

[From Fortune, September 1973]

WHILE AGGRESSIVE FOREIGN FLEETS ARE CONQUERING THE SEAS AND THE MARKETPLACE

American Fishermen Are Missing the Boat

(By Tom Alexander)

Take a close look at the picture-postcard harbor of Gloucester, Massachusetts, shown in the photo on the opposite page. The tranquility is misleading, for the scene illustrates a turbulent economic upheaval that afflicts most of the New England fishing industry, once the largest in the U.S.

For centuries, Gloucester's fortunes rose and fell with those of its fishermen who set their nets in subarctic waters a thousand miles from home and shipped salt cod around the world. Today the ungainly trawler fleet that once numbered several hundred vessels has dwindled to less than a hundred. The town's prosperity depends mostly on its seafood-processing plants. And these, ironically, are busy producing fish sticks and other items from frozen slabs of fish imported to Gloucester in the holds of gleaming foreign ships.

Those Gloucester fishermen who survive putter forth in their ancient and rusty boats to comb nearby waters for fish missed by the great fleets of foreign trawlers that stand offshort for months on end. The foreigners haul in fish, fillet and freeze them aboard, and send them to ports abroad. From there, the fish are often shipped right back to Gloucester and sold for half the price of the same stuff caught by the local fishermen. Some of the locals insist that unless help is forthcoming soon, their livelihood may be doomed.

To a considerable degree, the plight of the Gloucestermen symbolizes the painful decline of the American fishing industry. It is being outfished on its home grounds and outsold in its home markets. American consumption of fishery products has more than doubled in the past twenty-five years, but two-thirds of the supply is now imported. The annual world catch has increased from 18 million tons to 76 million tons in that quarter century, but the U.S. catch has remained about the same. As a result, the U.S. fishing industry, which only sixteen years ago ranked second to Japan's in annual output, has dropped into sixth place.

Overfishing by foreigners and misguided government policies have contributed to this decline, but in great part the industry itself is to blame. Most American fishermen have missed the boat because they have been unwilling to try new methods and new fishing grounds and have gone on catching and selling the same familiar kinds of fish in the same old ways. Particularly because it is so fragmented, the industry clings to inept and archaic marketing techniques while its

operations waste manpower, money, and fish. Its productivity, as measured by the catch per man-day, has declined an astounding 26 percent in a decade.

A tragicomedy of errors

Now the industry is struck with high production costs that limit its markets. More and more, American fishermen are confined to gourmet items like shrimp and lobster and high-priced fresh fish for local sale, and they might have trouble holding on to this segment of the market were it not for a federal law providing that only American-built boats can land fresh seafood in this country.

What with the rice of meat, fish has become a much more desirable item in the American diet, but even that development hasn't stirred the domestic fishing fleet to capitalize on is opportunity. Last year, U.S. consumers downed a record 12.2 pounds of fish per capita, 7 percent more than in 1971. But imports of edible fish rose 30 percent. So far this year, the demand for fish is running substantially above the 1972 level, and so, to the distress of housewives, are prices. Fresh fillets of some popular species now cost more per pound than choice cuts of beef.

Imports have now captured almost the entire U.S. market for less expensive seafood staples, notably frozen fillets and convenience-packaged fish sticks. Consumers have been discovering that a quick-frozen fish is not only cheaper but usually tastier than a "fresh" fish that has actually spent a week or so in a trawler's hold and another week in a seafood store. At the rate things are going, fresh fish may become such a luxury that only the very rich will be able to afford it—and the American industry will have priced itself out of the market.

As a nation, we use as much fish for animal feed and other "industrial" fishery products as for human consumption. But here again U.S. fishermen have missed out. Nearly two thirds of the fish meal that goes into such products is imported, three times as much as in 1960. Last year fish contributed $1.1 billion to the deficit in the nation' trade balance.

Fishermen in New England and the Middle Atlantic states have been at stage center in this industrial tragicomedy. Twenty years ago they brought in 40 percent of the nation's catch; today their share is only 15 percent. Meantime the Gulf of Mexico region has become the nation's leading fishery. Last year the dollar value of shrimp, spiny lobster, red snapper, menhaden, and other fish landed from the Gulf was twice that from New England waters.

For a nation that prides itself on its industrial prowess, organization and methods of the fishing industry are a ludicrous anomaly. Some 144,000 full- and part-time commercial-fishermen venture forth in some 88,000 craft ranging in size from ten-foot skiffs to 250-foot trawlers and purse seine. Last year their 2.5-million-ton catch was worth $765 million at the quayside. But most U.S. fishermen are independent operators of small boats that were built years ago with the fresh-fish market in mind. Lacking shipboard freezing equipment, they have to pack their highly perishable catch in ice. Thus they cannot wander far from home port and still return with fish fresh enough to sell. Most are out for a day, a few for a week or two, but seldom long enough to fill their holds. Much of their time is spent in unproductive commuting to and from the inshore fishing grounds. Because of time spent in transit, bad weather, and layovers between trips, the average Boston trawler spends only 174 days a year fishing.

How the Russians decimated the haddock

By contrast, the Russians, Europeans, Japanese, and even South Koreans and Taiwanese have aimed their efforts at efficiently supplying the growing global market for frozen fish. In the early Sixties they began deploying new "distant water" fleets. The fishing vessels either have processing and freezing equipment on board or are mothered by big factory ships, so they can remain at sea for four to eight months at a time. The highly mechanized stern trawlers haul their huge nets directly abroad through cutaway sterns, avoiding the time-consuming maneuvering and manhandling that the older U.S. side trawlers require. As holds are filled, they ship their catches home on other vessels, and they even exchange crews in midocean. The foreign fleets now catch about ten times as many fish per man-day as their American counterparts.

It is hardly surprising that foreign fleets like to fish off U.S. shores. The North American continent is surrounded by some of the world's most bountiful seas. This is the happy consequence of global currents and shelving undersea topography that combine to stir the deep waters, bringing to the surface vast quantities of the mineral nutrients that form the essential first link in the complex food chain upon which all marine life depends. It outrages not only U.S. fishermen

but also an increasing number of legislators that those hordes of foreigners—with their subsidized ships and low-cost labor—are plundering waters that have long been regarded as an American preserve.

The alien fleets have taken some disastrously large bites out of the stocks of many familiar local species. The mainstay of New England fishing used to be the haddock. As recently as 1965, trawlers were catching 120 million pounds of haddock a year from the Georges Bank fishing grounds off Cape Cod. In the mid-Sixties, however, Soviet flotillas turned their attention to haddock and greatly depleted the species. Last year, New England boats netted only 11.7 million pounds.

The foreigners concentrate their massed fishing power in a single productive area until the fish become too scarce or the schools disperse. Then the fleets shift to other regions or other species. Left with the dregs, coastal fishermen condemn such "pulse fishing" tactics as bad conservation. Many fishery scientists contend, however, that if enough time is allowed to elapse betwen pulses, pulse fishing is probably a sounder approach to conservation than the local fleets' way of fishing a single area without letup.

The local fleets are certainly far more wasteful of fish resources since they serve small, specialized markets, and lack both export outlets and on-board equipment for making fish meal. Roughly half their catch is simply tossed overboard because it is too small to fillet or is "trash" fish, unsalable in the particular market each boat serves. Maine fishermen discard delicious cold-water shrimp, while Key West shrimpers throw away all fin fish.

Worldwide, though, one man's trash is often another's treat. For example, the Japanese savor the saury, which Americans disdain though it is plentiful off the California coast. The foreign fleets keep practically everything; any fish too small or too strange even for export is turned into fish meal.

By imitating foreign methods, American fishermen could improve productivity, reduce waste, and diminish their dependence upon precarious local stocks. Except for tuna and shrimp fishermen, the industry has shown few signs of doing so. One reason is that since 1792, federal law has required that all American fishing vessels be built in U.S. yards. This means that American fishermen have been paying about twice as much for new boats as their foreign competitors.

Partly because of union pressure, the traditional American system of compensating crewmen has changed from one that provided an incentive to the crews into one that presents a powerful disincentive for owners Fishermen seldom work for wages; instead, boat owners and crews share the risks and rewards by splitting the proceeds of each voyage. In some areas, the crew's share has now risen to 60 percent. Having to pay so high a proportion to labor, no matter how small the crew, the owner sees little advantage in mechanizing. And anyway, the individualistic American fisherman shuns spending long months aboard a floating factory. After all, under the present arrangements even New England fishemen generally earn between $15,000 and $16,000 a year.

The Seafreeze fiasco

In 1968 the federal government tried to revitalize American fishing by subsidizing half the $12-million cost of two great factory stern trawlers, *Seafreeze Atlantic and Seafreeze Pacific.* Owned and operated by American Stern Trawlers, Inc., a subsidiary of American Export Lines, the ships were designed to catch, fillet, and freeze cod and other fish in northern waters around the world. The 300-foot, 3,000-ton ships, the largest fishing vessels ever built in the U.S., incorporated everything modern in fishing gear, electronics, automatic cleaning and filleting machines, and freezing equipment. Under the subsidy law, the vessels had to be manned by U.S. residents. But the union hiring halls were unable to provide enough experienced hands, so the sixty-man crews were patched together from landlubbers, misfits, and youngsters seeking a vacation experience.

Even so, the *Seafreezes* occasionally did as well as the foreign competition in waters as distant as those off Murmansk. But the triumphs were sporadic. A key to successful foreign-fleet operations is that when fish are found, both fishermen and shipboard processing crews work night and day to exploit the opportunity. While the U.S. *Seafreeze* crews were idle for days between catches, the men often refused to turn out for midnight watches, though all around them foreign trawlers dropped and hauled their nets by floodlights.

The crewmen received straight wages, with bonuses if the catch exceeded a certain tonnage. But with the short trips and the intermittent fishing, the bonus level was seldom reached, and the enterprise never returned a profit. One executive involved in the project doubts that U.S. factory-ship operations will ever be possible: "The type of fisherman who will work on these boats just does not

exist in the U.S. today. These ships are designed to be at sea for months at a time. We couldn't stay out thirty days before the men started to riot."

After only a few voyages, both vessels were laid up in 1970. Early this year, the $6-million *Seafreeze Pacific* was finally sold for less than $1 million to Pan-Alaska Fisheries, Inc. The company plans to anchor her in an Alaskan cove to serve as a factory for processing fish and crabs. The *Seafreeze Atlantic*, still unsold, gathers rust in Norfolk Harbor.

Today, Americans really excel in only one segment of the world's fishing industry. The efficient U.S. tuna fleet, based in San Diego and Puerto Rico, roams the high seas for its prey, piles up hefty profits and inspires foreign emulation.

Until about a decade ago, practically all tuna were caught by hook and line, and a good many still are. But U.S. fishermen—led by old Gloucestermen, in fact—developed techniques and equipment for encircling large, fast-swimming tuna schools with purse seines half a mile long. They use big, fast vessels that literally run circles around the fish. Power winches swiftly haul in the sturdy, lightweight nylon nets, and shipboard refrigeration plants freeze the catch. Pursuing their quarry over thousands of miles, the tuna clippers stay out for months at a time.

To help entice fishermen to spend most of the year away from the comforts of home, the vessels are outfitted with plush, air-conditioned accommodations. Their skilled crewmen earn about $25,000 each per season, though they are generally paid only 40 percent of the value of their catch instead of the 60 percent that is common elsewhere. With that arrangement, boat owners can afford to mechanize and so keep the size of the crew on each boat down to ten or fifteen men. Many of the privately financed $3-million vessels earn enough to repay their construction costs in seven years.

Are we running out of fish?

Several formidable uncertainties inhibit other U.S. fishermen from investing in similar modern fleets. For one thing, the *Seafreeze* misfortunes raise questions about whether labor and shipbuilding costs will permit the U.S. to complete effectively with foreigners who catch low-value fish like cod. Moreover, many fishermen fear that the world supply of fish may not last long enough for them to recoup the cost of up-to-date vessels.

The most widely accepted finding about what the seas might yield was published in 1971 for the United Nations' Food and Agricultural Organization. The study edited by J. A. Gulland, chief of the F.A.O.'s fishery statistics and economic-data branch, and entitled *The Fish Resources of the Oceans*, estimates that the potential annual output of the species widely caught today is around 110 million tons. With the present catch running about 76 million tons a year, that limit may be reached in this decade if current fishing practices continue. But Gulland believes that better fishery management could double or triple the yield of familiar species. He estimates that if less familiar species were taken, the potential output might double or triple again.

But how many consumers could be tempted to eat monkfish, dogfish, or sea urchin (all of which have been pronounced delicious by official government tasters)? Most fishermen and the processors they serve are convinced that Americans are too set in their tastes to buy anything but the familiar standbys. Still, a lot of those fish sticks that sell so well in supermarkets are made from imported blocks of the very fish—such as pollock—that some American fishermen have been tossing away as "trash."

In fact, U.S. consumers *can* be persuaded to eat unfamiliar fish, provided the right marketing efforts are made. Here, alas, fishermen and processors are midgets in a game that requires corporate giants, and the industry has not even attempted cooperative promotional efforts. The National Marine Fisheries Service, an arm of the Commerce Department, has had some success at widening the markets or unfamiliar species by holding taste-test panels, issuing pamphlets, and planting new recipes in newspaper food sections. As a result a great many underutilized fish—whiting and cusk from the Northeast; mullet, croaker, and gaff-topsal from the Southeast; geoduck and sablefish from the Northwest—have gained a foothold in U.S. markets.

The promoters have a long list of other candidates they are plentiful, lightly fished, and said to be delicious, including red crabs, deep-ocean clams, mussels, and squid. Sometimes a name change is enough to attract consumers. Blowfish they became a restaurant item only after they were rechriste__ "sea squab." The Japanese and Russians have proved far more resourceful than Americans at utilizing the neglect about dance of the seas. In the last year or two, Soviet

fishermen have begun to catch a two-inch, shrimplike crustacean called krill, which is so abundant in Antarctic waters that marine scientists estimate it could enable the world to almost double its annual fish catch. The Russians grind the krill into a taste paste for soups and spreads.

Although the potential of underutilized species is great, the consensus of marine biologists is that most of the world's more established fisheries are already overfished. The fundamental difficulty has always been that the oceans are "common property." What belongs to everybody is nobody's responsibility. Moreover, in the absence of property rights, many of the economic principles governing fishing sound as though Humpty Dumpty wrote them. Fishermen will invest in equipment and enter a fishery so long as fishing appears profitable. As they do, however, the cost of catching each additional fish increases, so that increasing competition tends to mean higher prices to the consumer, while fishing itself becomes more and more of a marginal livelihood. Lenders and investors look askance at so weird a system, and fishing fleets tend to end up with too many vessels that are too small and too old. Gulland estimates that there is at least 30 percent more fishing for cod around the world than is needed to bring in the present catch.

Yet individual fishermen have little incentive to exercise restraint, for the fish that one man leaves uncaught for tomorrow may be caught by another today. So one fishing ground after another is overexploited, and then tends to expire together with all the processing and distributing activities that depend upon it. The fishermen's distress generates political pressures for regulation, but as one government biologist laments: "The result of government efforts to regulate fisheries so far has been to decrease production and increase effort and cost."

Pusherboats only on Mondays and Tuesdays

The U.S. has left the regulation of fishing in coastal waters mostly to the individual states. They have jurisdiction out to the three-mile limit and jurisdiction over their own residents beyond that. (The federal government exercises jurisdiction between three and twelve miles offshore, over both fishermen from other states and foreigners.) In misguided attempts at conservation, a number of states impose limitations on fishing methods just to spread the catch as widely as possible. Thus the federal government has been promoting new techniques for fish catching, while states have been busy banning them.

The most efficient way to catch Pacific Ocean salmon, which swim into fresh water to spawn, is to set nets or traps across the spawning streams. (Such methods also make for efficient management of the stock, since predetermined numbers of the salmon can be allowed to escape upstream and spawn.) But a handful of fishermen would be able to harvest the entire sustainable yield of salmon, so the states prohibited such practices.

Efforts to legislate inefficiency into the fish-catching process can take bizarre forms. Virginia oystermen must employ cumbersome twenty-foot tongs to raise oysters laboriously from public waters, instead of using efficient dredges towed by boats. In neighboring Maryland, dredges are permitted, but they can be towed only behind sailboats. A few years ago, Maryland's oystermen prevailed upon the state to change the rules: now, while the dredges must still be towed by sailboats it is permissible to help the sailboats along with motorized pusherboats—but only on Mondays and Tuesdays.

The seaboard nations of the world have been unable so far to agree on enough sensible laws to conserve the resources of the oceans. They differ about traditional concepts of freedom of the seas and the limits of territorial jurisdiction, as well as about what and how to conserve. Still, limited progress has been achieved. One approach has been to impose quotas on the number of fish that can be taken each year. For instance, the Pacific halibut treaty, signed by Canada and the U.S. in 1923, eventually brought about a 50 percent increase in the annual catch. Belatedly responding to years of obvious overfishing, the sixteen-nation International Commission for the Northwest Atlantic Fisheries last year finally adopted country-by-country limits for each of the most commonly caught species.

Helpful though it is, that treaty has been faulted for being too little and too late. For one thing, several nonsignatory nations still fish in the North Atlantic. And most of the quotas are probably too large. Those giant nets spread by foreign trawlers unavoidly sweep up everything in their path, even when the fishermen are concentrating on one species. Sometimes these "incidental catches" are large enough to diminish the stocks below the point of maximum sustainable

yield. Many New Englanders are convinced that a lot of these foreign incidental catches are not all that incidental anyway.

Even when quotas protect fisheries against depletion, they usually increase the economic waste that is inherent in common-property fisheries. Many experts belief that the tuna fleet is now overbuilt. The buildup started when quotas were imposed in 1966 on the major yellowfin-tuna ground in the eastern Pacific. The new rules encourage everyone to get there first and snare as many fish as possible before the open season is closed. This year fishermen caught tuna so fast that the season lasted only sixty-nine days.

Limited promise in limited entry

One currently fashionable answer to wasteful overinvestment and overmanning is government limits on the number of people permitted to fish commercially, through licenses, fees, or other schemes. Japan and Canada, for example, have regulations limiting entry in their fisheries. In most U.S. waters, however, this approach runs afoul of the state-federal jurisdictional split. Nor does it cope with invading foreign fishermen. It hardly benefits the fishermen of one State to participate in limited-entry programs if other states or nations may reap the benefits.

The Nixon Administration this year sent Congress a bill that would give the federal government power to impose uniform regulations on all U.S. fishermen out to the twelve-mile limit. But this sensible proposal is encountering opposition from many U.S. fishermen. They are reluctant to trade their considerable influence over state governments for an uncertain fate at the hands of a federal government, whose recent attitude toward the whole snarled fisheries problem has been more and more one of benign neglect. Fishermen in the Northeast and Northwest together with powerful Congressmen and Senators, are falling solidly behind a bill that would have the U.S. join the growing number of nations that have unilaterally declared that their territorial water extend 200 miles from shore. Until now, the federal government has resisted the appeals to enlarge its offshore jurisdiction, partly because of countervailing pressure from the West Coast tuna fishermen and Gulf shrimpers who frequently fish off foreign shores. They are routinely harassed and fined by Latin-American nations that have already claimed 200-mile limits. So far, the U.S. government has paid the fines to avoid acknowledging those claims. For the U.S. to claim a 200-mile sea itself would favor inefficient local fleets over its thriving shrimp and tuna fleets.

For all their political appeal, such government actions at a 200-mile territorial limit or limited-entry regulations will provide no cure for the fundamental troubles of the American fishing industry: high costs and low productivity. Foreigners, with their more efficient methods, would still be likely to undersell domestic producers and win major markets—unless, of course, the U.S. foolishly increased its import barriers. In essence, the protectionist devices advocated by fishermen and legislators are only complicated ways of perpetuating a picturesque but flabby industry.

The right route to efficiency

There are, nevertheless, a number of useful steps the government could take. Washington should press harder in international negotiations to persuade all nations to adopt sensible rules governing the exploitation of the ocean's resources. A promising opportunity will occur next year at a conference on the law of the sea in Santiago, Chile. Ultimately, everybody will lose unless overfishing is controlled by treaty. To help American fishermen compete on even terms with the rest of the world, we ought to scrap the costly requirement the fishing boats be built in the U.S. And by amending * * * obscure law, the government could help reduce the burden on insurance premiums, which have risen so high as to drive some vessel owners out of business. Fishermen are subject to * * * provisions of the Jones Act of 1920, which makes boat owners liable not only for the support of ailing crew members but costly and frequent lawsuits for injuries. Courts have been awarding crewmen such huge sums as $125,000 for the loss of one thumb.

For the sake of their own future, American fisherman should aim at increasing their efficiency instead of protecting their own welfare at the expense of consumers. The industry needs to be re-equipped with big modern boats and can go wherever the fish are. Fishing and marketing ought to be brought under more unified managerial control. M * * * rational organization and larger com-

panies would * * * industry to attract the large sums of capital that will be * * * for its revitalization. Even if such a transformation begins soon, as a few optimists predict, the process will naturally take time. Meanwhile foreign competition serves the wide public interest by helping to keep those outrageous fish price from moving even higher.

OCEAN FISHERIES, INC.,
San Diego, Calif., August 22, 1975.

Re Robert R. Nathan Report.

Mr. WILLIAM F. ROYCE,
Associate Director, Office of Resource Research, Department of Commerce, Washington, D.C.

DEAR BILL: This study is mentioned in the National Fisheries Plan material under Forecasts: What of the Future.

The last sentence states that—"Assuming the reservation of U.S. rights within the 200-mile jurisdicton, landings might increase to the 5.0 billion pound level, an increase of 2.7 billion pounds."

The Nathan Report, as it appears in the Committee Print released by the Senate Committee on Commerce, devotes only a few pages to fisheries. I have reviewed the nine pages referring to Food Fish to determine the details of how such an increase will take place. I find it stated as Scenario F.

This provides essentially that U.S. catches will increase by:

1. Diversion of most U.S. marketable catch recently taken by foreign fishing fleets;

2. Fishery management efforts (which) gradually overcome problems of excessive fishing pressure; and

3. Market acceptance of some new species.

Scenario F also provides, in essence, that U.S. catches will decline by:

1. Some loss of tuna catch inside the 200-mile limits of several Latin countries; and

2. Some loss of shrimp catch inside the 200-mile limit.

The Report lists net increases in catch to 1985 and to 2000. Under Scenario F, the catch will increase by 1 billion pounds by 1985, after writing off consequential poundage by loss of fish caught within 200-miles of other countries. Tuna and shrimp are indicated as the losers.

After 1985, the catch will increase by 1.5 billion pounds.

Statistically, that takes care of catch calculations in the report on a net basis—gains for the reasons given and losses for the same reasons.

Comparing Scenario F with Scenario E, we see that by 1985 the 200-mile limit (if adopted by the U.S.) will increase catches by 500 million pounds, after deducting losses of tuna and shrimp resulting from the 200-mile limit applied elsewhere. After 1985 and by 2000, Scenario E will add another 1,500 million pounds.

So far we have nine pages devoted to Food Fish, with one sentence devoted to explaining the huge gains attributable to the reservation of a 200-mile limit for U.S. exclusive exploitation, and less than half a sentence to eliminating the long-range U.S. tuna and shrimp fisheries.

As this Report does express specific results in specific terms and as it is done by a responsible organization, we should have the data immediately available for our analysis to respond to the following basic questions:

1. Regarding the catch "recently taken by foreign fishing fleets", what is the detailed composition of that catch (by species and volume) expected to be taken by U.S. vessels once a 200-mile jurisdiction is largely reserved to U.S. vessels? By 1985? After 1985?

2. Regarding the loss of "some tuna and shrimp catch inside the 200-mile limits of several Latin countries", how much of *each species* by volume will be lost by U.S. fishermen now fishing off Latin countries? By 1985 and off what countries? By 2000 and off what countries?

What greatly disturbs me and the tuna, shrimp and salmon people is that there will be a blind, or at least uncritical, acceptance of these tremendous increases in U.S. fish catches which may be used as a justification, for example, for a unilaterally declared 200-mile limit. The National Fisheries Plan cites the Nathan study as relevant. It can be so considered only if the data are provided which are necessary to a reasonably clear analysis. The Report as published does not provide it.

It will be of consequential assistance if you can provide the information requested as early as possible. It is so important that I will probably come to

Washington to review the matter with you as soon as I can complete further analysis made possible by receipt of the background data.

Very truly yours,

HAROLD F. CARY.

OCEAN FISHERIES, INC.,
San Diego, Calif., August 29, 1975.

Re Your telephone call August 28 re Robert R. Nathan & Associates report.

NEIL WILLIAMS,
Policy and Plans Development Staff, National Marine Fisheries Service, Washington, D.C.

DEAR MR. WILLIAMS: You called to talk to me with respect to the reply being prepared to my letter of August 22 (to William Royce) as it concerns the Nathan report. You stated that the Nathan projections were based not on N.M.F.S. figures but upon information from undisclosed sources.

Accordingly, as suggested, I called Jeremy Ulin of Nathan & Associates with respect to the projections and the details thereof. He was very accommodating, but stated that he had no detailed schedule of figures with which to answer my questions. He had heard of my letter and thought the questions therein were appropriate and answers were necessary to an understanding of the claimed net increase in catches. He stated that the data used were leaked to his organization from government as confidential, not-to-be-quoted, information. He said further that these data would probably no longer be considered confidential as the report was prepared in 1974.

He said that tuna and shrimp dominated the loss in catches. On my question with respect to loss of salmon under the 200-mile limit, as an effect of a loss of the abstention line, that had not been taken into account.

The detailed figures were given to Nathan & Associates by the government. There is only one agency of government collecting fishery information. I will therefore appreciate your making the inquiries appropriate to producing the background figures, as they are vital to any understanding of the claimed increase in U.S. fishery catches after allowing for losses in tuna and shrimp, which also require quantification as noted in my letter.

Very truly yours,

OCEAN FISHERIES, INC.,
HAROLD F. CARY

U.S. DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION,
NATIONAL MARINE FISHERIES SERVICE,
Washington, D.C., September 2, 1975.

Re Your letter of August 29 re Nathan Associates Report.

HAROLD F. CARY,
Ocean Fisheries, Inc.,
San Diego, Calif.

DEAR MR. CARY: As requested in your letter to me of August 29, I have made a considerable effort to identify the specific source of the increases/decreases in catch attributed to a 200-mile limit in the Nathan report. I am confident that these figures represent the best judgment of Dr. Ulin of Nathan Associates, rather than any definitive analysis or statistical source of the National Marine Fisheries Service.

As you know, any such estimate, whether prepared by the National Marine Fisheries Service or a consultant, must depend for its accuracy upon the skill of its several authors. Although it is impossible to reconstruct someone else's thoughts, Dr. Ulin tells me he relied heavily on a variety of informed opinion. These sources are all known to you, and include Dr. Francis Christy, Dr. James Storer, and Dr. Harvey Hutchings among others.

I regret that I cannot provide you with the text you desire, but will advise you on the progress of relevant future work.

Sincerely,

NEIL K. WILLIAMS,
Plans and Policy Development Staff.

OCEAN FISHERIES, INC.,
San Diego, Calif., September 11, 1975.

Re Nathan Associates Report—Your letter of September 2.

NEIL K. WILLIAMS
Policy and Plans Development Staff, National Marine Fisheries Service, Washington, D.C.

DEAR MR. WILLIAMS: I am greatly disappointed that your letter advises me that there is no data base in National Marine Fisheries Service statistics or studies to support the statement in the Nathan Report that landings will increase under a 200-mile limit even after allowance is made for losses in tuna and shrimp.

As I advised you in my letter of August 29, Dr. Ulin of Nathan Associates advised me in a telephone call that the data used were leaked to his organization from government as confidential, not-to-be-quoted information. He said further that these data would probably not now be confidential, as the report was prepared in 1974. I understand that the data were prepared as background material for the Law of the Sea Conference.

It now appears that no such data exist and that any figures used "represent the best judgment of Dr. Ulin of Nathan Associates * * *."

As Dr. Ulin advises that he has no analytical material which would reveal the expected gain in landings volume by species, or the loss of tuna and shrimp by volume in arriving at the net gain in landings through the imposition of a 200-mile limit, it follows that the forecasts lack the essentials of validity .

It also follows logically, therefore, that the study cannot be "considered particularly relevant * * *" as stated in the National Plan for Marine Fisheries (Draft for Review, June 1975). There is no statistical support for the statement (among others) that: "Under the third assumption U.S. landings will reach the 5.0-billion pound level, an increase of 2.7-billion pounds."

If it is true that no data or studies exist in N.M.F.S. from which a specific estimate could or can be made, and if it is true that the specific estimate represents only the best judgment of Nathan Associates, then it emerges that acceptance of the Nathan Report and its prominent use in the National Fisheries Plan constitute a blind, or at least uncritical, acceptance and endorsement of these tremendous claimed increases in catch. N.M.F.S. made no analysis of the estimates used, as it could not do so without its own data base.

I believe that N.M.F.S. is better equipped to evaluate such claims of losses and gains in detail than your letter shows. You close your letter—and the entire subject—advising that you cannot provide the information but will advise me on relevant future work. Because of the great weight and relevance assigned to this existing, recent work, I still believe that the report should be dissected to determine whether it has any of the relevance claimed for it. There certainly can be no aggregate net gain unless the component parts representing specific gains and specific losses are known.

Very truly yours,

HAROLD F. CAREY.

RHODE ISLAND COMMERCIAL FISH LANDINGS

[In thousands of pounds]

Year	Butterfish	Cod	Flounder	Sea herring	Scup	Whiting	Industrial fish including menhaden	Shellfish	Other	Total
1960	4,134.0	685.5	5,828.9	249.7	6,516.5	4,457.7	39,677.3	4,764.1	2,370.7	68,684.4
1961	2,947.2	1,062.3	5,386.1	188.3	7,150.0	5,021.0	56,641.8	4,084.4	1,609.8	84,045.9
1962	4,941.3	699.4	8,494.0	166.6	6,717.2	3,989.4	45,469.9	3,987.9	2,373.4	76,839.1
1963	5,121.9	508.8	12,448.9	312.1	8,469.0	3,476.5	32,344.1	3,914.5	2,716.0	69.311.8
1964	2,671.5	444.0	13,088.0	259.0	8,673.1	3,904.6	1,235.4	3,567.6	3,084.9	36,928.1
1965	1,181.1	436.8	9,810.0	380.0	10,086.5	2,488.9	16,564.2	4,771.7	2,986.6	48,705.8
1966	1,114.7	727.6	10,916.4	601.4	8,542.9	2,512.6	36,577.3	3,802.9	2,757.1	67,552.9
1967	1,327.4	1,322.9	10,723.9	395.7	6,415.9	1,270.0	48,664.5	4,383.4	1,843.6	76,347.3
1968	958.5	1,928.1	10,812.0	444.4	4,721.9	2,172.3	41,505.6	5,765.7	2,715.9	71,024.4
1969	1,142.4	2,471.6	13,672.1	4,506.5	2,081.3	2,836.1	51,348.3	7,587.3	2,868.1	88,513.7
1970	640.9	3,031.3	15,547.2	2,218.8	2,937.0	3,597.1	39,444.9	7,367.8	3,134.0	77,919.0
1971	1,097.3	2,307.7	19,012.6	2,888.0	2,736.1	2,910.2	36,796.9	9,001.3	2,634.3	79,384.4
1972	266.9	2,395.4	26,427.5	5,064.0	2,338.0	2,752.7	31,682.9	6,704.3	3,506.1	81,137.8
1973	1,303.6	2,976.2	25,264.0	9,342.0	3,322.0	3,094.4	40,039.0	7,113.1	4,165.0	96,619.3
1974 [1]	1,770.0	3,246.0	20,772.5	6,402.4	4,011.6	5,220.2	44,572.3	6,456.3	2,928.4	95,379.7

[1] Preliminary figures.

Source: National Marine Fisheries Service, Current Fisheries Statistics.

MAINE COMMERCIAL FISH LANDINGS

[In thousands of pounds]

Year	Cod (all)	Flounder (all)	Sea herring	Ocean perch	Whiting	Industrial fish including menhaden	Other fish	Lobster	Shrimp	Clams	Other shellfish	Total
1960	2,897.2	1,951.9	152,327.3	78,257.7	11,122.8	2,250.4	14,626.0	23,994.5	89.0	2,137.3	4,966.8	294,620.9
1961	2,506.6	1,482.6	54,462.6	77,350.1	14,146.8	1,461.5	12,630.8	20,917.9	67.2	1,857.1	11,086.3	197,969.5
1962	2,260.0	1,205.5	156,699.4	69,453.4	17,831.4	1,074.4	11,841.3	22,075.3	351.7	1,982.3	9,548.6	294,323.2
1963	1,960.2	1,215.5	152,316.8	63,904.8	15,942.1	1,235.3	13,664.9	22,804.3	538.5	1,833.9	10,219.6	285,635.9
1964	2,410.1	1,152.3	60,866.1	58,936.2	25,304.1	1,734.8	10,940.6	21,413.4	924.7	1,800.4	7,091.9	192,574.6
1965	2,628.9	1,333.9	70,179.9	60,307.4	27,721.7	944.9	11,938.9	18,861.8	2,075.1	1,966.3	6,887.6	204,846.5
1966	2,802.4	1,401.9	58,298.7	65,082.2	29,699.1	759.1	9,108.0	19,915.8	3,831.2	3,008.2	6,484.7	200,391.3
1967	3,495.6	1,462.6	64,599.7	62,153.8	20,725.5	2,810.0	8,548.9	16,489.2	6,925.1	3,176.2	7,051.1	197,437.7
1968	5,036.6	1,434.4	69,703.3	57,749.7	28,916.0	114.7	8,755.3	20,501.7	14,363.3	3,332.0	8,823.1	218,730.1
1969	4,616.8	972.9	54,213.6	50,752.4	17,889.7	405.6	7,560.3	19,834.8	24,235.3	4,143.8	6,688.7	191,313.9
1970	5,426.7	1,623.2	36,593.2	46,688.2	14,837.4	109.2	6,802.6	18,173.3	17,003.8	5,266.6	6,280.8	158,805.1
1971	4,379.6	1,257.4	28,571.4	46,629.9	9,900.4	130.6	7,132.4	17,558.4	18,419.1	5,256.3	3,449.0	142,684.5
1972	4,432.4	2,078.2	44,689.8	42,749.1	4,094.7	196.8	8,241.4	16,256.5	16,568.9	6,148.7	3,815.9	149,270.3
1973	3,953.8	2,418.4	37,229.2	36,091.6	5,717.1	7,200.7	9,193.2	17,044.2	12,073.9	7,263.6	5,132.3	143,318.1
1974 [1]	4,003.9	1,733.3	47,398.0	30,625.7	2,868.9	10,319.3	12,650.1	16,457.7	9,770.7	5,903.6	6,091.2	147,822.4

[1] Preliminary figures.

MASSACHUSETTS COMMERCIAL FISH LANDINGS

[In thousands of pounds]

Year	Cod	Flounder	Haddock	Hake	Sea herring	Ocean perch	Pollock	Whiting	Industrial fish and menhaden	Other	Shellfish	Total
1960	26,230.5	52,190.7	100,556.6	9,464.0	(1)	63,174.7	16,196.1	84,734.5	52,634.1	18,190.4	[2] 20,572.2	443,943.8
1961	31,844.3	58,987.6	114,412.5	8,906.6	(1)	54,712.6	16,038.8	71,576.0	37,768.6	16,362.5	[2] 21,034.2	431,643.7
1962	34,041.1	75,740.3	115,362.4	7,067.1	(1)	54,529.5	12,115.1	72,686.1	42,864.2	19,281.3	[2] 19,529.8	453,216.9
1963	31,474.8	91,800.7	106,074.8	6,953.0	1,850.2	44,386.7	10,727.0	64,571.4	24,381.1	29,670.7	19,791.9	431,682.3
1964	29,504.4	96,621.7	117,261.1	5,302.0	1,963.0	30,331.7	10,557.8	57,361.1	24,531.1	20,656.9	15,539.4	409,630.2
1965	27,259.4	99,916.7	115,629.8	3,291.1	4,442.7	23,923.5	9,351.6	44,811.0	43,195.7	22,743.7	14,798.5	408,733.7
1966	28,302.2	91,540.2	114,136.2	1,984.1	6,568.3	16,467.3	6,724.3	51,021.7	25,146.8	21,581.3	12,480.9	375,953.3
1967	32,813.3	75,987.5	84,021.3	1,238.4	3,554.2	9,253.7	5,401.3	37,256.7	33,849.9	23,210.2	9,440.4	316,026.9
1968	34,912.4	81,387.4	60,041.3	1,258.5	21,679.9	3,568.6	4,928.9	39,886.0	38,074.9	15,199.1	9,818.8	310,755.8
1969	41,736.1	83,887.6	38,935.5	1,678.3	9,862.6	5,056.7	6,896.7	18,041.5	19,544.4	18,686.4	10,684.6	255,030.4
1970	37,034.7	84,883.7	22,161.9	2,439.9	27,445.0	8,586.4	7,010.3	21,526.8	21,990.4	17,513.3	12,553.2	263,145.6
1971	46,400.2	68,879.4	20,337.6	4,370.2	43,339.6	13,340.4	9,961.4	15,077.2	14,958.8	13,473.2	12,892.5	264,030.5
1972	38,845.6	65,062.4	10,926.1	4,713.1	37,837.3	16,028.9	11,312.7	11,227.8	13,355.5	13,206.7	14,059.6	236,575.7
1973	42,058.1	59,385.2	7,705.9	3,715.5	10,747.7	17,568.4	11,559.6	25,474.2	49,633.9	15,591.4	13,620.4	257,060.3
1974 [3]	49,581.9	58,220.3	7,682.9	5,294.5	17,603.3	10,840.1	14,833.6	12,368.3	49,061.5	16,997.7	15,779.0	258,263.1

[1] Included in other fish.
[2] Sea scallops only; other shellfish included in other fish.
[3] Preliminary figures.

Source: National Marine Fisheries Service—Current fisheries statistics and fisheries statistics of the United States, annuals.

ALASKA COMMERCIAL FISH LANDINGS

[In thousands of pounds]

Year	Salmon	Crabs	Shrimp	Other shellfish	Halibut	Herring	Sablefish	Bottomfish	Other	Total
1960	207, 100. 5	33, 303. 3	7, 436. 2	1, 351. 4	28, 403. 6	77, 912. 8	2, 970. 8	9. 2	22. 0	358, 509. 8
1961	264, 814. 3	48, 009. 9	15, 980. 5	932. 1	33, 422. 9	49, 465. 3	1, 336. 8	22. 1	26. 0	414, 009. 9
1962	277, 847. 8	61, 782. 8	16, 943. 1	687. 2	32, 742. 0	33, 876. 4	1, 055. 0	164. 7	13. 1	425, 112. 1
1963	223, 063. 2	90, 824. 2	15, 127. 0	410. 3	28, 707. 0	31, 216. 2	1, 359. 5	90. 6	27. 3	390, 825. 3
1964	311, 623. 2	99, 443. 1	7, 726. 8	100. 6	21, 620. 0	47, 904. 0	1, 809. 0	91. 8	437. 6	490, 756. 1
1965	274, 844. 2	140, 566. 1	16, 818. 9	91. 7	30, 230. 9	25, 636. 2	1, 615. 9	225. 7	469. 4	490, 499. 0
1966	333, 325. 3	164, 255. 4	28, 192. 6	100. 0	28, 936. 0	19, 255. 7	1, 616. 8	44. 8	891. 6	576, 618. 2
1967	138, 516. 6	139, 432. 0	41, 812. 6	174. 0	25, 611. 0	11, 496. 6	1, 459. 8	251. 4	482. 6	359, 236. 6
1968	285, 272. 1	98, 532. 0	42, 077. 1	1, 797. 0	13, 205. 4	8, 126. 3	248. 4	35. 2	249. 8	449, 543. 3
1969	219, 150. 4	80, 240. 7	47, 850. 6	1, 974. 6	21, 320. 2	13, 131. 4	465. 3	62. 1	207. 5	384, 402. 8
1970	346, 465. 0	76, 230. 7	74, 256. 3	1, 600. 5	26, 087. 5	7, 418. 0	814. 1	80. 8	607. 3	533, 560. 2
1971	251, 705. 0	87, 332. 7	94, 891. 3	1, 175. 2	23, 910. 8	10, 117. 5	596. 2	282. 1	960. 2	470, 971. 0
1972	189, 783. 6	110, 010. 4	83, 830. 1	1, 383. 5	20, 483. 2	14, 050. 4	1, 659. 4	171. 1	1, 105. 9	422, 477. 6
1973	136, 492. 9	144, 966. 6	119, 963. 7	1, 343. 6	24, 750. 7	34, 870. 5	1, 910. 5	1, 466. 6	746. 3	466, 511. 4
1974 [1]					13, 532. 0					

[1] Preliminary figures.

Source: Alaska Catch & Production, commercial fisheries statistics (annuals).

OREGON COMMERCIAL FISH LANDINGS

[In thousands of pounds]

Year	Salmon	Flounder and sole	Other fish	Dungeness Crab	Shrimp	Other shellfish	Total
1960	5,598.0	13,904.0	18,655.0	9,297.0	1,149.0	557.0	49,160.0
1961	7,048.0	13,462.0	18,737.0	9,288.0	1,464.0	376.0	50,375.0
1962	7,193.0	17,334.0	27,370.0	5,748.0	2,777.0	564.0	61,005.0
1963	8,262.0	16,505.0	28,823.0	4,153.0	3,328.0	433.0	61,362.0
1964	9,867.0	15,422.0	22,890.0	3,357.0	5,279.0	377.0	57,208.0
1965	11,806.0	12,315.0	35,903.0	7,544.0	1,750.0	240.0	69,145.0
1966	12,373.0	14,120.0	32,785.0	10,621.0	4,685.0	297.0	74,804.0
1967	17,371.0	13,443.0	40,567.0	9,351.0	10,155.0	475.0	91,632.0
1968	9,631.0	12,554.0	49,438.0	11,784.0	10,847.0	677.0	94,498.0
1969	10,549.0	13,870.0	42,239.0	9,784.0	10,268.0	520.0	87,230.0
1970	19,442.0	13,854.0	35,931.0	14,929.0	13,572.0	361.0	98,089.0
1971	16,972.0	13,421.0	22,983.0	14,876.0	9,075.0	349.0	77,676.0
1972	11,732.2	NA	[1] 53,528.0	6,762.3	20,731.2	[2] 300.0	93,053.7
1973	16,940.2	NA	[1] 47,674.2	2,349.7	24,517.2	255.2	91,736.5
1974	14,969.4	12,492.3	47,382.6	3,917.6	20,313.8	289.2	95,838.3

[1] Includes flounder and sole.
[2] Estimates.

Note: NA-not available at this time.

Source: 1960–71: "National Marine Fisheries Statistics" 1972–74: "Commercial Food Fish Landings"—Oregon Department of Fish and Widlife.

WASHINGTON COMMERCIAL FISH LANDINGS

[In thousands of pounds]

Year	Salmon	Flounder and sole	Halibut	Other fish	Oysters	Dungeness crab	Other shellfish	Total
1960	16,528	16,340	22,043	39,154	9,251	7,251	2,480	113,115
1961	29,898	16,482	19,370	44,631	8,658	7,109	2,173	120,381
1962	22,852	14,105	16,480	47,588	8,903	5,403	2,173	117,504
1963	54,993	13,286	15,416	49,498	8,134	6,674	1,686	149,687
1964	21,275	11,326	12,149	41,794	8,278	5,163	939	100,924
1965	30,418	11,876	9,354	59,015	7,915	8,104	675	127,357
1966	32,367	10,613	6,826	67,033	6,770	11,745	864	136,218
1967	53,374	12,405	12,495	78,896	6,540	9,501	1,559	174,770
1968	25,754	10,296	12,135	59,315	6,475	9,355	1,707	125,037
1969	31,978	9,918	10,250	65,019	5,761	19,028	2,058	144,012
1970	37,601	7,070	5,875	56,248	6,564	18,464	1,812	133,638
1971	55,009	5,817	3,759	50,413	6,865	13,324	1,603	136,781
1972								120,458
1973								117,269
1974								115,973

Source: 1960–71: "Fisheries Statistics of the U.S.", annuals—N.M.F.S. 1972–74: "Fisheries of the U.S." annuals—N.M.F.S.

CALIFORNIA COMMERCIAL LANDINGS—OTHER THAN TUNA AND TUNA RELATED FISH

[In pounds]

Year	Rockfish	Sablefish	Salmon	Sole (all)	Crab (all)	Squid	Total (including other minor species)
1965	9,392,424	2,863,550	9,737,775	20,158,546	5,132,592	18,619,893	95,289,198
1966	10,063,592	3,215,939	9,446,995	19,087,738	12,707,233	19,025,879	99,438,873
1967	9,798,951	3,798,493	7,401,729	17,909,130	12,040,874	19,601,922	90,843,530
1968	9,444,396	3,219,455	6,951,931	19,465,137	16,367,238	24,932,713	103,257,521
1969	9,227,451	4,156,846	6,150,906	22,070,122	8,443,072	20,779,382	92,071,964
1970	10,686,844	4,428,077	6,611,522	23,813,431	15,954,200	24,590,865	106,748,876
1971	11,168,746	4,424,463	8,116,878	22,692,905	10,204,997	31,517,408	104,946,351
1972	16,421,252	8,395,714	6,423,289	30,739,726	2,406,635	20,159,312	101,780,105
1973 [1]	22,052,455	8,550,071	9,668,984	30,421,922	2,074,336	12,061,632	107,600,759
1974	21,447,169	12,007,479	8,743,564	27,983,345	1,686,105	28,904,680	130,006,619

[1] Preliminary figures.

Source: California Department of Fish and Game annual catch bulletins—Table 15.

CALIFORNIA COMMERCIAL LANDINGS [1]—TUNA AND PRODUCTS RECEIVED BY TUNA PROCESSORS

[In thousands of pounds]

Year	Tuna [1]	Anchovy	Bonito	Jack Mackerel	Tuna and Tuna related total	Other (exhibit 15)	Total [1]	Tuna related percent of total	Percent of total
1965	279,941.3	5,733.0	5,638.3	66,666.4	357,979.0	95,289.2	453,286.2	79.0	21.0
1966	236,710.1	62,280.2	19,148.5	40,862.4	359,001.2	99,438.9	458,440.1	78.3	21.7
1967	284,040.3	69,609.4	21,219.4	38,180.5	413,049.6	90,843.6	503,893.2	82.0	18.0
1968	240,384.1	31,076.1	14,921.9	55,667.7	342,049.8	103,257.6	445,307.4	76.8	23.2
1969	280,263.2	135,277.7	17,201.8	51,921.2	484,663.9	92,072.0	576,735.9	84.0	16.0
1970	347,042.7	192,485.1	9,192.3	47,746.5	596,466.6	106,748.9	703,215.5	84.8	15.2
1971	307,492.5	89,705.1	20,269.0	59,883.0	477,349.6	104,946.3	582,295.9	82.0	18.0
1972	324,829.4	138,201.6	22,312.6	51,117.6	536,461.2	101,780.0	638,241.2	84.1	15.9
1973	293,728.5	265,271.9	30,787.7	20,615.8	610,403.9	107,600.8	718,004.7	85.0	15.0
1974 [2]	332,710.8	165,170.2	18,817.1	25,457.6	542,155.7	130,006.6	672,162.3	80.7	19.3

[1] These do not include tuna shipments.
[2] Preliminary.

Source: California Department of Fish and Game annual catch bulletins—Table 15.

U.S. LANDINGS OF FISH AND SHELLFISH—1960 TO 1974, CORRECTED TO INCLUDE PUERTO RICO TUNA LANDINGS BY U.S. VESSELS

Year	Million pounds	Million dollars
1960	4,962.9	[1] 356.5
1961	5,218.1	[1] 365.8
1962	5,382.7	[1] 399.6
1963	4,884.0	380.7
1964	4,589.4	394.0
1965	4,831.6	452.1
1966	4,430.7	481.4
1967	4,152.9	450.0
1968	4,267.7	512.6
1969	4,433.3	541.9
1970	5,001.9	626.7
1971	5,146.8	675.7
1972	4,894.1	765.5
1973	4,926.3	970.8
1974	5,118.8	957.4

[1] Puerto Rico tuna values calculated using average dollar per pound from U.S. landings each year for yellowfin and skipjack.

Source: Fisheries of the United States, annuals of N.M.F.S. and Fishery Statistics of the U.S., 1971; statistical digest No. 65.

Senator STEVENS. Mr. Huizer, Deputy Commissioner, Department of Fish and Game, Juneau, Alaska.

Happy to have you here, Ed.

STATEMENT OF E. J. HUIZER, DEPUTY COMMISSIONER, DEPARTMENT OF FISH AND GAME, JUNEAU, ALASKA

Mr. HUIZER. Thank you, Senator.

First, I'd like to express my appreciation for having the opportunity to appear before you and the committee at this time on this bill which is of such vital importance to the State of Alaska.

I have a lengthy prepared statement, which I've given to the staff. It gets rather specific in many cases.

Senator STEVENS. It will be submitted in full for the record.

Mr. HUIZER. I would like to touch on some of the high points as we go along, however. I would like to just read part of this thing to make sure that everybody understands the position of the State of Alaska with regard to S. 961.

I'm reading from my statement.

The official position of the State of Alaska in favor of prompt congressional action on the extension of U.S. fisheries jurisdiction throughout a 197 nautical mile contiguous fishery zone is to well known to require lengthy repetition at this time.

Let it be sufficient to point out that Alaska former Governor William A. Egan and present Governor Jay S. Hammond have expressed support for this action in no uncertain terms, as have the Alaska legislature, the Department of Fish and Game, the Board of Fish and Game, the Alaskan advisors to the Commission, and numerous Alaska fishermen, fish processors, fishing industry groups and associations, and influential buinessmen and private citizens.

The board support by all is known and I just wish to reiterate it at this time.

Senator STEVENS. Could we do this, if I might interrupt, with regard to the specific recommendations you made in the statement concerning amendments, could I ask you to get together with the staff of the committee to go over these and see what could be agreed to in the working draft we are preparing for next week and those that could not be agreed to. It is my understanding that the staff has been instructed by the chairman to point those on a marked-up document so that they might be considered at the markup session.

Mr. HUIZER. I can certainly do that, Senator. I'll be pleased to do it.

Senator STEVENS. Can you remain over to do that with the staff on Monday and Tuesday?

Mr. HUIZER. I certainly can.

Do you wish me to touch on some of the high points? I realize the time problem and I won't be lengthy.

Senator STEVENS. I want you to do what you feel you should in order to present your position for the record as forcefully as you can.

Mr. HUIZER. Before proceeding with the specific points I'd like to stress, I wish to congratulate the committee and the staff for the work that went into the preparation of the staff working paper. My reference is not to S. 961 but to the staff working paper which came out on July 11.

The working paper contains many improvements over the original bill, and we are very pleased to see these improvements in the legislation.

One point we think is of paramount importance not just to Alaska but to all coastal States, is the definition of "species." We have the definition of "highly migratory species," and whatever is left over is lumped into "coastal species."

The wording for the definition of "highly migratory species" is far from explicit; it is very broad and perhaps would lead to confusion and the placing of too many species of fish into the "highly migratory" category.

The importance of this point under the terms of the bill is that "highly migratory species" would be managed by international agreement or not at all. We want to tie that down as tight as we can. We realize we are all talking primarily tuna at this point and certainly don't want to have anchovies, for example, and herring off the coast of Alaska, off the Bering Sea, to be included as the "highly migratory species" as they well could.

We have some recommended wording in our formal statement as well as the suggestion that the legislative history of this bill clearly reflect the intention of the committee with regard to "highly migratory species."

Senator STEVENS. It is my understanding that that was a fairly limited category. We would be happy to take a look at it to make sure.

Mr. HUIZER. A subject of special interest to Alaskans is the definition of "fish" as contained in the staff working paper. The definition would include marine mammals, excluding walrus, polar bears, and sea otters. These exclusions are reflected in the current division of jurisdiction between the Departments of Interior and Commerce over marine mammals as established in the Marine Mammal Protection Act of 1972, and we do not think it wise to continue this split in legislation of this broad and national interest, so we recommend that these marine mammals are included—all marine mammals should be included.

Senator STEVENS. They are covered by the Marine Mammal Protection Act specifically.

Mr. HUIZER. Yes; all marine mammals are covered by the Marine Mammal Protection Act, but I don't believe that it extends out to the 200 mile.

Senator STEVENS. Is it the State's position that there should be no exception in definition of "fish" on page 6?

Mr. HUIZER. That's right. There should be no exception. All marine mammals should be included.

Senator STEVENS. Why?

Mr. HUIZER. It appears clear that the exception reflects the existing split in the Marine Mammal Protection Act. There is a division between the Departments of Interior and Commerce, which have jurisdiction over the two groups accepted in the definition in the staff working paper.

As I just said, we don't see any reason in this legislation to perpetuate that split. The split jurisdiction of the Marine Mammal Protection Act is causing some administrative problems, and we see no reason to continue.

Senator STEVENS. Is that in our new bill?

Mr. HUIZER. I don't intend to dwell on this. I know it is going to create a great deal of debate.

Everybody who is interested in fish will have a definition of "optimum yield." We think a lot of thought went into the version in H.R. 200, and it is recommended for your consideration. The definition of "optimum yield" is certain to generate considerable discussion in the Senate as it did in the House.

We want to point out that one problem of "optimum yield" is that it might set the stage for harvesting more than the maximum sustainable yield. This would be a possibility under the term "optimum yield."

For a variety of reasons, it might be justified that more than the maximum should be harvested of a particular species. While we can see instances in which it might be advisable to harvest more than the maximum, we certainly don't think it should set a precedent that overharvest would be condoned through the definition.

I think this would be precisely the opposite of what the intent would be by going to optimum rather than the more traditional maximum,

and perhaps the wording of legislative history would clarify this for future use.

I think it is well known that the Alaska position is that legislation extending the U.S. fishery zone should not allow for the continuation of the Japanese high seas salmon fishery on stocks of salmon of U.S. origin.

After repeated and careful reading of the provision of the staff working paper on the subject, we conclude that a strict interpretation of all the provisions in the legislation would not provide for continuation of that fishery, and we wholeheartedly support this position.

Senator STEVENS. That's the intent.

Mr. HUIZER. And I support the intent very definitely. It's a little bit tricky because on one hand a person might consider that the fishery could be continued, but then when you look at the qualifications in the next several sections, it becomes clear that a strict interpretation and administration of these provisions would stop it dead.

For example, anadromous species would only be allowed to be harvested in those cases where U.S. nationals could not harvest the total surplus. And our position has been for many years that we certainly can do this, and we can overharvest in our internal water, the 3-mile territorial sea, and even in our freshwater.

So, while I naturally express having some concern about the fact that the legislation seems to perpetuate the Japanese fisheries, careful reading of the bill indicates to us that this will not be the case, and we certainly support that.

I can talk for hours about the Japanese fisheries to you, Senator, but I don't intend to do so. I want to point out that Japan has never demonstrated a great concern for conservation of these resources or any other resources of fish on the high seas or the 200-mile zone. I do have a report prepared by the Department on the implication of the Japanese high sea fishery in the Bering Sea with regard to the chinook salmon in western Alaska.

To date, we have a serious problem with the sockeye catches from Bristol Bay. We may have an even more severe problem with regard to chinooks coming from Yukon and Kuskokwim districts and Bristol Bay rivers. These are cases where the Japanese fisheries can and we think do, have a direct impact on the conservation of these very important fish.

And with your permission, Senator, I would like to insert this report into the record.

Senator STEVENS. How lengthy is it?

Mr. HUIZER. It's about 10 to 15 pages.

Senator STEVENS. We could be happy to do that. Make it a part of the record.

I know that Congressman Kyros is here now. Would it be agreeable if we have the whole statement inserted into the record? I would like to be able to hear him and Mr. Casey and Dr. Pontecorvo before the bell rings again.

We're going to be called to vote again in a few minutes.

We appreciate your courtesy and we will have an agreement on what will have to be debated next week.

Mr. HUIZER. Thank you very much.

[The statement and report follow:]

60-422 O—75——5

STATEMENT OF E. J. HUIZER, DEPUTY COMMISSIONER, ALASKA DEPARTMENT OF FISH AND GAME

Mr. Chairman: I am appearing before you today on behalf of Governor Hammond and his administration, and for the Department of Fish and Game, of which I am the Deputy Commissioner.

The official position of the state of Alaska in favor of prompt congressional action on the extension of United States fisheries jurisdiction throughout a 197 nautical mile contiguous fishery zone is too well known to require lengthy repetition at this time. Let it be sufficient to point out that Alaska former Governor William A. Egan and present Governor Jay S. Hammond have expressed support for this action in no uncertain terms, as have the Alaska legislature, the Department of Fish and Game, the Board of Fish and Game, the Alaskan advisors to the Commission, and numerous Alaska fishermen, fish processors, fishing industry groups and associates, and influential businessmen and private citizens.

It should be clearly understood that the state of Alaska position, as officially expressed most recently by Governor Hammond, does not support unilateral United States extension by congressional action in place of multilateral action by the United Nations Conference on Law of the Sea, for indeed this is not the case. Rather, the Governor and many other Alaskans are not impressed with the progress made thus far by Law of the Sea negotiations and are not optimistic over the prospect of the early adoption by LOS of the 200 mile exclusive economic zone concept. Governor Hammond personally expressed these reservations earlier this spring, and for the record, his statement on the subject of LOS and extended jurisdiction during a press conference on March 7, 1975 at Juneau, Alaska is as follows:

Well, of course, I'm optimistic about achieving it (extended jurisdiction), but whether it will be achieved through LOS is quite something else again. I think it will be achieved in one way or another. The readings that I get from many who have involved themselves in this issue are that it will probably not be achieved through the Law of the Sea Conference, but instead it will be assumed unilaterally by many nations. But, of course, I support it regardless of which route is taken. I think it is absolutely imperative that we have it if we are to have any control over the future of our fisheries.

Also for the record, Mr. Chairman, may I insert the entirety of a brief statement I made on his behalf on the subject of congressional action on extended fishery zone legislation before the House Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Committee on Merchant Marine and Fisheries on March 14, 1975. (Appendix I).

It should be noted that this statement was made before the second United Nations Conference on the Law of the Sea started at Geneva, Switzerland. The subsequent events and progress, or lack of progress at Geneva certainly do not give cause for any great optimism that a breakthrough will be made during the third Law of the Sea Conference which starts in New York City in the spring of 1976.

With further reference to Alaska support for unilateral congressional action, in all fairness I should point out that some segment of the Alaska fishing industry have expressed grave reservations with certain aspects with the two bills (S. 961 and H.R. 200) which are under active consideration by the House and Senate at this time. Presumably these groups will make their feelings on the subject of unilateral congressional action and the bills under consideration by the House and Senate directly to Congress.

Neither should it be construed that Alaska's past and present support for prompt congressional action in unilaterally extending U.S. fishery jurisdiction to 200 miles as an interim measure is intended to extend carte blanche approval for all aspects of the Staff Working Paper of July 11, 1975. This working paper reflects the position that the legislation which extends fishery jurisdiction must also include fishery management provisions for both domestic and foreign fleets in the 197 mile contiguous fishery zone in order to forestall a management hiatus in this zone. We wish to make it clear that the state also supports this position. The issue for us thus becomes one of analyses and consideration of the specific provisions of the Staff Working Paper as it impacts the state of Alaska, our management program and fishing industry as well as the fishery resources of the state, the extended fishery zone and the continental shelf.

It is understood that the subjects of this hearing are the Staff Working Paper and S. 961. It is thus not my intention to comment extensively on HR 200. How-

ever, in some instances it will be necessary to compare differing concepts contained in S. 961 and HR 200, and I ask for your indulgence when I do so.

Mr. Chairman, the following specific comments contain references to Sections, pages and lines in the Staff Working Paper rather than S. 961 since it is the more recent version and is the one that contains the new management provisions.

Page 3, Lines 10–14:

We are not aware of any existing assertion of U.S. management jurisdiction over anadromous species of fish which extends past the present 12 mile Contiguous Fishery Zone. Consider, for example, the Republic of China salmon gillnet vessel which was discovered fishing for Bristol Bay sockeye salmon 30 miles north of Port Moller in the approaches to Bristol Bay on July 14, 1975. Despite the great concern this new venture by the Chinese gillnetter caused in the Departments of State and Commerce, to say nothing of the outrage in Alaska and especially in those Bristol Bay communities already seriously impacted by three successive bad years of salmon fishing, there was nothing the U.S. could do to stop the fishing. This was so because we have no bilateral agreement with the Republic of China which prevents salmon gillnetting off the U.S. coast, and moreover the vessel was operated in international waters outside the present U.S. 12 mile Contiguous Fishery Zone. Thus, is not the U.S. "extending" jurisdiction over our anadromous species in accord with the provisions of Sec. 101 (b) on page 9, lines 18–22 rather than "reaffirming" existing juridiction?

Page 4, Lines 4–8:

The expressed intent of paragraph (3) is to rely on international agreements for the management of "migratory species of fish" within the 200 mile zone. If this concept prevails in the bill, it becomes of paramount importance to be as restrictive as possible in defining "highly migratory species" so that the U.S. does not inadvertantly relinquish exclusive jurisdiction over some species. Moreover, since definition (15) on page 7, lines 13–16 is for "*highly* migratory species", this same term should be used in paragraph (3) on page 4 rather than "migratory species" in order to avoid confusion and in the interest of consistency.

Page 4, Lines 8–21:

We recommend use of the conventional definition of "anadromous species", i.e., "species of fish which spawn in fresh and estuarine waters of the United States and which migrate to ocean waters." The use of a definition which is limited only to those species which migrate to ocean waters "beyond the contiguous fishery zone" will certainly cause considerable confusion as to exactly what constitutes an "anadromous species" in view of the highly variable (and not yet thoroughly understood) migratory habits of these fishes.

Page 5, Lines 20–23:

The definition of "contiguous fishery zone" might be improved by a clear statement of its extent as follows:

(5) "contiguous fishery zone" means a zone contiguous to *and extending 197 nautical miles beyond* the territorial sea of the United States within which the United States exercises exclusive fishery management and conservation authority.

Page 6, Lines 8–12:

The definition of "fish" includes some but not all marine mammals, reflecting the current division of jurisdiction between the Departments of Interior and Commerce under the Marine Mammal Protection Act of 1972. In comprehensive legislation, such as S. 961, aimed at the long-term administration of all national fisheries in the extended zone, it would be unwise to perpetuate this distinction. Furthermore, failure to include polar bears, walrus, and sea otters in the definition of "fish" may raise some question of whether the United States has extended its jurisdiction over them, since Sec. 2(c)(1) on page 3, provides that the extension is to be strictly construed. Accordingly, we recommend deletion of the phrase in parentheses "(except the polar bear, walrus, and sea otter)" on page 6, line 9.

Page 7, Lines 13–16:

As previously mentioned, the definition of "highly migratory species" is of critical importance. Paragraph (3) on page 5, definies "coastal species." Para-

graph (15) on page 7, defines "highly migratory species." A problem occurs where a stock or species of fish is somewhat migratory and inhabits waters both inside and outside the 200 mile exclusive fisheries zone. If they are deemed "highly migratory species," they cannot be managed within the zone except by international agreement, regardless of their importance to U.S. coastal fishermen and regardless of whether individual stocks of a highly migratory species reside entirely within the zone. (See Sec. 101(a)(3) on page 9). Obviously, a great deal hinges on the definition of "coastal" and "highly migratory." However, paragraph (3) basically defines "coastal" as non-anadromous and non-highly migratory, without further clarification. Paragraph (15) defines "highly migratory" as those which spawn or migrate in waters of the "open ocean." The term "open ocean" is not defined and it is not clear whether the "open ocean" includes only the high seas, or whether it also encompasses the contiguous fisheries zone or even the territorial sea.

As a starter, we propose that the definition of "highly migratory species" should read as follows:

(15) "highly migratory species" means those species of fish which spawn and migrate during their life cycle predominantly in waters of the high seas, including, but not limited to, tuna;

Second, authority should be vested in the Secretary of Commerce to list highly migratory species by regulation, as is now done with Creatures of the Continental Shelf pursuant to 16 USC 1081–1085. In this regard, use might be made of the list of Highly Migratory Species contained in the Annex to Part II of the LOS "Informal Single Negotiating Test." This list includes the following species, however the scientific names should be used in addition to the common names to avoid confusion:

HIGHLY MIGRATORY SPECIES

1. Albacore Tuna.
2. Bluefin Tunas.
3. Digeye Tuna.
4. Skipjack Tunas.
5. Yellowfin Tuna.
6. Blackfin Tuna.
7. Little Tuna.
8. Frigate Mackerels.
9. Pomfrets.
10. Marlin.
11. Sailfishes.
12. Swordfish.
13. Sauries.
14. Dolphin (fish).
15. Oceanic Sharks.
16. Cetaceans (whales and porpoises).

Third, there should be some fairly detailed legislative history indicating the intent of Congress on which of the critically important or valuable species ought to be placed under each category. If an exceptionally high number of species are made highly migratory and managed either by international agreement or in the absence of such agreement, not at all, the unfortunate present arrangement of reliance upon bilateral and multilateral agreements to achieve conservation would be perpetuated, thus defeating what we consider to be one of the basic purposes of enacting this legislation.

Fourth, flexibility should be provided to permit future additions to our deletions from the list of highly migratory species to reflect changing conditions in the fisheries.

Pages 7 and 8, (17), Options A and B:

The definition of "Optimum Yield" will be certain to generate considerable discussion in the Senate as it did in the House. The State has gone on record as favoring the "optimum sustainable yield" concept rather than the more traditional and easier understood "maximum sustainable yield." We also recommend consideration of the definition of "optimum sustainable yield" as developed during the recent House Subcommittee mark-up sessions which reads as follows:

"Optimum sustainable yield" means a yield which provides the greatest benefit to the United States as determined on the basis of the maximum sustainable yield of a stock or stocks of fish as modified by relevant ecological, economic, and social factors.

We wish to insert a word of caution regarding this and other definitions of optimum sustainable yield. A definition such as the one above which uses maximum sustainable yield as modified by other relevant factors may create a situation in which a rationale is found to justify over-fishing the maximum sustainable yield of a stock of species. This may be precisely the opposite of what advocates of optimum sustainable yield envision! In such a case there may be no

management standard at all provided in the definition. While it is entirely possible that occasions may arise where a valid reason may exist for exceeding maximum sustainable yield of a particular stock or species, such instances certainly will prove to be extremely rare. It may be advisable for the legislative history of this bill to clearly indicate that political expediency or other reasons of a similar nature must not be used to justify harvest in excess of maximum sustainable yield. Certainly the definition of optimum sustainable yield should not become a sanctioned excuse for over-fishing.

Pages 10 and 11, Sec. 102:

The basic position of the State is that legislation extending the U.S. fishery zone should not allow for either the continuation of the Japanese high seas salmon fishery on stocks of salmon or United States origin, or the establishment of new high seas fisheries on these stocks by any other country. While Sec. 102(a) on page 10, initially seems to go counter to this principle, close attention to the "PROVISIONS" and "RECIPROCITY" paragraphs on pages 10 and 11 seem to eliminate these possibilities. We offer the following specific comments on Sec. 102:

First, our understanding of the intent of Sec. 102(a) with respect to anadromous species is that the authorization for fishing by the two Secretaries extends over the full migratory range of these species, with the exception specified in Sec. 101(b) on page 9, lines 18-22 (i.e., within the territorial sea or fishery zone of any other nation). The wording of Sec. 102(a) however is somewhat confusing in this regard and should be clarified along the following lines:

SEC. 102. (a) GENERAL.—The Secretary and the Secretary of State, after consultation with the Secretary of the Treasury, may authorize fishing within the contiguous fishery zone, for anadromous species *throughout the migratory range of such species except as specified in Sec. 101(b) of this Act*, or for Continental Shelf fishery resources by citizens of any foreign nation in accordance with the provisions of this Act.

Second, the "PROVISIONS" paragraph on page 10, lines 15 through 20, would, if tightly interpreted and administered, eliminate any harvest of U.S. anadromous species (salmon) by any foreign nation because all these stocks can be fully harvested by citizens of the United States. The problem is that not all these stocks are now being fully harvested by U.S. citizens because a very significant part of the annual catch of western Alaska sockeye, chinook and chum salmon is being harvested on the high seas by the Japanese salmon gillnet fishery. If this fishery were to terminate, the additional available fish returning to western Alaska streams could more than fully be utilized by western Alaska salmon fishermen for either commercial, subsistence or recreational purposes. Appendix II contains data on the Japanese mothership catch of western Alaska sockeye salmon from 1956 to 1975, while Appendix III contains information on the western Alaska and Japanese mothership catches of chinook salmon in the Bering Sea.

The International North Pacific Fisheries Commission established the extension principle wherein a contracting state, i.e., Japan, Canada or the United States, agrees to abstain from fishing a particular stock if another signatory nation can demonstrate that: first, more intensive exploitation of the stock will not provide a substantial increase in yield; second, the exploitation of the stock is limited or regulated through legal measures for the purpose of maintaining or increasing its maximum sustained productivity and third, the stock is the subject to extensive scientific study designed to discover whether the stock is being fully utilized. Periodically in INPEC, the U.S. and Canada are asked by Japan to prove their contentions that salmon of United States and Canadian origin continue to qualify for fishing abstention by Japan. The ensuing preparation of data by the U.S. and Canada is lengthy and the debates during the annual meetings are time consuming and inconclusive. Since INPEC action requires the unanimous consent of all parties we have been able to maintain salmon on the abstention list for Japan in waters of the North Pacific and Bering Sea east of the 175° West longitude abstention line.

S. 1961 should clearly avoid the trap of requiring the United States to prove to or obtain the concurrence of any other country that any United States stock of fish, including anadromous species of U.S. origin, can be fully harvested by citizens of the United States. With this in mind, we recommend the following re-draft of paragraph (b) on page 10.

(b) PROVISIONS. The allowable level of foreign fishing shall be set upon the basis of a portion of any stock of fish which cannot be harvested by citizens

of the United States. *The determination as to the portion of any stock of fish which cannot be harvested by citizens of the United States shall be made by the Secretary following consultation with appropriate State fishery officials and with the appropriate Regional Fishery Management Council.* Allowed foreign fishing and fishing by citizens of the United States annually shall not, for any stock, exceed the optimum *sustainable* yield of such stock.

Finally, the "RECIPROCITY" paragraph (pages 10 and 11) is not clear with regard to its intent for anadromous species. Would Japan for example, in order to qualify for a portion of the harvest of United States anadromous species have to provide a reciprocal privilege to U.S. fishermen to harvest anadromous species of Japanese origin in a Japanese fishery zone? Japan may well make such a concession in an effort to meet the conditions of the Act in order to provide for the continuation of its high seas salmon fishery in the North Pacific and Bering Sea. However U.S. nationals are prohibited by state laws and regulations (and in the case of Alaska by a federal regulation) from salmon net fishing outside the three mile territorial sea. A similar Canadian federal prohibition applies to Canada salmon net fishermen. In summary Japan might possibly grant what in effect would be only a paper concession to U.S. fishermen since our fishermen would probably not engage in such a fishery even if they legally could.

Page 11, Lines 6–17:

We recommend three amendments to paragraph (d) "PROCEDURES." First on line 7 insert the words ", if any," between the words "level" and "of." The reason for this is obvious since in many cases there may be no foreign fishery permitted.

Second, on line 8, after "secretary," and before "shall," insert "in consultation with the affected states." This will insure that all relevant data and information are utilized in the determination and that local factors will be given consideration.

Third, it seems that if catch and research information from foreign governments is to be used in determining whether they are entitled to a privilege, there may be good reason to doubt the veracity of such data. In fact, there have been instances of inaccurate and even purposefully false information being given to the United States in conjunction with negotiations for existing international agreements. Consequently, the phrase "take steps to" on lines 11 and 12 should be deleted so that the Secretary is permitted to use only that information which has been verified.

Page 11, Lines 18–25:

The language of paragraph (2) while not absolutely stating so, strongly implies that foreign license fee structures will be based on the administrative, enforcement and research costs involved in managing foreign fisheries in the United States zone. The United States should not provide the privilege of harvesting its resources to foreign nationals at cost. Rather, fees should be set to obtain the highest possible return to the United States for the sale of fish and shellfish resources to foreign nations. Provisions should also be included in this paragraph to allow the use of license fee funds for increased domestic fish production.

Page 12, Lines 1–6:

Consideration should be given to the appropriateness of the unqualified word "citizen" on line 2. It appears that the present usage would prohibit aliens legally admitted to the United States from participating in domestic fisheries since it is not clear that they would be considered to be U.S. citizens as defined in paragraph (2) on page 4, lines 22–24. The same comments apply to the use of the word "citizens" on page 15, line 12.

Pages 12 and 13, Sec. 102(a); Page 15, Sec. 201(a); and Page 10, Sec. 102(a):

These three sections all deal with the vitally important concept of the regulation of foreign fishing in the enlarged United States contiguous fishery zone. A major concern with the original version of S. 961 was that it appeared to maintain the status quo through continuation of the process of bilaterally negotiating foreign fishing agreements and regulations by the Secretary of State. The Secretary of Commerce was given a very minor, advisory role in the regulatory process.

We were pleased, therefore, that the Staff Working Paper now authorizes the Secretary of Commerce by means of Sec. 201(a) to promulgate regulations governing fishing by citizens of any foreign nation allowed to fish in the contiguous

fishery zone, for an anadromous species or for Continental Shelf Fishery resources.

Further, the Staff Working Paper, by means of Sec. 102(a), appears to restrict the bilateral and multilateral negotiating process by the Secretary of State "to effectuate the purpose, policy, and provisions of this Act." Our interpretation of this wording is that the Secretary of State could not negotiate management and conservation regulations by the usual give and take process under which most past and present fishery agreements have been concluded.

If our interpretation is correct, then we recommend that the legislative history of the bill should clearly define these concepts.

Pages 15 and 16, Sec. 201(b)(2):

This paragraph deals with the concept of limited entry. There should be recognition of existing limited entry systems in effect in any state, such as that presently being administered by the State of Alaska. Thus we recommend the insertion of the phrase "existing state limited entry systems," between the words "considerations," and "present" on page 15, line 23.

Page 17, Lines 9–12:

A complete ban on discrimination between U.S. and foreign nationals is simply unrealistic. There will be innumerable situations in which it will be eminently in the interest of the United States to discriminate against foreign fishermen in the manner in which regulations apply. For example:

1. Preference should be given to U.S. fishermen for certain species or certain key areas.
2. Vessels of certain nations may have a long and continuous record of violating U.S. fishing laws and regulations, or the provisions of treaties to which the U.S. is a party, justifying excluding them entirely from fishing for stocks subject to U.S. jurisdiction.
3. Nations may refuse to bargain or cooperate in good faith in matters where negotiations are contemplated by other provisions of the Senate Working Draft. In such instances, it should be within the authority of the United States to exclude or substantially limit their fishing for U.S. stocks as punishment.
4. Nations may have submitted incomplete or false data on catches or have refused to admit illegal fishing activities, warranting a prohibition or limitation on fishing for U.S. resources.
5. Practical limitations on U.S. enforcement capability may necessitate limiting the number of foreign vessels within U.S. jurisdiction. Limitations may vary from nation to nation depending on the size or fishing capability of the vessels employed by different nations. Under the circumstances, nondiscriminatory regulations would be patently impossible.

Therefore, we recommend that paragraph (3) of Sec. 201 (c) be re-drafted by omitting reference to discrimination between U.S. and foreign citizens.

Pages 18–20, Regional Fishery Management Councils:

We are gratified that both HR 200 and the Senate Staff Working Paper have provided for a separate Alaska Regional Management Council in recognition of the length of the coastline of the state; the vast offshore continental shelf area; the diversity and value of the anadromous, coastal and continental shelf fishery resources; and the non-contiguous nature of Alaska. However, we are still greatly concerned that the provisions of the Staff Working Paper, Sec. 202(a)(6) on page 19 and Sec. 202(b)(1) (A) and (B) on page 19, would grant representation to Washington and Oregon equal to that of Alaska on the Alaska Council. As constituted by the Staff Working Paper, Oregon would have two representatives, Washington two representatives and Alaska four representatives on the Alaska Council. The ninth member would be a federal official to be appointed by the Secretary who would serve as Council Chairman.

Without question, a large number of nonresidents participate in Alaska's commercial fisheries each year, but certainly not in numbers equivalent to Alaska's resident commercial fishermen. Consider, for example, the data on the numbers of licensed resident and nonresident commercial fishermen in Alaska during 1974 as developed by the Department of Revenue and the Limited Entry Commission. The Department of Revenue data shows that there were 21,300 licensed commercial fishermen in 1974. Of these, 15,699 or 73.7% were Alaskans while 5,601 or 26.3% were nonresidents.

The Limited Entry Commission data, which has been further refined to provide information on state of residency for nonresidents, shows that in 1974

there were a total of 21,293 licensed commercial fishermen. Of these 16,477 or 77% were Alaskan residents, while 4,816 or 23% were nonresidents. A further breakdown by state of residence of the commercial fishermen is as follows:

1974

State	Number of fishermen	Percent (rounded)
Alaska	16,477	77
Washington	3,664	18
California	395	2
Oregon	367	2
Other	356	2
Undetermined	34	

While the numbers of fishermen in the two sets of data vary somewhat, the respective percentages are reasonably in agreement. The point is that even if the data least favorable to Alaska is used (i.e., Department of Revenue) it demonstrates that nonresident interests with only 26.3% of the commercial fishermen would be granted equal representation to Alaska, with 74.7% of the fishermen. Furthermore, Alaska's difficulty in agreeing to this should become clearer when considering that the fishery resources to be regulated by the Alaska Council are adjacent to and in some cases overlap the territorial waters of the state of Alaska.

You should underdstand that Alaska concern with the problem of equitable representation on the Alaska Council is definitely not solely that of the state government. Many Alaskan fishermen have also been outspoken in their opposition to out-of-balance representation on the Alaska Council.

Speaking for the state administration, if it is inevitable, as it now appears, that there will be non-Alaskan representation on the Alaska Council, we strongly urge consideration of a scheme which will provide proportional representation on the Council to the number of fishermen involved, i.e., three Alaskans to one non-Alaskan.

It is not my intention to excessively belabor this point. However, I do want to point out one other indicator of the predominant interest of Alaskans in the fisheries in marine waters off the state. This time the indicator is the number of holders of commercial fisheries gear Use Permits in all fisheries as issued by the Limited Entry Commission in 1974.

1974 INTERIM USE PERMITS

	Number	Percent
Alaska	16,097	84.3
Washington	2,339	12.3
Oregon	213	1.0
California	166	.9
Other	240	1.3
Total	19,056	99.8

A related concern with regard to representation on the Alaska Fishery Management Council, as well as all other Regional Councils is the appointment of the federal representative by the Secretary of Commerce. The pertinent provision of the bill (page 20, lines 1, 2) provide no guidelines whatsoever as to whom the federal official on each Council will be. It certainly is our hope that in the case of the Alaska Council the Secretary would appoint the Alaska Regional Director of the National Marine Fishery Service. In all likelihood the Secretary would indeed name this federal official to the Alaska Council; however, in the absence of specific guidelines the Secretary would have exceedingly broad discretion in the nomination of the federal official. Accordingly we recommend that paragraph (c) be amended as follows:

(c) The Regional Director of the National Marine Fisheries Service for the geographical area concerned, who shall serve as Chairman.

Pages 21 and 22, Lines 24–10:

In contrast to the lack of direction regarding the appointment of a federal official to serve as Chairman of the various Regional Fishery Management Councils, the bill is very specific with reference to the appointment of the chairman of the various Scientific Advisory Boards, i.e., the appropriate regional National Marine Fisheries Service research center. An additional guideline is needed however, to make sure that state chief fishery scientists are included on the various Scientific Advisory Boards.

APPENDIX I

Mr. Chairman and members of the committee, my name is Ed Huizer and I'm the deputy commissioner of the Alaska Department of Fish and Game from Juneau, Alaska. I am appearing before you today on behalf of Governor Hammond, who wants to strongly reaffirm State of Alaska support for extended U.S. fishery jurisdiction seaward 200 nautical miles from the U.S. coast. This support includes special protective measures for anadromous species which migrate in the oceans beyond the 200-mile zone.

Last year Governor Egan, State legislative leaders and numerous spokesmen for Alaskan fishermen's organizations and fish processing firms expressed support for S. 1988 during public hearings held in Alaska by the Senate Subcommittee on Oceans and Atmosphere of the Commerce Committee. These hearings were held in the spring of 1974 at a time when leaders of the U.S. delegation to the Law of the Sea Conference (LOS) were predicting that affirmative action on the subject of extended fishery jurisdiction would be taken by LOS at Caracas during the summer of 1975.

Caracas LOS, with its lack of progress and inconclusiveness, is now history, as is the successful effort in the Senate in passing S. 1988 during the closing weeks of the 1974 congressional session.

Now, LOS will reconvene next Monday at Geneva, Switzerland. We are again being urged by administration delegates to this conference to be patient and give LOS another chance to develop by international agreement a workable plan for extended jurisdiction which would effectively provide the urgently needed protection for fisheries and other living marine resources.

Governor Hammond agrees in principle that the attainment of extended jurisdiction for coastal nations by means of multinational agreement through LOS would be preferable to a unilateral U.S. declaration. However, he is not sanguine concerning the probability of achieving the goal by the former method in the near future. The Governor made the following response when questioned during a March 7 press conference at Juneau, on his optimism concerning the LOS and extended jurisdiction:

Well, of course, I'm optimistic about achieving it, but whether it will be achieved through LOS is quite something else again. I think it will be achieved in one way or another. The readings that I get from many who have involved themselves in this issue is that it will probably not be achieved through the Law of the Sea Conference, but instead it will be assumed unilaterally by many nations. But of course, I support it regardless of which route is taken. I think it is absolutely imperative that we have it if we are to have any control over the future of our fisheries.

Thus, while LOS is running its course at Geneva—and incidentally, the Governor is a member of the U.S. advisory group and will be represented at Geneva by a member of his staff—the State of Alaska will continue to work for affirmative action by Congress. We will continue with our review of both old and new legislation concerning extended jurisdiction, and will continue to work with our congressional delegation in the development and passage of the most appropriate legislation to extend on an interim basis U.S. fisheries jurisdiction to 200 nautical miles.

We received copies of the bills under consideration by this subcommittee only last week and have not had the opportunity for thorough review of them. For this reason, I will not comment in detail on these bills at the present time or present a thorough analysis of both the importance of a 200-mile extended fishery zone to Alaska and our fishermen, and the urgent need of such a zone to protect our fishermen, and the urgent need of such a zone to protect our fishery resources. We would appreciate the opportunity of doing so at a later date, either orally or in a written statement for the record if this will be possible..

APPENDIX II

TABLE 1.—JAPANESE MOTHERSHIP CATCH OF WESTERN ALASKA SOCKEYE SALMON

MOTHERSHIP SOCKEYE CATCH

[In millions of fish]

Year	Western Alaska [1]			Western Alaska total [2]	Bristol Bay total [2]	Total [3] catch	High seas catch (percent)	Total [3] run	High seas catch (percent)
	Mature	Immature	Total						
1956	2.431	0.905	3.336	2.431	2.131	11.052	19	25.979	8
1957	6.444	.011	6.455	7.349	6.948	13.224	53	17.958	39
1958	.366	.033	.399	.377	.325	3.311	10	6.094	5
1959	.565	.087	.652	.598	.546	5.154	11	13.404	4
1960	3.640	.310	3.950	3.727	3.617	17.322	21	39.960	9
1961	5.819	.127	5.946	6.129	5.855	17.769	33	23.921	24
1962	.833	.072	.905	.960	.913	5.631	16	11.294	8
1963	.929	.060	.989	1.003	.930	3.801	25	7.801	12
1964	.255	.843	1.098	.315	.295	5.891	5	11.203	3
1965	6.100	.404	6.504	6.943	6.689	30.944	22	59.792	11
1966	1.531	.057	1.588	1.935	1.880	11.194	17	19.391	10
1967	.866	.021	.887	.923	.880	5.211	17	11.206	8
1968	.864	.791	1.655	.885	.835	3.628	23	8.845	9
1969	1.240	.517	1.757	2.031	1.942	8.564	23	20.970	9
1970	3.451	1.207	4.658	3.968	3.906	24.627	16	43.285	9
1971	.842	.593	1.435	2.049	1.951	10.608	18	17.776	11
1972	.710	.214	.924	1.003	1.212	3.624	33	6.600	18
1973 [4]	.630	.257	.887	.844	.725	1.470	49	3.153	23
1974 [4]	.275	.568	.343	.532	[5] .532	1.940	27	11.534	5
1975	.639	.257	.896	1.207	[5] 1.207	6.023	20	25.356	5
Total	38.430	7.334	45.764	45.509	43.319	190.988		359.806	
Average per year	1.922	.367	2.288	2.275	2.166	9.549	23	19.258	12

[1] Includes fish from North Peninsula and Bristol Bay.
[2] Immatures caught in previous year assigned to year of run (example: Immatures from 1956 would be included in 1957 run totals).
[3] Total run includes high seas catch and inshore run. Japanese catch is given as a percentage of the total catch and total run.
[4] Preliminary data.
[5] No data for North Peninsula available.

APPENDIX III

WESTERN ALASKA CHINOOK SALMON CATCH BY AREA COMPARED TO JAPANESE MOTHERSHIP CATCH IN THE BERING SEA [1]

	Arctic-Yukon-Kuskokwim			Bristol Bay			North peninsula commercial	Total western Alsaka catch	Japanese mothership Bering Sea catch
	Commercial	Subsistence	Total	Commercial	Subsistence [2]	Total			
1960	73,560	19,457	93,017	111,073	(5,500)	116,573	10,441	220,031	142,003
1961	148,741	52,617	201,358	88,656	(5,500)	94,156	6,050	295,514	10,000
1962	122,907	33,506	156,413	84,047	(5,500)	89,547	6,098	245,960	
1963	142,185	67,271	209,456	62,269	4,100	66,369	3,601	279,426	42,000
1964	116,835	54,235	171,070	139,536	3,400	142,936	3,592	317,598	204,000
1965	144,512	45,376	189,888	112,967	5,100	118,067	6,131	314,086	116,000
1966	120,692	65,576	184,268	77,472	4,300	81,772	9,342	275,382	122,000
1967	161,496	81,832	243,328	117,193	4,200	121,393	5,523	370,244	70,000
1968	150,728	50,591	201,319	103,723	7,100	110,823	4,483	316,625	293,000
1969	157,392	57,214	214,606	124,908	7,500	132,048	4,846	351,860	450,000
1970	147,204	88,306	235,510	140,511	7,250	147,761	3,854	387,125	404,000
1971	158,037	71,342	229,379	123,015	4,640	127,655	2,189	359,223	157,000
1972	152,717	63,711	216,428	69,546	4,032	73,578	1,792	291,798	220,000
1973	128,645	64,424	193,069	44,044	7,200	51,244	4,559	248,872	32,000
1974	130,622	47,366	177,988	45,662	9,840	55,502	5,299	238,789	[3] 358,000
1975 [4]	94,500	50,000	144,500	29,300	3,500	32,800	2,000	179,300	

[1] All inshore data compiled from A.D.F. & G. annual management reports and unpublished data.
[2] No estimates of subsistence catch made prior to 1963 in Bristol Bay—11-yr average used for 1960–62. 1963–69 catch estimated by interview and survey. 1970–74 catches recorded from permits returned by fishermen.
[3] Total mothership catch, preliminary.
[4] Alaska catch data is preliminary, but general order of magnitude should not change.

Recent Developments in the Bering Sea Chinook Salmon Fishery

By Steven Pennoyer and Ronald I. Regnart, Alaska Department of Fish and Game, Anchorage, Alaska, October 1973

WESTERN ALASKA FISHERY

Introduction

The description and status of the salmon runs and fisheries along Alaska's Bering Sea coast (Unimak Pass to Cape Prince of Wales) was reported in INPFC Documents 1134 and 1135. Substantial utilization is made of chinook salmon in this region with the annual harvest averaging 323,000 during 1965–1973. The major fisheries are located in the Nushagak district in Bristol Bay and in the Kuskokwim and Yukon Rivers.

Chinook salmon catches made in this region during the past two years were below average, 291,000 in 1972 and 238,000 in 1973. The catch and estimated run in 1973 were the smallest since 1960.

Bristol Bay

Catch and escapement data for the Nushagak district indicate the 1972 and 1973 runs were the smallest of the 1966–1973 period (Table 1). Escapement data on which to estimate total run size was not available prior to 1966.

Commercial chinook catches by district for Bristol Bay from 1960–1973 are given in Table 2 which shows the dominance of the Nushagak run in the Bristol Bay total catch.

Kuskokwim River

Due to increases in effort, various fishing time restrictions have been implemented over the past several years. As a result the catch data shown in Table 3 do not necessarily reflect salmon abundance. Escapement indices for 1972 and 1973 were low (Table 4).

Yukon River

The 1973 commercial catch was the smallest since statehood and was about 28,000 below the 1961–1972 average (Table 5). Due to the indicated small run, the main commercial fishery in 1973 was closed June 27, the earliest closure since 1961 for a run of normal timing. Escapement indices in 1973 were fair at best, but were the smallest ever recorded in some areas (Table 6).

HIGH SEAS FISHERY

Table 7 gives the chinook salmon catches in the mothership fishery by year and reporting area for 1952–1972. The land-based drift gill net and longline fishery catches are also shown. This latter fishery occupies the area south of the mothership fishery east to 175° W. long. No historical data are available on catch by area for the landbased fishery.

The total mothership catch has increased approximately four-fold in recent years—from 69,000 annually (1952–1963) to 305,000 annually (1964–1972). The catch of 554,000 made in 1969 was the largest ever recorded. The Bering Sea portion of the catch has increased even more, or about nine-fold in recent years—from 24,000 annually (1952–1963) to 226,000 annually (1964–1972). Over 90 percent of the total mothership catch was taken in the Bering Sea in 1970.

Catches in the vicinity of the Abstention Line (175° W long.) have also steadily increased in the Bering Sea, until in 1970, 41 percent of the total catch was taken between 180°–175° W long. and 79 percent between 175° E and 175° W long. Figure 1 shows the total mothership chinook salmon catch, 1952–1970, by 2 x 5° area.

The mothership chinook salmon catch in the Bering Sea is compared to the total Western Alaska chinook catch (commercial plus subsistence) for 1960–1972 in Table 8. Since 1964 the high seas catch has exceeded the Western Alaska inshore catch in two years: 1969 and 1970. The total high seas mothership Bering Sea chinook catch from 1964–1972 was 2,036,000 while the total Western Alaska catch for this period was 2,983,000.

CONTINENT OF ORIGIN OF HIGH SEAS CATCH

Tagging

Figure 2 shows chinook salmon tag recoveries from releases made in the mothership fishing area. Detailed tag release and recovery information is given in Table 9. Mainland recoveries (7) range from the Columbia River north to the Yukon River. Mainland recoveries of only Bering Sea releases (4) have all been from western Alaska.

In addition to the mainland recoveries, nine tagged chinook have been recovered in the high seas mothership fishery. These are also shown in Figure 2 and are indicated by broken lines. Direction of movement can be used to determine continent of origin only for those fish known to be matures at time of recovery with the possible exception of immature fish demonstrating substantial westward migration. One fish tagged at 56°02′ N, 176°00′ W and recovered at 58°43′ N 166°00′ E near the Kamchatka coast one year later was only two-ocean at time of recovery and may have been immature. In any case it is the only recovery from tagging in the Bering Sea showing any substantial indication of Asian origin. One other fish tagged at 60°03′ N, 175°00′ E and recovered at 58°37′ N. 168°58′ E was immature at time of recovery.

There is a total lack of tag recoveries from landbased high seas fishing areas although in some years chinook catches in this fishery are substantial.

The number of chinook recoveries is obviously inadequate for definitive assignment to continent of origin of the high seas catch. There is little evidence, however, of a substantial number of Asiatic fish in recent North Pacific or Central Bering Sea catches.

Comparison of High Seas and Asiatic Coastal Catches

Table 10 shows Asian coastal in addition to high seas mothership and landbased catches since 1911. These catches are graphically presented in Figure 3. Present Asiatic coastal catches are similar to historical levels. Although early catch data is questionable, there is no indication that the coastal fishery ever approached present catch magnitudes (coastal and high seas combined). This is further evidence that recent high seas catch are primarily composed of North American chinook of western Alaska origin.

MANAGEMENT IMPLICATIONS

Western Alaska chinook salmon are an intensively managed species. Fishing time has been substantially reduced in most districts over the past ten years to achieve needed escapements in the face of rising gear levels. It is becoming obvious that in recent years an increasing proportion of western Alaska chinook runs are being subjected to high seas fishing pressure by the Japanese mothership fleet in the Bering Sea. Due to the lack of definitive information on continent of origin of chinook salmon in the mothership fishing area, we feel that these harvests pose a serious threat to the proper management of western Alaska chinook salmon stocks.

LITERATURE CITED

Alaska Department of Fish and Game, 1971. Annual Management Report, Bristol Bay area.

Alaska Department of Fish and Game, 1971, Annual Management Report, Arctic-Yukon-Kuskokwim area.

Fredin, R. A., 1968. Information on recent changes in the salmon fisheries of Alaska and the condition of the stocks. INPFC Doc. 1134.

Fredin, R. A., 1971. Ocean distribution of salmon and their vulnerability to high seas fishing. National Marine Fisheries Service, Northwest Fisheries Center. 16pp. Unpublished.

International North Pacific Fisheries Commission. Statistical Yearbook 1952–1971.

International North Pacific Fisheries Commission, 1971. Recoveries of salmon tagged offshore in the North Pacific Ocean by Canada, Japan and the United States, 1956–1969. INPFC Doc. 1377. 493 pp.

International North Pacific Fisheries Commission, 1972. Recoveries of salmon tagged offshore in the North Pacific Ocean by Japan and the United States in 1970 and 1971, and additional recoveries from earlier tagging by Canada, Japan and the United States. INPFC Doc. 1468. 31 pp.

International North Pacific Fisheries Commission, 1973. Catch of the Japanese mothership salmon fishery by species, by ten-day period, and by area, in thousands of fish, 1972. INPFC Doc. 1629. 6 pp.

Kasahara, Hiroshi, 1963. Catch statistics for North Pacific salmon. INPFC Bull. 12. 82 pp.

Manzer, J. I., T. Ishida, A. E. Peterson and M. G. Hanavan, 1965. Offshore distribution of salmon. INPFC Bull. 15. 452 pp.

Peterson, A. E., 1971. In press. Statistics of Japanese mothership salmon fishery. INPFC Annual Report, 1971.

Regnart, R. I., and M. F. Geiger, 1968. Status of commercial and subsistence salmon fisheries in the Western Alaska region from Cape Newenham to Cape Prince of Wales. INPFC Doc. 1135. 39 pp.

TABLE 1.—NUSHAGAK DISTRICT (BRISTOL BAY) CHINOOK SALMON CATCH AND ESCAPEMENT DATA, 1961–73 [1] [2]

Year	Commercial catch	Subsistence catch	Total catch	Total estimated escapement [3]	Total estimated run
1961	60, 953				
1962	61, 283				
1963	45, 979	3, 600	49, 579		
1964	108, 606	2, 900	115, 506		
1965	85, 910	4, 600	90, 510		
1966	58, 184	3, 700	61, 884	35, 000	96, 884
1967	96, 240	3, 700	99, 940	40, 000	139, 940
1968	78, 201	6, 600	84, 801	60, 000	144, 801
1969	80, 803	7, 100	87, 903	30, 000	117, 903
1970	87, 547	6, 900	94, 447	40, 000	134, 447
1971	82, 769	4, 400	87, 169		
1972	46, 119	3, 500	49, 619	25, 000	74, 619
1973	30, 599	[4] 8, 000	[4] 38, 599	40, 000	78, 599

[1] A.D.F. & G. annual management report, Bristol Bay area, 1971.
[2] Preliminary data.
[3] Based on aerial surveys, tower counts, and upriver catches.
[4] Estimated.

TABLE 2.—BRISTOL BAY CHINOOK SALMON, COMMERCIAL CATCH BY DISTRICT, 1960–73 [1]

Year	Naknek-Kvichak	Egegik	Ugashik	Nushagak	Togiak	Total
1960	17, 778	2, 991	2, 209	81, 416	7, 309	111, 703
1961	10, 206	3, 266	3, 483	60, 953	10, 748	88, 656
1962	8, 816	2, 070	2, 929	61, 283	8, 949	84, 047
1963	4, 713	2, 355	3, 030	45, 979	6, 192	62, 269
1964	12, 902	3, 618	3, 694	108, 606	10, 716	139, 536
1965	9, 793	2, 313	4, 042	84, 910	10, 909	112, 967
1966	5, 456	1, 949	1, 916	58, 184	9, 967	77, 472
1967	3, 705	2, 285	1, 582	96, 240	13, 381	117, 193
1968	6, 398	3, 472	2, 153	78, 201	13, 499	103, 723
1969	19, 016	2, 801	2, 107	80, 803	20, 181	124, 908
1970	19, 037	3, 765	1, 498	87, 547	28, 664	140, 511
1971	10, 254	2, 187	779	82, 769	27, 026	123, 015
1972 [2]	2, 269	1, 026	166	46, 119	19, 539	69, 119
1973 [2]	846	1, 327	22	30, 599	10, 838	43, 632
Total	131, 189	35, 425	29, 610	1, 004, 609	197, 918	1, 398, 751

[1] A.D.F. & G. annual management report, Bristol Bay area, 1971.
[2] Preliminary data.

TABLE 3.—KUSKOKWIM RIVER CHINOOK SALMON CATCH DATA, 1961–73 [1]

Year	Commercial catch	Subsistence catch	Total catch
1961	18,918	31,136	50,054
1962	15,341	14,656	29,997
1963	12,016	34,615	46,631
1964	17,149	29,017	46,166
1965	21,989	27,143	49,132
1966	25,545	49,606	75,151
1967	29,986	57,875	87,861
1968	34,278	30,230	64,508
1969	43,997	40,138	84,135
1970	39,290	69,219	108,509
1971	40,274	42,926	83,200
1972 [2]	40,795	40,145	80,940
1973 [2]	30,838	35,000	65,838
Averages:			
1961–73	28,493	38,592	67,085
1969–73	39,038	45,485	84,523

[1] A.D.F. & G. annual management report, Arctic-Yukon-Kuskokwim area, 1971.
[2] Preliminary data.

TABLE 4.—INDEX COUNTS OF KUSKOKWIM RIVER CHINOOK SALMON SPAWNING ESCAPEMENTS, 1965–73 [1]

Year	Aerial surveys				Counting tower—Kogrukluk River
	Kisaralik River	Aniak River (above Salmon River)	Chukowan River	Kogrukluk River	
1965	[2] 194				
1966	[2] 204	485	986	1,645	
1967		[2] 758		1,033	
1968	487	783	1,260	2,180	
1969		537			3,626
1970	531	592	1,118	1,598	4,865
1971		[2] 144		[2] 636	
1972 [3]		[2] 93	[2] 163	[2] 476	2,305
1973 [3]	152	[2] 200	229	[2] 610	1,718

[1] A.D.F. & G. annual management report, Arctic-Yukon-Kuskokwim area, 1971.
[2] Surveys rated poor.
[3] A.D.F. & G. unpublished data.

TABLE 5.—YUKON RIVER CHINOOK SALMON CATCH DATA, 1961–73 [1] [2]

Year	Commercial catch	Subsistence catch	Total catch	Commercia catch per unit effort [3]
1961	123,110	31,364	154,474	1.05
1962	98,773	21,610	120,383	.73
1963	119,331	32,970	152,301	1.09
1964	96,795	16,171	112,966	1.11
1965	120,279	19,608	139,887	1.04
1966	95,257	14,272	109,529	.95
1967	131,617	19,448	151,065	.89
1968	108,738	15,006	123,744	.81
1969	92,360	15,000	107,360	.76
1970	81,912	16,410	98,322	.91
1971	113,685	25,251	138,936	1.11
1972 [4]	94,609	19,541	114,150	.86
1973 [4]	77,317	([5])	([5])	.66
Averages: 1961–73	104,137			
Averages: 1969–73	91,976			

[1] Includes catches from Yukon Territory (Canada).
[2] A.D.E. & G. annual management report, Arctic-Yukon-Kuskokwim area, 1971.
[3] CPUE during chinook salmon season in Yukon subdistricts 1 and 2 (lower 150 miles) 96 hours commercial fishing per week during 1961–67; 84 hours per week during 1968–73.
[4] Preliminary data.
[5] Subsistence catches not available as of this date.

TABLE 6.—INDEX COUNTS OF YUKON RIVER CHINOOK SALMON SPAWNING ESCAPEMENTS, 1960–73 [1] [2]

Year	Andreafsky River (east fork)	Andreafsky River (west fork)	Anvik River	
			Aerial survey	Counting tower
1960	1,020	1,220	1,950	
1961	1,003		1,226	
1962	[3] 675	[3] 762		
1963				
1964	867	705		
1965		[3] 355	[3] 650	
1966	361	303	638	
1967		[3] 276	[3] 336	
1968	380	383	[3] 297	
1969	[3] 231	[3] 274	[3] 296	
1970	665	[3] 574	[3] 368	
1971	1,904	1,284		
1972 [4]	798	[3] 582	418	1,104
1973 [4]	825	788	[3] 222	668

	Salcha River	Nisutlin River (Sidney—100 Mile Cr.)	Whitehorse Dam fishway
1959			1,054
1960	1,660		660
1961	2,878		1,068
1962	937		1,500
1963			484
1964	450		587
1965	408		903
1966	800		563
1967			533
1968	735	407	407
1969	[3] 461	105	334
1970	1,882	615	625
1971	[3] 159	[5] 640	856
1972 [4]	1,193	317	392
1973 [4]	249	[3] 36	228

[1] With exception of Whitehorse fishway counts, the data was obtained from aerial surveys which were made only of the main stem of each river listed.
[2] A.D.E. & G. annual management report, Arctic-Yukon-Kuskokwim area, 1971.
[3] Incomplete survey or poor survey conditions resulting in a very minimal count.
[4] A.D.F. & G. unpublished data.
[5] Canadian Department of Fisheries survey.

TABLE 7.—JAPANESE HIGH SEAS MOTHERSHIP CATCH OF CHINOOK SALMON BY AREA BY YEAR AND LANDBASED HIGH SEAS CATCH [1]

[In thousands of fish]

Year	North Pacific						Bering Sea						Other	Mothership total, all areas	Total landbase [2]
	160–165E	165–170E	170–175E	175E–180	180–175W	North Pacific, total	160–165E	165–170E	170–175E	175E–180	180–175W	Bering Sea, total			
1952	1				0	1		0	0	0	0		0	1	
1953	3				0	3		0	0	0	0		0	3	
1954	44	11	2		0	57	0	0	0	0	0	0	17	74	28
1955	26	15	2		0	43	0	0	0	0	0	0	21	64	40
1956	31	14	25	2		72	0		1	8	36	45	9	126	22
1957	6	3	2		0	11	0			5	9	14	2	27	44
1958	17	17	3		0	37	0	0	0	0	0	0	9	46	61
1959	5	21	8		0	34	0	1	23	5	0	29	0	63	112
1960	9	19	9	1		38	0	9	11	15	107	142	0	180	187
1961	6	9	5	1		21	0		1	1	8	10	0	31	114
1962	11	78	30	2	1	122	0	0	0		0		0	122	201
1963	19	15	10	2	0	46	0	6	11	22	3	42	0	88	139
1964	8	24	86	50	38	206	0	18	60	85	41	204	0	410	275
1965	5	32	22	9	1	69	0	18	31	29	38	116	0	185	162
1966	5	27	45	6	3	86	0	44	12	28	38	122	0	208	191
1967	12	24	19	2		57		10	16	26	18	70	0	127	189
1968	6	19	19	11	14	69	1	30	65	153	44	293	0	362	154
1969	13	18	16	30	27	104	1	18	24	150	257	450	0	554	76
1970	4	7	5	7	10	33		4	55	165	180	404	0	437	139
1971	5	11	11	13	8	48		6	27	54	70	157	0	205	129
1972	9	19	4	2	1	35	2	9	40	102	67	220	0	[3] 261	
Total	245	383	323	138	103	1,192	4	173	377	848	916	2,318	58	[3] 3,574	2,263

[1] Sources as in table 9.

[2] Landbased catch from table 9. Data available only through 1971.

[3] Total includes catches of less than 500 fish for some areas.

TABLE 8.—WESTERN ALASKA CHINOOK SALMON CATCH BY AREA COMPARED TO JAPANESE MOTHERSHIP CATCH IN THE BERING SEA [1]

	Artic-Yukon-Kuskokwim			Bristol Bay			North Peninsula commercial	Total Western Alaska catch	Japanese molhership Bering Sea catch
	Commercial	Subsistence	Total	Commercial	Subsistence [2]	Total			
1960	73,560	19,457	93,017	111,073	(5,500)	116,573	10,441	220,031	142,000
1961	148,741	52,617	201,358	88,656	(5,500)	94,156	6,050	295,514	10,000
1962	122,907	33,506	156,413	84,047	(5,500)	89,547	6,098	245,960	----------
1963	142,185	67,271	209,456	62,269	4,100	66,369	3,601	279,426	42,000
1964	116,835	54,235	171,070	139,536	3,400	142,936	3,592	317,598	204,000
1965	144,512	45,376	189,888	112,967	5,100	118,067	6,131	314,086	116,000
1966	120,692	63,576	184,268	77,472	4,300	81,772	9,342	275,382	122,000
1967	161,496	81,832	243,328	117,193	4,200	121,393	5,523	370,244	70,000
1968	150,728	50,591	201,319	103,723	7,100	110,823	4,483	316,625	293,000
1969	157,392	57,214	214,606	124,908	7,500	132,408	4,846	351,860	450,000
1970	147,204	88,306	235,510	140,511	7,250	147,761	3,854	387,125	404,000
1971	158,037	71,342	229,379	123,015	4,640	127,655	2,189	359,223	157,000
1972	152,748	63,688	216,428	69,119	4,032	73,151	1,800	291,379	220,000
1973 [3]	125,987	[4] 56,000	181,987	43,632	8,500	52,132	[5] 3,570	237,689	0

[1] All inshore data compiled from ADF & G Annual Management Reports and unpublished data.
[2] No estimates of subsistence catch made prior to 1963 in Bristol Bay—11-yr average used for 1960–62. 1963–69 catch estimated by interview and survey. 1970–73 catches recorded from permits returned by fishermen.
[3] Alaska catch data is preliminary, but general order of magnitude should not change.
[4] Subsistence catch data for Yukon River portion not available—4-yr average used based on small variability in catches.
[5] Preliminary estimate based on catch report comparisons by district with 1972.

TABLE 9.—CHINOOK SALMON TAG RECOVERIES FROM HIGH SEAS TAGGING WEST OF 175° WEST LONGITUDE, 1956–71 [1]

Tag No.[2] and area	Tagging			Recovery		
	Location	Year	Age	Location	Year	Maturity
Recovery in year of tagging:						
1. E6048	4854N 16018E	58	1.2	4645N 15724E	58	(?)
2. W8050	5136N 17618W	64	1.3	Togiak River-Bristol Bay.	64	M
3. W7556	5630N 17500W	69	1.2	5724N 17754W	69	I
Recovery in years subsequent to tagging:						
4. E6052	5335N 16300E	59	1.2	4420N 15640E	60	M
5. E7560	6003N 17500E	65	1.2	5837N 16858E	66	I
6. E7560	6003N 17500E	65	1.2	Nushagak District Bristol Bay.	67	M
7. E7558	5829N 17525E	65	----------	Yukon River	67	M
8. E7556	5601N 17700E	68	1.1	5931N 17800E	69	I
9. E7556	5756N 17609E	59	1.2	Yukon River	60	M
10. W8058	5800N 18000W	66	1.2	Kuskokwim River	68	M
11. W8056	5602N 17600W	59	.1	5843N 16600E	60	?
12. W8056	5602N 17600W	59	.1	5917N 18000W	60	?
13. W8050	5140N 17545W	58	.1	4728N 17050E	60	?
14. W8050	5118N 17628W	68	1.2	Southeastern Alaska	69	M
15. W8050	5129N 17634W	56	----------	Columbia River	57	M
16. W8058	5830N 17605W	69	1.2	5813N 17838W	70	?

[1] Tag recovery data from INPFC Docs. 1377 and 1468.
[2] Keyed to fig. 2.

TABLE 10.—ASIAN COASTAL AND HIGH SEAS CHINOOK SALMON CATCH

[In millions of fish]

Year	U.S.S.R.[1]	Japan coastal[2]	Kamchatka Mothership and North Kuriles[2]	Landbased coastal[3]	South Kuriles Hokkaido and Honshu[3]	Total coastal[4]	High seas mothership[5]	High seas landbased[6]	Total high seas	Total
1908										
1909										
1910										
1911		0.006				0.006				0.006
1912		.005				.005				.005
1913		.028				.028				.028
1914		.012				.012				.012
1915		.018				.018				.018
1916		.015				.015				.015
1917		.015				.015				.015
1918		.012				.012				.012
1919		.051				.051				.051
1920		.070				.070				.070
1921		.065				.065				.065
1922		.036				.036				.036
1923		.025				.025				.025
1924		.024				.024				.024
1925		.040				.040				.040
1926		.077				.077				.077
1927		.098				.106				.106
1928		.069				.087				.087
1929		.083				.109				.109
1930		.112	0.003			.179				.179
1931		.075	.005			.115				.115
1932		.075	.003			.128				.128
1933		.036	.001			.051				.051
1934		.069	.003			.092				.092
1935		.103	.020			.144				.144
1936		.077	.042			.142				.142
1937		.123	.031			.154				.154
1938		.091	.029			.120				.120

1939			.058	.009		.067			.067
1940	0.021		.067	.012		.100			.100
1941	.055		.067	.013		.135			.135
1942	.035		.031	.016		.082			.082
1943	.047			.005		.052			.052
1944	.016					.016			.016
1945	.037					.037			.037
1946	.079					.079			.079
1947	.079					.079			.079
1948	.126					.126			.126
1949	.073					.073			.073
1950	.060					.060			.060
1951	.070					.070			.070
1952	.064					.064	0.001	0.001	.065
1953	.085					.085	.003	.003	.088
1954	.063					.063	.074	0.028	.102
1955	.130					.130	.064	.044	.104
1956	.106					.106	.126	.022	.148
1957	.087					.087	.027	.044	.071
1958	.068					.068	.046	.061	.105
1959	.095					.095	.063	.112	.175
1960	.068					.068	.180	.187	.367
1961	.063					.063	.031	.114	.145
1962	.100					.100	.122	.201	.323
1963	.124					.124	.088	.139	.227
1964	.160					.160	.410	.275	.685
1965	.107					.107	.185	.162	.347
1966	.093					.093	.208	.191	.399
1967	.091					.091	.127	.189	.316
1968	.083					.083	.362	.154	.516
1969	.122					.122	.554	.076	.630
1970					.007		.437	.139	.576
1971	.183				.022	.205	.206	.129	.335
1972							.261		.540

[1] 1940–53 INPFC Bulletin 12; tons converted to fish on basis of table 32 average weights; 1954–68 Fredin (71) unpublished; 1969–71 INPFC Statistical Yearbook.

[2] INPFC Bulletin 12.

[3] Prior to 1970 no catches given in any source; 1970–71 INPFC Statistical Yearbooks.

[4] 1908–26 only Japanese catches given; 1927–36 INPFC Bulletin 12; 1937–1953 totals of data shown; 1954–68 Fredin (71) unpublished; 1969 and 1971 totals of data shown.

[5] 1952–59 INPFC Bulletin 15; 1960–1971 INPFC Statistical Yearbook; 1972 INPFC Doc. 1629.

[6] 1954–68 Fredin (71) unpublished; 1969–71 INPFC Statistical Yearbook landbased longline and drift gill net.

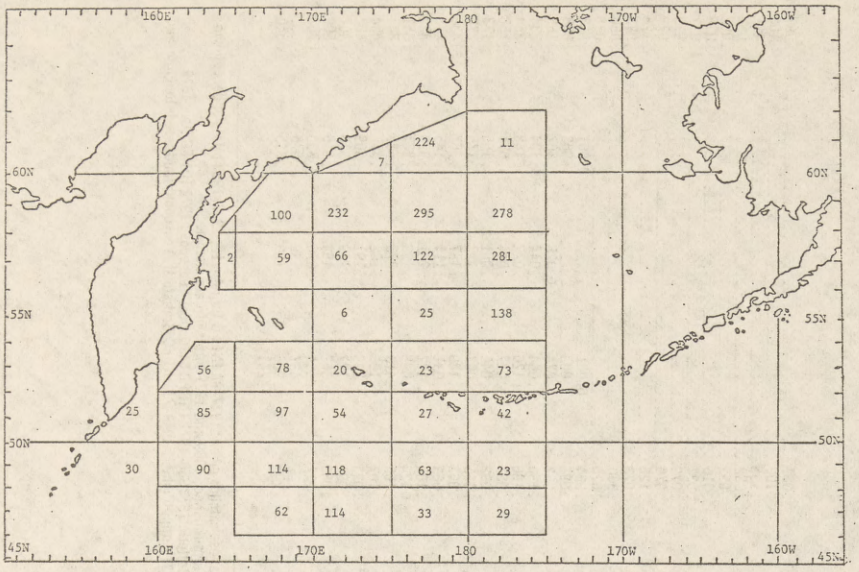

FIGURE 1.—Japanese high seas mothership catch of chinook salmon, 1952–1970, in thousands of fish.

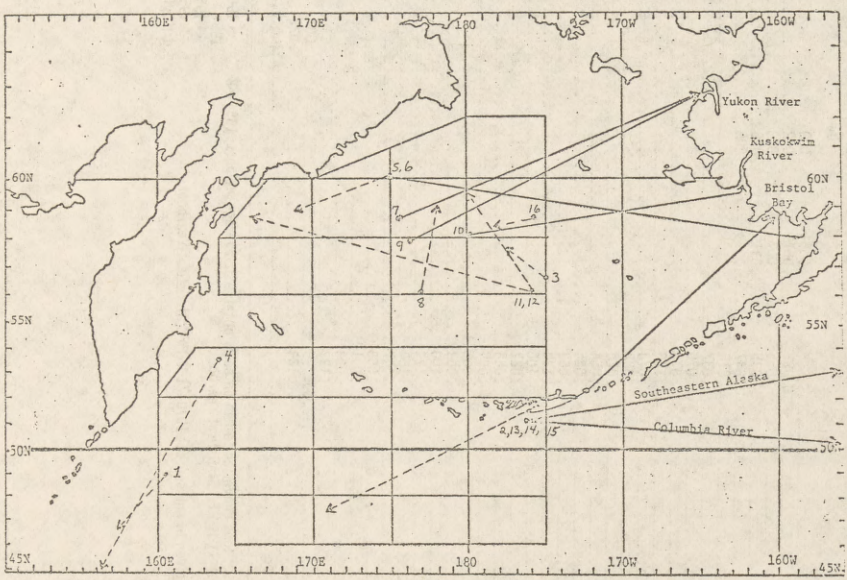

FIGURE 2.—Chinook salmon tag recoveries from high seas tagging through 1971. Mainland recoveries shown with solid line, high seas recoveries—broken line. Numbers keyed to table 9.

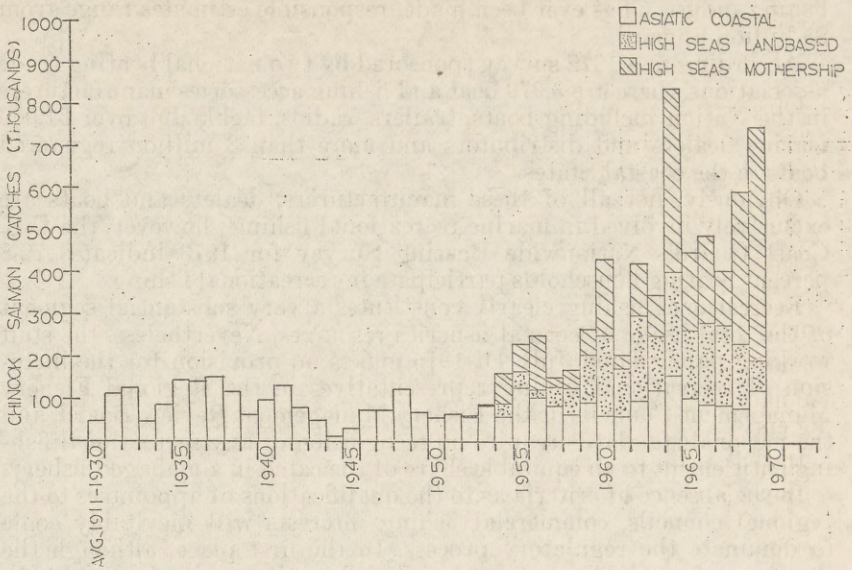

FIGURE 3.—Asian coastal and high seas chinook salmon catches, 1911–1969 (from table 10).

Senator STEVENS. Mr. Kyros?

STATEMENT OF PETER KYROS, NATIONAL COALITION FOR MARINE CONSERVATION, WASHINGTON, D.C.

Mr. KYROS. Mr. Chairman, I only have a short statement and at the end of it, sir, there are certain specific proposals in regard to the Senate staff working paper already drawn up, recommendations for possible changes in legislation and with your permission those recommendations could be placed in the record.

Senator STEVENS. I would be happy to do so.

Mr. KYROS. I'm appearing here today on behalf of the National Coalition for Marine Conservation, a group representing both recreational and commercial fishermen who are deeply interested in the conservation of the fisheries.

The marine recreational fishing industry is totally dependent upon the continued abundance of gamefish in coastal waters, and marine anglers have demonstrated broad awareness of the potential significance of H.R. 200 and the National Marine Fisheries Protection and Management Act of 1975.

Based upon surveys in progress the National Marine Fisheries Service estimates that there are 34 million marine recreational users of coastal resources including finfish and shellfish in the United States, and while no definitive study of the economic value of the recreational

fishing industry has ever been made, responsible estimates range from $5 billion upward.

According to a 1972 survey sponsored by two national boating trade associations, there are 3,970 boat and fishing accessories manufacturers in the Nation including boats, trailers, radios, tackle and over 31,966 marine dealers and distributors and more than 3 million registered boats in the coastal States.

Obviously, not all of these manufacturers, dealers and boats are exclusively involved in marine recreational fishing; however, the U.S. Coast Guard's Nationwide Boating Survey for 1973 indicates 72.8 percent boating households participate in recreational fishing.

Recreational fishing clearly constitutes a very substantial segment of the total usage of coastal fisheries resources. Nevertheless, the staff working paper dated July 11, 1975 makes no provision for the inclusion of recreational fishing representatives in the Regional Fishery Management Councils or the Fishery Management Review Board, and the national standards require no recognition of any recreational fishing entitlement to an equitable share of the catch in a managed fishery.

In the absence of criteria as to the qualifications of appointees to the regional councils, commercial fishing interests will inevitably come to dominate the regulatory process. In the first place, although the structure of coastal State fisheries administration varies from State to State, in many States recreational and commercial fishery authority is separated into different departments.

Unless a higher official is designated, Governors will tend to appoint the head of the commercial fisheries department to the councils. Second, since commercial fishermen are usually better organized and more vocal than recreational interests, virtually all of the "public" members of the council will be representatives of commercial fishing.

Commercial and recreational fishermen already compete for a share of the catch in a number of fisheries. Given the ever-expanding number of anglers and continued diminution of abundance in many stocks, such competition will become increasingly widespread. Moreover, in some fisheries where fish are sought by both recreational and commercial fishermen the most productive level of commercial fishing would put an end to the availability of trophy-sized fish for recreational fishermen.

In other fisheries, the most productive level of commercial fishing would reduce the forage fish upon which gamefish prey to the point where gamefish would cease to be present in sufficient numbers to sustain a recreational fishery.

In these and many other instances management is essentially a matter of allocating an allowable catch among recreational and commercial fishermen. If one faction is in control of the allocating authority, the other is bound to suffer. For this reason the provisions controlling the composition of the regional councils and the membership of the National Review Board must be changed to provide a balance representation.

We made a suggestion as to amendment of that section, Mr. Chairman. The national standards section—section 201(c) should be amended in order to emphasize as legislative intend that allowable catches

should be allocated among recreational and commercial fishermen on an equitable basis.

The national standards afford the only grounds upon which the Secretary can disallow regulations when initially promulgated and one of the grounds upon which they can be quashed upon appeal to the Fishery Management Review Board.

The coalitions' position with respect to balance representation and equitable allocations have been endorsed by the American Fishing Tackle Manufacturers Association, the National Association of Boat and Engine Manufacturers, and the National Sporting Goods Association.

The coalition favors, Mr. Chairman, the form of management structure proposed by the staff working paper over that set forth in H.R. 200, because the House bill confers enormous management power upon the Secretary of Commerce without making him accountable for its exercise. The individual fisherman is without recourse, except for the APA procedure in which whatever remedies are available to him are available at the discretion of the Secretary and not as a matter of right.

By contrast, the staff working paper creates a balance of authority pursuant to which the Regional Councils initiate the rulemarking procedure subject to the approval of the Secretary of Commerce. The Secretary in turn is accountable to a National Review Board. The system is deficient, however, because there is no down-line accountability permitting individuals or groups of fishermen to force action from a regional council.

As drafted, the Senate working paper would allow the councils to endlessly debate the need to manage a fishery without taking action. Accordingly, the coalition has proposed amendments to section 203 and 204(c)(2) giving States and individuals the right to propose to the regional councils that a fishery should be managed and empowering the Secretary of Commerce to force council action upon such proposals in the event that a council fails to act in a timely fashion.

The Secretary would be accountable to the National Review Board for his action under this section.

Section 101(a)(3) exempts highly migratory species from the Federal fisheries management authority. The term "highly migratory species" is defined in international agreements to include, in addition to various species of tunas, a number of other species such as swordfish, sailfish, white, blue and striped marlins, dolphins, sharks, and others which are of no direct interest to the tuna industry but which are highly prized as gamefish by recreational fishermen.

Thus, a provision incorporated in the staff working paper as a concession to the tuna industry involves a potential adverse impact upon recreational fishing of substantial proportions. This can be readily cured by changing the definition of the term highly migratory fish in section 3(15) to limit its meaning to tunas.

There are many reasons for doing this. As to some of these species such as swordfish, sailfish, sharks and dolphins, it is unclear whether they are in fact highly migratory. There is evidence that at least some portions of the stocks of these fishes reside within the waters which

would be subject to Federal jurisdiction for all or most of their life cycles.

As to others, including all of the marlins, there is evidence of overfishing and significant declines in abundance; in other words the stocks are ripe for management. None of them are presently regulated pursuant to international agreement, nor is any such regulation presently contemplated by existing international organizations.

The overriding authority is that to do so is counter to the central thrust of this legislation. The basic underlying purpose of all fisheries management is to establish rational utilization of resources which would otherwise continue to be irrationally exploited.

The modern history of multilateral fisheries management by international agreement is without a single success story. No multilateral fisheries organization has even been constituted with sufficient legal authority and enforcement capability to manage a fishery effectively. The Inter-American Tropical Tuna Commission, the IATTC is a case in point.

The Inter-American Tropical Tuna Commission has been unable to enlist the cooperation of all participants in the fisheries which it supposedly regulates. It has been unable to compel its members to comply with its quotas. And it has been powerless to prevent the massive overcapitalization of the industry generally.

It is not suggested here that the legitimate interests of our distant waters fishing industry should be denied. It is suggested, however, that if a political concession should be made with respect to tuna, the real reasons for such accommodation should be recognized and not misconstrued as a logical basis for according other species similar treatment.

A patently absurd argument has been advanced to the effect that the assertion of jurisdiction over billfish with the U.S. economic zone would prejudice the right of U.S. fishermen in foreign waters. The principal countries in question, Peru, Ecuador, and Chile have long since established a territorial sea. Continued unnegotiated incursions into these waters by American tuna boats have created international hostilities undermining the entire scope of our diplomatic efforts in Latin America. The tuna industry's problems will not be solved until this country adopts a rational policy which substitutes negotiated entry for gunboat diplomacy.

Finally, Mr. Chairman, the question about drafting environmental impact statements. As you know, section 102(2)(c) requires all Federal agencies to prepare an EIS on the environmental impacts which major proposed actions may cause. On the other hand, 40 CFR excludes "environmentally protective regulatory activities" from the requirement.

Given the bureaucratic tendency toward over-compliance with procedural regulations, it would appear to be desirable to specifically exempt fisheries regulation from NEPA as an environmentally protective activity—except for management activity involving the introduction of exotic species to enhance existing fisheries or to create new ones or decisions to permit a level of fishing effort that will result in a catch or a by-catch of any species in excess of the maximum sustainable yield for that species.

With the exception thus noted, which are in the nature of deliberate interference with ecological relationships, the objective of fisheries

management is to ameliorate the impact of fishing activity upon the resource in keeping with the NEPA's environmental mandate to "achieve a balance between population and resource use" and to "enhance the quality of renewable resources."

To impose the burden of preparing the environmental impact statement upon the promulgation of regulations would be to impair the entire management process by making it cumbersome, expensive, and slow. One of the most important characteristics of fisheries management is the flexibility required to react to sudden changes, environmental changes, or technological developments. No such flexibility will be possible if an environmental impact statement is required with each shift in management strategy.

The need for extended jurisdiction, for conservation and for rational management has drawn recreational and commercial fishermen together. It has created a degree of solidarity in a traditionally fragmented community. There is a growing realization that we must act now to preserve our marine resources for the use and enjoyment of future generations; that this can only be accomplished through a strictly enforced, rational fisheries management designed to optimize the long-term social, recreational and economic yield of our fisheries; and that our marine resources must be recognized and administered as a national asset which can no longer be permitted to be traded away by the State Department in shortsighted negotiations for short-term and frequently nebulous diplomatic advantages.

1. RECREATIONAL FISHING REPRESENTATION

1.1 The National Standards section—section 201(c)—should be amended by inserting the following provision:

(6) Management and conservation measures shall take into account the direct and indirect interests of recreational fishermen in each fishery under management and allocations of allowable catches among recreational and commercial fishermen shall be made on an equitable basis.

1.2 The composition subsection of the regional council section—section 202(b)—should be amended as follows:

(b) Composition.—(1) Each such council shall be composed of the following members—

(A) a State official from each coastal State whose responsibilities shall include administration of State fisheries regulations, in the number designated in subsection (a), within each respective region to be appointed by the Governor of each such State, or in the case of the Trust Territories of the Pacific, by the High Commissioner;

(B) two representatives of each coastal State within each respective region to be appointed by the Governor, or High Commissioner, of each such State from the public at large, of which one such representative shall be an individual having knowledge and experience in commercial fishing and the other shall be an individual having knowledge and experience in recreational marine fishing.

1.3 The composition of the Fishery Management Review Board—section 204(b)(1)—should be amended as follows:

(b) Membership.—(1) The Board shall be composed of five members appointed by the President, by and with the advice and consent of the Senate; at least one member shall be an individual having knowledge and experience in marine recreational fishing and at least one shall be an individual having experience in State marine fisheries administration. At least two members shall be individuals

selected by the President from a list of not less than five qualified individuals submitted by the National Governors Conference.

1.4 Section 204(b)(1) should be further amended by the addition of the following sentence thereto:

Officers or employees of the Federal Government shall not be eligible to appointment to the Board.

2. THE MANAGEMENT STRUCTURE

2.1 The Regional Marine Fishery Management Councils—section 203—should be amended by the addition of the following subsections:

(f) Action by general public.—Any coastal State or any interested member of the general public may nominate a fishery as a fishery in need of regulation by submitting a written statement to the Secretary identifying such fishery and describing the reasons why it should be managed. The Secretary shall promptly forward each such nomination to the appropriate Regional Council for action.

(g) Overview.—The Secretary shall from time to time review the actions of the Regional Councils to determine whether the Councils are acting in timely fashion. If the Secretary shall determine that a Regional Council shall have failed to recommend management regulations for any fishery within a reasonable time or that a Regional Council shall have failed to act upon a nomination made pursuant to section 203(f) of this title, he shall prepare management regulations and submit them to the Regional Council. The Regional Council shall have not more than forty-five days to make changes in the regulations which are consistent with the national standards. If the Council does not make the changes in forty-five days, the regulations shall stand, and the Secretary shall issue the notice of proposed rulemaking.

2.2 The Appeals to the Board section—Section 204(c)(2)—should be amended at line 1 page 28 as follows:

(2) Any Council, whose recommended management regulations were determined by the Secretary to be not consistent with the national standards set forth in section 201(c) of this title and which objects to such determination or any Council that objects to the action of the Secretary taken in an emergency situation pursuant to section 203(e) of this title or in the absence of a Council's action pursuant to section 203(g) of this title, may seek review of the Secretary's action by filing a request for review with the Board not later than sixty days after the publication of the final management regulations involved.

3. HIGHLY MIGRATORY SPECIES

3.1 The definition of "highly migratory species"—section 3(15)—should be amended as follows:

(15) "highly migratory species" means those species of tuna which spawn and migrate during their life cycle in waters of the open ocean;

4. ENVIRONMENTAL CONSIDERATIONS

4.1 The procedure section—section 203—should be amended by the addition of the following subsection:

(f) Environmental impact.—The preparation of fishery management plans and the promulgation of management regulations pursuant to this section shall be exempt from the requirement of Section 4332(c) of the National Environmental Policy Act (42 U.S.C. 4321–4327) except with respect to plans and regulations involving (1) the introduction of exotic species to enhance existing fisheries or to create new ones and (2) the authorization of a level of fishing effort deliberately calculated to result in a catch or bi-catch of any species in excess of the estimated maximum substainable yield thereof.

Senator STEVENS. Thank you very much.

We will take that under consideration, the suggestion that you have made on behalf of the National Coalition for amendment to the legislation that is pending and the staff may be in touch with you concerning some of those.

I would like to make one comment and that is concerning the composition of management structure, particularly those to be appointed by the Governor to represent the State. We have been reluctant to establish categories which the States must recognize in making those appointments because we feel that this is a matter of State concern and certainly once we start delineating any one particular type of membership, we're automatically drawn into enlarging the scope of accounts.

If you got one thing, you've automatically got to have another thing, and then one short man and then some areas want Indian members and other areas consumer members. It would seem to us and I think I speak for the committee, that that is a matter to be determined by the State and I commend you for making the presentation but I would hope that your national coalition would recognize that it will have the same inpact on the States once it becomes law. For us to go down that path would inevitably mean that we would go forth to a requirement that would lead to an unmanageable regional council. Governors automatically recognize their own interest and if that is recognized, on the State level, the Federal level will balance whatever the State has.

I hope you understand.

Mr. KYROS. Mr. Chairman, I believe that everything you've said is very acceptable and thoroughly sound. The only suggestion I make, although it is true they shouldn't be bound that specifically, however, in the report an indication could be given that the constitution of the councils should be broadened.

Senator STEVENS. I think we would do that and I certainly know in my State, for instance, the sport fishermen have a role which is, I think, coexistent with that of the commercial fisherman and we will definitely indicate in the report that the council should give representation to the areas of prime concern of the individual regions.

That's a very interesting organization you have and I know we are aware of the increasing importance economically of the sport and recreation fishery industry. It's really an industry now, and are cognizant of the support that industry and the recreational fishermen have given to this legislation. We will definitely be responsive to this suggestion you made.

Mr. KYROS. Thank you very much, Mr. Chairman.

Senator STEVENS. Thank you.

Professor PONTECORVO?

I might state that so far I know there is one last witness remaining in the hearing today and we will announce at the termination of the hearing to keep the record open for a period of a week. Anyone who has any suggestions concerning amendments, should get them to the committee no later than the close of business on Monday.

We intend to take up this bill next Wednesday at the regular meeting of the Commerce Committee executive session.

Dr. Pontecorvo, we are happy to have you.

STATEMENT OF DR. EDWARD F. MILES, CHAIRMAN, OCEAN POLICY COMMITTEE, NATIONAL RESEARCH COUNCIL, PRESENTED BY DR. GIULIO PONTECORVO, PROFESSOR OF ECONOMICS, COLUMBIA UNIVERSITY

Dr. PONTECORVO. Let me say at once that the Ocean Policy Committee is not taking a position on whether this bill should be enacted at this time. We are, rather, taking the opportunity to present our views on certain implications which must be considered if the bill is to be enacted and to propose some changes in the current version. The proposed changes are set out in detail in annex I to this statement.

Historical, geographical, and institutional factors require that the United Staes carefully consider the impact on foreign states, and the consequences for the United States itself, of the creation of a 200-mile economic zone. The most obvious impact involves our immediate neighbors on all coasts. Our relationships under a 200-mile regime with Canada, the Bahamas, Cuba, Mexico, and the USSR involve, inter alia, determination of baselines, joint biologic and economic management of shared stocks of fish, apportioning the costs of management, problems of surveillance and enforcement, and agreement on methods of negotiations with third parties. In each case, it will be necessary to reach accommodation with the neighboring state in such a way as to protect both U.S. interests and yet secure the agreement of the neighboring states. Moreover, after initial accommodation has been reached, the way in which our neighbors manage their zones will affect what we can do with ours.

It is very important to recognize that fisheries management presents a set of dynamic problems. By this we mean that there is no single solution that covers all circumstances and, further, that solutions that are workable today may not, because of rapidly changing biological, technological and economic conditions, be acceptable tomorrow. This condition of rapid change increases the necessity for having flexible management procedures at the international level.

Over the years, the United States has entered into a number of bilateral and multilateral agreements on fisheries. Where these agreements are bilateral with adjacent states, they are likely to be superseded by the boundary agreements referred to above. In other cases, agreements may have to be revised, canceled, or renegotiated to meet the realities of the new situations. In all probability, new institutions will have to be created or old ones revised. The U.S. interest in rehabilitating resources that have been overfished, in rebuilding depressed fishing industries and the overriding considerations of insuring maximum food production in a hungry world, will be primary considerations in such renegotiations.

It must be expected that states which have been party to existing treaties, and also those which without treaty arrangements have fished in areas heretofore considered high seas, will consider their prior activities as proof of historic rights that will entitle them to negotiate for a share of the catch in the areas in question. This situation of preexisting treaties and practices raises two questions: (1) In some cases, it will be necessary to negotiate a period of transition or phaseout to cover the movement from the existing pattern of activity to a pattern ultimately desired by U.S. fisheries policy. In some instances,

it may be desirable to offer inducements to states to hasten the phase-out of their historic fisheries. This interval will allow both the United States and other nations to adjust to the changed conditions. (2) In other cases, it seems likely that the United States will share the use of its economic zone with its neighbors and also with some other states. These countries will continue to fish in our zone under conditions imposed by the United States, particularly for resources of little current economic importance to the United States. Both situations require that the United States negotiate agreements for fisheries management with other countries.

U.S. fishermen now engage in a number of distant fisheries, the most important of which are tuna and shrimp. In the development of a U.S. fisheries management plan under extended jurisdiction, it will be desirable to consider the interests of our distant-water fleets. To do so will require intensive negotiations, either on a quid pro quo or on some other basis, to assure access to these resources at reasonable costs to our fishermen.

We have noted the importance of historic practices and existing treaty provisions as conditions that require negotiations to ensure either continuing access or to limit access as the United States assumes further control. It will also be desirable to have some capability to allow certain states, which do not now participate in fishing off our shores, or which are not covered by existing treaties, the right to enter our fisheries under specified conditions. It is difficult to foresee these conditions precisely, but it is certain that such cases will occur in the future as some nations, especially some developing states, expand their fisheries activities while others, the distant-water fishing states, contract theirs. The flexibility needed to carry on negotiations in these cases must be built into the national management plan.

In addition to the points already noted, there are several other aspects of the extension of jurisdiction that will require the United States to consider the effect of its action on the rest of the world.

Extension of jurisdiction to 200 miles will mean that the United States will be responsible for an area that now produces more than 10 percent of the world's fish supply at current levels of exploitation. The distribution of this catch will have significant impact on the world's supply of protein.

Therefore, our fishery policy should be part of the overall U.S. food strategy, which includes aid programs and assistance to malnourished peoples. Our policy should also take into account the impact of its implementation on the U.S. cost of living. It is appropriate that the Congress and the Executive consider fishery resources as part of national food policy and as an element in the available reserve of world food stocks.

Currently, the importation of fish has a negative impact on our balance of payments. Extension of U.S. jurisdiction could assist in reversing this situation. However, the desirability of significantly increasing domestic production depends on the alternative investment opportunities for expansion of industry. Some of the questions to be posed are: Do we wish to encourage a massive expansion of the existing U.S. fisheries industry? Do we wish to go to a more capital-intensive type of fishery? Or should we maintain our existing level of effort and increase our revenue by making the resource available to others

for a fee? Balance-of-payments considerations are, therefore, only one element in the decision to be made about the appropriate structure of the U.S. fisheries industry. Political considerations are also important elements in the final decision.

The facts of geography, historic rights, existing treaties, the need to protect our own distant-water fleets, balance-of-payments considerations, political considerations, and food policy all combine to suggest the importance of the international dimension in the development of U.S. fisheries policy. The extension of jurisdiction will open new opportunities and present new problems. How we deal with these will be governed by the constraints discussed above.

PROPOSED CHANGES

(1) We think it would be more accurate if the word "conserve" was used instead of the words "to protect * * * from depletion." This occurs in line 3 of the opening sentence of the bill. Similarly, the word "depletion" in line 14 of page 2 should be replaced by "overfishing." There are a number of other places where these changes should also be made. It is not clear what "depletion" means since it does not appear in the definition of conservation.

(2) In the definition of "anadromous species"—paragraph 1, line 18, page 4—the words "* * * beyond the contiguous fishery zone" should be deleted.

(3) The definition of "contiguous fishery zone" should be changed to conform with the language currently being used at the Third United Nations Conference on the Law of the Sea. Paragraph 5, line 20, page 5, would therefore read:

"Economic resource zone" means a zone contiguous to the territorial sea of the United States, and extending to 200 miles including the territorial sea, within which the United States exercises exclusive fishery management and conservation authority. The term "economic resource zone" should be used throughout the bill.

(4) Paragraphs 9 and 11 on page 6, in which "fish" and "fishing" are defined, we think pose problems for the conduct of scientific research. As currently drafted, the definition of fishing in paragraph 11 would appear to include the taking of fish for scientific purposes. The term "fish" refers to marine animal and plantlife. In combination, we assume that the United States could claim exclusive jurisdiction to regulate and control fishery research, including plankton tows, within the economic resource zone and this is contrary to the position the United States advocates at the Law of the Sea Conference. Several possible remedies are available. We would recommend that the committee add at some place a proviso that: "Nothing in this Act shall be interpreted to include the conduct of scientific research."

(5) The examples included in the definition of "highly migratory species"—paragraph 15, page 7—should be expanded to include billfishes and some sharks.

(6) We prefer Option A in the definition of "optimum yield" (paragraph 17, page 7), and should like to see included a statement that the optimum yield be taken to mean a definite measured departure from the maximum sustainable yield together with the reasons given for that departure. We think this is particularly important since "* * * relevant economic, social and ecological factors" are to be taken into

account. At this time quantitative estimates must be provided on what effects these considerations will have on the status of the stock or stocks concerned.

(7) We think a new paragraph 23 should be added on page 8 defining the concept of "allowable catch" as: "the surplus catch from any stock which can be taken without reducing the optimum yield."

(8) The title of section 101a should be changed to "Economic Resource Zone" as indicated previously but the way in which the zone is defined in paragraph 2 could yield a limit of 209 miles if the United States were to move to a 12-mile territorial sea. We suggest therefore adding a proviso to the effect that "* * * the outer limit shall not exceed 200 miles."

(9) With respect to paragraph 3, page 9 as presently drafted, if no treaty is ever concluded at the Law of the Sea Conference, the United States would not have the authority to regulate the activity of its own citizens in fishing for highly migratory species. This gap could be closed if the clause: "except where it pertains to citizens of the United States" is added to the first sentence of paragraph 3.

(10) In the last line of paragraph 3b referring to anadromous species, the words "during the time" should replace "to the extent."

(11) In paragraph I of section 102b for greater accuracy the first sentence should read:

> The allowable level of foreign fishing shall be set upon the basis of the portion of the allowable catch of any stock of fish which cannot be harvested by citizens of the United States.

(12) We think that paragraph 2c (page 10) on reciprocity should be deleted in its entirety. It is unnecessary since the situation referred to does not arise in fact.

(13) We propose changing the wording of paragraph 2, (page 11) to read as follows:

> The Secretary shall establish reasonable regulations and fees which shall be paid by citizens of any foreign nation allowed to fish pursuant to this Act. In determining such regulations and fees, the Secretary may take into account the cost of research, administration, enforcement and the need for conservation. The regulations and level of such fees may vary between domestic and foreign fishermen.

(14) We think that section 103a on page 12 should be broadened in two respects. The words "or intend to fish" should be added to lines 11, 12 and 19 to reflect the necessity of the United States conducting negotiations with potential new entrants into the fisheries of the zone. We think also that the Secretary of State should be allowed to initiate negotiations on his own authority in addition to reacting to specific requests from the Secretary of Commerce. Consequently, the words "* * * upon the request of * * *" should be deleted from line 15.

(15) In line 16, paragraph (c) of page 14, the word "traditional" should replace the word "habitual."

(16) We think that the implementation date to be inserted in section 104a should be no earlier than July 1, 1976.

(17) Section 201b, "Type of Regulations" (line 16, page 15) should be written as generally as possible and no attempt should be made to be comprehensive. The effect could well be limiting where this is not the intention. Therefore Numbers 1, 2, 5 and 6 should be deleted. The words "and other factors" in lines 8 and 9 of No. 3 should be replaced

by "and other appropriate statistics" and No. 4 should be redrafted to aim specifically at the question of enforcement.

(18) We agree that it is extremely important to include a section on national standards (section 201c) since these will provide common guidelines where they do not now exist. They should also encourage continuing interaction between the Councils and NOAA in the preparation of plans. There are, however, a number of revisions which appear to be necessary. Regulation No. 6 should become No. 2 and the words "and their environment" in line 20 (page 17) should be replaced by "caused by environmental changes." Regulation No. 3 should read only: "Management and conservation measures shall not discriminate between residents of different states." The rest of the sentence should be deleted because it is inconsistent with other parts of the bill. Regulation No. 5 should read: "Management and conservation measures shall seek to promote efficiency in utilization." We propose to delete the words "harvesting techniques" in line 17 since there will be situations in which the attempt to compensate for social effects may make the most efficient harvesting techniques undesirable. Regulations 7 and 8 should be deleted since they are not necessary.

The bill recognizes that the imposition of license fees will generate revenue that can be used for support of research, administration and enforcement. It also provides for the adoption of entry limits as one type of regulation applied to specific fisheries. It would be useful, we think, if in the section on national standards it is recognized that some regulations are likely to generate sizeable economic income in the future and that a large proportion of the income should go to society. For this reason a new standard should be added as follows:

License fees should be proportionate to the value of the fishing privilege and should be high enough to provide an appropriate return to society for the costs of research, administration and enforcement.

(19) Why is it necessary to distinguish between State officials and the public in section 202b I A and B?

(20) It may be inadvisable to use a specific dollar amount in line 6, page 20.

(21) It is not clear in section 202c A who actually employs the executive directors. Are they Federal employees? Do U.S. Civil Service regulations therefore apply?

(22) Section 202c B should be deleted because it is redundant.

(23) In section 202e "Scientific Advisory Board" it should be specified that each Board should include in its membership at least one representative from each of the States within the conservation area, one member from each Sea Grant University within the area, and at least one member from industry.

(24) The entire section on the Fishery Management Review Board (section 204, pp. 26–30) should be deleted and replaced by an appeal procedure through the Secretary. A separate Board is unnecessary given the review procedure which the Bill proposes to establish. An appeal procedure via the Secretary and provide the same safeguards at much lower cost.

(25) Section 209 (page 35) "Authorization for Appropriations" is much too loosely written. Are the amounts specified for administration of the Council only? Is this an increase over existing budgets? We do not understand to what these amounts refer since existing budgets are already much larger.

That's the Statement of the National Research Council.

Senator STEVENS. We're grateful to you for presenting those views. We note the 1974 trade deficit in fish products amounted to almost $1½ billion. I think that you got some firm points in your presentation and will certainly be taken into consideration by the committee.

Thank you very much, Doctor.

Dr. PONTECORVO. Thank you.

Senator STEVENS. Mr. Casey?

STATEMENT OF THOMAS CASEY, MANAGER, UNITED FISHERMEN'S MARKETING ASSOCIATION, KODIAK, ALASKA

Mr. CASEY. Senator, I'm Thomas Casey, manager, United Fishermen's Marketing Association, Kodiak, Alaska. I am representing the king crab fishermen, salmon fishermen, and the shrimp fishermen as well.

I'm here to tell you today that unless distinct changes in your bill are made, it will not have a dollar value to the Kodiak fisherman. We have approximately four distinct recommendations which I have made to the staff previously in Kodiak and I must admit they have acted very swiftly with these recommendations.

First, most important item is the item on preferential rights on page 17. I think it says No. 3:

> . . . the United States shall not discriminate between the rest of different States or between citizens of the United States and citizens of a foreign nation.

If you don't want to discriminate between the foreigners and us, this bill will have no impact on our bank accounts. It will not relieve the economic distress that we have suffered and it will not be a salvation to us whatsoever.

Senator STEVENS. That will have to be read with the provision of the bill. I think that we understand your concern. It is probably not clear, but Americans will get preference.

Mr. CASEY. The intention of the bill is to grant distinct preference to the domestic fisherman?

Senator STEVENS. Yes.

Mr. CASEY. Page 26 in reference to the Fish and Management Review Board. There are no qualifications for these men. Evidently, selection of the president from a nominating group by the National Governor's Conference is going to be sufficient. Is it possible to put qualifications to these men to make sure they are affiliated with fisheries to guarantee their decisions will be worthwhile?

Senator STEVENS. I think as long as there is a Congress, they will be related to fisheries. We have to confirm them. The impact of the requirement that the Governors' conference gets to name two of them also assures that the Fish and Management Review Board will be fairly well related to the fishery area.

We will explore that, but as far as fisheries, I wouldn't have much worry about that. That's a confirmation problem and we just don't confirm people on a board like that unless they've got an expertise in the area.

Mr. CASEY. Also on page 22, Senator, you see there concerning the various scientific advisory boards and the National Marine Fisheries Service Research Center. We would like that changed to the Alaska Regional Research Center and the Director.

Senator STEVENS. Is that probably because of our relationship with Seattle? I will explore that. I think we had some understanding. That was a reorganization solely for administrative purposes. We were assured of the Juneau region.

Mr. CASEY. Couldn't we work through the regional director of Alaska in conference with those fellows in Seattle?

Senator STEVENS. I think so. That was our understanding at the time we made the administrative change. Concerning the situation in Alaska, for administrative purposes, we still have an independent research center.

Mr. CASEY. Do you envision that we are going to have a counterpart in Kodiak, Alaska, as well? Will there be a separate NOAA oriented fish management local organization in town and in Juneau as well?

Is there any way we can work in conjunction with the Alaska Fish Agency? We have faith in those fellows; we trust them; we can speak with them easily; they have 16 years of history behind them of good fish management and we are not anxious to bet on the horse that hasn't run before, which is NOAA's case in such management.

Senator STEVENS. Well, each council is supposed to establish the scientific advisory board. If the changes are made that I contemplate, Alaska would have the major votes.

Mr. CASEY. Will there be a building in Kodiak for the implementation of those plans where we can get emergency regulations passed? We needed, for instance, a salmon opening to harvest surplus fish on the mainland last month. A.D.F. & G. surveyed the area and we went and got the fish and had no impact on escapement at all. Can we contemplate the continuation of this fast response?

Senator STEVENS. My answer to you is that the Alaska Council again has been considered. We realize the exceptions and unique conditions of Alaska and I would assume that they would, in view of Kodiak's role of the second largest fish landing port of the United States, be responsive to that need.

I can't say that we can put a tangible building in this bill but we're making changes so that council would, in fact, have a majority of Alaskans on that and they will have to be responsive to that need.

That's the reason for the changes.

Mr. CASEY. Will they have local representatives whom we can call on different times of the day and night?

Senator STEVENS. I believe they should. However, we cannot, in a bill which creates the council itself, set guidelines that I think should be determined by the council. There are some councils which would not need such a requirement.

What you're saying is that an area the size of ours should have people close enough to the fish centers where decisions could be made, taking into account geography and communication status. I would assume they would, but I don't think we can write it into the bill.

In New England, for example, I feel certain that they will have similar pressures to have representatives in each State. They've got to be responsive to the local regional circumstances they deal with. We would have a region for our own State.

Mr. CASEY. Can we extend fish and game's responsibility in Alaska fisheries? We know those people; we have their home phone numbers and there is no uncertainty involved. Can we opt for extension of

A.D.F. & G. and still take the Federal jurisdiction of enforcement in Alaska?

Senator STEVENS. We're still wrestling with that problem. One draft of the bill we had envisoned an extension of the State law subject to the disapproval of the Secretary of Commerce. Again, if you look at that, the problem is you get into regions that have more than one State in which State laws are different.

It is a problem for the regional council to determine. I do not think it would be as difficult in New England as it will be in Alaska.

Mr. CASEY. I would, again, hope that what you state is the result and that there will be a majority of Alaskans on the Alaska Council subject to the override and the discrimination between citizens of the United States and foreign fishermen.

Senator STEVENS. Now there you come to a very difficult problem but, again, I think it's up to the council to make those determinations. If we tell them they must——

Mr. CASEY. Is it possible to distinguish the Alaska region because of its uniqueness?

Senator STEVENS. We have. We are the only State that will have its own council. So we have answered that unique problem because of the geography.

Mr. CASEY. I hope so, Senator. It may be cosmetic. When people in Kodiak walk the streets, they are apprehensive that they may not get to the Senators directly. They tell me it was massive confusion to get salmon openings during territorial days and no one knew who to see. They don't want to return to those circumstances.

Senator STEVENS. I don't envision that.

Mr. CASEY. It is a very real concern in Kodiak where so much money is on the line with the new vessels.

Senator STEVENS. I understand that completely. I should think that the administrative apparatus carried out would, in fact, be responsive to the problems of the Alaska sea communication, transportation, weather, and so on. We have unique, consideration involved that other areas of the country do not have I'm confident that this committee will make changes responsive to that need and that the people you will be dealing with will, in fact, be in Juneau or if there is a need for Kodiak or Cordova type of regional subsidiary office that it will be established.

Mr. CASEY. Good. Thank you.

Senator STEVENS. That is the intent.

Mr. CASEY. That is very important to us.

Senator STEVENS. If I were managing it I recognize the expertise of that of the Alaska Department of Fish and Game and have them use their office.

Mr. CASEY. That's exactly what we want.

Senator STEVENS. I think we will be around to administer that.

Mr. CASEY. Thank you, again.

Senator STEVENS. Are there any further witnesses today?

[No response.]

If we have no questions, we will adjourn this meeting. This will terminate the hearings on this bill. Again, we would welcome comments submitted by close of business Monday concerning the text of the working draft.

[Whereupon, at 2:20 p.m. the hearing was adjourned.]

ADDITIONAL ARTICLES, LETTERS, AND STATEMENTS

DEPARTMENT OF STATE,
Washington, D.C., August 11, 1975.

Hon. WARREN G. MAGNUSON,
U.S. Senate, Washington, D.C.

DEAR SENATOR MAGNUSON: Enclosed is a speech given today by the Secretary of State before the American Bar Association Annual Convention in Montreal. The speech includes a statement on our law of the sea policy which I thought you would find of interest.

With warm regards.

Sincerely,

JOHN NORTON MOORE,
Chairman, the NSC Interagency Task Force on the Law of the Sea and Deputy Special Representative of the President for the Law of the Sea Conference.

Enclosure.

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

INTERNATIONAL LAW, WORLD ORDER AND HUMAN PROGRESS

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

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

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

The problems of the contemporary world structure summon these skills and go beyond them. The rigid international structure of the Cold War has disintegrated; we have entered an era of diffused economic power, proliferating nuclear weaponry, and multiple ideologies and centers of initiative. The challenge of our predecessors was to fashion stability from chaos. The challenge of our generation is to go from the building of national and regional institutions and the management of crises to the building of a new international order which offers a hope of peace, progress, well-being, and justice for the generations to come.

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

Thus in international affairs the age-old struggle between order and anarchy has a political as well as a legal dimension. When competing national political aims are pressed to the point of unrestrained competition, the precept of laws

proves fragile. The unrestrained quest for predominance brooks no legal restraints. In a democratic society law flourishes best amidst pluralistic institutions. Similarly in the international arena stability requires a certain equilibrium of power. Our basic foreign policy objective inevitably must be to shape a stable and cooperative global order out of diverse and contending interests.

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

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

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

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

The United States is convinced in its own interest that the extension of legal order is a boon to humanity and a necessity. The traditional aspiration of Americans takes on a new relevance and urgency in contemporary conditions. On a planet marked by interdependence, unilateral action, and unrestrained pursuit of the national advantage inevitably provoke counter-action and therefore spell futility and anarchy. In an age of awesome weapons of war, there must be accommodation or there will be disaster.

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

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

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

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

The Law of the Sea

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

After years of dispute and contradictory international practice, the Law of the Sea Conference is approaching a consensus on a twelve-mile territorial limit. We are prepared to accept this solution, provided that the unimpeded transit rights through and over straits used for international navigation are guaranteed. For without such guarantees, a twelve-mile territorial sea would place over 100 straits—including the Straits of Gibraltar, Malacca, and Bab-el-Mandeb—now free for international sea and air travel under the jurisdictional control of coastal states. This the United States cannot accept. Freedom of international

transit through these and other straits is for the benefit of all nations, for trade and for security. We will not join in an agreement which leaves any uncertainty about the right to use world communication routes without interference.

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

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

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

Beyond the territorial sea, the offshore economic zone, and the continental margin lie *the deep seabeds*. They are our planet's last great unexplored frontier. For more than a century we have known that the deep seabeds hold vast deposits of manganese, nickel, cobalt, copper, and other minerals, but we did not know how to extract them. New modern technology is rapidly advancing the time when their exploration and commercial exploitation will become a reality.

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

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

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

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

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

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

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

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

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

Countries and their enterprises mining deep seabed resources should pay an agreed portion of their revenues to the international organization, to be used for the benefit of developing countries.

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

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

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

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

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

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

The Conference is faced with other important issues:

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

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

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

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

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

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

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

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

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

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

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

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

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

Outer Space and the Law of Nations

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

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

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

In the nearly two decades since the first artificial satellite, remarkable progress has been made in extending the reach of law to outer space. The Outer Space Treaty of 1967 placed space beyond national sovereignty and banned weapons of mass destruction from earth orbit. The Treaty also established the principle that the benefits of space exploration should be shared. Supplementary agreements have provided for the registry of objects placed in space, for liability for damage caused by their return to earth, and for international assistance to astronauts in emergencies. Efforts are underway to develop further international law governing man's activities on the moon and other celestial bodies. Earth sensing and broadcasting satellites, and conditions of their use, are a fresh challenge to international agreement. The United Nations Committee on the Peaceful Uses of Outer Space is seized with the issue, and the United States will cooperate actively with it. We are committed to the wider exchange of communication and ideas. But we recognize that there must be full consultation among the countries directly concerned. While we believe that knowledge of the earth and its environment gained from outer space should be broadly shared, we recognize that this

must be accompanied by efforts to ensure that all countries will fully understand the significance of this new knowledge.

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

Hijacking, Terrorism and War

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

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

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

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

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

The struggle to restrain violence by law meets one of its severest tests in the law of war. Historically nations have found it possible to observe certain rules in their conduct of war. This restraint has been extended and codified especially in the past century. In our time new, ever more awesome tools of warfare, the bitterness of ideologies and civil warfare, and weakened bonds of social cohesion have brought an even more brutal dimension to human conflict.

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

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

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

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

Multinational Enterprises

The need for new international regulation touches areas as modern as new technology and as old as war. It also reaches our economic institutions, where

human ingenuity has created new means for progress while bringing new problems of social and legal adjustment.

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

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

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

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

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

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

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

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

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

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

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

Conclusion

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

The challenge of the statesman is to recognize that a just international order cannot be built on power but only on restraint of power. As Felix Frankfurter said, "Fragile as reason is and limited as law is as the institutionalized expression of reason, it is often all that stands between us and the tyranny of will, the cruelty of unbridled, unprincipled, undisciplined feeling." If the politics of ideological confrontation and strident nationalism become pervasive, broad and humane international agreement will grow ever more elusive and unilateral actions will dominate. In an environment of widening chaos the stronger will survive, and may even prosper temporarily. But the weaker will despair and the human spirit will suffer.

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

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

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

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

STATEMENT OF SAMUEL R. LEVERING, SECRETARY, UNITED STATES COMMITTEE FOR THE OCEANS

Mr. Chairman, Thank you for allowing us to submit testimony in opposition to the Emergency Marine Fisheries Protection Act of 1975.

We particularly appreciate three positive aspects of the Bill. *First*, it attempts to deal with the need to conserve ocean fish, and it puts the authority to do so somewhere: in this case, the Federal Government. The current problem with fish conservation is the weakness of management and enforcement authority. And while the U.S. government is no answer for the world's marine fish problem, nevertheless, if the government acquires the will to protect fish within 200 miles, an improvement upon the present situation might be expected. Because the U.S. and the states have poor conservation records within their present jurisdictions, it does not follow that this cannot change.

Secondly, It is an interim measure which would expire when the anticipated Law of the Sea treaty provisions become effective. *Thirdly*, a positive aspect of this bill is the reasonably fair treatment of foreign fishermen, if the Administration so chooses.

Our opposition to the bill is summarized as follows:

1. It is a violation of the U.S. commitment to the multilateral comprehensive treaty approach which best serves all U.S. and world ocean interests. Unilateral action would be a violation of our obligations under the 1958 Geneva Convention on the High Seas, which has particularly served our navigation, distant water fishing, hard mineral, and marine science interests well. It is exactly these interests which could be damaged if U.S. unilateral action led to retaliatory measures by foreign governments. The possibility of other nations taking such measures cannot be minimized. Unilateral actions already taken by foreign nations have damaged tuna and shrimp industries and affected the U.S. taxpayer. The urgent need for conservation, which is the motivation of this bill, also spurred passage of an earlier bill declaring the American lobster to be a creature of the continental shelf. Whereupon the Bahamas passed an identical bill which has hampered Florida-based spiny lobster fishermen in using the Bahamaian shelf, thereby affecting the income of 5000 people. It is also conceivable that other actions unrelated to fishing could be costly to U.S. navigation and other interests. If the U.S. changes now to the customary international law approach entailed in this bill, it could lead to conflict and a confusing patchwork of ocean regimes.

2. This bill is inconsistent with the U.S. position taken at the Law of the Sea Conference which insists upon compulsory dispute settlement of ocean conflicts. This is viewed by the U.S. as a necessary ingredient of any comprehensive and successful LOS treaty. This bill does not address itself to dispute settlement with foreign nations. Providing the Secretary of State with authority, hopefully, to conclude agreements with various foreign governments is not the same as requiring a nation to settle its dispute through a LOS tribunal or other recognized procedure.

3. With an effective date within 90 days of enactment, this bill does not give the LOS Conference sufficient time. Under the best circumstances two more sessions will be needed.

4. Our conservation interests could be served under present international law; no unilateral bill is needed. If conservation is truly the motivation for this bill, the implementation of Article 7 of the Geneva convention on fishing and the living resources of the High Seas is a route provided in international law. While the Russians and the Japanese are not signatories of this Convention, they would

be more likely to abide by it because of its non-discriminatory nature. On the other hand, should they not accept our claim to a 200 mile jurisdiction, just as we do not recognize the claim of Peru and Ecuador, confrontation could be more likely than conservation. There is no easy road to ocean conservation by any route, and both international and unilateral methods have their price. Much needs to be done nationally, regionally, and world wide. We welcome Administration determination to do it, and note encouraging signs with the negotiation of recent fish agreements.

5. Passage of the bill could lead to confrontation and enforcement problems. Foreign fleets may or may not be pragmatic in accepting this jurisdiction as a fact of life. While talk of "going to the brink for the yellowtail flounder" might seem overblown, sponsors of this bill do need to consider the many possibilities of foreign retaliation, and even what the U.S. is to do should the Coast Guard order a vessel to heave to and it refuses to do so.

In conclusion, we recognize that honest and knowledgeable people differ on this legislation. We have no crystal ball revealing whether it would accelerate responsible ocean fish management speed up the Law of the Sea negotiations, or have the opposite effect. We do not expect it to be as damaging as if it had been passed before the 1975 Geneva negotiations indicated widespread support for a two hundred mile economic zone. However, while the LOS treaty cannot possibly fulfill the dreams we had for it three years ago, nevertheless, the recent Mayaguez incident pointed up again how urgent clear limits and dispute settling mechanisms are, especially for the U.S. which is the world's leading maritime power, and, overall, a winner in the treaty whose outlines we see. This is particularly true in the short term, hard-headed interests.

President Ford, in ordering the U.S. bombing of Cambodia in the Mayaguez tragedy, said we would tolerate no breaches of international law. Therefore, should Congress itself breach international law? Or subject the treaty to any risk except as a last resort?

On balance, we view this bill as being a violation of a treaty the U.S. signed in 1958 and from which we derive immeasurable benefit. The bill is also a contradiction of the United States commitment to a Law of the Sea Treaty. It could provoke retaliatory acts. These flaws and risks overbalance whatever start this legislation might make toward fish conservation.

STATEMENT OF HON. MIKE GRAVEL, U.S. SENATOR FROM ALASKA

A SERIOUS SOLUTION FOR ALASKA'S FISHERIES

The desire of all of us in Alaska is to get a 200 mile fisheries zone. This justified desire has been so great as to trap both politicians and fishermen in the conventional wisdom that a unilateral claim of 200 miles by the United States will solve our fishing problems. This belief now fuels the efforts in Congress to secure immediate passage of the Magnuson-Studds legislation which brings about such unilateral U.S. action.

The entrapment which I speak of lies not in the 200 mile coastal fisheries concept. We have all accepted that as an answer to our fisheries problem for some time. But we have lost sight of the question "how do we secure the law, the rights and the power to bring that concept to full realization."

Passing a law based solely upon appeals to national sovereignty will not secure for us our long sought-after goal. However, by agreeing to an international ocean's charter, we can secure the international rights and power necessary to bring the 200 mile limit to its full potential. Unilateral action will lead us into a decade of bilateral quarrels and high-seas fisheries retaliations. But international action will bring about immediate law and order to our fisheries and our oceans—something that has never before been achieved.

Let us look back and analyze why we have directed our efforts toward a temporary and inadequate goal of unilateral national action, which will, I believe, doom a final and effective international oceans and fisheries law to interminable delays.

One of the most contentions issues during the preparatory and initial attempts to reach a consensus on the Law of the Sea was the proposal from the underdeveloped world that there be established a 200 mile Exclusive Economic Zone. This proposal was strongly resisted by most of the western industrialized nations, especially the United States, the Soviet Union, many European countries and Japan.

Efforts in this country concentrated on changing the United States position on this issue at the Law of the Sea conference at its initial meeting in Caracas, Venezuela. The major achievement of the Conference in Caracas during the summer of 1974 was the acceptance of the 200 mile economic zone concept.

In order to "lock-in" the United States commitment to the 200 miles zone concept, the Senate passed, in the fall of 1974, a bill asserting unilateral United States fishing jurisdiction out to 200 miles. This bill was presented to many in the United States Senate who did not previously support unilateral U.S. action, as a means of strengthening our own government's recent commitment to the 200 mile economic zone concept.

The wisdom of such a strategy was fully vindicated at the Spring meeting of the Law of the Sea Conference in Geneva during 1975. The concept of a 200 mile zone became the assumed point of departure in our fisheries negotiations. From this significant gain, we moved to even greater success, especially with respect to Alaska's anadromous fish-salmon. The conference produced a single negotiating text which contained an article giving the host country complete control over their anadromous fish stocks wherever they may go in the oceans.

The chief success of the Conference was the adoption of a single negotiating text for the Law of the Sea. This text represents 80 percent consensus on the issues before the Conference, a consensus which has brought us preciously close to a final international agreement.

At this point, the major problems with regard to fisheries appear to be solved. The task at hand is to push for prompt resolution of the remaining areas of contention, and in particular, the problems with respect to the deep sea bed and ocean mining.

However, the momentum in the United States Congress, rather than focusing on the remaining problem areas at the international Law of the Sea conference, has turned narrowly and nationalistically inward in its actions. Rather than adding greater pressure on the international political community for passage of a genuine international oceans law, the Congress and some elements of industry are going off in another direction unrelated to our real goals. This new direction is embodied in the Magnuson-Studds legislation about to pass in the House of Representatives. The passage of this bill by the House would do no harm; in fact, it could help our international efforts. But subsequent passage of this legislation by the United States Senate, and its becoming law, would be disastrous for our real goals. We would be making the mistake of confusing a good tactic with that of preserving our fish resources. This error and its resultant impact upon the Law of the Sea negotiations would be regretted for years.

Let me assess the liabilities associated with unilateral national action on a 200 mile limit. This action would result in a host of *bilateral disputes* between the United States and nations fishing off our coasts, who would challenge U.S. actions as being contrary to international law. Unilateral action on our part will create limitless international disputes, resulting in international commercial warfare. Other nations, reacting to U.S. action, would take similar unilateral steps which could threaten a whole host of United States interests.

We would be inviting severe *retaliation* as we seize vessels, arrest crews and halt other countries fishing in our 200 mile zone. Unilateral action would greatly increase the *pressure on foreign fishing vessels to increase their already excessive fish catches* as they struggle to get as large a share of the pie as they could before enforcement efforts took place and before necessary bilateral agreements had been secured to reduce foreign fishing in the 200 mile zone we claim for ourselves.

Unilateral action would vastly increase pressures on our anadromous species of fish because a 200 mile fishing zone would leave salmon stocks unprotected and foreign nations would greatly increase their catches of such species of fish as other fishing stocks were denied them.

A unilaterally passed 200 mile fishing zone would also dramatically increase the costs of enforcement and the attendant budgetary problems. And a unilaterally passed 200 mile fishing zone would also increase the chances of commercial warfare as various nations try to sell their fish stocks. Trade and import barriers would be erected, further depressing the U.S. domestic fishing industry. These protective and selfish measures, based on narrow national concerns, would become part of a syndrome for unilateral actions to solve world fishing problems, and would in turn further reduce the chances of securing sound and workable international solutions.

A unilaterally passed 200 mile limit would cause many other countries to follow suit, particularly those in the underdeveloped world. Since these countries

originated the concept of a 200 mile economic zone as a means of protecting themselves from the industrialized nations of the world, and since these same nations were most contentious at the Geneva Conference over the deep sea bed, unilateral action on our own part would remove the incentive they would have for completing a Law of the Sea agreement. We would be granting the underdeveloped nations their long-sought goal without receiving any reciprocal benefits. It would be a sad mistake. It would guarantee delay—who knows how long—of a sound Law of the Sea Agreement.

Unilateral action would be clearly counter-productive. Congressional action is a tactic to help solve our fisheries problems, not a solution in and of itself. We should clearly make this distinction.

As Canadian Prime Minister Trudeau noted recently, "Canadians at large should realize that we have very large stakes indeed in the Law of the Sea Conference and we would be fools to give up those stakes by an action that would be purely a temporary, paper success." In this light, we in the United States should understand that, as Secretary of State Kissinger has said, "the current negotiations may thus be the world's last chance. Unilateral claims to fishing zones and territorial seas extending from fifty to two hundred miles have already resulted in seizures of fishing vessels and constant disputes over rights to ocean space. The breakdown of the current negotiations, a failure to reach a legal consensus, will lead to unrestrained military and commercial rivalry and mounting political turmoil."

On the other hand, the Law of the Sea negotiations promise to secure agreement not only on fisheries problems, but on an entire range of ocean issues. This linkage between various issues provides the single greatest impetus and incentive for nations to reach agreement, and is primarily responsible for the increasing international recognition that such agreement is necessary.

However, merely from a fisheries point of view, the gains already are immense. There is a broad consensus on the fisheries text, which not only gives us a 200 mile economic zone, but also secures host country control over anadromous species of fish, so important to Alaska's future. We thereby secure control of all fishing within the 200 mile zone, and all fishing for our salmon stocks within, as well as outside, the 200 mile limit.

The guiding principle for this host country control and authority is the rule of "maximum sustainable yield." This moral and conservation principle is fundamentally in line with our national ideals and attitudes and poses no problem in its interpretation or practice.

We will have the power to license foreign fishing vessels within our 200 miles even if we choose not to harvest the fish ourselves. However, if we choose to expand not to harvest the fish ourselves. However, if we choose to expand our fleets and harvest the fish we customarily have not, we can take all the fish we want up to the point of maximum sustainable yield levels.

The same holds true for our salmon stocks regardless of where they roam. They would be subject to our control and licensing, giving ourselves preference in the right of taking the salmon stocks up to the point of maximum sustainable yield.

Recognition of the economic dislocation problem with respect to Japan's historical fishing activity merely recognizes their preferential right *to the exclusion of all other nations in fishing for salmon stocks within host country jurisdiction. It does not our control over our salmon stocks inside or outside the 200 mile limit.*

An additional benefit of the Law of the Sea Agreement which can never be realized through unilateral action is rehabilitation of fish stocks. An international agreement permits serious efforts at rehabilitation of depleted and regionally extinct fishing stocks. In Alaska's case, there is little sense in making the capital investment needed for stocking our streams when foreign fishing never permits our fish to return for harvest or future propagation. The safeguard of an international agreement would assure Alaskans of the benefits of such investment. In fact, there would be an incentive for foreign capital investment in the areas of rehabilitation and propagation in order to secure preference in licensing. This would certainly accelerate the rehabilitation process.

Another benefit would be the dramatic reduction in the costs of policing and enforcement, compared to the costs of policing a unilaterally declared 200 mile zone. Since most nations will be party to the international Law of the Sea agreement, enforcement will have the weight of all nations behind it, not just

the United States. This will apply inside and outside the 200 mile limit. All nations will have an incentive to observe the rights of other nations' fish resources off their coasts. This reciprocal self-interest will work to the benefit of Alaska's entire fishing community.

Furthermore, the power of host countries to license foreign vessels could be used to give the greatest degree of incentive for such vessels to abide by the host country regulations and insure that fish resources are maximized and not over utilized and depleted. Unilateral action would not provide this mutuality of benefits.

In the case of salmon stocks, the advantage to an international agreement is even more pronounced. Under unilateral action, we would not have control over salmon as they migrate beyond a 200-mile zone. The cold fact is that 80 percent of our salmon are beyond 200 miles at any one time. These fish are obviously hostage to any unilateral action we might take. Even if we could establish viable enforcement procedures within the 200 mile zone, nothing could be done to stop foreign fishing fleets from fishing just outside the 200 mile zone and continue to overfish and ravage our fish resources. In fact, in pushing them out of the 200 mile zone, by force, we would encourage them to retalitate and increase their catch of salmon just beyond the 200 mile zone. This would seriously undermine our efforts in Alaska to secure the best possible benefits to Alaskan fishermen.

Any disputes arising as to the meaning or intent of the law of the Sea would be mandatorily settled before an international oceans tribual. This would provide a clear and universally agreed upon mechanism for resolving disputes, doing away with the cumbersome and difficult problems associated with bilateral dispute settlements.

When one deals in a world of over 140 nations, in which there are great problems and conflicts over the use of the oceans' resources, there is really only one way in which we in Alaska can secure those rights that properly belong to us. Being in a minority position, we must heed Thomas Jefferson's dictate that while the majority protects itself by its numbers, a minority can only protect itself by law. And it is law, international law, that can provide Alaska with the greatest protection for its precious resources and give Alaska the right to be master over her own destiny. I cannot, as a representative of the people of Alaska, give up this great opportunity. It is unfortunate that there are those who claim that I have changed my position. Nothing could be farther from the truth. The fact is that I am working for, and will continue to work for, an effective 200 mile fisheries zone—which is now possible through the framework of international law. I will continue my efforts in seeking an international agreement that satisfies Alaska's great need for both a global oceans' contract and a 200 mile fisheries zone.

I understand that a long history of failure in bilateral negotiations has bred so much impatience with regard to our fishing problems. This impatience has now led us to believe that a quick, unilateral passage of a 200 mile fisheries zone will be a solution to our problems. But it will not solve our problems, especially with regard to salmon. In fact, it will serve to exacerbate them by requiring additional lengthy bilateral negotiations.

I can readily understand that there exists great cynicism as to the feasibility of reaching agreement at the Law of the Sea Conference. I can well appreciate that the years of frustration with bilateral negotiations and years of economic difficulty have made Alaska's fishing community unsympathetic to anything other than unilateral national action.

However, recent implementation of the Continental Shelf agreement, which gives protection to our bottom dwelling species of fish, and the securing of a single text consensus at the Law of the Sea negotiations in Geneva last spring, are very helpful signs that the international community has reached a level of maturity and wisdom that will soon lead to an oceans' charter.

Yes, the promoters of the Law of the Sea Conference, in their eagerness, have indeed underestimated the time within which agreement could be secured. This has led to impatience. However, if one carefully examines the Law of the Sea processes, one begins to understand the fact that remarkable progress has been made.

For example, such issues as Medicare, Social Security or even the Alaska Native Claims Settlement Act took years of legislative and public preparation to secure passage. If the Law of the Sea negotiations are completed in 1976 they will have taken considerably less time to resolve than most major domestic issues.

It is important to keep in mind that the Law of the Sea Conference is the largest convocation in the history of humankind and that the problems at issue are some of the most complex ever to be dealt with. The fact is, trying to write an oceans' charter, with over 140 nations, dealing with complex issues, involves tremendous difficulties. But after all this effort, and after substantial achievement, it seems unwise to jeopardize such an historic undertaking to gain a short term cosmetic political victory by passing a unilateral 200 mile limit in the U.S. Congress.

The proper forum for such action is the Law of the Sea Conference. Past unilateral action has resulted in international anarchy and the exacerbation of the very problems we are attempting to solve. The reality of modern international politics is that we are one planet, very much interdependent for our food, energy, and economic well-being. We thus must solve our problems cooperatively and internationally.

If I find after the March meeting that a Law of the Sea agreement cannot be promptly concluded, I will vigorously support action by the U.S. Congress to unilaterally declare a 200-mile limit. However, I feel confident that the nations of the world will achieve the necessary level of maturity and bring forth a Law of the Sea for the benefit of mankind and especially for Alaskans.

STATEMENT OF WILLIAM NELSON UTZ, EXECUTIVE DIRECTOR, NATIONAL SHRIMP CONGRESS, WASHINGTON, D.C.

Mr. Chairman and Committee members, I am William Nelson Utz, appearing here today as Executive Director of the National Shrimp Congress. The National Shrimp Congress (NSC) Incorporated is a Deleware Corporation with its principal headquarters in Washington, D.C. This non-profit organization was formed in 1956. It is an organization whose membership is made up primarily of shrimp producers throughout the Gulf Coast States. Included among its members are the Texas Shrimp Association, Louisiana Shrimp Association, Alabama Fisheries Association, Southeastern Fisheries Association, the Florida Shrimp Association, and the American Shrimpboat Association.

The membership of the National Shrimp Congress is interested in seeing the Congress develop and enact legislation that provides an optimum yield to the entire fishing industry. In our judgment, optimum yield legislation provides the maximum benefits to all or specified segments of the fishing industry, with minimum adverse effects upon other segments of the industry. We view the American fishing industry as a single industry having many and divergent segments, and a single purpose, to produce and market seafood. Unfortunately, the various segments of the industry have too often concentrated their time and talent on emphasizing their parochial interest and conflicts, and have not given adequate attention or emphasis to their common purposes.

In the past few months, however, the fishing industry as a whole has shared a common malady—severe financial hardship—with excessive increases in operating costs and substantial reductions in revenues most fishermen experienced heavy net operating losses in 1974, many in fact completely abandoned fishing as a livelihood—these losses continue today. In our judgment, the industry is faced with a bleak and desperate future unless we obtain Congressional and governmental assistance in the immediate future. That assistance, however, must be economic as well as regulatory. Protectionist legislation is not sufficient to overcome the adversities which the industry presently faces. However, when that legislation is developed, it should be developed for all the fishing industry, and not isolated segments of the industry. When economic programs are established to give financial assistance to the industry, it should be sufficiently broad based to cover all segments of the fishing industry, and when legislation is being developed for the protection of the fishing industry, it likewise should be all-encompassing, providing protection to the distant water fishing fleets as well as our coastal home-based fishing fleets.

Therefore, gentlemen, I would like to provide my comments with this overriding thought in mind: While we have stated in the past our opposition to the unilateral extension of U.S. jurisdiction out to 200 miles seaward of the U.S. baseline, because, in our judgment, such action will seriously jeopardize the opportunity for negotiating shrimp fishing agreements with Mexico, Brazil and others—we recognize the need for assisting the harassed U.S. coastal fisherman.

In view of what appears to be an overwhelming drive for passage into law of such extended jurisdiction legislation, the National Shrimp Congress would like

to request the Committee to provide a form of protection for our distant water fishing fleet. We believe any legislation seeking to protect our coastal fisheries should include a provision that would prohibit *all* seafood products of any form entering the U.S. from any nation which denies U.S. flag vessels access to fishing grounds where such vessels have previously fished, *until* a bilateral or multilateral agreement providing indiscriminate, adequate, and equitable access to such fishing grounds has been achieved. Imported seafood products have a substantial impact on our domestic market. It seems only fair that countries which deny U.S. flag vessels an opportunity to compete in these fishing areas where they have been fishing for years, should be denied the opportunity to compete in our marketplace. Some form of leverage must be provided our distant water fishing fleets if they are to have any strength at the bargaining table when negotiating for the right to continue fishing.

The U.S. distant water shrimp fleet is in a most vulnerable position. Foreign exploitation of their vulnerability could have a disastrous impact on the entire U.S. shrimp industry. As you are aware, the shrimp industry is the American fishing industry's number one dollar producer. It accounts for almost twenty-seven percent of the revenues generated from the American fishing industry. Yet in the marketplace, imported shrimp annually accounts for more than half of the U.S. shrimp sales. There are no import quotas—no import regulatory measures or tariffs of any nature on shrimp. Our distant water shrimp fleets are typically the most up to date and best equipped in the industry. They are extremely efficient and these fleets normally account for catches equivalent to more than one-quarter of the entire U.S. Gulf catch. If these fleets were forced out of their fishing grounds off Mexico, Central and South America, their only alternative would be to return to the U.S. fishing grounds in the Gulf. Many in the industry believe the fishing grounds in the Gulf are presently being fully exploited. Any substantial increase in fishing efforts in those areas, it is believed, would greatly reduce the per boat catch to such a degree that many small fishermen previously making an adequate income would be forced out of the industry, with widespread economic hardship placed upon each and every segment of the industry. With no quotas and no tariffs on shrimp, the distant water shrimp industry has little, if anything, to use in the way of leverage at the bargaining table for retaining access to its traditional fishing grounds.

We therefore urgently request that the Committee accept the following provision as an amendment to this legislation.

SEC. 203. NEGOTIATIONS TO PRESERVE CERTAIN UNITED STATES FOREIGN FISHING RIGHTS

(a) COMMENCEMENT OF NEGOTIATIONS.—Within 90 days after the date of enactment of this Act, the Secretary of State shall commence negotiations with each foreign nation, off of whose coast United States vessels are engaged in fishing for specific stocks of fish, for the purpose of entering into an intrenational fishery agreement under which such foreign nation will grant to United States vessels equitable access, consistent with reasonable management and conservation practices, to such fish stocks within 200 nautical miles off the coast of such nation.

(b) ACTION IF FOREIGN NATION REFUSES TO NEGOTIATE OR VIOLATES TREATY.—(1) If the Secretary of State determines that—

(A) any foreign nation is refusing to commence negotiations, or fails to negotiate in good faith, with the United States in order to achieve the purpose of subsection (a) ; or

(B) although an international fishery agreement which achieves the purpose of subsection (a) is in force and effect, the foreign nation is not complying with its obligations under the agreement,

he shall certify that determination to the Secretary of the Treasury. Upon receipt of any such certification, the Secretary of the Treasury shall immediately take such action as may be necessary and appropriate to prohibit the importation into the customs territory of the United States of any seafood product of that foreign nation.

(2) For purposes of this subsection, any seizure of a United States vessel which is reimbursable under section 3 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1972) that is made by any foreign nation off whose coast United States vessels are engaged in fishing for specific stocks of fish shall—

(A) if no international fisheries agreement achieving the purpose of subsection (a) is in force and effect, be deemed to be a refusal by that

nation to commence negotiations, or failure by that nation to negotiate in good faith, within the meaning of paragraph (1)(A) of this subsection, or

(B) if such an agreement is in force and effect, be deemed to be noncompliance by that nation with its obligations under that agreement within the meaning of pargraph (1)(B) of this subsection,

and the Secretary of State shall immediately make the appropriate certification to the Secretary of the Treasury required by paragraph (1) of this subsection.

(c) DURATION OF IMPORT PROHIBITION.—Any import prohibition which is imposed pursuant to subsection (b) shall remain in effect—

(1) if the prohibition was imposed by reason of subsection (b)(1), until such time as the Secretary of State certifies to the Secretary of the Treasury that an international fisheries agreement which achieves the purposes of subsection (a) has entered into force and effect between the United States and that foreign nation; or

(2) if the prohibition was imposed by reason of subsection (b)(2), until such time as the Secretary of State certifies to the Secretary of the Treasury that the foreign nation is complying with its obligations under the international fishery agreement.

(d) DEFINITION.—For purposes of this section, the term "seafood product" means any fish which is the product of a foreign nation, and any article which is the product of such nation and which is composed in whole or part of any fish which is the product of such nation; but excludes during the period of any import prohibition imposed pursuant to subsection (b) any such fish or article if the fish or fish constituting the article are harvested by United States vessels, irrespective of point of harvesting or offloading.

(6) The term "fish" means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than birds or marine mammals.

TITLE IV—AMENDMENTS TO OTHER LAWS RELATING TO THE FISHERIES AND MISCELLANEOUS PROVISIONS

SEC. 401. FISHERMEN'S PROTECTIVE ACT AMENDMENTS

(a) SEIZURE PROVISION.—Section of the Fishermen's Protective Act of 1967 (68 Stat. 883; 22 U.S.C. 1972) is amended to read as follows:

"SEC. 2. In any case where—

"(1) any vessel of the United States is seized by a foreign country on the basis of rights or claims in territorial waters or the high seas which are not recognized by the United States; or

"(2) any vessel of the United States is seized by a foreign country while such vessel is engaged in fishing in any area of the high seas (and the rights or claims to fisheries conservation and management jurisdiction in such area by such country are recognized by the United States) for a specific stock of fish (including, but not limited to, shrimp, tuna and any other highly migratory species of fish), and vessels of the United States have previously fished in such area for such stock,

and there is no dispute of material facts with respect to the location or activity of such vessel at the time of such seizure, the Secretary of State shall as soon as practicable take action to attend to the welfare of such vessel and its crew while it is held by such country to secure the release of such vessel and crew, and to immediately ascertain the amount of any fine, license, fee, registration fee, or any other direct charge which may be reimbursable under section 3(a) of this Act.".

(b) REIMBURSEMENT PROVISION.—

(1) Section 3(a) of such Act of 1967 (22 U.S.C. 1973(a)) is amended by inserting immediately before the last sentence thereof the following new sentence: "For purposes of this section, the term 'other direct charge' means any levy, however characterized or computed (including, but not limited to, computation based on the value of a vessel or the value of fish or other property on board a vessel), which is imposed in addition to any fine, license fee, or registration fee.".

(2) The amendment made by paragraph (1) of this subsection shall apply with respect to seizures of vessels of the United States occurring on or after December 31, 1974.

STATEMENT OF JOHN NELSON WASHBURN, PH.D., LL.B., WASHINGTON, D.C.

Mr. Chairman: In my oral testimony March 14, 1975 before the Subcommittee on Fisheries and Wildlife Conservation and the Environment of the Committee on Merchant Marine and Fisheries, House of Representatives, I expressed support for H.R. 200, its letter and its spirit. In this connection I urged that there be included language which would clearly demonstrate to vessels of foreign countries fishing off our shores that the United States Government was committing itself to a policy of close monitoring and no-nonsense policing of the newly extended jurisdiction, if a contiguous fisheries zone beyond the U.S. territorial sea is to be extended. I also pleaded with the Subcommittee to exhibit, as appropriate, some tough realism with respect to the United States stance in international negotiations at the Law of the Sea Conference, with my suggestion being that Simas Kudirka, the Lithuanian seaman now an American citizen whose release from Soviet prisons was achieved in large measure by Congressional support both in the U.S. Senate and the U.S. House of Representatives, be put to good use on the United States Delegation to the Law of the Sea Conference. Nothing resulted with the exception of a letter from Michigan Congressman Marvin Esch to the Secretary of State requesting Kudirka's addition to the United States Delegation, which produced a belated response from Acting Secretary of State Ingersoll to the effect that the Geneva negotiations at the Law of the Sea Conference were about to end and that the small size (it took four pages to list all the members!) of the Delegation made the inclusion of Kudirka an impossibility.

Inasmuch as you, Mr. Chairman, and other members of the Commerce Committee are considering Senate bills promoting the same objectives as incorporated in H.R. 200, and inasmuch as the Law of the Sea Conference will resume its unfinished negotiations at United Nations Headquarters in New York City in the spring of 1976, may I urge you to make crystal clear in provisions of the bill which you eventually report out a United States Government commitment to the policy of close monitoring, effective patrolling and no-nonsense policing of the newly extended jurisdiction. I would also urge that in 1976 the Department of State be persuaded to call on Simas Kudirka for his knowledge and experience with respect to our East Coast Continental Shelf fishery resources which from 1950 to 1970 on Soviet ships he saw being siphoned off in virtual vacuum-cleaner style. Depletion of our fishery resources, at least off the New Hampshire coast in the vicinity of the Island of Shoals, is, as I learned at North Hampton Beach, N.H. in September 1975, far worse now than it was when on November 23, 1970 Simas Kudirka's active fishing career came to an abrupt end off Martha's Vineyard.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., March 20, 1975.

Hon. ROBERT S. INGERSOLL,
Acting Secretary of State,
Department of State, Washington, D.C.

DEAR MR. SECRETARY: I am writing concerning the Lithuanian seaman Simas Kudirka who recently was returned to the United States by the Soviet Union. I would like to explore the possibility of having Mr. Kudirka appointed as an advisor on the United States Delegation to the Third United Nations Law of the Sea Conference at Geneva, Switzerland.

It is my feeling that Mr. Kudirka is very well qualified to serve in this capacity, particularly as a major topic of discussion at this Coonference will be the establishment of the United States territorial sea.

I will look forward to your reply in this matter.

Sincerely,

MARVIN L. ESCH,
Member of Congress.

THE DEPUTY SECRETARY OF STATE,
Washington, D.C., April 16, 1975.

Hon. MARVIN L. ESCH,
House of Representatives

DEAR MR. ESCH: Thank you for your letter of March 20, 1975, concerning the possibility of having Simas Kurdirka appointed as an advisor on the United

States Delegation to the Third United Nations Conference on the Law of the Sea.

I am sure that Mr. Kurdirka would have important contributions to make in this area. However, the issue of the territorial sea has virtually been settled at the Conference with broad agreement on a maximum breadth of 12 nautical miles as part of a comprehensive treaty. We are also keeping our delegations to this and other international conferences as small as possible. Unfortunately, therefore, we cannot ask Mr. Kurdirka to participate on the U.S. Delegation. However, I thank you for your suggestion concerning this extremely important conference.

Sincerely,

ROBERT S. INGERSOLL.

CONFERENCE ON EFFECTIVE STATE MANAGEMENT OF COASTAL FISHERIES,
Hyannis, Mass., June 24, 1975.

THE ROLE OF COMPACTS IN FISHERIES MANAGEMENT

Atlantic States: Irwin M. Alperin, Executive Director, Atlantic States Marine Fisheries Commission, Washington, D.C.

Mr. Chairman, Task Force Members, fellow conferees and the many ASMFC Commissioners here who may disagree with every thing I say, since I am the first representative of the interstate marine fisheries Compact commissions to speak to you this afternoon, I want to use some of my time to address the origins of the Compact and how this affects my view of the role of the Atlantic States Marine Fisheries Commission in fisheries management.

Let me begin by saying that I have been associated with the Commission since 1951 as a working fisheries biologist, State fisheries administrator, having served on numerous committees and secretary of the North Atlantic Section for a number of years but I never was a Commissioner. I have been the Executive Director since December of 1971. There are some in this room who personally are much more knowledgeable about the origins of ASMFC than I am but I managed to find some time to scan our archives and can tell you a little about our beginnings and what I think of them.

The origins of the Compact go back to a series of conservation conferences (the Eastern States Conservation Conferences) which were held in New York City, Boston and Charleston in the period from 1937 through 1941. Who participated? The Council of State Governments, delegates—legislators and fisheries administrators from most Atlantic Coast States, plus at the Southeastern Conference one from the Gulf—and the U.S. Bureau of Fisheries, which during this period became the U.S. Fish and Wildlife Service.

What was (or is) the purpose of this Compact? To quote, "To promote the better utilization of the fisheries, marine, shell and anadromous of the Atlantic Seaboard by the development of a *joint program*—and I underline joint—for the promotion and protection of such fisheries and by the prevention of physical waste from any cause."

Who agreed to this Compact?—Why it was the delegates, it was the State Commissions on Interstate Cooperation, it was the Legislatures of the seven States that adopted the Compact in 1941 after the Congress passed a consent-in-advance resolution in 1940, and it was the seven Governors who signed it, and finally it was again the Congress of the United States in 1942 that consented to it in its present form.

The original draft Compact envisioned a joint commission with power to regulate. The 2nd Conservation Conference (1938) agreed on a commission with power only to recommend to States. The 3rd Conference included an Advisory Committee—I presume to satisfy special interests—who would not be Commissioners. The advisers were needed to advise the recommenders (which seems to be a synonomy in my thesaurus).

So what does the 1942 Compact do? It provides a joint, continuing advisory commission of three persons from each state and a nonvoting Advisory Committee to examine the recommendations of the Commissioners, against certain standards or needs that I cannot determine, and these advisors would then incorporate the participation of other fisheries interests which may not otherwise be represented by the three Commissioners from each State. The U.S. Fish and Wildlife Service (but now under reorganization Plan 4, the National Marine Fisheries Service)

is designated to act as a research and technical arm of the Commission—in cooperation with like agencies in the member states. It has done this in the past but I question that it acts directly on the Commission's behalf today.

The Commission was not granted any powers to make or enforce regulations but is to recommend to the several states interested in any species of fish, regulations appropriate to the protection and maximum utilization of such species.

Therefore, the Compact affords a method for a constructive *joint* approach by the States to a common problem that the States, operating individually, can not solve. It *recognizes* Federal interests by providing for Federal participation—with a very favorable report by the then Secretary of the Interior to the Chairman of the House Committee on Merchant Marine and Fisheries during hearings on the enabling act, and with excellent supportive testimony provided by the Director of the Fish and Wildlife Service and the Chief of the Division of Fishery Biology. The Compact preserves State responsibility by requiring the joint Commission to report its recommendations to the several States affected by any problems for final action by them. It is a practical institution in that it creates no super government agency but utilizes existing state and federal agencies in a *common effort* (which some will deny) to solve problems that can be solved in no other way. However, we haven't solved them all by a longshot; that's why we are here today.

Before it was many years old—5 years or so—and even before the Compact was ratified by all its present member States, a need was found for amendment—and what was the amendment to be? It was to be regulatory. We could argue the interpretation of who does the regulating, but the amendment was regulatory. I want to read it to you:

"81st Congress, 2nd Session, Chapter 703, August 19, 1950 AN ACT Granting the consent and approval of Congress to an amendment to the Atlantic States Marine Fisheries Compact, and repealing the limitation on the life of such compact.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that the consent and approval of Congress is hereby given to an amendment to the Atlantic States Marine Fisheries Compact, as consented to in Public Law 539, Seventy-seventh Congress (56 Stat. 267), which amendment has now been ratified by the States of Maine, New Hampshire, Massachusetts, Rhode Island, Pennsylvania, and North Carolina and reads substantially as follows:"

Joint regulatory agency. Amendment Number 1. "The States consenting to this amendment agree that any two or more of them may designate the Atlantic States Marine Fisheries Commission as a joint regulatory agency with such powers as they may jointly confer from time to time for the regulation of the fishing operations of the citizens and vessels of such designating States with respect to specific fisheries in which such States have a common interest. The representatives of such States on the Atlantic States Marine Fisheries commission shall constitute a separate section of such Commission for the exercise of the additional powers so granted provided that the States so acting shall appropriate additional funds for this purpose. The creation of such section as a joint regulatory agency shall not deprive the States participating therein of any of their privileges or powers or responsibilities in the Atlantic States Marine Fisheries Commission under the general compact."

For more than 20 years the Commission did not invoke, recommend the use of, or ever acknowledge Amendment No. 1 excepting that nine State legislatures ratified it and it became a part of their statutes. Meanwhile, the Commission did some other things. It fathered (or more appropriately, here "spawned") and guided through Congress the Commercial Fisheries Research and Development Act—which may have turned out to be a headache to the National Marine Fisheries Service, but has been a boon to State fisheries administrators. During these formative years the Commission supported and encouraged the enlargement, development and growth of the understaffed and underfunded federal fisheries agencies that are now represented by the National Marine Fisheries Service, perhaps to serve our purposes in research and technological needs, but that agency has grown up and doesn't really need the Commission's support, nor does it work for the Compact Commission in any direct fashion although there is much common interest and concern.

But let's skip over some intervening years. Three years ago a new initiative of NMFS called the State Federal Fisheries Management Program was pre-

sented to the States and the interstate commissions. We were asked to support and nurture it; and we have and we continue to do so. On the Atlantic Coast there are four important species where we are grappling with interstate, regional and state-federal planning for management and implementation of those plans. The program covers all the States on the Atlantic seaboard and two of the four species overlap the regional sections of ASMFC. Dick Schaefer of NMFS is scheduled to tell you much more about them and the national program. But ASMFC has moved ahead on one of these. Under the provisions of Amendment Number 1 which granted regulatory authority, the Commission formed a Northern Shrimp Section for regulation of the valuable shrimp fishery in the Gulf of Maine. Three states, Maine, New Hampshire and Massachusetts share this fishery. Most of the fishery is conducted beyond the territorial sea of the individual States, in fact, outside the U.S. contiguous fishery zone. The Northern Shrimp Section promulgates regulations and they are adopted by ASMFC. We have had an interim mesh size regulation imposed on the fishery while a cooperative study was conducted by the three interested States and the NMFS within the State-Federal Program. Financial support and technical input was provided by NMFS. We now have adopted an optimum mesh size to conserve immature shrimp and just yesterday the Northern Shrimp Section of this Commission met at Portsmouth N.H. where it adopted a closed season for the fishery for this year. In future years this closed season will be reestablished based on the best advice of our State-Federal Northern Shrimp Scientific committee composed of state and federal scientists and the Northern Shrimp Sub-Council composed of State and Federal fisheries administrators. Is it legal? We have proceeded on the basis that it is and will continue to do so until proven otherwise. It does work and the States are practicing cooperative reciprocal enforcement. Why shouldn't it be continued and why shouldn't it be practical with other species?

I think what I am saying here is that I believe ASMFC is acting as a regulatory agency for regional fisheries management, should continue to do so, should be encouraged by legal and financial means to do more. There isn't time today to go into more detail. The Commission has requested, and the Office of Sea Grant (NOAA) has agreed that it will financially support a study of ASMFC's amendment. It is to be carried out by Dr. Johin Montgomery of the University of South Carolina School of Law with possible input and review of his findings by other interested Sea Grant lawyers. We hope this definitive study will help the Commission to understand its management prerogatives.

I'm probably running overtime and others have more to say on this subject; but let me end up on a substantiating observation. I want to read to you a brief passage from an article in the Spring 1975 issue of "State Government," published by the Council of State Governments, the sponsor of this convention. In an article titled "Toward Federal-State Partnerships in Science and Technology," Dr. Daniel J. Elazar, Professor of Political Science and Director of the Center for the Study of Federalism, Temple University, has some pertinent things to say about State-Federal tasks and roles in partnership (using agricultural research and the agricultural extension service as the best example of institutionalized partnerships). And I quote here, "In order for a proper partnership to accomplish those tasks in the spirit and reality of noncentralization, it is necessary for authority and power to be properly shared by all partners. Federalism in its formal aspects gives the States all the authority they need to act in virtually every domestic governmental situation. What is needed is for the State government to assert their authority by developing the will to act and create the instrumentalities to undertake the work. If they do so in a concerted fashion, there is little doubt that the federal government will treat them as equal partners rather than as juniors who either carry out federal policies or are irrelevant to the action. No amount of petitioning Washington for consideration will make the slightest difference unless the States are prepared to act as equals, shouldering responsibility and taking leadership roles."

"If the States do that, they can achieve the recognition they should have, with all it implies. It should be noted that this is not a matter of structural reform, the usual panacea offered by many serious friends of the States. Different—even better—structures are no substitute for political will."

I think that that is what we are here for today. I believe the instrumentalities have been developed. They are not being used. If the Legislatures of the coastal states will adopt all or substantial part of the proposed model fisheries legislation, if the power to manage the fisheries rests with the professional fisheries administrator in the final explicit form of regulatory action, this action, then, can be

brought to the established Compact commissions for regional implementation for any of our fisheries. It seems to me to be a most valid way to proceed. Thank you.

ACCOMPANYING LETTER OF EXPLANATION

During the Fishery Management Workshop, which was convened under the auspices of the Commerce Committee on June 26, provisions on domestic management to be included in a 200-mile limit bill were discussed. Upon completion of these discussions, it was requested that the staff of the Committee prepare a draft bill along the lines discussed at the Workshop. That draft is enclosed.

It should be clearly understood that this draft is quite preliminary, and is designed to present an approach to domestic management based on the Workshop discussion. Further refinement of the draft will be necessary. In addition, neither I nor any other Senator of the Commerce Committee has approved the draft.

I would greatly appreciate it if you would review this draft and submit to me any recommendations you have for changes, deletions, or additions. If you need additional copies of the draft or further information, please contact James P. Walsh, Staff Counsel for the Committee, at (202) 224–9347.

Your assistance with regard to this effort is greatly appreciated.

Sincerely,

WARREN G. MAGNUSON,
Chairman.

Enclosure.

[STAFF WORKING PAPER]

JULY 11, 1975

94TH CONGRESS
1ST SESSION

S.

IN THE SENATE OF THE UNITED STATES

JULY , 1975

Mr. _____ introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To extend, pending international agreement, the fishery management responsibility and authority of the United States over fish in certain ocean areas in order to protect such fish from depletion, and to establish a national marine fisheries management program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Marine Fisheries Protection and Management Act of 1975".

DECLARATION OF POLICY

SEC. 2. (a) FINDINGS.—The Congress finds and declares that—

(1) The coastal species of fish which inhabit the

waters off the coasts of the United States, the migratory species of the high seas, the species which dwell on or in the Continental Shelf, and the anadromous species which spawn in United States rivers and estuaries constitute an irreplaceable resource which contributes to the food supply and economy of the Nation as well as to the health and recreation of its people.

(2) Certain stocks of such fish are depleted to the point where survival of the fisheries is threatened and other stocks are substantially reduced in number as the result of continued overfishing and the failure to initiate or to observe sound conservation practices.

(3) International agreements have not been fully effective in preventing or halting the depletion of valuable species of fish caused by overfishing, and there is danger that further depletion will occur before a new international agreement on fishery management and jurisdiction can be negotiated, signed, ratified, and implemented.

(4) Fishery resources are finite, but renewable if placed under sound management before overfishing has caused irreversible effects so that such resources can be maintained at a continual optimum yield.

(5) A national program for the management and conservation of fishery resources subject to the jurisdic-

tion of the United States is needed to prevent depletion, to rebuild depleted stocks, to insure conservation, and to realize the best use of the Nation's fishery resources.

(b) PURPOSES.—It is therefore declared to be the purpose of the Congress in this Act—

(1) to take immediate action to protect and conserve the fishery resources in coastal waters by declaring management authority over such resources in a two-hundred-nautical-mile zone off the coasts of the United States;

(2) to reaffirm the management jurisdiction of the United States over the fishery resources of the Continental Shelf and over anadromous species of fish which spawn in the rivers and estuaries of the United States; and

(3) to establish a national management program to prevent depletion, to rebuild depleted stocks, to insure conservation, and to realize the best use of the Nation's fishery resources.

(c) POLICY.—It is further declared to be the policy of the Congress in this Act—

(1) to maintain without change the existing territorial or other ocean jurisdiction of the United States for all purposes other than the protection and conservation of fishery resources as provided in this Act;

(2) to authorize no unreasonable impediment to or

interference with recognized legitimate uses of the high seas, except with respect to the protection and conservation of fishery resources as provided in this Act;

(3) to support and encourage international agreements for the management of migratory species of fish and to manage such species when found within the two-hundred-mile zone on the basis of regulations adopted pursuant to such agreements; and

(4) to establish a national fishery management program which utilizes and is based upon the best scientific information available, involves all interested and affected citizens at the most local level, promotes efficiency, and is workable, effective, and the least costly to the Nation.

DEFINITIONS

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

(1) "anadromous species" means those species of fish which spawn in fresh and estuarine waters of the United States and which migrate to ocean waters beyond the contiguous fishery zone;

(2) "citizens of the United States" means any person who is a citizen of the United States by birth, by naturalization or other legal judgment, or, with respect to a corporation, partnership, or other association, by

organization under and maintenance, after the date of enactment of this Act, in accordance with the laws of any State: *Provided,* That (A) the controlling interest therein is owned or beneficially vested in individuals who are citizens of the United States; and (B) the chairman, and not less than two-thirds of the members, of the board of directors or other governing board thereof are individuals who are citizens of the United States;

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

(4) "conservation" means the aggregate of measures required to maintain fishery resources in a condition such that (A) a maximum and stable supply of food and other products may be taken from them on a continuing basis; (B) there is minimal likelihood of irreversible or long-term adverse effects on such resources or on the marine ecosystem as a whole; and (C) a wide diversity of options for future use is insured;

(5) "contiguous fishery zone" means a zone contiguous to the territorial sea of the United States within which the United States exercises exclusive fishery management and conservation authority;

(6) "Continental Shelf fishery resources" means living organisms of sedentary species which, at the

harvestable stage, either are immobile or in the seabed or are unable to move except in constant physical contact with the seabed or subsoil, as defined in section 1085 (a) of title 16 of the United States Code;

(7) "controlling interest" means . . .

(8) "Council" means the Regional Fishery Management Councils established under title II of this Act;

(9) "fish" includes mollusks, crustaceans, marine mammals (except the polar bear, walrus, and sea otter), and all other forms of marine animal and plant life (but not including birds), and Continental Shelf fishery resources,

(10) "fishery" means the business, organized activity, or act of fishing for a particular stock or species of fish, or for two or more stocks or species of fish which are caught simultaneously, which by virtue of its geographic, scientific, technical, recreational, and economic characteristics, is capable of being managed as a unit;

(11) "fishing" means the catching, taking, harvesting, or attempted catching, taking, or harvesting of any species of fish for any purpose, and any activity at sea in support of such actual or attempted catching, taking, or harvesting;

(12) "fishing vessel" means any vessel, boat, ship, contrivance, or other craft which is used for, equipped to

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

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

(14) "high seas" means international waters beyond the territorial sea of any nation as defined in the Convention on the High Seas (13 UST; TIAS 5200);

(15) "highly migratory species" means those species of fish which spawn and migrate during their life cycle in waters of the open ocean, including but not limited to, tuna;

(16) "international fishery agreement" means any bilateral or multilateral treaty, convention, or agreement to which the United States is party relating to fishing for fish which are the subject of the provisions of this Act;

(17) "optimum yield" means . . .

Option A

a yield which provides the greatest benefit to the Nation as determined on the basis of the maximum surplus production a stock or stocks of fish can provide modified by

relevant economic, social, and ecological factors. (Maximum surplus production means the greatest quantity of fish that a stock or stocks of fish over a stated time frame can provide which is in excess of that required to maintain the stocks at productive levels, as determined on the basis of the best scientific information available.)

Option B

the largest net economic return consistent with the biological capabilities of the stock, as determined on the basis of all relevant economic, biological, social, and environmental factors.

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

(19) "Secretary" means the Secretary of Commerce, or his delegate;

(20) "State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Somoa, the Virgin Islands, Guam, and the territories and possessions of the United States;

(21) "stock", with respect to any fish, means a type, species, or other category capable of management as a unit; and

(22) "United States", when used in the geographical context, includes all States.

60-422 O - 75 - 9

TITLE I—FISHERY MANAGEMENT JURISDICTION OF THE UNITED STATES

EXTENT OF JURISDICTION

SEC. 101. (a) CONTIGUOUS FISHERY ZONE.—(1) There is established a zone contiguous to the territorial sea of the United States within which the United States shall exercise exclusive fishery management authority.

(2) Such contiguous fishery zone has as its inner boundary the outer limits of the territorial sea, and as its seaward boundary a line drawn so that each point on the line is one hundred and ninety-seven miles from the inner boundary.

(3) Notwithstanding any other provision of law, such fishery management authority of the United States shall not include or be construed to extend to highly migratory species of fish. Such species shall be managed pursuant to international fishery agreements established for such purpose.

(b) ANADROMOUS SPECIES.—The exclusive fishery management authority of the United States shall extend to anadromous species of fish spawned in the fresh and estuarine waters of the United States throughout the migratory range of such species: *Provided,* That such management authority shall not extend to such species to the extent they are found

within the territorial sea or fishery zone of any other nation, as recognized by the United States.

(c) CONTINENTAL SHELF FISHERY RESOURCES.—The exclusive fishery management authority of the United States shall extend to Continental Shelf fishery resources to a depth of two hundred meters or to the depth where such resources can be exploited, whichever is greater.

FOREIGN FISHING

SEC. 102. (a) GENERAL.—The Secretary and the Secretary of State, after consultation with the Secretary of the Treasury, may authorize fishing within the contiguous fishery zone, for anadromous species, or for Continental Shelf fishery resources by citizens of any foreign nation in accordance with the provisions of this Act.

(b) PROVISIONS.—(1) The allowable level of foreign fishing shall be set upon the basis of the portion of any stock of fish which cannot be harvested by citizens of the United States. Allowed foreign fishing and fishing by citizens of the United States annually shall not, for any stock, exceed the optimum yield of such stock.

(2) In determining the allowable level for any foreign nation, the Secretary and the Secretary of State shall give consideration to whether the citizens of such nation have habitually fished for fish subject to the provisions of this Act.

(c) RECIPROCITY.—Foreign fishing under this Act

shall not be allowed unless the foreign nation seeking to fish demonstrates that it allows fishing by citizens of the United States on a similar basis within its fishery zone or with respect to its anadromous species or Continental Shelf fishery resources.

(d) PROCEDURES.—(1) In determining the allowable level of foreign fishing with respect to any stock, the Secretary shall utilize the best available scientific information, including, but not limited to, catch and effort statistics and relevant available data compiled by any foreign nation. The National Oceanic and Atmospheric Administration shall take steps to verify the authenticity of the foreign catch statistics and any other relevant data furnished for the purpose of this paragraph, including placing observers aboard foreign-flag fishing vessels as necessary during any fishing operations which may be authorized for foreign fishing or support vessels pursuant to this Act.

(2) The Secretary shall establish reasonable fees which shall be paid by the citizens of any foreign nation allowed to fish pursuant to this Act. In determining the level of such fees, the Secretary may take into account the cost of research, administration, and enforcement. The level of such fees may vary between domestic and foreign fishermen, or between different categories of foreign fishermen, as is reasonable and appropriate.

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

INTERNATIONAL FISHERY AGREEMENTS

SEC. 103. (a) GENERAL.—The Secretary of State, upon the request of and in cooperation with the Secretary, shall initiate and conduct negotiations with any foreign nation which, prior to the date of enactment of this Act, has been engaged in, or whose citizens have been engaged in, fishing in the contiguous fishery zone of the United States or for anadromous species or Continental Shelf fishery resources. The Secretary of State, upon the request of and in cooperation with the Secretary, shall, in addition, initiate and conduct negotiations with any foreign nation in whose contiguous fishery zone or equivalent economic zone citizens of the United States are engaged in fishing or with respect to anadromous species or Continental Shelf fishery resources as to which such nation asserts management responsibility and authority and for which the United States fish. The purpose of such negotiations shall be to enter into international fishery agreements on a bilateral or multilateral basis to effectuate the purpose, policy, and provisions of this Act. Such agree-

ments may include, but need not be limited to, agreements to provide for the management and conservation of—

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

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

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

(4) coastal species or Continental Shelf fishery resources, which are found in areas subject to the fishery management responsibility and authority of any foreign nation, through measures which allow citizens of the United States to harvest an appropriate portion of such species in accordance with habitual United States fishing.

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

agreements by not later than September 30, 1976: *Provided*, That nothing in this Act shall be construed to abrogate any duty or responsibility of the United States under any lawful treaty, convention, or other international agreement which is in effect on the date of enactment of this Act.

(c) BOUNDARY AGREEMENTS.—The Secretary of State is authorized and directed to initiate and conduct negotiations with adjacent foreign nations to establish the boundaries of the contiguous fishery zone of the United States in relation to any such nation.

(d) NONRECOGNITION.—It is the sense of the Congress that the United States Government shall not recognize the limits of the contiguous fishery zone of any foreign nation beyond twelve nautical miles from the baseline from which the territorial sea is measured, unless such nation recognizes the habitual fishing activities of citizens of the United States, if any, within any claimed extension of such zone or with respect to anadromous species, or recognizes the management of highly migratory species by the appropriate existing bilateral or multilateral international fishery agreements irrespective of whether such nation is party thereto.

DURATION OF TITLE

SEC. 104. (a) EFFECTIVE DATE.—The provisions of this title shall become effective on the date of enactment of this Act.

(b) TERMINATION DATE.—The provisions of this title shall expire and cease to be of any legal effect on such date as a law of the sea treaty, or other comprehensive treaty, convention, or agreement with respect to fishery jurisdiction, which the United States has signed or is party to, shall come into force or is provisionally applied.

TITLE II—NATIONAL FISHERY MANAGEMENT PROGRAM

AUTHORITY TO PROMULGATE REGULATIONS

SEC. 201. (a) GENERAL.—The Secretary is authorized to promulgate regulations, pursuant to the provisions of this title, to govern fishing by citizens of the United States, and by citizens of any foreign nation allowed to fish, in the continguous fishery zone of the United States or for anadromous species or Continental Shelf fishery resources.

(b) TYPE OF REGULATIONS.—Such regulations may—

(1) designate zones where, and designate periods when, fishing shall be limited to, or shall not be permitted, or shall be permitted only as to specified vessels or gear;

(2) establish a system which shall limit access to a fishery on a basis which shall recognize, among other considerations, present participation in the fishery, historical fishery practices and dependence on the fishery, the value of existing investments in vessels and gear,

capability of existing vessels to direct their efforts to other fisheries, history of compliance with applicable fishing regulations, the optimum yield of the fishery, and the cultural and social framework in which the fishery is conducted;

(3) establish limitations on the catch of fish in any fishery based on area, species, size, number, weight, sex, incidental catch, total biomass or quotas, and other factors which are necessary for the conservation of such fish;

(4) prohibit, limit, condition, or require the use of specified types of fishing gear, vessels, or equipment for such vessels including devices which may be required solely or partially to facilitate enforcement of this title or the regulations issued hereunder;

(5) require a license or permit to be issued by the Secretary as a condition to engaging in any fishery, upon such terms as may be prescribed, including the payment of fees;

(6) require catch statistics from fishermen or processors; and

(7) such other measures for the management and conservation of fisheries as are necessary to carry out the objectives of this title.

(c) NATIONAL STANDARDS.—Regulations promulgated

by the Secretary for the management and conservation of fisheries shall be consistent with the following national fishery management standards—

(1) Management and conservation measures shall be based upon the best scientific biological information available.

(2) To the extent possible, an individual stock of fish shall be managed throughout its range.

(3) Management and conservation measures shall not discriminate between residents of different States, or between citizens of the United States and citizens of a foreign nation.

(4) Management and conservation measures shall be designed to achieve the optimum yield of a stock of fish on a continuing basis.

(5) Management and conservation measures shall promote efficiency in harvesting techniques.

(6) Management and conservation measures shall be formulated to allow for unpredicted variations in fishery resources and their environment and for possible delay in the application of such measures.

(7) Management and conservation measures shall not result in unreasonable administration or enforcement costs.

(8) Management and conservation measures shall be designed to prevent depletion of fishery resources.

REGIONAL FISHERY MANAGEMENT COUNCILS

SEC. 202. (a) CREATION OF COUNCILS.—There are hereby established permanent Regional Marine Fisheries Councils including—

(1) a North Atlantic Fishery Management Council with State representation from Maine (one member), New Hampshire (one member), Massachusetts (one member), Rhode Island (one member), Connecticut (one member), New York (one member), New Jersey (one member), Pennsylvania (one member), Delaware (one member), Maryland (one member), and Virginia (one member);

(2) a South Atlantic Fishery Management Council with State representation from North Carolina (one member), South Carolina (one member), Georgia (one member), and Florida (one member as to Atlantic Fisheries);

(3) a Gulf Fishery Management Council with State representation from Texas (one member), Louisiana (one member), Mississippi (one member), Alabama (one member), and Florida (one member as to Gulf of Mexico fisheries);

(4) a Pacific Fishery Management Council with

State representation from California (one member), Oregon (one member), Washington (one member), and Idaho (one member);

(5) a Caribbean Fishery Management Council with State representation from Virgin Islands (two members), and Puerto Rico (two members);

(6) an Alaska Fishery Management Council with State representation from Alaska (three members), Washington (one member as to Alaskan fisheries), and Oregon (one member as to Alaskan fisheries); and

(7) an Outer Pacific Fishery Management Council with State representation from Hawaii (one member), American Samoa (one member), Guam (one member), and Trust Territories of the Pacific (one member).

(b) COMPOSITION.—(1) Each such council shall be composed of the following members—

(A) a State official from each coastal State, in the number designated in subsection (a), within each respective region to be appointed by the Governor of each such State, or in the case of the Trust Territories of the Pacific, by the High Commissioner;

(B) a representative of each coastal State within each respective region to be appointed by the Governor, or High Commissioner, of each such State from the public at large;

(C) a Federal official appointed by the Secretary who shall serve as Chairman.

(2) Members of the Councils shall receive compensation only if not otherwise employed in any capacity by the Federal Government or any State. Such members shall receive $300 per diem when engaged in the actual performance of duties vested in the Councils. All members of the Councils shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(c) DUTIES AND AUTHORITIES.—(1) The Councils, in accordance with the provisions of this title, shall have authority to—

(A) name an executive director and such other administrative officers as necessary to conduct business;

(B) identify fisheries in need of regulation;

(C) develop an overall fishery management plan within their respective geographic areas consistent with the national standards set forth in section 201(a) of this title;

(D) develop recommended regulations for the management and conservation of fish subject to the provisions of this Act within their respective geographic areas consistent with the national standards set forth in section 201(a) of this title;

(E) monitor fishing activity and review the success of regulations in carrying out the purposes of this title and to recommend any appropriate amendments or changes to the Secretary;

(F) conduct public hearings on recommended regulations at appropriate times and in appropriate locations so as to allow all interested persons an opportunity to be heard on the overall management plan, recommended regulations, or amendments to regulations;

(G) otherwise carry out the duties necessary to develop management and conservation measures consistent with this title.

(2) The Councils shall not have authority to develop a fishery management plan or to recommend regulations with respect to fisheries which are principally located in waters within the boundaries of a single State.

(3) Where a fishery extends beyond the geographic area of responsibility of a single Council, the appropriate Councils shall coordinate or combine their efforts as necessary.

(d) ADMINISTRATIVE SUPPORT.—The Secretary shall provide such administrative support as is necessary for the functioning of the Councils.

(e) SCIENTIFIC ADVISORY BOARD.—Each Council shall establish a standing scientific advisory board to assist the

Council in the development, collection, and evaluation of scientific information on which to base overall management plans or recommended regulations. Such board shall be composed of not more than twelve fisheries scientists and the director of the appropriate regional National Marine Fisheries Service research center who shall serve as Chairman. Members of the board shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as provided in section 5703 of title 5, United States Code, for persons in Government service intermittently.

(f) ADVISORY COMMITTEES.—Each Council shall establish such advisory committees, either ad hoc or standing, as necessary to assist the Council in the preparation of overall management plans, recommended regulations, or changes or amendments to existing plans or regulations for any particular fishery. Such advisory committees shall be composed of not more than seven persons, selected to represent those actually engaged in such fishery, State fishery management agencies, and other persons interested in fisheries conservation. Members of the advisory committees shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as provided in section 5703 of title 5, United States Code, for persons in Government service intermittently.

PROCEDURE

SEC. 203. (a) GENERAL.—The Secretary shall, as soon as possible after the date of enactment of this title, and after consultation with other Federal agencies, issue regulations to carry out the purposes and provisions of this title, in accordance with the provisions of section 553 of title 5, United States Code, without regard to subsection (a) thereof. Such regulations shall pertain to, but need not be limited to, the operation of the Fishery Management Councils established pursuant to section 202 of this title, the setting of fees, procedures for obtaining data and statistics relating to fishing, and other matters relating to the purposes and objectives of this title. Such regulations shall provide for full consultation and cooperation with all other interested Federal agencies and departments and with any coastal State, and for consideration of the views of any interested member of the general public. The Secretary is further authorized, consistent with the purposes and provisions of this title, to amend or rescind any such regulations.

(b) RECOMMENDED REGULATIONS.—(1) As soon as practicable, each Council shall identify fisheries which require management regulations to be promulgated by the Secretary pursuant to the provisions of this title. With regard to each such fishery, the Council shall prepare a fishery man-

agement plan and such recommended management regulations as are authorized under section 210 (b) of this title and as are needed to implement such plan and shall submit such plan and recommended regulations to the Secretary as soon as possible. Such plan shall include—

(A) a general description of the fishery including the number of vessels, type of gear, location and species of fish involved, and a statement as to recreational interests, foreign fishing, or other matters, if any, with respect to such fishery;

(B) a summary of the best scientific information available with respect to the status of the stocks and the condition of the fishery;

(C) an assessment of the capacity of citizens of the United States to harvest the fish in any fishery and the surplus in any such fishery which may be made available for harvest by citizens of a foreign nation;

(D) any other information, data, or views with regard to the fishery which is appropriate to the purposes and objectives of this title.

Such plan and recommended regulations shall be consistent with the national fishery management standards set forth in section 201 (c) of this title.

(2) Before a notice of proposed rulemaking is issued

60-422 O - 75 - 10

regarding management regulations for any fishery to be promulgated under this title, the Secretary shall review the management regulations recommended by the Councils to determine whether such recommended regulations are consistent with the national standards set forth in section 201 (c) of this title. If such recommended regulations are so consistent, the Secretary shall adopt such regulations for the management of the fishery involved and publish a notice of proposed rulemaking with regard to such regulations immediately thereafter. If the recommended regulations are not consistent, the Secretary shall inform the Regional Fishery Management Council as to the manner in which such regulations are not consistent. The Regional Fishery Management Council shall have not more than forty-five days to change the recommended regulations so as to make them consistent with the national standards. If the Council does not make the changes in forty-five days, the Secretary shall make the necessary changes and issue the notice of proposed rulemaking.

(c) AGENCY REVIEW.—(1) If such recommended management regulations involve methods and procedures for enforcement at sea, the Secretary shall consult with the Secretary of the department in which the Coast Guard is operating.

(2) If such recommended management regulations would apply to fishing by citizens of a foreign nation, the Secretary shall consult with the Secretary of State.

(d) PROPOSED RULEMAKING.—The Secretary shall publish in the Federal Register any management regulations which he proposes to promulgate pursuant to this title. Such notice of proposed rulemaking shall designate the fishery or fisheries to which they apply and shall indicate the recommendation of the Council or Councils explaining, where appropriate, how the proposed regulations deviate from those recommended by the Council or Councils and the reasons therefor.

(e) EMERGENCY ACTION.—Notwithstanding subsection (b) of this section, if the Secretary determines that, due to an emergency situation, immediate action is required in the national interest to protect any fishery resources, he shall prepare emergency management regulations as soon as practicable in accordance with the provisions of section 553 of title 5, United States Code, without regard to subsection (a) thereof.

FISHERY MANAGEMENT REVIEW BOARD

SEC. 204. (a) ESTABLISHMENT.—There is hereby established a Fishery Management Review Board as a quasi-judicial body.

(b) MEMBERSHIP.—(1) The Board shall be composed

of five members appointed by the President, by and with the advice and consent of the Senate. Of such members at least two shall be individuals selected by the President from a list of not less than five qualified individuals submitted by the National Governor's Conference.

(2) The members of the Board shall be appointed for a term of three years, except that any individual appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term and in the same manner in which such predecessor was appointed.

(3) The members of the Board shall select one of their number to serve as Chairman.

(c) APPEALS TO THE BOARD.—(1) Any person suffering legal wrong, or who is adversely affected or aggrieved by final management regulations promulgated by the Secretary pursuant to this title or by a decision to issue, transfer, revoke, suspend, modify, or renew a license or permit may seek review of such action before the Fishery Management Review Board by filing a request with the Board not later than sixty days after the publication of such final regulation or after such decision is made.

(2) Any Council, whose recommended management regulations were determined by the Secretary to be not consistent with the national standards set forth in section 201 (c)

of this title and which objects to such determination may seek review of the Secretary's action by filing a request for review with the Board not later than sixty days after the publication of the final management regulations involved.

(3) In any action under this section, the Secretary or any affected Council, if not a party, may intervene as a matter of right.

(4) Review proceedings under this section shall be in accordance with the provisions of section 554 of this title 5, United States Code. To the extent possible, such proceedings shall be held in a locality closest to the fishery involved.

(d) REVIEW STANDARD.—In any review requested by a Council relating to management regulations, the Board shall uphold the action of the Secretary unless it finds that such action—

(1) was not consistent with the national fishery management standards set forth in section 201 (a) of this title;

(2) was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(3) contrary to constitutional right, privilege, power or immunity;

(4) clearly not supported by the facts and record available to the Secretary; or

(5) without observance of the procedure required by this title or other law.

(c) POWERS.—(1) The Board or any member thereof may, for the purpose of carrying out the provisions of this section, hold such hearings, sit and act at such times and places, administer such oaths, and require by subpena or other order the attendance and testimony of such witnesses and the production of such evidence as the Board or member deems advisable. Subpenas may be issued under the signature of the Chairman or any duly designated member of the Board, and may be served by any person designated for such purpose by the Chairman. Witnesses summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. Such attendance of witnesses and production may be required from any place in the United States to any place designated for such hearing.

(2) In case of refusal to obey a subpena or other order issued under paragraph (1) of this subsection, by any person who resides, is found, or transacts business within any judicial district of the United States, the district court of the United States for any such district shall have jurisdiction and shall upon the request of the Chairman of the Board issue to such person an order to appear and produce evidence. Any

failure to obey such an order shall be punishable by such court as a contempt of court.

(3) The Administrator of General Services shall furnish the Board with such offices, equipment, supplies, and services as he is authorized to furnish to any other agency or instrumentality of the United States.

(f) COMPENSATION.—Members of the Board shall be compensated at a rate equal to the daily equivalent for GS–18 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged in the actual performance of duties vested in the Board and shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as provided by section 5703 of title 5, United States Code, for persons in Government services intermittently.

RELATIONSHIP TO STATE LAWS

SEC. 205. Nothing in this Act shall be construed to extend the jurisdiction of any State over any natural resources beneath and in the waters beyond the territorial sea of the United States, or to diminish the jurisdiction of any State over any natural resource beneath and in the waters within the territorial sea of the United States.

PROHIBITED ACTS AND PENALTIES

SEC. 206. (a) PROHIBITED ACTS.—It is unlawful for any person to—

(1) violate any provision of this Act, or any regulation issued under this title, regarding fishing within the contiguous fishery zone or with respect to anadromous species or Continental Shelf fishery resources;

(2) violate any provision of any international fishery agreement to which the United States is party negotiated or reviewed pursuant to this Act, to the extent that such agreement applies to or covers fishing within the contiguous fishery zone;

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

(4) refuse to permit a duly authorized representative of the Secretary, or of the Secretary of the department in which the Coast Guard is operating, to board a fishing vessel or fishing-support vessel subject to his control where the purpose of such requested boarding is to inspect the catch, fishing gear, ship's log, or other records or materials; or

(5) fail to cooperate with a duly authorized representative of the Secretary, or of the Secretary of the department in which the Coast Guard is operating, engaged in a reasonable inspection pursuant to paragraph

(5) of this subsection, or to resist any lawful arrest.

(b) CRIMINAL PENALTIES.—Any person who willfully commits an act prohibited by subsection (a) of this section shall, upon conviction, be fined not more than $50,000 or imprisoned for no more than 1 year, or both.

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

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

of compensation to informants with respect to forfeitures shall apply to civil forfeitures incurred, or alleged to have been incurred, under this subsection, insofar as applicable and not inconsistent with the provisions of this section. Such duties as are imposed upon the collector of customs or any other person with respect to seizure, forfeiture, or disposition of property under the customs laws shall be performed with respect to property used, intended for use, or acquired by activity in violation of any provision of subsection (a) of this section by such officers or other persons as may be designated for that purpose by the Secretary of the department in which the Coast Guard is operating.

ENFORCEMENT

SEC. 207. (a) GENERAL.—The provisions of this Act shall be enforced, together with regulations issued under this title, by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, and facilities of any other Federal agency in the performance of such duties.

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

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

zone of the United States, or which he has reason to believe is fishing for anadromous species or Continental Shelf fishery resources;

(2) arrest any person, with or without a warrant if he has reasonable cause to believe that such person has committed an act prohibited by section 206(a) of this Act;

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

(4) seize all fish and fishing gear found onboard any fishing vessel or fishing-support vessel engaged in any act prohibited by section 206(a) of this Act.

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

EFFECTIVE DATE

SEC. 208. The provisions of this title shall become effective on the date of enactment of this Act.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 209. There are authorized to be appropriated for the purposes of this Act to the Secretary such sums as are necessary, not to exceed $4,000,000 for each of the fiscal years ending June 30, 1975, June 30, 1976, and June 30, 1977, and to the Secretary of the department in which the Coast Guard is operating such sums as are necessary, not to exceed $13,000,000 for each of the fiscal years ending June 30, 1975, June 30, 1976, and June 30, 1977.

ARKANSAS GAME AND FISH COMMISSION,
Little Rock, Ark., May 14, 1975.

Hon. WARREN G. MAGNUSON,
Chairman, Senate Commerce Committee, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR MAGNUSON: This letter is submitted for the record of a hearing to be held in the Senate Office Building June 5, 1975 to consider S. 961 to establish on an interim basis a 200 nautical mile fishery management zone off the coasts of the United States.

Please be advised that the Arkansas Game and Fish Commission has considered the merits of this proposal and wishes to express its support for the Emergency Marine Fisheries Protection Act of 1975.

Yours very truly,

ANDREW H. HULSEY,
Director.

ALASKA–SHELL, INC.,
MAY 15, 1975.

Senator TED STEVENS,
U.S. Senate Office,
Washington, D.C.

DEAR TED: As you are aware, the Geneva Conference closed without notable results. One of our industry observers reported back that the action over there was like watching paint dry—very exciting.

In view of this, we therefore renew our urging of the Congress to pass your 200 mile limit bill.

If we can be of any assistance in this matter, please do not hesitate to call on us.

Very truly yours,

RALPH S. JONES,
President.

NORTH CAROLINA DEPARTMENT OF
NATURAL & ECONOMIC RESOURCES,
Morehead City, N.C., May 30, 1975.

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

DEAR MR. CHAIRMAN: We have been following very closely the proposed legislation that would give the United States an interim fisheries zone extension through Senate Bill 961. We have attended several regional and national meetings with other states and the National Marine Fisheries Service and jointly have supported efforts to obtain extended jurisdiction or some means of control of high seas fisheries such as may eventually result under the Law of the Sea Conference. Many of our fisheries stocks are already in serious trouble from over-fishing and we are of the opinion that the Law of the Sea Conference will take several years to complete. We favor immediate interim action that would put the United States in a much better negotiating position at the Law of the Sea Conference and also create a favorable environment for the United States to manage its fisheries.

We have been informed by the Atlantic States Marine Fisheries Commission that Senate Bill 961 may come before the Senate in early June 1975. We very much appreciate your support and efforts in getting this bill introduced and "off the ground." We would also like to assure you of our continued supported and would sincerely appreciate your continued support for final passage of Senate Bill 961.

Thanks again for your support. Please advise if we can help in any way.

Sincerely yours,

EDWARD G. MCCOY,
Director.

AMERICAN FISHING TACKLE MANUFACTURERS ASSOCIATION,
Chicago, Ill., June 10, 1975.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
Senate Office Building, Washington, D.C.

DEAR CHAIRMAN MAGNUSON: On May 9, 1975, during its annual business meeting, the American Fishing Tackle Manufacturers Association, a national trade association representing almost 400 manufacturers of fishing tackle and related products, adopted the following resolution:

Whereas, foreign fishing fleets have, during the past 15 years, destroyed or severely reduced the marine resources off all coasts of the United States; and,

Whereas, other countries have successfully enforced extended fisheries jurisdiction; and,

Whereas, there is general agreement at the Law of the Sea Conference on a 200 mile economic zone; and,

Whereas, a prompt action is required in order to save important fisheries: Now, therefore, be it

Resolved, That the American Fishing Tackle Manufacturers Association endorses the passage of bills S961 and HR200 which would extend U.S. Fisheries jurisdiction to 200 miles on an interim basis pending any final results of the Law of the Sea Conference.

It is apparent that the Law of the Sea Conferences that have been held to date have not come to grips with the fact that foreign fishing fleets, which for all intents and purposes, are nothing more than floating fish canneries, and are continuing to seriously deplete marine resources to the extent that a number of fishes face the uncertain future of being added to the "endangered species" lists for both sport fishermen as well as other interests.

The membership of the American Fishing Tackle Manufacturers Association respectfully requests that you give careful consideration to our position and that you use the influence, power and authority of your office to have legislation enacted which will reflect the intent of our resolution.

Sincerely,

THOMAS R. SCHEDLER,
Executive Vice President.

MISSISSIPPI MARINE CONSERVATION COMMISSION,
Biloxi, Miss., June 20, 1975.

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

DEAR SENATOR MAGNUSON: I wish to refer to the conference being held Thursday, June 26, relative to the management phases of Senate Bill 961 (200-mile limit). I do not wish to go into great detail but there are several major points I would like to see included in the management section. These are:

(1) A regional council composed of state directors of fishery agencies or other professional fishery personnel.

(2) This should be safeguarded by specific legislative language so as not to leave to the descretion of the administrator appointment of whom he chooses.

(3) Whether or not a fishery is to be regulated should not be left to the discretion of the administrator. For example, the administrator could decide that because of ICNAF machinery it will not be necessary to regulate fishing in the Northwest Atlantic. We feel here in the Gulf that this should be decided by the regional council.

(4) That where a species spends a critical part of its life history in the estuarine area of a state and it is necessary to protect the animal during that period of its life history that the state should have a substantial voice in the regulation of that species.

(5) Regulation and management are not synonomous. Management of a fishery means only monitoring and assessment of the resource. Factual data thus obtained may indicate no regulation is necessary. Therefore, we wish this safeguarded so that a regulation is not imposed where none is needed.

Please give these points consideration in preparing this legislation and if you have further questions, please do not hesitate to contact me.

Very truly yours,

CHARLES H. LYLES,
Chairman, Gulf States Marine Fisheries Commission.

SHELLFISH CONSERVATION INSTITUTE,
Seattle, Wash., June 27, 1975.

Senator WARREN G. MAGNUSON,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: As you know, the Shellfish Conservation Institute is an organization representing those who harvest and process approximately 75% of the annual United States king crab product. Its members include the Seattle based North Pacific Fishing Vessel Owners Association, consisting of the majority of the Bering Sea and North Pacific king crab fleet, Pan-Alaska Fisheries, Inc., New England Fish Company, Alaska-Shell, Inc., Vita Food Products, Inc. and Wakefield Seafoods, Inc.

Because of the attempt by the State of Alaska to regulate the king crab fishery on the high seas and beyond Alaska state boundaries, its preference of Alaska citizens in such regulation and the general dissatisfaction by industry with Alaska management of the king crab resource, litigation was commenced in December 1973 in the United States District Court for the District of Alaska and a three-judge court was convened. The court issued a preliminary injunction in favor of the plaintiffs and against the State of Alaska enjoining Alaska's attempt to regulate this high seas resource beyond its boundaries. The opinion is reported in *Hjelle v. Brooks*, 377 F. Supp. 430.

On May 3, 1974, the Federal Court issued an injunction in the *Hjelle* case which prohibited the State of Alaska from establishing a quota for the Bering Sea. To fill this void in management, the Shellfish Conservation Institute was formed on May 8, 1974 to ensure protection of the king crab stocks in the North Pacific and Bering Sea. The Institute adopted regulations identical to those set forth in the treaties between the United States, the Soviet Union and Japan regarding the harvesting of king crab.

In addition, the Institute is engaged in scientific research and has reviewed and discussed scientific data with representatives of the National Oceanic and Atmospheric Administration. Attempts by the Institute to exchange data and discuss king crab problems with representatives of the State of Alaska were rejected by the State. In June and July 1974, the State of Alaska again attempted to assert jurisdiction over king crab fishing on the high seas and preferred charges against 14 Seattle-based fishermen on the basis of new regulations which were not the subject of the Federal Court's injunction. Those charges were dismissed by the Superior Court for the State of Alaska on the ground that the State has no jurisdiction to regulate the king crab fishery beyond its boundaries and that such regulation, if any, is exclusively the prerogative of the Federal Government. The State took an appeal in that case, *State v. Uri*, which is now awaiting decision by the Supreme Court of the State of Alaska.

In the *Uri* case, the Department of Justice has appeared on behalf of the Federal Government as amicus curiae and has taken the position that the Federal Government has exclusive jurisdiction over king crab fishing outside the boundaries of Alaska.

The pending conflict between Alaska and Washington fishermen and the attempt by the State of Alaska to regulate fishing on the high seas are not unique. Similar conflicts have occurred in the attempt by the State of California to regulate the taking of yellow fin tuna outside its boundaries, although such is regulated by treaty; the State of Oregon has purported to extend its boundaries 50 miles from the shore and the State of Massachusetts purported to extend its boundaries approximately two years ago to a distance of 200 miles from shore. The State of California has also attempted to regulate the offshore anchovy fishery with its landing law.

There is presently before Congress several bills dealing with the potential extension of jurisdiction over fishing to a distance 200 miles from shore. The general feeling by industry in favor of extended jurisdiction is based on concern with the large foreign fleets fishing uncontrolled a short distance from our shores and frustration over federal inaction to involve itself in management. It is possibly because of similar concern and frustration that individual states have attempted to extend their own jurisdiction on a unilateral basis. Such attempts have very questionable legal basis at best. Moreover, it seems highly improper to allow a state which is politically mandated to its local constituents and their special interests to regulate high seas resources beyond its boundaries which are substantially developed and harvested by citizens from other states. Such localized control, must by its very structure, be primarily responsive to that con-

stituency when in conflict with broader interest involvements. Further, as was recently pointed out by the Supreme Court of the United States in *United States* v. *Maine*: the United States is the sole and exclusive spokesman of the nation in external affairs; resources beyond the territorial limits of a state involve national interests and national responsibilities; those resources belong, if at all, to the citizens of the nation as a whole rather than to citizens of a single state.

Because of the foregoing, the Shellfish Conservation Institute believes very strongly that any management schemes which is tied to or developed as part of extended jurisdiction should be a national scheme and entirely federal in administration. Accordingly, we submit that any management scheme of contiguous fisheries should include the following essential principles:

1. Management and enforcement should be clearly pre-empted by the federal government, with management standards and authority vested in an agency which reflects this. There shoul be no delegation of authority by federal to state authorities nor should there be deputization of state officials as federal officials. All enforcement should be in the federal court and prosecution handled by the Department of Justice.

2. Objective, measurable harvest level standards must be established. A known and clearly identified standard such as maximum sustained yield is more certain and not subject to social, economic or subjective interpretation. To establish an objective scientific standard will avoid much future dispute and misunderstanding. Maximum sustained yield is the one measure that the scientists, biologists an statisticians can agree upon as the most workable.

3. There should be a meaningful appeal process for fisheries regulation so that industry and state officials can express their views and receive relief from arbitrary and capricious action.

4. There should be privileged access by the United States domestic fishing industry.

5. There should be a mechanism to allow permanent industry input and commentary into proposed regulations.

6. The Commission forum in regulating the fishery seems preferable. Such a commission can be established on a multi-state regional basis with its members to be appointed by the President. An attempt should be made to compose such a commission with a fair proportion of industry. The regulations of the commission should be permanent in nature with members appointed for terms certain on a staggered basis and its authority should include review of the results of management.

The Shellfish Conservation Institute is most willing to work with you concerning the proposed legislation. Our representatives will be in contact with you and members of your staff and also with other members of the Washington Congressional delegation. We are attaching for your review a copy of a resolution which was passed some months ago by joint unanimous action of both Houses of the Alaska legislature which is about as close as one can come to a bill of attainder in these modern times. This resolution indicates that federal action and federal pre-emption of regulations are essential.

Very truly yours,

RONALD JENSEN,
Chairman of the Board.

Enclosure.

[House Concurrent Resolution No. 4, in the Legislature of the State of Alaska, Ninth Legislature—First Session]

A BILL To Request increased and expanded protection for the state's fish and shellfish resources

Be it resolved by the legislature of the State of Alaska:

Whereas valuable fish and shellfish resources adjacent to Alaska are being subjected to an intensive fishery by nonresident fishermen; and

Whereas many nonresident fishermen, particularly in the Bering Sea, are attempting to circumvent fish and shellfish conservation and management measures of the Board of Fish and Game in order to obtain private economic gain at the expense of the resources; and

Whereas those nonresident fishermen are demonstrating gross disregard for the future maintenance and sustained yield of fish and shellfish resources and constitute a serious and continuing threat to these resources; and

Whereas those nonresident fishermen are generating unnecessary costs to state taxpayers by forcing the state to mount expensive enforcement efforts and to engage in protracted litigation; and

Whereas those nonresident fishermen are jeopardizing the future livelihood of Alaskan fishermen and of law-abiding nonresident fishermen; Be it

Resolved That the Ninth Alaska State Legislature respectfully requests the Governor to direct the appropriate state agencies to

(1) continue vigilant enforcement of the landing law and all other legally justifiable regulatory measures for the protection of fish and shellfish resources;

(2) refuse, where constitutionally and legally permissible, to extend privileges or services of the state to nonresident fishermen who disregard the conservation and management measures of the Board of Fish and Game;

(3) actively pursue negotiations with appropriate agencies of the federal government in order to bring about the application of any regulatory measures or other controls available under federal authority which can be utilized to resolve the nonresident fishing problem, if these measures or other controls are consistent with the maintenance of the state's primary management responsibility over fish and shellfish resources;

(4) continue to defend conservation and management regulations of the Board of Fish and Game in the courts where these regulations are challenged or violated;

(5) maintain a policy of refusing to submit to threats or to political pressures exerted by nonresident fishermen determined to preclude Alaska's regulation and conservation of adjacent fish and shellfish resources;

(6) refuse to negotiate with, recognize, or otherwise deal with organizations of nonresident fishermen aimed at avoiding responsibility regarding the continued maintenance of fish and shellfish resources, such as the so-called Shellfish Conservation Institute, except to the extent that it may directly further state interests; and

(7) use other means and measures directed towards insuring that fish and shellfish resources adjacent to Alaska are not destroyed or degraded.

STATE OF CALIFORNIA—RESOURCES AGENCY,
DEPARTMENT OF FISH AND GAME,
Sacramento, Calif., July 17, 1975.

HON. ALAN CRANSTON,
U.S. Senator, Senate Office Building,
Washington, D.C.

DEAR SENATOR: One of the most significant recent developments with great potential for affecting California's interests in the ocean is the rapidly approaching conclusion of deliberations on extended jurisdiction.

We are vitally concerned that any legislation that results from these or other deliberations gives due recognition to those states which can demonstrate a continued and historical interest in the management of resources within their territorial sea and beyond.

California has developed excellent marine research and management programs backed by a staff of experienced marine scientists. Our interest and expertise are documented in scientific literature dating to the early 1900's and are rooted in a statistical system that dates back to 1916 (possibly the oldest and most comprehensive of its kind in the United States). In the process of managing our marine resources we have built up and maintained excellent rapport with sport and commercial interests. We thus believe that continued strong involvement by California in research and management will be conducive to good resource management both for the benefit of the State as well as the nation.

We have our own unique resource management problems and believe we can best solve them by strong participation in fisheries management under extended jurisdiction. We recognize that where foreign fishing is involved the federal government should be the lead agency in development of management plans and in fisheries negotiations but with strong input from the states. On the other hand, for resources which are not the target of foreign fishermen the state should be the responsible management agency. Therefore, the role of the federal government should be one of contributing information and, where appropriate, assisting in the development of resource management plans with one or more cooperating states, depending on the harvestable range of the resource.

With these guidelines in mind I would like to direct your attention to the Emergency Marine Fisheries Protection Act of 1975 (S. 961) introduced by Senator Magnuson. As written I do not believe the Act gives adequate consideration to those states which have a historical and legitimate interest in resource management.

To clarify the role of state government under conditions of extended jurisdiction and make the Act consistent with the guidelines just discussed, I suggest the Act be revised in accordance with the attached suggestions and comments.

Sincerely,

E. C. FULLERTON,
Director.

Attachment.

PROPOSED REVISIONS TO FEDERAL BILL S. 961

PURPOSES

(Page 3) SEC.2.(b)(4), line 11, to commit the Federal Government to act to prevent further depletion, to restore depleted stocks, and to protect and conserve fish to the full extent of such emergency responsibility and authority, and to provide for the identification, development, and implementation within 1 year of the date of enactment of this Act of the best practicable management system consistent with the interests of the Nation, the several States, and of other nations. *In the development of the best practicable management systems for stocks of fish, prime consideration will be given to the social and economic needs of the coastal states along which the stocks abound.*

Through this suggested amendment we hope to insure that consideration is given to the unique problems of coastal states that have historically managed and utilized their resources.

FISHERIES MANAGEMENT RESPONSIBILITY

(Page 9) SEC. 4.(a)(4) *The states may continue to manage those living resources in the waters of the contiguous fishery zone and beyond that are not a prime target of foreign fishing and managed under international agreement. Management plans for resources subject to foreign fishing and international agreement will be developed through State/Federal Cooperative Programs.*

By this suggested amendment we would like to insure the opportunity for continued state management of offshore resources until international agreement is obtained. States may also wish to participate in the research and management of their offshore resources and the development of management plans leading to international agreement.

MARINE FISHERIES MANAGEMENT AND CONSERVATION PLANNING

Fisheries management council

We would recommend that the states on the west coast develop councils based on the Regions of the National Marine Fisheries Service. If this is not possible then it is imperative that the Council be changed or eliminated altogether. One possible modification is as follows:

(Page 13) SEC.6(b), line 2, delete "11" and insert "15".
(Page 13) SEC.6(b)(3), line 10, delete "seven" and insert "eleven".
(Page 13) SEC.6(b)(3)(A), line 13, delete "three" and insert "six".
(Page 13) SEC.6(b)(3)(A), line 15, delete "one"and insert "two".
(Page 13) SEC.6(b)(3)(B) four *five* to be selected from a list of qualified individuals recommended by the National Governors Conference, at least one *two* of whom shall be-a-representatives of-a-coastal States.

The suggested change in makeup of the Fisheries Management Council increases representation of the coastal states, and improves the opportunity for individual state views to be heard and considered.

International fishery agreements

(Page 20) SEC.7(e) *STATE PARTICIPATION.—It is the intent of Congress that states may participate in negotiations conducted by the Department of State concerning fishery resources adjacent to their coasts and in particular those resources historically used by their citizens.*

This enables states, if they so choose, to participate in negotiations concerning their coastal resources.

DEPARTMENT OF FISH AND WILDLIFE,
Portland, Oreg., July 21, 1975.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce, U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR MAGNUSON: I received a copy of the staff working paper of July 11 on a bill to extend marine fishery jurisdiction off the United States coast. You asked for my comments on the draft. I would first like to acknowledge the opportunity to participate in your Fishery Management Workshop in Washington, D.C. on June 26. It was very helpful to me to listen to the comments of industry and other states on the fishery issues that have concerned coastal states for so long. I was surprised and pleased at the general agreement between participants on major issues. It was clear that considerable effort on the part of your staff had been spent in discussing these matters with industry and the states in order to reach some accord before the meeting started.

I find that the draft working paper of July 11 is in a form reasonably acceptable to me. I believe it contains language that would permit a realistic institutional arrangement for regional fishery management of offshore stocks. I support the concept of regional management councils. While there are several alternatives for establishing councils and their membership, I believe the one contained in this draft paper retains an acceptable amount of authority for the states and keeps the number of council members at a minimum. I am aware that there will be changes in the bill and ask that I be kept informed as your bill proceeds.

I have the following comments on specific items in the draft.

On Page 7, two options are provided for defining optimum yield. I do not understand the intent of wording under Option A. It appears complicated and an attempt to return to the maximum sustained yield concept as a definition of optimum yield. I prefer Option B and would suggest an addition. On Page 8, Line 8, a comma should be placed after the word "return." I believe that an evaluation of the relevant economic, biological, and social factors should relate to economic return and not the capabilities of the stock.

On Pages 18 and 19, the composition of the regional management councils is identified. In Paragraph (6) on Page 19, a member from Washington and Oregon is designated to participate on the Alaska Fishery Management Council. Since may fishermen from Washington and Oregon fish in Alaska and since some of the anadromous fish stocks produced in Washington and Oregon are harvested in Alaska, I would suggest that a representative from Alaska be included on the Pacific Fishery Management Council discussed in Paragraph (4).

On Page 21, there is a list of duties and authorities of regional councils. Paragraph (2) states that Councils shall not have authority to develop a fishery management plan or to recommend regulations with respect to fisheries which are principally located in waters within the boundaries of a single state. I become confused with the definition of "fishery" in this regard and to the restrictions this definition places on the councils in the management plans. In the case of Alaska, for example, a troll salmon fishery off Southeast Alaska could be harvesting salmon from the Columbia River. The *fishery* is confined to the state of Alaska, but the *stocks* of fish originated elsewhere. I believe that such stocks should be subject to management plans recommended by councils and I believe that was the intent of the paragraph. I suggest rewording Lines 15 and 16 as follows: "respect to [fisheries which are principally located] *stocks of fish with which are produced and harvested essentially* in waters within the boundaries of a single State."

In Line 17, I would add some words for the same reason as above. After the word "fishery," add "or a stock of fish." This would accomplish the same purpose for this paragraph and provide for joint management of a common resource.

I appreciate the opportunity to review this draft working paper and I am distributing it among my staff for any additional comments they may have.

Sincerely,

THOMAS E. KRUSE,
Assistant Director Fish Division.

DEPARTMENT OF STATE,
Washington, D.C., July 25, 1975.

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

DEAR MR. CHAIRMAN: I enclose for the information of the Committee a copy of a Department Press Release which indicates action we have taken with respect to the International Commission for the Northwest Atlantic Fisheries. This action was taken at this time in order to meet the ICNAF 60-day deadline for putting items on the Agenda before the September Special Meeting.

Sincerely,

ROBERT J. MCCLOSKEY,
Assistant Secretary for Congressional Relations.

Enclosure.

U.S. REJECTS FISHERIES REGULATIONS

The United States today rejected a proposal from the International Commission for the Northwest Atlantic Fisheries (ICNAF) which would regulate the overall fishing off the U.S. coast from Maine to North Carolina in 1976.

Under the proposal, the total catch would be reduced to 650,000 metric tons in 1976 from the allowable catch of 850,000 metric tons in 1975, but squid would be excluded from the quota—which was not the case in previous years. Quotas on squid will allow a catch of 74,000 tons of that species in 1976, up from 71,000 tons in 1974. The United States and Canada voted against the proposal at the ICNAF Annual Meeting, which was held in Edinburgh, Scotland, from June 10 to 20, 1975.

At the catch level of 650,000 tons plus the squid, scientists estimate that a full decade would be required for stock recovery. In addition, there is an associated probability of approximately 30 percent that recovery will not begin in 1976 at this catch level, and hence a longer period of recovery may be required.

The United States had proposed a quota of 550,000 tons, including squid, which would have meant a five year recovery period with a 90 percent probability of recovery starting in 1976. That proposal, along with others ranging up to 800,000 tons (13 year recovery, 59 percent chance of success), was rejected by the Commission before the 650,000 level was agreed upon unanimously. A later proposal to exclude squid from the total was carried by a majority vote over U.S. objections.

In announcing the official objection, which will exclude the U.S. from applicability of the proposal if it becomes effective for others, Ambassador Thomas A. Clingan, Jr., Deputy Assistant Secretary for Oceans and Fisheries Affairs, called the situation "intolerable."

"The United States has been watching massive over-fishing off its coasts for some years now," the Ambassador said. "This kind of situation cannot be allowed to continue. Nor can we any longer afford the luxury of a leisurely approach to fisheries problems. The resources have been too badly depleted, and the American fishermen have suffered too much, to avoid the hard decisions which are required now by all fishing nations."

The chief U.S. representative to ICNAF, David H. Wallace, Associate Administrator of the National Oceanic and Atmospheric Administration, Department of Commerce, said that the ICNAF decision to increase the U.S. quota from 211,600 tons in 1975 to 230,000 tons in 1976 had not persuaded the United States Delegation to vote for the proposal, or the United States Government to accept it after it was adopted by majority vote.

"We attach as much importance to the conservation and protection of the valuable natural resources as we do to the protection of the American fishermen," Wallace declared. "Starting to give the fishermen a real opportunity to produce an adequate supply of fish for the American market, as they were once able to do, is not enough. We must also restore the productivity of the stocks. Virtually every species off our Atlantic coast has been over-fished, some very severely. The only way to correct the situation is by a drastic cut-back in catch and fishing effort, and this is what the United States is insisting upon."

The question of the overall allowable catch and the exclusion of squid from it will be taken up again at a special meeting of ICNAF in Montreal. A decision had already been made to schedule the meeting to discuss various matters, mostly related to the Canadian coast, which had not been resolved at the Annual Meeting. The United States has put the quota and squid issue on the agenda for the special meeting, which will be held September 22–27.

Each individual species or stock is the subject of a separate quota and national allocation. These were adopted by ICNAF in June and do not appear to be in question. The overall quota is less than the sum of the individual quotas, and is designed to focus fishing effort as precisely as possible on target species.

One reason the stocks are so depleted off the U.S. coast is that there is an unusually high species mix, with the result that many fish are taken by a by-catch, or incidental to the target species. Such fish are often simply discarded at sea, or made into fish meal.

The basis for this "two-tier" quota system was laid at a special ICNAF meeting in Ottawa in October 1973 after the 1973 Annual Meeting had ended in complete failuure. At that time the United States was seriously considering withdrawing from the Commission, but acceded to the pleas of other members to enter into the special negotiations. They produced an agreement that the catch would be reduced to 923,900 tons in 1974 and 850,000 tons in 1975 from the over 1,100,000 ton sit had reached in 1972 and 1973.

The agreement also specified that the catch would be further reduced in 1976 to the "amount which will allow the biomass to recover to a level which will produce the maximum sustainable yield." However, the agreement did not specify how long the recovery period was to be. That led to the present difficulty.

Three other U.S. proposals will be taken up at the Montreal meeting:

1) To close a large area on Georges Bank, off New England, to fishing with bottom gear all year around in order to protect the seriously depleted groundfish stocks in the area, such as haddock.

2) To license fishing vessels from all ICNAF members in the Northwest Atlantic. At the present time some members do not know where their vessels are or what they are fishing for.

3) To simplify and clarify the allowable exemptions in the ICNAF trawl regulations. This allows for a by-catch which is too high.

The second and third proposals were added to the agenda of the Montreal meeting at the request of the United States. These subjects had been discussed at the June and earlier meetings, but agreement was not reached on them in ICNAF. The Georges Bank closure proposal had already been referred to the special meeting. Progress had been made on it in Edinburgh, but time did not permit conclusion of the discussions on some major details.

Members of ICNAF are Bulgaria, Canada, Denmark, Federal Republic of Germany, France, German Democratic Republic, Iceland, Italy, Japan, Norway, Poland, Portugal, Romania, Spain, USSR, United Kingdom and the United States. In addition, Cuba has indicated it might join ICNAF after discussions at the Montreal meeting. Vessels from most of these countries fish off the U.S. coast, but a few nations normally fish only in the ICNAF areas off Canada or Greenland.

NATIONAL COALITION FOR MARINE CONSERVATION, INC.,
Boston, Mass., July 28, 1975.

Senator WARREN G. MAGNUSON,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: Thank you very much for your letter of July 15 and the opportunity to comment upon the Staff Working Paper dated July 11, 1975 entitled the "National Marine Fisheries Protection and Management Act of 1975."

First of all, I would like to commend Bud Walsh and the other people who worked on this draft. Having drafted such a bill myself, I can appreciate both the scope of the job and the quality of the product. This is a fine piece of work.

The bulk of my comments relate to the fact that the Staff Working Paper adequately reflects the significance of the recreational marine fishing industry or the right of anglers to participate in the making of regulations which will govern recreational as well as commercial fishing.

Part of the problem arises from the fact that the National Marine Fisheries Service has never determined the composition of its constituency. Until recently NMFS has relied upon outdated and innaccurate estimates of the U.S. Bureau of Census as to both the number of marine anglers and the revenues generated by the recreational fishing industry. In the preface to the latest draft of the National Plan for Marine Fisheries, for example, NMFS quotes 1970 Census figures to the

effect that there were 9.5 million marine anglers in America. By contrast, a January 1975 NMFS survey indicated more than 10 million marine anglers in the Northeastern United States alone. NMFS is now committed to an accurate survey which when completed is certain to show that more than 20 million Americans are recreational marine fishermen and that the economic significance of the recreational marine fishing industry is at least as great as that of the commercial fishing industry.

The Staff Working Paper creates an institutional framework consisting of Regional Marine Fisheries Councils and a Fishery Management Review Board. The Councils are composed of a state official and a "member of the public at large" from each coastal state within the region. While state fisheries management agencies vary from one state to another, in many states they are divided into a Bureau of Commercial Fisheries and Wildlife Department which deals with recreational fishing on the other. An official from the commercial side to represent the state or the Regional Council will be the logical choice of most governors. Inasmuch as commercial fishermen tend to be better organized and more vocal than the recreational fishermen it is very likely that most of the public representatives will be commercial fishermen. In other words, without further qualification the provisions of the Staff Working Paper create a likelihood that the Regional Councils will be dominated by commercial interests to the exclusion of recreational and conservation interests. The Review Board membership provisions create the same possibility with the result that if the recreational fisherman is subjected to an inequitable allocation by the Regional Council he is unlikely to fare much better on appeal.

We do not suggest that the recreational angler should dominate the policy-making or regulation-making aspects of fisheries management. We do believe that the recreational fisherman is entitled to equitable representation in the regulatory process. To this end I have attached hereto a number of suggested revisions.

Again, sir, I thank you on behalf of the membership of the National Coalition for Marine Conservation for this opportunity to make known the interest of marine anglers in marine fisheries management.

Sincerely yours,

CHRISTOPHER M. WELD.

ASSOCIATION OF PACIFIC FISHERIES,
Seattle, Wash., August 5, 1975.

Hon. WARREN G. MAGNUSON,
Russell Senate Office Building,
Washington, D.C.

DEAR WARREN: I have received the Staff Working Paper for a "National Marine Fisheries and Management Act of 1975" and the following are my comments on a section by section basis.

Sec. 2.(a)(5).—The need for a national program for management and conservation of fishery resources is an absolute requirement in order to achieve a rational conservation and utilization of these resources.

Sec. 3.(1).—I may be missing the point but I do not understand why the anadromous definition is qualified by the statement "and which migrate to ocean waters beyond the contiguous fishery zone." The definition would be more clear if it was concluded by "and which migrate to ocean waters." This language would be more compatible with the statement in Sec. 101.(b), page 9, lines 20–22.

Sec. 3.(2).—As a matter of clarification, I understand that the clause on page 5, lines 1 and 2, "after the date of enactment of this Act," is intended to give grandfather rights to foreign holdings existing prior to the effective date of enactment of this Act.

Sec. 3.(17).—Optimum Yield. This definition would be more quantifiable as follows: "Optimum sustainable yield is a definite measure away from the maximum sustainable yield and any departure from it shall be accompanied by the goals to be achieved by moving from the maximum sustainable yield."

Sec. 102. Foreign Fishing.—(b)(2) I have some trouble with the word "habitually" as a consideration in determining the allowable level of catch by foreign fishermen. To me the word does not give the U.S. as definitive criteria for decision making as does "historical" or "traditional" either of which this country could define in terms of time.

(d)(2) This paragraph provides that reasonable fees shall be paid by foreign countries and further provides for a differentiation for fees between foreign and domestic fishermen but does not provide for fees to be paid by domestic fishermen.

Sec. 103. International Fishery Agreement—(b) Review.—This section seems to limit the negotiating position of the Secretary of State in terms of (a) of this section. For example, (a) provides for negotiation for salmon fishing rights of U.S. fishermen on foreign stocks, i.e. the U.S. Fraser River fishery. The review procedure provides that "* * * the Secretary of State shall initiate negotiations to amend or terminate such agreements * * * 1976." This would seem to require that the treaty on the Fraser River sockeye and pink salmon, for example, be renegotiated or terminated because it does not meet the terms of this Act for anadromous fisheries. Possibly (d) clears up this matter but I am concerned.

Sec. 201. Authority to Promulgate Regulations—(b) Type of Regulations.—The tone of parts (1), (2), and (4) place considerable emphasis on the cultural and social framework of the fishery in terms of "specified vessels or gear," "historical fishing practices," "dependence on the fishery," etc. These considerations could be taken into account in the development of regulations but the "shall" language is too demanding.

(b) (5) The requirement for a license or permit should have some additional language to establish that the intent is a reasonable charge for such documentation.

(b) (6) The requirement for catch statistics from processors is not appropriate. The fishermen catch the fish and should report their catches.

(c) I agree with and support the need for National fishery management standards.

(5) If this provision on promotion of efficiency in harvesting techniques is fully and realistically implemented, it will be a good step forward for the U.S. fisheries. The many present instiutional constraints on fishing have seriously hampered the growth of the U.S. industry. This statement, however, is hardly compatible with Sec. 201.(b) (1), (2), and (4).

Sec. 202. Regional Councils.—(a) Creation of Councils.—(6) On Alaska Fishery Management Council.—In reviewing the makeup of the other six councils, which have balanced representation, the Alaska Council seems to be biased as to its membership. I recognize that Alaska should be treated as a separate area for management but in that state, approximately 75 percent of the processing plant ownership is based outside of Alaska, 45 percent of the processing plant workers come from outside Alaska, and 25 percent of the fishermen come from outside Alaska. In my view Alaska should be represented by two appointed by the Governor of Alaska rather than the three called for in the Staff Working Paper. The proposed formula calls for eight Alaska representatives out of 16 on the Alaska Council while my proposal calls for a total of six Alaskans.

(c) (*1*) *Duties and Authorities.*—Again I fully concur with the need for national standard recognition as referenced in (C) and (D).

(*e*) *Scientific Advisory Board, and* (*f*) *Advisory Committees.*—It is my view that rather than setting up two committees or boards to advise the Council, it would be much more productive and would expedite decision making if there were *one* advisory group to each Council which would include representation from appropriate scientific groups, user groups, and the public.

Sec. 203. (*a*) *General.*—This section again refers to setting of fees without making it clear whether such fees apply to either foreign fishermen or U.S. fishermen or both.

(b) (2) Provides that the Secretary shall adopt regulations by the Councils in certain conditions and publish them. This paragraph further provides for certain procedures to be followed by the Secretary if he feels the Council proposals are not appropriate to the Act. In this regard, it would be more productive if, in either case, the Secretary were to publish the proposed regulations in the Federal Register with the usual pattern for comment by any interested citizens, including the various Councils. (d) of this Section provides for such publication but does not provide for comment and final adoption.

(*e*) *Emergency Action.*—There should be a provision in this paragraph for an effective time that emergency action will be applicable without some form of public review.

Sec. 204. Fishery Management Review Board.—(b) Membership.—I would be more at ease with this Board if it were slightly larger and included specifically, on ad hoc basis if necessary, representatives from the user groups from the Council area from which the complaint against regulations originated.

Sec. 205. Relationship to State Laws.—This is a very important section of the proposed Act and definitely should be retained.

Sec. 206. Prohibited Acts and Penalties. (a) Prohibited Acts—(4) and (5).—As I have testified before the Commerce Committee on several occasions on 200 mile legislation, I have a very serious problem with regard to U.S. enforcement of the anadromous provisions of this proposed Act. Repeatedly in my testimony I have asked for some assurance that such enforcement will be implemented by the Nation. For example, I question that the U.S. would board and search a foreign vessel, fishing 20 miles off the north end of Vancouver Island, for catches of salmon. I also question that the U.S. would board and search a foreign fishing vessel 250 nautical miles south of Kodiak Island to determine whether or not it was fishing for salmon. Such action seems to me to trigger a "Mayaguez incident" in reverse. I can also foresee to very complicated problems with foreign draggers working on surplus stocks in the zone taking some salmon as a bi-catch in their operations. Our own drag fleets make such catches in their operations.

(b) Criminal Penalties.—I do not feel that such across the board penalties are appropriate in this proposed Act. In the first place the language does not place the liability clearly on the individual with the ultimate responsibility for the violation by a foreign national. I am sure, however, that such liability would be levied against such an individual in the case of a U.S. violation. I feel the criminal sanctions under this proposal should be dropped or qualified in more realistic language.

(c) (2) Civil Forfeiture.—The very broad forfeiture powers under this paragraph are counter to the interests of U.S. citizens. A U.S. citizen found in violation could lose everything he has title to—including the family dog. Foreign nationals and particularly socialistic and communistic countries would not have such forfeiture sanctions. I have always been completely opposed to "bounty-hunter" provisions in contemporary legislation. Such actions may have had some questionable values at the time the 1899 Rivers and Harbors Act was promulgated, but these times are long gone in our society, or all of our local, state, and national legislation should be re-written to include such provisions.

Sec. 207. Enforcement—See comments on Sec. 206.—I have one general comment on the several insertions of the word "depleted" in this staff paper. The term is not sufficiently concise and could lead to management regimes which would be emotional rather than realistic or appropriate.

I very much appreciated receiving the Staff Working Paper on extended fishery jurisdiction and your thoughtful request for my comments. The above comments are substantially my own, taking into account the interests of the salmon industry of Oregon, Washington, and Alaska. As you know, I have been associated with this industry since 1933 and am personally and professionally deeply concerned about its survival and redevelopment to its earlier status when it was a very substantive contributor to the economy of the Northwest.

With best personal regards.

Sincerely,

W. V. YONKER,
Executive Vice President

Houston, Tex., August 11, 1975

Hon. Senator WARREN MAGNUSON,
Chairman of the Commerce Committee, Old Senate Office Building, Washington, D.C.

DEAR SENATOR MAGNUSON: I recently wrote Elwood Harry and R. H. Stroud about the reduction of sport fish production of Sailfish and Blue Marlin off Port Aransas, Texas, since the arrival of the long line boats. A copy of the letters is enclosed.

I cannot urge you enough to please try and get the 200 mile limit in force as soon as possible. Enclosed are also copies of the letters I received from the Sport Fishing Institute and International Game Fish Association.

Yours very truly,

W. SCOTT FROST.

Enclosure.

JULY 23, 1975.

Mr. ELWOOD K. HARRY,
Executive Vice President,
International Game Fish Association, Fort Lauderdale, Fla.

DEAR SIR: During the past several years I have noticed an activity going on in the Gulf which I feel seriously affects sport fishing. Of course, I am speaking of the "long line" industry. As recently as six years ago I was averaging 20 to

30 sailfish per year. Since one spring in April and May when the "long liners" appeared off Port Aransas my yearly catch has dwindled to a low of three fish last year.

I strongly urge you to do everything in your power to get the 200 mile limit in force as soon as it practical. This would at least give an area where the fish could propagate without being disturbed. Some five years ago I discontinued my cooperation of tagging all of the fish that are not to be mounted. I continue to release all of the fish that will not be mounted, but I do not care to give the information to foreigners to come in slaughtering and ruining our sport.

Yours very truly,

W. SCOTT FROST.

INTERNATIONAL GAME FISH ASSOCIATION,
Fort Lauderdale, Fla., August 7, 1975.

Mr. W. SCOTT FROST,
Houston, Tex.

DEAR MR. FROST: I have read your letter of July 23 with much interest as I have recently been studying this serious problem in great detail. I am enclosing a copy of our current Marine Angler publication, and I call your attention to our article in the centerfold on the Japanese longline fishery. In this article we make mention of their catch efforts and statistics in your waters.

IGFA has been diligently working toward extended fisheries jurisdiction for the past two years, and now it appears that there is a very good chance the U.S. Congress will present the President with legislation on this subject before the end of this year. Presently, there are well over twenty bills on this subject before Congress, and there are some people in Washington who predict that we might have legislation on this matter as early as September of this year. It can not come too soon. You might be interested to know that various of the federal agencies are frantically trying to complete a management program to cope with the responsibilities and problems that this legislation will thrust upon them. IGFA will strongly pursue these goals and will participate in the policies that will be necessary for the implementation of these regulations.

It is our firm commitment to constantly upgrade the status of recreational angling and all fishery management programs. The voice of the recreational angler is now being heard in our national capital, and any efforts on your part will certainly help to swell the amount of tension this subject deserves.

Yours sincerely,

ELWOOD K. HARRY,

Executive Vice President.

SPORT FISHING INSTITUTE,
Washington, D.C. August 8, 1975.

Mr. W. SCOTT FROST,
Houston, Tex.,

DEAR MR. FROST: Thank you for your thoughtful letter of July 23, in which you report your experience concerning a decline in the abundance of billfish off the Port Aransas area on the Gulf Coast, which you relate to an increase in the number of Japanese long liners operating in the Gulf. You also indicated that you are in support of the proposed 200-mile limit.

As you may or may not be aware, the Sport Fishing Institute talked with representatives of the Japanese overseas commercial fishing organizations at an International meeting in Rio de Janeiro in 1966, seeking some relaxation from the pressures of the Japanese long liners catching billfish in the near vicinity of important sport fishing centers utilized by Americans. The Japanese at that time were suffering considerable losses of gear, and there were some shooting incidents that could have had very serious results. We proposed that the Japanese desist from inshore long lining efforts and that they adopt a policy that would end their deliberate fishing for billfish while requiring the legitimacy of incidental catches of billfish in the course of long line fishing efforts directed at tuna stocks. In return we proposed to discourage the destruction of Japanese long line gear and associated shooting. They adopted the proposal and since then have carried it out rather well.

Several years ago they entered the Gulf of Mexico in some numbers and came into contact with sport fishermen such as yourself and your customers. At that time we acquainted the Japanese with the problem and proposed that they withdraw still further offshore in their long lining operations. They did so.

All this was contingent on a ten-year time period for the U.S. and the Japanese to carry out scientific research on the biological and migrational patterns of various species of billfish looking to an international conference that would seek to develop a mutually acceptable conservation program. In the meantime, there has been established the International Commission for the Conservation of Atlantic Tunas. I attended the last meeting of ICATT and discussed these matters again with representatives of the Japanese commercial fishing industry. I was authorized by officials of the National Marine Fisheries Service to suggest that the U.S. would be willing to meet with Japanese in a conference after 1977 to work out a billfish conservation program. The Japanese representatives, including a member of the Japanese governmental fisheries agency, indicated that they would also welcome such a conference at that time and would be prepared to participate. I then transmitted this information to the director of the National Marine Fisheries Service and urged him to make the necessary negotiations to bring it about.

The matter is now in the hands of the National Marine Fisheries Service inasmuch as it must be a government-to-government undertaking.

I am delighted that you support the proposed 200-mile limit. It would be helpful if you would write to Senator Warren Magnuson, Chairman of the Commerce Committee and to Congressman Robert Leggett, Chairman of the Subcommittee on Fisheries and Wildlife Conservation and the Environment here in Washington and convey those same views to them. They are both working with the legislation in the Congress and should know of your support.

Best wishes.

Sincerely yours,

RICHARD H. STROUD,
Executive Vice President.

TEXAS PARKS AND WILDLIFE DEPARTMENT,
Austin, Tex., August 12, 1975.

MR. JOHN A. MEHOS,
Liberty Fish and Oyster Co.,
Galveston, Tex.

DEAR JOHN: I have read with interest the draft bill furnished you by Senator Magnuson's office. My comments and observations are my own and certainly do not reflect Department policy.

This bill does provide for a management program for the offshore zone which I feel is necessary. H.R. 200 is inadequate as is S. 961 which provides for an ad hoc committee to develop a plan. This draft bill is on the right track; however, there are several problem areas.

1. All fish and shellfish are going to fall in one or the other of several categories: "anadromous species" as defined in Sec. 3(1) on page 4; "coastal species" as defined in Sec. 3(3) on page 5; "continental shelf fishery resources" as dened in Sec. 3(6) on page 5; or the "highly migratory species" as defined in Sec. 3(15) on page 7.

"Highly migratory species" is defined as "those species of fish which spawn and migrate during their life cycle in waters of the open ocean, including but not limited to tuna." This is the same definition used in S. 961, but I feel it is too broad. The objective is to exclude tuna from management in Sec. 101(a)(3) on page 9; however, other species may inadvertently be excluded with tuna. Because the term "open ocean" used in the "highly migratory" definition is not itself defined, other species such as menhaden, Spanish and king mackerels, and perhaps even snapper might be excluded from fishery management authority.

I would suggest that instead of using "highly migratory" they use "tunas" and list the specific genera desired for exclusion. This should be followed also in Sec. 101(a)(3) on page 9.

2. Two options are presented for the definition of "optimum yield" in Sec. 3(17) on page 7. Option A places emphasis on national benefit. while Option B stresses economic return.

If you have read Special Publication No. 9 of the American Fisheries Society on the subject of optimum yield, you will probably agree that it is a nebulous term. (Bob Mauermann has an excellent presentation in the report.) Of the two options provided in the draft bill, I prefer the concept of national benefit, but the wording almost defies comprehension.

3. One member of each three-man state delegation on the Regional Fishery Management Council is to be a state official to be appointed by the Governor of such state (according to Sec. 202(b)(A) on page 19, line 17). This could result in chaos if a governor were to appoint an official from other than the fisheries management agency. To provide coordination between state and federal regulations, the member should be ex officio as the administrative head of the state agency regulating marine fisheries.

There may well be other important sections of the bill which need revision or further consideration, but the first and third listed above are those which I presently feel need attention. Many thanks for the opportunity to comment.

Sincerely yours,

TERRANCE R. LEARY,
Director, Shellfish Program.

THE TEXAS SHRIMP ASSOCIATION,
Brownsville, Tex., August 12, 1975.

Hon. WARREN G. MAGNUSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MAGNUSON: Thank you very much for your letter of July 31, 1975 and the opportunity to comment on the Staff Working Paper dated July 11, 1975 and entitled the "National Marine Fisheries Protection and Management Act of 1975."

The Texas Shrimp Association and most of the Gulf shrimp industry has previously opposed unilateral extension of our fishery zone because earlier bills on this subject provided no protection for our fishermen who have historically fished within 200 miles of the Mexican coast in the Gulf of Mexico. We are convinced that if the U.S. extends its fisheries jurisdiction to 200 miles Mexico will immediately take similar action and deny our fishermen the right to continue their fishing operations off the Mexican Gulf coast within their 200 miles zone.

The Staff Working Paper is by far the best legislative draft I have seen on the 200 mile issue, and with the few changes outlined below will receive the full support of the shrimp fishing industry in the Gulf of Mexico.

Reference is made to page 14, lines 15 and 16. It is our strong recommendation the language read as indicated: "the territorial sea is measured, unless such nation [recognizes the habitual] *permits the continuation* of the fishing activities of citizens of the United States,"

Reference is made to page 19, line 17. It is our feeling that the present language in the draft is too broad. We recommend the following:

"(A) [a State official from each coastal State,] *the Director of the State Agency responsible for the conservation and management of Marine Fisheries from each coastal State or his delegate,* in the number designated in _____"

Line 22 (B) [a representative] *two representatives* of each coastal state within each respective region to be appointed by the [Governor, or High Commissioner of each such State from the public at large,] *Secretary of Commerce. One such representative to be knowledgeable in matters relating to recreational marine fisheries and one representative to be selected from the States most important commercial fishery.*"

For the past 40 years the Conservation Agency in Texas has been composed of political appointees by various governors. Not one representative from the commercial fishing industry has ever been appointed to this commission and yet this agency regulates all commercial fishing in Texas. I would not like to see the important Regional Fishery Management Councils follow this pattern. However, if language can be developed that will assure that State governors will appoint qualified people who truly represent both recreational and commercial fishermen you will probably receive less objection from provincial politicians.

House Bill 200 contains the attached amendment: "Title III—International Fisheries Agreement."

We strongly recommend that similar language be included in your bill.

Thank you again for the opportunity to comment on this important proposed legislation.

Sincerely yours,

ROBERT G. MAUERMANN,
Executive Director.

Enclosure.

TITLE III—INTERNATIONAL FISHERIES AGREEMENTS

SEC. 301. NEGOTIATIONS TO PRESERVE CERTAIN TRADITIONAL UNITED STATES FISHING RIGHTS

(a) COMMENCEMENT OF NEGOTIATIONS.—Within 90 days after the date of enactment of this Act, the Secretary of State shall commence negotiations with each foreign nation, off of whose coast United States vessels have fished for specific stocks of fish, for the purpose of entering into an international fishery agreement under which such foreign nation will grant to United States vessels adequate and equitable access to such fish stocks within 200 nautical miles off the coast of such nation.

(b) ACTION IF FOREIGN NATION REFUSES TO NEGOTIATE OR VIOLATES TREATY.—If the Secretary of State determines that—

(1) any foreign nation is refusing to commence negotiations with the United States in order to achieve the purpose of subsection (a) ; or

(2) although an international fishery agreement which achieves the purpose of subsection (a) is in force and effect, the foreign nation is not complying with its obligations under the treaty,

he shall certify that determination to the Secretary of the Treasury. Upon receipt of any such certification, the Secretary of the Treasury shall immediately take such action as may be necessary and appropriate to prohibit the importation into the customs territory of the United States any seafood product of that foreign nation.

(c) DURATION OF IMPORT PROHIBITION.—Any import prohibition which is imposed pursuant to subsection (b) shall remain in effect—

(1) if the prohibition was imposed by reason of subsection (b) (1), until such time as the Secretary of State certifies to the Secretary of the Treasury that an international fisheries agreement which achieves the purposes of section (a) as entered into force and effect between the United States and that foreign nation ; or

(2) if the prohibition was imposed by reason of subsection (b) (2), until such time as the Secretary of State certifies to the Secretary of the Treasury that the foreign nation is complying with its obligations under the international fishery agreement.

(d) DEFINITION.—For purposes of this section, the term "seafood product" means any fish which is the product of a foreign nation, and any article which is the product of such nation and which is composed in whole or part of any fish which is the product of such nation [; but excludes any such seafood product if harvested by United States vessels, irrespective of period of harvesting or point of offloading].

SEINERS ASSOCIATION,
Seattle, Wash., August 13, 1975.

Senator WARREN G. MAGNUSON,
Old Senate Office Building,
Washington, D.C.

DEAR WARREN : This is in reply to your letter dated July 15, 1975 in which you enclosed a Senate staff working paper pertaining to the 200-mile limit question.

In order to avoid "nit-picking," I would first like to say that the way the draft is worded at this point basically sound quite acceptable. However, I would like to make a few comments.

On page 7, line 21, you define "optimum yield" and you have inserted options A or B. We would like to stress in no way do we accept option A, but do accept option B. However, instead of "optimum yield", we feel it should be "maximum sustainable yield."

On page 18 where you discuss Regional Fishery Management Councils, I would like to see the state of Alaska included in the management Council with the states of Oregon, Washington and California. Our rationale for this is that fish stocks migrate through that entire region and also fishermen fish in many instances in the entire region.

Other than those two major points, at this time we do not have any further suggestions and we do appreciate the opportunity to comment on this draft prior to its final stage.

Again Warren, my sincere thanks for giving us the opportunity to comment.

Very truly yours,

WILLIAM G. SALETIC,
Executive Manager.

UNIVERSITY OF WASHINGTON,
Seattle, Wash., August 15, 1975.

HON. WARREN G. MAGNUSON,
U.S. Senator,
Washington, D.C.

DEAR SENATOR MAGNUSON: Your staff is now working on a bill to extend, pending international agreement, the fishery management responsibility and authority of the United States over fish in certain ocean areas in order to protect such fish from depletion. Comments have been invited from concerned individuals, and I would like to make some comments on the draft, dated July 11, 1975, which I have before me. My comments are as follows:

On page 5 the definition of conservation, paragraph (B) reads, "There is minimal likelihood of irreversible long-term adverse effects on such resources or on the marine ecosystem as a whole." Of course minimal likelihood occurs if there is no fishing or utilization which leaves the original stock in its largest possible size. It would seem to me preferable to replace the term "minimal" with a more reasonable one, such as "negligible".

On page 6, paragraph (11) there is a very inclusive definition of "fishing". Either here or elsewhere there needs to be some exclusion for activities to carry out research for management or for its own sake, and I believe that the simplest wording would be obtained if the exclusion for research was added after the phrase "for any purpose" in the third line in this paragraph.

On page 7 the draft bill has two alternative versions for the definition of "optimum yield". I would definitely prefer option a. I would also like to see included an additional qualification, perhaps in the parenthesis that includes the second sentence of this paragraph as follows: "If the optimum yield differs from the maximum surplus production, both the difference and the reasons therefore should be quantified insofar as possible." As you well know, the optimum yield question is a very difficult one which has been much debated in recent months, and it seems to me that any proposed management bill should attempt to insist on as rational and scientific approach as possible, or otherwise future management decisions may bog down in controversy over this goal.

On page 3, subparagraph 3, as written I foresee a problem. If no international agreement is reached, then the fishery management of the United States does not cover the actions of U.S. citizens with respect to such highly migratory species. For example, the United States may wish to restrict fishing on highly migratory species even in the absence of an international agreement, and I hope the act expected to result from this proposal will make this possible. I suggest that there be added to paragraph (3) a statement: "In the absence of such international fishery agreements the fishery management authority of the United States shall apply to United States' citizens in respect to highly migratory species of fish."

On page 10, section 102b could be clarified if the term "allowable catch" has previously been defined. If it is included as one of the terms under "Optimum", then this section could read, "Portions of the allowable catch which cannot be harvested by citizens of the United States may be allocated to foreign fishing."

On page 11, subparagraph (d2) I suggest that this read: "The Secretary shall establish reasonable regulations, including fees which shall be paid by the citizens of any foreign nation allowed to fish pursuant to this Act." I further suggest that the third sentence read: Regulations and fees may vary between domestic and foreign fishermen" with no further qualification in this sentence.

My main concern however is with respect to the section on page 16 dealing with the authority to promulgate regulations. Subsection 6 on this page should provide some more inclusive authority in respect to the collection of data. I suggest that paragraph 6 read "require catch and other appropriate statistics from fishermen or processors." The state and federal management agencies have been handicapped by inadequate data to date, and it is essential that exploiters be required to provide enough data to facilitate management of the stocks along the goals established in this proposed legislation.

On page 17 I believe that subparagraph 3 needs to be changed since there is already provision that fees charged to foreign citizens of fishing industry could be different than those charged to the citizens of the United States. It may be simpler to terminate this paragraph at the end of the word "states" on the second line. I also suggest that paragraph 5 on this page be reworded as follows: "Management and conservation measures shall seek to promote efficiently in utilization of the resource." The aim of this is to include not only the harvesting stage but also processing, etc. On page 18, paragraph (8) seems redundant.

The bill proposes the establishment of a series of councils and supervisory committees to these councils. The per diem rate established for members of the council in paragraph 2, page 20, appears to be rather high at the present time but may be too low later if inflation continues at its present rate. I note that a later section of the bill provides that members of the Management Board shall each be compensated at a rate equal to the daily equivalent of GS 18 of the General Schedule under Section 5332 of United States Code for each day members are engaged in the act of performance of duties invested in the Commission. A similar flexible arrangement might be included for the members of the Council, and I believe that it would also be appropriate for members of the Scientific Advisory Board, excluding of course as above federal and possibly state employees. In this way councils can expect to receive the best possible advice from their scientific advisory committees, whereas if they ask for free advice they are either imposing an undue burden on some individuals or their institution or they are getting less than adequate advice . . . It is my hope that the councils would establish scientific advisory committees representing a broad range of expertise from federal and state agencies, from universities, from industry and from conservation groups. It is probably unnecessary to specify this in the proposed legislation, but I wonder whether there should be some review of consultation in the appointments by the councils. In this connection I note that the appointment of the Scientific Advisory Committee to the Marine Mammal Commission is made by the chairman of the Commission, but after consultation with the Council on Environmental Quality, the Smithsonian, NSF and the National Academy of Sciences.

Thank you for considering these comments.

Yours sincerely,

DOUGLAS G. CHAPMAN, *Dean.*

U.S. DEPARTMENT OF COMMERCE,
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION,
NATIONAL MARINE FISHERIES SERVICE,
NORTHWEST FISHERIES CENTER,
Seattle, Wash., August 18, 1975.

Senator WARREN G. MAGNUSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MAGNUSON: Many thanks for your letter of July 11, 1975, concerning the Fishery Management Workshop and the enclosed working draft dealing with extended jurisdiction and domestic fisheries management. I hope you will excuse my tardiness in replying to your letter; however, I am sure you are aware that it is a vital piece of legislation and one which must be carefully evaluated to insure that what is ultimately produced meets the objectives of effective management and utilization of our ocean's living resources.

Before offering my comments, I would like to compliment you and your staff on the quality of the draft. We are of the opinion that it is an excellent first attempt and moves a long way towards meeting the objectives which are outlined in the Declaration of Policy and Purpose of the Bill. Most of my comments are of a drafting character and do not deal in a substantive way with the intent of the Bill. However, you will find one major proposal that relates in a substantive way to the institutional arrangements that are established to achieve the objectives of the Bill. The following specific drafting changes are proposed for your consideration. You will find a proposed change, followed by a short rationale explaining the basis for altering the text.

I would propose that throughout the text you eliminate the term "depletion" and replace it with a term or terms explained in the Definition Section. Depletion means many things to different individuals and hence may obscure the real purpose of the Bill.

Change the introductory paragraph to read: ". . . in order to conserve fish, and to establish a national marine fisheries management program, and for other purposes."

Page 2, line 14: International agreements have not been fully effective in preventing overfishing of valuable species.

Page 3, line 1: Change to ". . . of the U.S. is needed to insure conservation and to realize the best use of the Nation's fishery resources." Note that the definition of conservation effectively incorporates depletion aspects. I suppose the

term may be used in other places in the text, and I suggest you edit it to make sure it's used in a manner that is effectively defined.

Page 4, line 20 (under Definitions) : Would suggest you delete the phrase "beyond the contiguous fishery zone." It is perhaps both unnecessary and technically incorrect. It leaves in doubt the category of anadromous species which does not migrate seaward of 200 miles.

Page 5, paragraph 5, and throughout the text: I note the term "contiguous fishery zone." I have no real hang-ups with the term, but why not use "economic zone" as it is finding wide international usage, particularly in LOS. I don't think this obscures or would imply extending the zone to other uses as the Bill is very explicit as it relates to fisheries.

Page 7, line 10: Eliminate "international"—i.e., "high seas means waters beyond . . ." "International" may be confusing inasmuch as waters within an economic zone seaward of territorial seas would be classified as high seas but not necessarily as international waters.

There may be considerable debate in terms of your options relating to optimum yield. I nevertheless would hold with Option A but change a few words to make it consistent with historical usage. For example, ". . . a yield which provides the greatest benefit to the Nation as determined on the basis of maximum surplus *yield* a stock or stocks can provide as modified by relevant economic, social, and ecological factors. (Maximum surplus *yield* means . . .")

Page 8, lines 8–11 : Eliminate Option B. It is perhaps desirable to add a definition for allowable catch. I suspect you will receive this suggestion from others who are reviewing the Bill.

Page 9, paragraph 3 : The paragraph as written is adequate, but there is concern by a number of people regarding what happens in the absence of any internationally-established authority. The sport fishing community is particularly concerned about the management of our own fishermen—and legitimately so. A number of us feel it would be desirable, then, to add at the end : ". . . except when it pertains to U.S. citizens."

Page 10, line 25, paragraph c : I don't understand the need for this section on "reciprocity." I think it is confusing and may dilute the impact of the intent of the Bill.

Page 11, line 18 : Would suggest the following language : "The Secretary shall establish regulations regarding fishing and reasonable fees which shall be paid by citizens of any foreign nation allowed to fish pursuant to this Act. In determining such regulations and the level of such fees, the Secretary may take into account the cost of research, administration, and enforcement and the need for conservation. Regulations and the level of such fees may vary between domestic and foreign fishermen, or between different categories of fishermen as is reasonable and appropriate."

Page 12, line 11 : Add phrase "or intends to be" after "has been."

Page 12, line 19 : Add phrase "or intends to be" after "United States." This would take care of historical and potential future activities.

Page 14, lines 23–24, under "Duration of Title" : I strongly urge that we encourage implementation of the Bill by the middle of next year ; i.e., "The provisions of this title shall become effective July 1, 1976, or at the adoption of a LOS treaty—whichever occurs first."

Under Title II (Page 15), I believe that the detailed elaboration of types of regulations is unnecessary and only generates opposition to the Bill. I would propose that you consolidate this portion all in one paragraph as follows :

"Such regulations may include appropriate measures for the management and conservation of fish as are necessary to carry out the objectives of this Title and are consistent with nationally-established standards and shall include, *inter alia*, requirements for licenses or permits for catch and other pertinent statistics necessary to formulate management decisions, area of catch, and gear limitations."

Page 17, line 5 : Delete "biological."

Page 17, lines 11–12 : Delete ". . . and citizens of foreign nations." I am sure you do not really mean this. The fact is that the Bill itself establishes certain preferential rights in terms of the right of the coastal state fishermen to harvest and has the objective of minimizing impact on species of interest to us. This, of course, will require differential regulations in terms of domestic and foreign fishermen.

Page 17, line 17: Change to "promote efficiency in resource utilization." This is helpful in terms of considering the entire system of fishing.

I have no real hang-ups with Item 7, line 22, but this and Item 8, line 1, Page 18, seems unnecessary in light of other portions of the Bill.

Page 19: Some clarification is needed in terms of the Alaska Fishery Management Council. Our understanding is that there would be three State officials and three appointed by the Governor, representing the public at large from the State of Alaska, and one State official and one representing the public at large from the States of Washington and Oregon.

Page 20, line 6: Propose $150 rather than $300.

There are several substantive changes I would like to propose in the Bill. The first relates to the section entitled "Fishery Management and Review Board (Page 26). In my view this Board is unnecessary and redundant. It would be more effective to establish the review process at the Council level and insure that it can be carried up to the Secretary. I would like to keep the number of new organizational elements in the Bill to a minimum.

On Page 35, under "Authorization for Appropriations," it is not clear what the $4 million is for. If it is $4 million to take care of the councils, advisory bodies, and other administrative charges, this may be appropriate; but if it is to cover research and other activities, it probably is not. It should be noted that we are in the process of receiving considerable increases for research in the NOAA budget to carry out our research functions. Hence, it should be clarified that the $4 million is independent of other budgetary processes, e.g., Sea Grant, NMFS, etc. Similarly, $13 million may be a little short for the expanded Coast Guard activities.

It might also be important to attempt to get something in the Bill which would elicit support from those interested in scientific research. Something could be added somewhere in the text that would state, "Nothing in this Act shall be interpreted to exclude the conduct of scientific research."

Finally, there are several sections of the House Bill (Confidential Committee Print No. 4) which you may wish to incorporate in the Senate version. For example, under "Policy" their No. 3 seems desirable in terms of authorizing certain activities associated with delevopment of U.S. commercial and recreational fisheries. In addition, you may wish to consider their Section 206 relating to Congressional disapproval of certain international fisheries agreements. I have rather mixed emotions on this, but there appears to be considerable support for such a section within our fishing industry.

I should like to conclude by stating again my approval of the efforts you and your staff have made and to encourage you to pursue this matter in a careful and deliberate manner. It may be one of the most important pieces of legislation of our time to influence the nature of institutions responsible for conservation and management of resources contiguous to our country.

Sincerely,

DAYTON L. ALVERSON,
Center Director.

SPORT FISHING INSTITUTE,
Washington, D.C., August 19, 1975

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

DEAR SENATOR MAGNUSON: I am responding, rather more belatedly than I like, to your kind invitation of July 15 to comment on the draft 200-mile limit bill prepared by the Commerce Committee Staff. The delay has been occasioned by two factors: (1) extensive travel on my part and (2) a need for extensive communication with other elements of the recreational fisheries interests.

After discussion of the provisions of the draft with personnel of the National Coalition for Marine Conservation, Inc., which I serve as a member of their Board of Advisors, the following commentary and recommendations for improvement were formulated by Christopher M. Weld, NCMC Secretary to represent and reflect the concensus reached.

It is unfortunate that no provision is made for the representation of recreational interests on either the Regional Councils or the National Review Board, and no real duty to take recreational interests into account is imposed by the national standards.

Moreover, by excluding "highly migratory fish" from the management authority, the Act will be construed to exclude all of the 16 or so species defined as highly migratory in the U.S. draft LOS treaty. Some of these species such as sailfish and dolphin are not in fact very migratory, in terms of movements to long distances offshore outside the proposed 200-mile contiguous zone, while others such as swordfish may be partly migratory and partly residential. The chief purpose of the provision is to exclude tunas in order to satisfy the California based commercial tuna industry but that industry has little interest in these other species *per se*.

Perhaps the greatest weakness of the Staff Working Paper lies in the fact that there is no mechanism to force action from the Regional Councils. The process is vulnerable to dilatory tactics or non-action. Therefore, amendments are needed to cure this.

The specific amendments proposed following were drafted by Mr. Weld for the NCMC, partly at our suggestion. I support them as an Advisor to the NCMC and concur with them, also, on behalf of this Institute. The proposed amendments are as follows:

1.1 The National Standards section—Sec. 201(c)—should be amended by inserting the following provision:

(6) Management and conservation measures shall take into account the direct and indirect interests of recreational fishermen in each fishery under management and allocations of allowable catches among recreational and commercial fishermen shall be made on an equitable basis.

1.2 The Composition subsection of the Regional Council section—Sec. 202 (b)—should be amended as follows:

(B) two representatives of each coastal State within each respective region to be appointed by the Governor, or High Commissioner, of each such State from the public at large, of which one such representative shall be an individual having knowledge and experience in commercial fishing and the other shall be an individual having knowledge and experience in recreational marine fishing.

1.3 The composition of the Fishery Management Review Board—Sec. 204 (b)(1)—should be amended as follows:

(b) Membership—(1) The Board shall be composed of five members appointed by the President, by and with the advice and consent of the Senate; at least one member shall be an individual having knowledge and experience in recreational fishing and at least one shall be an individual having experience in state marine fisheries administration. At least two members shall be individuals selected by the President from a list of not less than five qualified individuals submitted by the National Governors Conference.

1.4 Section 204(b)(1) should be further amended by the addition of the following sentence thereto:

"Officers or employees of the Federal Government shall not be eligible to appointment to the Board."

2.1 The Jurisdiction section—Sec. 101(a)(3)—should be amended by the deletion of the words "Such species shall be" on line 16 so that the section reads:

(3) Notwithstanding any other provision of law, such fishery management authority of the United States shall not include or be construed to extend to highly migratory species of fish managed pursuant to international fishery agreements established for such purposes.

Or, in the alternative:

2.2 The definition of "highly migratory species" Sec. 3(15)—should be amended as follows:

(15) "highly migratory species" means those species of tuna which spawn and migrate during their life cycle in waters of the open ocean;

3.1 The Regional Marine Fishery Management Councils—Sec. 202(c)—should be amended by the addition of the following subsections:

(f) Action by General Public.—Any coastal State or any interested member of the general public may nominate a fishery as a fishery in need of regulation by submitting a written statement to the Secretary identifying such fishery and describing the reasons why it should be managed. The Secretary shall forward each such nomination to the appropriate Regional Council for action.

(g) Overview.—The Secretary shall from time to time review the actions of the Regional Councils to determine whether the Councils are acting in timely fashion. If the Secretary shall determine that a Regional Council shall

have failed to recommend management regulations for any fishery within a reasonable time or that a Regional Council shall have failed to act upon a nomination made pursuant to section 203(f), he shall prepare management regulations and submit them to the Regional Council. The Regional Council shall have not more than forty-five days to make changes in the regulations which are consistent with the national standards. If the Council does not make the changes in forty-five days, the Secretary shall make the necessary changes and issue the notice of proposed rulemaking.

3.2 The Appeals to the Board section—Sec. 204(c)(2)—should be amended at line 1 page 28 as follows:

(2) Any Council, whose recommended management regulations were determined by the Secretary to be not consistent with the national standards set forth in section 201(c) of this title and which objects to such determination or any Council that objects to the action of the Secretary taken in an emergency situation pursuant to section 203(c) of this title or in the absence of Council's action pursuant to section 203(g) hereof may seek review of the Secretary's action by filing a request for review with the Board not later than sixty days after the publication of the final management regulations involved.

Again, many thanks for the opportunity to provide some input in this early formative period.

Sincerely yours,

RICHARD H. STROUD,
Executive Vice President.

OCEAN FISH PROTECTIVE ASSOCIATION,
South Gate, Calif., August 19, 1975.

Hon. WARREN G. MAGNUSON,
Chairman, Senate Commerce Committee,
U.S. Senate, Washington, D.C.

DEAR SENATOR MAGNUSON: I am advised that the Staff Working Paper dated July 11, 1975 to the Senate Commerce Committee Staff contains absolutely no provisions for the representation of recreational interests on either the Regional Councils or the National Review Board. There are over 1.2 million salt water anglers in the state of California alone who could be precluded from pursuing their recreation without equitable representation on the management bodies. Moreover, this exclusion would be extremely deleterious to boat and tackle manufacturers as well as all the ancillary industries and services that look to recreational fishermen for their primary source of revenue.

Exclusion of the recreational fishing interests will be extremely shortsighted and highly unpopular.

We have two other concerns, namely:

1. Exclusion of "highly migratory fish" from the management authority is a poorly defined approach to the tuna problem. Some of the 16 or so highly migratory fish being included in the LOS draft, such as sailfish and dolphin, are in reality coastal species and hardly migratory. Some species are partly migratory and partly residential. This should be corrected.

2. There does not appear to be an inclusion of a method to require action from the regional councils. This should also be corrected.

Passage of the 200 mile limit and management legislation is imperative for recreational fishing interests. Moreover, it is in the national self-interest to protect and manage this valuable resource.

Sincerely,

HERBERT R. KAMEON,
Executive Vice President.

LOUISIANA SHRIMP ASSOCIATION,
New Orleans, La., August 22, 1975.

Hon. WARREN G. MAGNUSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MAGNUSON: We appreciate the opportunity to comment on the Staff Working Paper "National Marine Fisheries Protection and Management Act of 1975" which accompanied your letter of July 31.

Our major concern with the unilateral extension of U.S. fisheries jurisdiction to 200 miles has been that this will precipitate similar action by Mexico and countries in South America. Such action by foreign countries could result in a "close out" of their shrimp grounds to U.S. fishermen. The added fishing pressure on our domestic grounds as a result of U.S. shrimp trawlers having to remain at home would be disastrous. To protect our interests it is recommended that your bill contain specific provisions to insure the right of U.S. fishermen to continue fishing foreign grounds. It is our feeling that inclusion of a section in your bill similar to Sec. 203, H.R. 200, would accomplish this end.

The total membership in the Regional Marine Fisheries Councils (pages 18–19) is not entirely clear to us. We recommend that lines 17–21, page 19, be deleted and inserted in lieu thereof: "(A) The State official charged with responsibility for the conservation and management of fishery resources of each State represented in the Council."

There are other items regarding the Councils, pages 19–22, about which we have reservations. We feel that there should be representation on the Councils from both commercial and sport fishing interests as well as the "public at large." Preferably such appointments to be made by the Secretary of Commerce rather than the Governor of each State. We do not recommend that the Federal official on the Councils be designated Chairman—the Chairman should be selected by the Council members. We question the need for a designated Scientific Advisory Board; a properly constituted Council would be fully aware of the scientific expertise available to them in their deliberations.

With further reference to the Councils, specific provisions should be made for a minimum number of meetings per year, defining a quorum, and providing for the designation of proxies.

We were most pleased to note that your draft clearly defines "citizens of the United States". It is, in our opinion, vital to the success of the management program to have such a provision in the legislation enacted.

Again, many thanks for allowing us to comment on the Staff Working Paper.

Sincerely yours,

GEORGE W. SNOW,
Executive Director.

STATE OF DELAWARE,
DEPARTMENT OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL,
Dover, Del., August 26, 1975.

Hon. WARREN G. MAGNUSON,
Chairman, Senate Commerce Committee, Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: Delaware has reviewed your draft S. 961 entitled "Emergency Marine Fisheries Protection Act of 1975" and recommend amending the draft by closing two loopholes.

Delaware supports wholeheartedly extending our protective zone to 200 miles. It is our desire that American fisheries be reserved for American citizens and that overfishing of these waters by foreign fleets, which has seriously affected the domestic fisheries, be terminated.

As written, S. 961 has a loophole which would open the back door to foreign controlled fisheries, i.e., Pacific salmon and menhaden. As written, foreign nationals either organize American corporations, which, in turn, acquire American fishing vessels or acquire American corporations which already own American fishing vessels. Section 3(2), pages 4 and 5, states "that a citizen of the United States includes, in addition to individual citizens, corporations or other business associations organized in the United States 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".

Another amendment should be made on page 6 where the grandfather clause says "that any corporation subject to a controlling interest acquired prior to the date of enactment shall be deemed to be subject to a controlling interest owned or beneficially vested in individuals who are citizens of the United States.

Our desire is to maintain a 200 mile limit and reserve American fisheries for Americans.

Very truly yours,

JOHN C. BRYSON, *Secretary.*

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATION,
DEPARTMENT OF NATURAL RESOURCES,
Providence, August 28, 1975.

Hon. WARREN G. MAGNUSON,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: I would like to take the opportunity to comment on Extended Fishery Jurisdiction Bills H.R. 200 and Senate Draft of July 11, 1975.

The State of Rhode Island strongly supports the principle of extended fishery jurisdiction, and we are pleased that the bills establish a 200 mile economic jurisdiction zone over fisheries, support the concept of optimum yield and extend jurisdiction over coastal species to 200 miles and anadromous fish stocks throughout their range.

We have some misgivings with regard to the lack of management by coastal nations of oceanic species, but also are cognizant of certain political ramifications that may preclude the inclusion of their management in these bills.

The bills both deal with regional Marine Fisheries Councils, but with different approaches. The Senate Bill proposes two Atlantic Coast Councils while H–200 proposes three. It is our feeling that three councils would serve both our geographic and fishery management needs much better than two, particularly if the councils work together on mutual problems. With regard to council membership, although we are not in a position to make complete recommendations, it is felt that the number of council members required under H–200 would be far too many to function as a working group. Also, while the Executive Directors of the Marine Commissions should be "involved." I question whether or not their positions would permit them to function as voting council members.

We are concerned with regard to certain powers granted to the Federal Government in state territorial waters and also question some of the emergency power provisions, particularly during the initial period after the Act is passed. It is beyond our comprehension how, after years of procrastination regarding management, a stock or stocks of fishes could get in such shape that a nine-month Federal emergency management program was needed. The overall power of the Secretary of Commerce under the Act is also somewhat overwhelming, and although there are certain checks and balances, further checks on the Secretary's powers are needed.

In closing, I would also like to point out the need for properly drafted legislation to limit the ownership of large segments of our fishing industry by foreign interests. It would be a farce to exclude foreign vessels from fishing areas to enhance fishing by American vessels and firms wholly or largely owned by foreign firms.

Sincerely,

DENNIS J. MURPHY, *Director.*

PACIFIC MARINE FISHERIES COMMISSION,
Portland, Ore., August 29, 1795.

Hon. WARREN G. MAGNUSON,
Chairman, Commerce Committee,
U.S. Senate, Washington, D.C.

DEAR SENATOR MAGNUSON: Thank you for sending me a copy of your "Staff Working Paper" draft of the National Marine Fisheries Protection and Management bill. I much appreciate the opportunity to review this draft, and to respond to your invitation to comment on it.

The comments which follow represent my own professional assesment of operational needs and problems with respect to fisheries management and the proposed legisaltion. They reflect my experience as executive officer for an interstate marine fisheries commission. However, they do not necessarily represent the views of PMFC's member States or of their fisheries agencies. I am providing the Directors of those fisheries agencies (who constitute the members of my Executive Committee) with copies of this review and an invitation to advise your office on areas of significant agreement or disagreement. I know you have requested comments directly from them as well.

GENERAL COMMENTS

In general approach and philosophy, I like the Commerce Committee "Staff Working Paper". I believe it is vitally important to incorporate a management

bill into legisaltion for extended fisheries jurisdiction. Failure to do so could result in chaos and entirely unacceptable delays in implementation of the purposes of extended jurisdiction. I particularly applaud the inclusion of national standards as basis for management plans and actions. Operationally, the Councils appear workable in size (except for the North Atlantic) and in manner of organization (cf. specific suggestions, however, on p. 2 of this review). Further, I believe this draft legislation establishes an appropriate relationship between establishment of standards and policies at the national level, and implementation of those policies by the Councils at the regional level (again, cf. some suggestions concerning specifics, p. 2 of this review).

In one important area, this draft is silent: the role of the interstate marine fisheries commissions in this new national fisheries management structure. I believe that role should be specified either in the legislation or in the Committee Report if that is more appropriate. The three interstate marine fisheries commissions were established by Congressional action, and have become effective mechanisms for communication, planning and coordination of research and related actions among their member States. I believe these well-established capabilities and supportive mechanisms should be directed to the service of the new Councils, probably at staff support levels. As you may know, we already are doing this on a pilot scale with respect to the State/Federal Fisheries Management Program (for Dungeness crab on the Pacific Coast, for lobster, surf-clam, and several other fisheries on the Atlantic Coast). This productive interaction should be continued at Congressional mandate (Cf. further comments, p. 2).

For convenience of your staff, I have followed the organization of the Senate draft in making specific comments. These are offered only where specific suggestions for change are made, of where special endorsements seem desirable because of the importance or the controversial nature of those sections. Absence of any comment indicates general concurrence.

This sequential organization somewhat obscures those areas in which I have special experience and major concern. May I therefore call your attention particularly to my comments on Sections 201, 202, and 203, and 205 (pp. 4, 6, and 8 of this review).

SPECIFIC COMMENTS, BY SECTIONS

Section 2. Declaration of Policy

(a) *Findings.*—The Senate list of findings is well-taken; however, H.R. 200 includes some additional elements which should be considered for inclusion. Paragraphs (3) and (4) focus attention on the importance of fisheries to the economy and socioeconomic well-being of the nation, and on the depletion of fishery resources, particularly as result of foreign fishing. Paragraph (7) emphasizes sound management both to restore the resources and promote economic well-being of fishing industries and coastal communities. These emphases are entirely consistent with the thrust of Senator Eastland's S. Con. Res. 11, and I urge their incorporation into your Senate bill.

H.R. 200 [Section 2(a)(6)] contains one important error in fact, since many State laws do apply beyond the limits of existing jurisdiction. The last portion of paragraph (6) should be modified somewhat as follows:

. . . where no regime of law, except for specific international agreements *and certain State regulations governing the residents of that State and landings of fisheries products within that State* apply to govern fishing or to require conservation practices (Italic words added)."

(c) *Policy.*—(3) Senate version is preferable to that of H.R. 200, which deletes the last three lines relating to management of high seas species consistent with international agreement. Tuna interests urged that deletion, apparently as deterrent against unilateral management actions by South American countries. It appears to me, however, that this management statement is necessary for consistency of the U.S. position, and shows solid U.S. support of the international management regimes.

(4) I suggest incorporation of H.R. 200 paragraph (4) wording, to broaden scope of Senate statement.

(5) I suggest adding H.R. 200 paragraph (5), but with an important addition, as follows, italic words added):

"(5) to permit foreign fishing within the fisheries zone established by Title I of this Act consistent with the conservation requirements of the various stocks *to be affected within the ecosystem;* if there are excess stocks . . . (etc.)"

The added words permit consideration of food chain and other ecological relationships (e.g., possible forage values of hake for salmon, anchovy for tuna). This is consistent with the optimum yield concept, and should be restressed in the present context.

Sec. 3. Definitions

(1) "anadromous" species—delete the last clause. This is not needed for a proper definition and has undesirable delimiting implications. (U.S. jurisdiction also will apply to stocks that do not migrate beyond the contiguous zone.)

(9) In the legal definition of "fish", marine mammals should be included as in the Senate bill, *not* excluded as in the House bill. This legislation is based on an ecosystem approach and rationale for management. Exclusion of an important component (marine mammals) is illogical and drives a wedge into the holistic approach management should take. Inclusion of marine mammals can give us the mechanism for rationalizing their management.

(10) "Fishery" in my view should include the stocks being fished as well as the fishing activity. I believe most fisheries scientists so define it, considering the fishery to have two components—stocks and fishermen (including processors etc.) This is a more useful definition for nearly every purpose. Use "fishing" [parapgraph (11)] for the more restricted purpose.

(15) "highly migratory species": I suggest use of the langauge of the LOS single unified text for more explicit designation of these species. Alternatively, exclusion of certain species as in H.R. 200 (14) would be helpful.

(17) "optimum yield": This is a key concept deserving full support but demanding maximum specificity of definition and documentation. I favor Option B for its comparative simplicity and because the term "maximum economic return" avoids the physical yield implications of Option A (and some values of some resources should not be measured in physical yield—e.g., great whales). However, I believe more rigor should be required for determining optimum yield. Perhaps the best way is to specify explicit documentation of decision. Therefore I suggest addition of the following (or some improved equivalent): . . . *and as documented by detailed analysis of the rationale and supporting data for the priorities assigned these factors.*

TITLE I. ESTABLISHMENT OF A UNITED STATES FISHERIES CONSERVATION AND MANAGEMENT ZONE EXTENDING TO THE 200 MILE LIMIT

Sec. 101

(a) *Contiguous fishery zone.*—(2) I suggest use of H.R. 200 definition based upon the baseline rather than Senate definition based on outer limits of territorial sea, to avoid ambiquity and other problems which can result if the U.S. moves subsequently to a 12 mile territorial sea.

(3) This paragraph dealing with highly migratory species appears to be not consistent with section 2(b)(3), which states a purpose to include "to manage such (highly migratory) species when found within the two hundred-mile zone on the basis of regulations adopted pursuant to such agreements . . ." (cf. comments, p. 2 of this review).

Sec. 102. Foreign Fishing

This generally constructive and well-drawn section might be strengthened by incorporation of reference to management plan development as in H.R. 200 Sec. 201(i).

Sec. 103. International Fishery Agreements

(d) *Nonrecognition.*—This principle appears to have considerable merit as a lever to influence foreign compliance with U.S. management of fisheries resources.

TITLE II. NATIONAL FISHERY MANAGEMENT PROGRAM

Sec. 201. Authority to Promulgate Regulations

(c) *National Standards.*—I highly commend inclusion of standards as salient component of this legislation; also I endorse the quality and comprehensiveness of those proposed. Two suggestions are:

(1) Paragraph (1) would be improved if reworded thus (underlined words changed in order and context): "Management and conservation measures shall be

based on the best *biological and other scientific* information available." Many nonbiological scientific elements must be considered (e.g., oceanographic, economic) in assessment of ecosystem implications and causal elements for management decisions.

(3) The Senate wording is to be preferred to that of H.R. 200. Management and conservation measures should apply to all equally, even though rights and privileges of harvest may be discriminatory with respect to foreign fishermen.

Sec. 202. Regional Fishery Management Councils

Prefatory note: it is with this and the following section that I have the greatest concern and background for comment. I will reference comments wherever possible to the Senate draft, but of necessity must also refer frequently to the H.R. 200 document.

(a) *Creation of Councils.*—I consider the Senate structuring of Councils superior to that of H.R. 200 with one exception—the North Atlantic Council appears to be too large and heterogeneous for efficiency. With respect to differences between Senate and House organizational plans, I recommend the following:

Divide North Atlantic Fishery Management Council into New England and Mid-Atlantic Councils as in H.R. 200, to reduce size and improve homogeneity of problems to be addressed by each. (N.B., I believe this is the organizational division presently followed on the basis of real experience by the Atlantic States Marine Fisheries Commission.)

Maintain a Caribbean Fishery Management Council as separate entity (as in the Senate draft), not combined with two others as in H.R. 200. Fisheries problems of island areas are unique, and deserve separate and distinct treatment. These unique needs and interests could be submerged in coastal concerns of predominantly mainland Councils. Note that a key element here is the Senate provision for cooperative action by Councils with shared interests [not designation of one as in H.R. 200, Sec. 304(a)(3)].

Maintain Trust Territories of the Pacific as full members of the Outer Pacific Fishery Council. *I urge you not to permit their deletion as carried out in H.R. 200.* The U.S. Trust Territories have fisheries interests and concerns quite consonant with those of Samoa and Guam, and with many of those of Hawaii. Many of the Trust Territories can be expected to apply for inclusion in the United States in the near future. Too often they have been overlooked or ignored in past actions of our government. I urge you to champion their inclusion in the operational approach to resources use planning that is embodied in the Regional Fishery Councils. I feel confident that legal procedures are available for resolving any limitations on this participation imposed by their special Trust Territory status.

(b) *Composition* (of Councils).—I find the composition specified in the Senate bill far superior to that of H.R. 200 in the following respects, for which I urge your continued strong support:

designation of a State official representing each State (rather than only Governor's appointees as in H.R. 200);

relatively small size of Councils (7–9) as opposed to 14–18 for H.R. 200 (cf. earlier suggestion to divide North Atlantic);

specification that representatives of the public-at-large be State-designated and appointed on a State-by-State basis rather than "at large" as in H.R. 200;

designation of a single Federal representative appointed by Commerce (the addition of Interior in H.R. 200 seems superfluous to real need and can only budget complications);

specification of user-group input via Advisory Committees (Sec. 202) (rather than as members of the Council as in H.R. 200, where they would in effect be regulating themselves).

In three areas I consider the House version of this Section superior, and recommend your consideration of inclusion of similar provisions in your bill:

inclusion of specific guidelines for continuation of membership and sequence of terms [Sec. 303(b)(2) and (3)];

per diem rate specified at $100 per day (rather than $300 as in Senate version, which I consider unreasonably high) [Sec. 303(c)];

specification of a role for the interstate marine fisheries commissions.

With respect to designation of an apporpriate role in this new management regime for the present interstate marine fisheries commissions, I believe this should take the form of staff support for the Regional Councils, after the pattern already in effect with respect to NMFS' State/Federal Fisheries Management Program (via NMFS contracts with the three existing Commissions). I urge that the legislation (or at least the Committee Report on the bill) specify that kind of relationship, and thus recognize past achievements of the interstate marine fisheries commissions in communication, planning, and coordination of State-Federal interactions, and Commission capabilities to apply existing experience and institutional machinery to facilitation of the new Regional Council management functions.

I think it important that the Congress be on record in calling for this kind of adaptive evolution of the interstate marine fisheries commissions. The Congress created those Commissions in the late '40s to assist the States to work more effectively together on shared fisheries problems. The quarter-century since that creation has expanded both State and National needs, and our institutions should evolve accordingly. Clearly we need to direct all available resources to meet the challenges and the opportunities of extended jurisdiction over marine fisheries; the existing Commissions provide a ready-made and presently operating vehicle for this purpose.

Please note that I am suggesting contract arrangements to provide staff support from the Commissions rather than direct incorporation of the Commission into the new Councils. This is for the purpose of retaining the Commissions as State-funded and State-governed entities for continuation of their many present services to the States and the Nation independent of fisheries management *per se*. The States need a continuing communication mechanism with each other and with both legislative and executive branches of the Federal government. That mechanism should be coordinated with, but not destroyed by the new Regional Council structure.

I suggest this staff support role be incorporated into the bill, perhaps by expansion of Sec. 202(d) (suggested additions italic):

"The Secretary shall provide such administrative support as is necessary for functioning of the Councils, *including, but not limited to, contracted staff support services from the appropriate interstate marine fisheries commissions.*"

(c) *Duties and Authorities* seem well defined under (1) of this section. I also commend exclusion of fisheries principally located within the boundaries of a single State (2). I strongly commend your paragraph (3) calling for coordination among Councils with respect to shared fisheries. I do *not* concur with the H.R. 200 approach that the Secretary designate one Council to assume the responsibility in such a case [Sec. 304(a)(3)]. This could result in arbitrary and completely unacceptable "second-class" status for the alternate Council. (How, for example, could an equitable decision be made between the Alaska and Pacific Regional Councils with respect to management of the troll salmon fishery?)

(d) (cf. earlier suggestion to specify a role for the interstate marine fisheries commissions.)

(e) *Scientific Advisory Board.*—I strongly support this important inclusion in your bill as a key provision for assuring coordination of multi-Agency scientific effort and therefore supporting the National Standards of Section 201(c), particularly Standard (1).

(f) *Advisory Committees.*—As noted earlier, I strongly support the Senate approach to incorporation of input from user-groups via Advisory Committees rather than through direct membership on the Councils as specified in H.R. 200.

However, I recommend deletion of any maximum number (seven persons in the present draft). While the intent to keep committees small and efficient is to be encouraged, perhaps this should be stated as general intent, without saddling Councils with a legislated limit.

Sec. 203. Procedure

The procedures proposed in the Senate draft appear logical, and are reasonably well safeguarded with requirements for "due process". Since this is an extraordinarily sensitive area, however, I wish to raise some questions about portions of this section and the parallel sections of H.R. 200.

(b) *Recommended Regulations.*—(1) Inclusions seem reasonable: emphasis on consistency with national standards is highly desirable. I find the list included in H.R. 200 [Sec. 304(b)(3)] somewhat more complete; also more operational since

they are phrased in terms of specific management plan requirements. Paragraphs (B), (E), and (F) contain particularly useful clarifications of intent. I suggest this more extensive coverage be incorporated into the Senate bill as basis for debate on intent in advance of legislative action and management plan development.

(2) The forty-five day maximum liit for revision of rejected standards I consider unnecessarily tight in view of the review processes which would be required if the issues are substantive (perhaps involving several States, Advisory Committees, and others concerned). I suggest this be doubled to ninety days. The Secretary can invoke the emergency action specified under paragraph (e) if overriding considerations require greater haste.

The preemptory authority accorded the Secretary to take action in the absence of acceptable Council regulations will be a matter of significant concern to many States. However, there has to be provision for ultimate decision somewhere, and the key may be in requirements for due process with respect to the Secretary's action. Significant elements in my view include:

requirements for publication of explanations in the Federal Register [Sec. 203(d)];

provisions for appeal to the Fishery Management Review Board [Sec. 204(c)];

specification of standards for Review Board actions [Sec. 204(d)], and powers to hold hearings, etc. [Sec. 204(e)];

implicit right of aggrieved individuals or States to seek court action or to petition the Congress for legislative action, if other mechanisms fail.

To the above safeguards, permit me to add and commend the *Statement of disagreement* in H.R. 200 [Sec. 303(g)(2)] which provides for minority reports to the Secretary from Council members disagreeing with a Council's majority position. I suggest incorporation in the Senate bill.

(e) *Emergency Action* as specified in the Senate bill seems reasonable in its intent. However, I again question the need for investing the Secretary with such unilateral preemptory power. I suggest instead incorporation of the H.R. 200 approach [Sec. 307(e)] requiring a two-thirds vote of the Council concerned for invocation of emergency action. If such action is truly needed, that concurrence should be readily obtainable. For both operational and political reasons, I think it imperative that maximum initiative and feedback controls be vested in the Regional Councils.

(N.B. The H.R. 200 provision refers specifically to waiving notices and hearings on proposed regulations; in my view it should be expanded to apply to *any* emergency action. I cannot conceive of any emergency so pressing as to preclude this "due process" regional ratification of emergency action.)

Important.—While it is not a part of the Senate draft, I must comment emphatically *in opposition to* H.R. 200 Sec. 308 concerning "Temporary Emergency Fishery Management Plans" which propose setting aside all "due process" provisions of the bill during the first 90 days following the date of enactment of the Act, during which period the Secretary can promulgate regulations concerning any fishery he considers depleted, in danger of depletion, or under intensive but unregulated use. The language of this section is ambiguous as to whether two-thirds concurrence of Regional Council is required (assuming that a Council is in existence).

Again this places far too great preemptive power with the Secretary to be acceptable to most States. Further, I can conceive of no situation given the "regular" emergency capabilities proposed under [Sec. 203(e)] demanding this kind of precipitous action *within the first 90 days* after enactment. Unless powerful overriding arguments can be convincingly presented concerning urgent need in the national interest for this special emergency provision, I urge it be rejected as operationally unnecessary and politically inflammatory.

Sec. 204. Fishery Management Review Board

We all share a concern for proliferation of layers of government, for both cost and efficiency reasons. However, as developed in earlier sections of this review, I believe that any vesting of management authority in Regional Councils and/or the Secretary will require unusual attention to "due process" and to achievement of a reasonable system of checks and balances. In view of the problems to be faced and the national, regional, and local values to be realized, a strong Review Board appears desirable and supportable.

Sec. 205. Relationship to State Laws

The Senate bill remains silent on the most sensitive area of the proposed legislation—the impact of regional management plans on management of shared fisheries within State waters. H.R. 200 [Sec. 310(b)] asserts potentially preemptive federal jurisdiction under certain instances defined in that Section.

While the *findings* expressed in paragraph (1) of Sec. 310(b) may be acceptable in principle, many States will object vigorously to the preemptive provisions of paragraph (2). These objections may be ameliorated somewhat if this preemptive capability is adequately balanced by "due process" requirements (e.g., by the need for two-thirds concurrence of the appropriate Regional Council).

In my view, this legislation will be difficult to implement effectively without reasonable concurrence on this issue. I believe State views will be conditioned strongly by two factors: how much reliance can they place in the "due process" protections against unwarranted interference in State operations; and will they gain enough from active participation in management of resources throughout the 200 mile extended jurisdiction zone to offset some possible losses of autonomy within three miles? I am sure you will hear directly from the States on this key and very sensitive issue.

Again let me emphasize that these comemnts are my own, not necessarily reflecting the views of PMFC's States or their fisheries agencies. They are offered in response to your very kind invitation for comment, and copies have been forwarded to my Executive Committee as partial basis for their own review and further Comments.

Yours sincerely,

JOHN P. HARVILLE,
Executive Director.

SAN DIEGO STATE UNIVERSITY,
CENTER FOR MARINE STUDIES,
San Diego, Calif., August 29, 1975.

Senator WARREN MAGNUSON,
Chairman, Committee on Commerce, U.S. Senate,
Washington, D.C.

DEAR SENATOR MAGNUSON: Thank you for your letter of July 30 and for the Draft of your bill (July 11 version) covered by it. I welcome the opportunity to comment specifically upon it as an addition to the general comments on fisheries legislation covered by my letter of July 15.

Your bill will go far, I feel, toward giving us the National fisheries management system we need. Title I appears to handle the international aspects of the problem adequately (I admit to less detailed acquaintance with this aspect of the problem, however). The mechanism of the Fisheries Councils and the review mechanism, including the Review Board, should provide a reasonable structure for an overall management system. My own feelings are that everyone, including the citizens of coastal states and especially those who are fishermen, would be served better by a completely unified system that reflects the ecological oneness of the marine environment. Recognizing the sensitivity of the state-federal issue, however, I compliment you on a bill that goes far to clear up some of the illogical aspects of the fragmented system we now have.

As I brought out in the comments covered by my letter of July 15, a unified system makes sense from the standpoint of the fishermen as well as the fish (although not necessarily from the standpoint of fishery "manager" in state or federal service). To give recognition to the unity that underlies the fisheries, may I suggest two changes that should be acceptable and will move us a little more in that direction. The first would be to add to the National Standards section an additional standard that would read:

"To the extent possible, management of any stock of fish will take into consideration effects exploitation of that stock will have on all other stocks of fish of demonstrated importance to the nation."

This phrase seems innocuous enough but, in addition to accentuating a vital basic principle, will take some of the sting out of arguments such as that between sports and commercial fishermen in California over the anchovy. Placement in the text could be between (2) and (3) on page 17 with the present (3) and subsequent section being renumbered.

The second recommendation would be to positively state that any state may delegate management responsibility for any fishery reserved to it to the Fisheries Council for its region. This could be done by adding to paragraph (2) on page 21 (begin on line 16) the following sentence.

"However, any state may delegate responsibility for any such fishery to the appropriate Fishery Council if it so desires."

A number of "gray" areas will arise under the ". . . fisheries located principally in the waters within the boundaries of a single state . . ." rule. An example is the shrimp fishery in northern California that also extends into Oregon waters. Fishermen have been inconvenienced by disparate laws of the two states. The suggested statement might lead to the states to solve the problem in the most logical way, i.e., putting it under the unified management of the Councils rather than arguing that state control should prevail.

Comments for your consideration on other specific points are offered below.

Page 2—Could a finding to the effect that—

"The nature of ownership of fishery resources and regulatory systems for their management have led to gross inefficiencies and overinvestment of human and material resources."

be added. This would point up an important imperative for the legislation and for the more rational management system it establishes.

Page 4—Policy 4—It is good to see the efficiency element recognized here. Could ". . . least costly to the Nation . . ." (line 13) be changed to state positively ". . . and that is self-supporting and serves the best interest of the Nation as a whole." With the 200 mile limit and good management, the almost complete dissipation of economic rent we now have will be avoided. As a result, the fisheries can not only become fully self-supporting but can make a net contribution to the National coffers.

Page 7—Between options A and B, the former probabbly is better. As fish become more valuable the difference between MSY and MEY becomes so small as to be irrelevant. Option B with its stress on economics alone will tend to alienate more people than will be won over by it.

Page 20—Section (2)—Could the restriction on compensation be softened to be less restrictive on State (and possibly Federal) employees? Professor Crutchfield at the University of Washington, for example, would not be able to receive compensation; his employer, the University, has no vested interest that would encourage it to pay him to serve on the Council. (The California Coastal Zone Conservation Act prohibited State of California employees serving on the Commission established by this law from receiving any compensation. As a result, I was unable to receive pay, whereas county supervisors could receive compensation even though they were fully salaried local government officials with direct responsibility for doing the types of things the law is supposed to do. The law was subsequently changed but only after several academics, including myself, had given a year of free service.)

Page 22—That the National Marine Fisheries Service regional directors chair the Scientific Advisory Boards gives a connection between the research and management arms of the management system. However, is the connection strong enough to assure that research will be fully responsive to management needs? Would it be worthwhile to give the Councils some direct control over research of the research centers?

Thank you again for the opportunity to comment upon your proposed bill. (Please excuse the tardiness of my comments; your letter arrived just after of this letter to Congressman Leggett.

Sincerely yours,

E. A. KEEN, *Associate Director.*

LIBERTY FISH AND OYSTER CO.,
Galveston, Texas, August 29, 1975.

Hon. WARREN G. MAGNUSON,
U.S. Senate, Washington, D.C.

DEAR SENATOR MAGNUSON: This is in response to your letter of July 15, 1975, requesting comments on the Staff Working Paper dated July 11, 1975, and entitled "National Marine Fisheries Protection and Management Act of 1975."

I apologize for the delay in responding but I thought it would be helpful if I consulted with a number of individuals on the Gulf Coast prior to addressing myself to the proposed Bill. I also had the benefit of a workshop on the subject held at New Orleans, Louisiana this past week under the auspices of the Gulf States Marine Fisheries Commission.

The chief concern of most people I consulted seems to be the make-up of the regional management councils. Bob Mauermann has already summarized our feelings in this area in his letter to you dated August 12, 1975, and I need add nothing further except to urge that Section 202 be changed in the manner he suggested.

I received some valuable comments from Terrance Leary of the Texas Parks and Wildlife Department and I enclose his letter for your consideration. His concern that the definition of the term "highly migratory species" is too broad and might result in the exclusion of species other than tuna was voiced also in the New Orleans' meeting and consideration should be given to remedying this apparent defect.

You will note that Mr. Leary joins in the criticism of appointing "a State official" to each council and suggests that one member of the council should be the administrative head of the state agency regulating marine fisheries.

During the workshop in New Orleans there was a great deal of discussion concerning the powers of the regional councils. Most if not all those who attended the workshop are apprehensive about any legislation that gives the Federal Government the power to adopt any fisheries management plan without the concurrence or approval of the regional council. As a result of the discussion on this point it was agreed that the following should be added at the end of Section 305(d)[1]: "No fishery management plan will be implemented in any region without the consent of the Regional Council of the area affected". The Senate draft, it seems to me, offers no problem in this regard.

Regarding the definition of the term "controlling interest", the consensus here seems to support the position expressed by Mr. Dunton during the workshop held in Washington, D.C., on June 26th. The consensus here is against alien companies expanding from their present activities into other U.S. fisheries after jurisdiction has been extended to 200 miles.

Regarding the two options on definition of the term "optimum yield", it is my feeling that the industry in this area can live with either one.

The above are the main areas of concern expressed by a number of people in this area. There is one other matter which I would like to call to your attention as expressed to me by Dr. William Clayton of Texas A&M:

He told me that throughout the Nation there are many people involved in scientific research who are joining together in opposition to the House Bill and the Senate draft as well because they fear the effect such legislation would have upon freedom to carry on scientific research close to the shores of other nations. It is Dr. Clayton's position that there is nothing in the legislation which would exempt scientific research from the "exclusive fishery management" that would be exercised by the United States in the contiguous zone as provided in Section 101(a).

I am inclined to agree with him. Section 3(11) says that "fishing" means the catching of any species of fish for any purpose as well as any activity at sea in support of such catching. Furthermore, the definition of "fish" includes "all other forms of marine animal and plant life". Dr. Clayton makes the point that although the United States, even under such broad definitions, might choose to announce that it will not exercise management or control over scientific research within its contiguous zone, still other nations might do otherwise after they have followed the example of the United States in extending jurisdiction.

The matter was discussed in the workshop in New Orleans and there was general agreement that extended jurisdiction legislation should expressly exempt activities that are exclusively scientific in nature and not commercial or recreational fishing.

Thank you for the opportunity to participate in the workshop and to comment on the proposed legislation.

Sincerely yours,

JOHN A. MEHOS.

---

[1] House draft.

UNIVERSITY OF WASHINGTON,
Seattle, Wash., September 2, 1975.

Hon. WARREN G. MAGNUSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MAGNUSON: Thank you very much for your letter of July 24 and the opportunity to comment on the draft bill which resulted from the Fishery Management Workshop which was convened under the auspices of the Commerce Committee.

I believe that you, your staff, and the Fisheries Management Workshop should be congratulated for putting together a draft which on the whole provides an excellent basis for extended jurisdiction.

May I make the following comments on a section-by-section basis.

In the introduction and various other parts of the bill, the word "depletion" is used. I would suggest that this word be replaced wherever it occurs since it is often misunderstood. We should not give the impression that any of the commercial finfish are in any way endangered from a biological standpoint. Particularly since the word "depletion" is not defined in the bill, it seems to me a wiser course to talk about conservation, protection from overfishing, or mismanagement, etc.

Section 3.(1): This paragraph should end with a period after the word "waters" in line 20. There are many anadromous species which migrate to ocean waters, but not beyond the contiguous fishing zone, and the definition as written may lead to complications if foreign fishing is permitted within the contiguous zone.

Section 3.(15): I believe it useful to extend the definition of "highly migratory species" to at least including the billfishes and some sharks.

Section 3.(17): I should like to suggest another definition of "optimum yield" which I think is extremely important in applying management in practice. I would completely reject option B but point out that option A can be defined by different interests in different ways and may make it difficult to apply a practical application of a quantitive figure in an actual fishery. Optimum yield can be taken to mean what anyone wants it to mean. I would suggest that an analogy from navigation is useful in providing a definition of optimum yield. If we know a starting point, and know our distance and direction from it, we can locate a position with exactness. I suggest that optimum yield be defined in the same way. That the baseline be the maximum sustained yield and that optimum yield is defined as a measured deviation from maximum sustained yield, together with the reasons for moving from the maximum sustained yield. This definition provides several advantages. First, in order to define maximum sustained yields, sufficient biological observations need to be undertaken and a sufficient knowledge of the stock has to be on hand to understand how the stock will respond to various levels of fishing; and second, those interests who choose to move away from maximum sustained yield, and I can think of many valid reasons to do so, will be required to quantitatively state the movement necessary and what gain is to be expected from the over or under fishing. If this is done, we have some numbers which different interests can evaluate and perhaps a concensus can be obtained more easily.

Section 101.(2): This section seems to me to provide some difficulties if the present territorial sea is extended to 12 miles. Will we then have an economic zone of 209 miles?

Section 101.(3).(b): I suggest that line 23 should read "shall not extend to such species *during the time* they are found."

Section 201.(b): I would suggest that this section needs to be written in more general fashion, that would not limit the type of regulation but would remove some of the specific recommendations which may be inconsistent with the purposes of the Act.

Section 201.(b).(6): I suggest this should read "require catch and other appropriate statistics from fishermen *and processors;*" We obviously require something more than just raw catch statistics that we normally obtain from the fishermen. We should acquire economic data from fishermen, such as deliver price, bonus payments, and such information from processors as fish per case, percentage recovery, etc.

201.(c): I am very strongly in favor of the requirement of National Standards and believe this section's intent is very good. I would suggest that (4) should be moved to the top of the list; that the word "biological" be removed from

the present (1); that a period be placed after the world "states" in line 10. As written, this is not consistent with other portions of the bill which allow discrimination in fees or licenses. I would reword (5) to read "management and conservation measures shall seek to promote efficiency in the *utilization of the resource*." Much of what we try to do in management and conservation, does not effect only harvesting. While I support the intent of (7), I question whether this should be a specific part of law. I also suggest the elimination of (8).

Section 202.(a).(6): Given the present composition of the industry in Alaska, in terms of the number of fishermen from Oregon and Washington, and the outside investment, I would suggest the composition of the Alaska Council be reduced to two, but that the number be applied to both the state official and public members.

Section 202.(b).(B): The representatives from the public should be appointed in the number designated in subsection (a). For the Alaska Council, this would provide the following membership: Alaska—4; Washington—2; Oregon—2; Federal—1.

Section 202.(E).(F): I believe the Scientific Advisory Board and the Advisory Committees should be merged.

Section 204: I believe the establishment of a fishery management review board has little merit. In my opinion, it would be better to conduct the review at the regional level, with an appeal to the Secretary. The Secretary should have an advisory board similar to the existing Marine Fisheries Advisory Committee. This would require some additional sections defining the powers of the Secretary and establishing due process procedures under which he might act. Such as has been done in H.R. 200.

Section 209: While I have no specific recommendation at the present time, there is no question in my mind that there are not enough dollars in the suggested authorization.

Thank you very much for the opportunity to comment on the draft bill. I shall be very happy to provide comments on any future drafts or take part in any other workshop sessions that might be scheduled.

Sincerely yours,

DONALD E. BEVAN,
Assistant Vice President for Research,
Professor of Fisheries and Marine Studies.

UNIVERSITY OF WASHINGTON,
Seattle, Wash., September 19, 1975.

Hon. WARREN G. MAGNUSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MAGNUSON: I should like to take the opportunity to amplify my letter of September 2, regarding the Staff Working Paper, National Marine Fisheries Protection and Management Act of 1975.

My experience as chairman of an extended jurisdiction workshop at the Marine Fisheries Advisory Committee meeting (MAFAC) on September 3rd, stimulates me in re-emphasizing some of the points I made in my earlier letter. I shall attempt in the following to convey to you the views of the workshop from my own notes and recollection. I am sure that your staff will have available the official minutes of the MAFAC meeting very shortly. In summary, the workshop recommended to the full Committee the following:

(1) On the question of the size of Councils, there was no concensus. This seems to be a difficult problem to resolve. Almost everyone wants to be sure that the group is workable and smaller than prescribed in H.R. 200, but at the same time, many wish to see more representation of particular special interests.

(2) There was a broad concensus that the Councils should be operational as well as policy-making, and that a cooperative endeavor between Federal and state authority in the Regional Council is essential. Preemption by the Secretary is necessary, but that this must be done under due process procedures. There is specific concern over the kind of language in H.R. 200 that would lead to emergency provisions such as in Section 308 of the House Bill.

(3) There were strong views on the need to maintain the present interstate compacts. The Marine Fisheries Commissions are engaged in activities that might

not necessarily be picked up immediately by the Councils and they should be continued. There was unanimous agreement that the Executive Secretaries of the Commission should not be members of the Council as specified in H.R. 200. Almost all felt that the Commissions can play an effective role in getting the Council started and can perhaps serve as staff to the Councils.

(4) There were strong and unanimous feelings that there should not be a separation of management and extended jurisdiction. Any bill for extended jurisdiction should include management provisions.

(5) With regard to national standards there was much disagreement on the exact wording of the standards and the order of priority of individual standards, but there was unanimous agreement that national standards were important and deserve serious consideration in the Bill. Additional standards were suggested: "Management and conservation measures shall be formulated with respect to effects on stocks associated with or dependent on harvested stocks," and "Management and conservation measures shall reflect that U.S. fishermen are constituted by disparate interests and where there is an allowable catch of a species, it will be allocated on an equitable basis."

May I continue with some personal views that may not necessarily reflect the concensus arrived at the MAFAC workshop. I expressed my concern about the semantics of certain terms used in the Staff Working Paper. I have even stronger feelings after hearing a discussion of the Committee Report on H.R. 200 and find that the definitions of eminent danger, depletion, and intensive use, lead to an Appendix I, which can be best described as pure nonsense. I do not fault the National Marine Fisheries Service in providing this list of species because they had to rely on the definitions in H.R. 200, but I think you can see how easily it is to provide ammunition for those who have feelings similar to anti-hunting groups in the sports field that wish preservation rather than conservation.

While I can philosophically agree with the view that tuna and highly migratory fishes should be under international regulation, I believe the 200-mile extension bil should provide for their management until such time as international management is in effect. To delete them from the Bill as was done in the House version is simply not acceptable to the recreational fishery interests. I have had the opportunity of receiving a carbon copy of Dr. John P. Harville's August 29th letter to you, and believe that his summary is an excellent one. As with Dr. Harville, I cannot speak for MAFAC, or for NOAA, but I hope that the discussions that we had at the MAFAC meeting, which led to the recommendations to Dr. Robert White, will have an effect on the executive branches' view of this legislation.

If I can be of any further assistance in this matter, please call upon me.

Sincerely yours,

DONALD E. BEVAN,
Assistant Vice President for Research,
Professor of Fisheries and Marine Studies.

DUNTON, SIMMONS & DUNTON,
White Stone, Va., September 2, 1975.

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

DEAR SENATOR MAGNUSON: With the August recess over, I hasten to respond to your letter of July 15th with respect to the staff working paper prepared following the fishery management workshop convened in Washington on June 26th. The following comments with respect to this working paper are my own, and may be supplemented and modified after I receive further responses from persons in the menhaden fishing industry to whom I have sent copies of the draft.

The following comments are in order of pagination and are not necessarily in order of importance:

Page 5, Line 5. The second proviso under the definition of "citizens of the United States", relating to the management of citizen corporations, should correspond to the similar proviso in the Shipping Act, from which this definition was drawn. While I can sympathize with the desire of the draftsmen to improve upon the Shipping Act language, such language has been developed over a long period of time and has been carefully tested and interpreted by the courts. The Shipping

Act language is to be preferred to that set forth in this draft for the following reasons among others:

A. The president or other chief executive officer is required to be a citizen of the United States in the Shipping Act definition although not in your draft.

B. In the Shipping Act definition no more than a minority of directors needed to constitute a quorum of directors may be non-citizens, whereas in the draft now being considered by your committee two-thirds of the board must be American citizens. It is believed that under the laws of many jurisdictions a quorum could be convened in which aliens could have effective control under the language in the draft although such could not happen if the Shipping Act language were used.

Page 6, Line 7. The definition of "controlling interest" is not set forth. We feel most strongly that the Shipping Act definition of this term should be used. Watered-down definitions will permit foreign-controlled companies to operate as American citizens in the territorial sea and fisheries conservation zones, which are intended to be reserved for citizens of the United States as this term is normally understood. Unless the Shipping Act definition, or a definition very closely related to it, is used, a means of evasion will be written into this law which will completely defeat its intent. The American fishing industry, which is placing great reliance and hope on this legislation, must receive effective legislation. We are aware that this legislation will not be applauded by either foreign companies fishing within the 200 mile limit using foreign vessels or by foreign companies owning vessels presently fishing under American flags. However, in our judgment we must forthrightly acknowledge that this legislation is designed to preserve the American fisheries for American citizens. Similar laws exist in other maritime countries. A more comprehensive statement of our position is set forth in my statement of June 6, 1975, submitted to your committee, a copy of which is enclosed for your further reference.

Page 7, Line 21. Option B, commencing on Line 7 of Page 8 is preferred.

Page 11, Line 14. We suggest the term "foreign flag" when applied to fishing vessels be redesignated "non-United States" fishing vessels so that observers could be placed aboard any foreign owned vessel, whether flagged foreign or United States. Under existing law, foreign owned corporations may, under certain circumstances, document their vessels as United States vessels. As I understand the intent of your draft, foreign owned or controlled vessels (regardless of their flag) should be able to fish within the contiguous fishing zone if they first obtain the permission of the Secretary of Commerce and the Secretary of State. We do not feel that this is unreasonable, provided such non citizens are limited to taking fish which cannot be or are not being harvested by citizens of the United States.

Page 16. Line 4. I have difficulty understanding the relationship between cultural and social framework in which a fishery is conducted and regulations which might establish a system of limited access to a fishery. The other elements set forth in sub-paragraph (2) commencing on page 15 appeared to be quite appropriate.

Page 18, Lines 7 and 15. I believe that some consideration should be given to establishing three Regional Fishery Management Councils on the Atlantic coast, a New England Marine Fisheries Council, a Mid-Atlantic Marine Fisheries Council, and a Southern Atlantic Marine Fisheries Council. I would suggest that New Jersey, Delaware, Maryland and Virginia comprise the mid-Atlantic council, the states to the north be included in the New England council and the states to the south of this group be included within the Southern Atlantic council. It is my feeling that the use of three councils would provide regulation which would be much more responsive to the needs of the fisheries.

Page 19, Line 22. I would suggest that further language be added to sub-paragraph (B) indicating that the representatives of the coastal states appointed by the Governors from the public at large should act as representatives of the fishing industries of such states. Some confusion as to their role might result unless this language were added.

Page 20, Line 17. While an overall fisheries management plan may be of some benefit, we foresee the principal benefits being derived from separate management plans for fisheries in need of regulation, and the purpose of the over all fishery management plan being to coordinate the separate management plans for various fisheries. Therefore, we would suggest that the councils shall have authority to develop an over all fishery management plan within their respective geographic areas "which shall include separate management plans for each fishery in need of regulation" consistent with the national standards as set forth in Section 201(a).

Page 21, Line 5. In accordance with our previous suggestion we feel that public hearings should be held not only with respect to the over all management plans but also with respect to management plans for the separate fisheries in need of management.

Page 21, Line 13. To avoid conflicts with state jurisdiction, and to eliminate substantial opposition from developing to this bill from state sources, we suggest that the following language be inserted in place of paragraph 2:

"The Councils shall not have authority to develop, nor the Secretary to promulgate, fishery management plans or to recommend regulations with respect to fisheries which are principally located in waters within the boundaries of a single state or with respect to conduct of fisheries in the inland seas."

Page 22, Line 11. The term "advisory committees" has developed a bad connotation among many members of the fishing industry who have served on such committees in the past. These committees have had very little effect, particularly in the State Department. I therefore recommend that they be known as Individual Fishery Committees, and that such committees recommend regulations as to individual fisheries for which they are constituted. Furthermore, I would strongly suggest that of the seven members of each committee, at least four shall be selected to represent those actually engaged in the fishery being regulated and the balance shall represent state fishery agencies and other interested groups. While persons engaged in the industry as well as public officials must necessarily be interested in the conservation of their resource, by insisting that the committees be weighted toward persons engaged in the fisheries rather than those more theoretically concerned with the fisheries, I believe that more practical regulations will be developed, as well as regulations which will be better received by those in the regulated fisheries.

Page 26, Line 25. I suggest that three, rather than two members of the Fisheries Management Review Board be selected from a list of individuals submitted by the National Governors Conference. In this way this quasi-judicial body will not have a built in Administration majority. I can foresee differences of opinion, which must be decided by this body, that may exist between the Secretary of Commerce and the various regional councils; and I feel that the Secretary should not have an undue advantage in such a situation.

Page 30, Line 22. The term "or the inland seas" should be added after the words "the territorial sea" when speaking of jurisdiction reserved for the states.

Page 31, Line 1. It should be made clear that the sanctions of Section 206 apply to violations of all provisions of the Act and/or regulations issued thereunder. The language in section (1) might be read to limit the sanctions to violations of the Act relating to fishing within the contiguous fisheries zone or with respect to anadromous species or continental shelf fishery resources. The prohibitions contained on Page 12 relating to foreign fishing, necessarily and correctly include the territorial sea or the inland seas.

It has been a pleasure working with your committee, and I look forward to assisting you in any way possible in the development of an effective piece of legislation governing the fisheries within the 200 mile zone.

Respectfully yours,

AMMON G. DUNTON, JR.

HOH TRIBAL BUSINESS COMMITTEE,
HOH INDIAN TRIBE,
Forks, Wash., September 4, 1975.

Senator WARREN MAGNUSON,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: Members of our tribe are concerned with the amount of U.S. salmon being removed by foreign fleets in the Pacific. We know that there has been much work done concerning the 200 mile limit off our coasts for foreign fishing. We appreciate the work done by the people in both the Senate and Congress from Washington State concerning this issue; though we stress the need to have this become a law as soon as possible for the sake of all U.S. citizens.

Sincerely yours,

HOWARD HUDSON,
Chairman.
GLENN PENN,
Vice Chairman.

PACIFIC MARINE FISERIES COMMISSION,
Portland, Oreg., September 12, 1975.

Hon. WARREN G. MAGNUSON,
Chairman, Commerce Committee,
U.S. Senate, Washington, D.C.

DEAR SENATOR MAGNUSON: The Marine Fisheries Advisory Committee to NOAA (MAFAC) on September 3–5 conducted a workshop and extended discussion of issues relating to pending legislation on fisheries management under extended jurisdiction. The conclusions of this group, which is widely representative of commercial and recreational fisheries interests of the coastal States, provide important broad-based reinforcement of many of the recommendations I offered in my letter to you dated August 29. The following review of those recommendations are from my own notes, and interpretations are of course my own. I am sure you will hear independently from others in attendance, and particularly from the workshop's very competent Chairman, Dr. Don Bevan of the University of Washington.

Briefly summarized, my understandings of MAFAC's major conclusions are as follows:

1. *Fisheries management provisions and institutional arrangements must be included in any extended jurisdiction bill* in order to assure prompt implementation of the objectives of that extension of fisheries control.

2. *Councils must be small enough to be operationally effective (those proposed for H.R. 200 are too large), yet must adequately represent the full range of commercial, recreational and State government interests.*

3. *The Regional Councils must be given the primary responsibility for developing both fishery management plans and regulations for their implementation;* the role of the Secretary (of Commerce) should be: (a) to assure conformance with National Standards; (b) to provide national authority for actions external to territorial waters, including interactions with other Federal Departments; and (c) to resolve deadlocks within Councils when and if they occur.

4. *The Secretary requires the capability to assure implementation of an approved mangement plan throughout the range of the fishery to be managed; however, he should be empowered to invoke preemptive authority within territorial waters only as a last resort and after fully exercise of "due process".* (H.R. 200's Sec. 309(b) accords too much unilateral authority to the Secretary; should require Council action first.)

5. *Provision for emergency action is necessary, as in H.R. 200 Sec. 307(e); however, there appears to be no justification for, and considerable danger in, the "temporary emergency" provisions of H.R. 200, Sec. 308, and this section should be deleted totally.*

6. *National Standards are to be strongly supported; however, MAFAC had difficulty with some definitions relating to them, and expressed concern for their implementation accordingly* [e.g., Standards (1) and "biological scientific"; (3) "optimum sustainable yield"; (8) "depletion"]. MAFAC also recommended an additional standard relating to the need for equitable allocation of resource benefits among the various user groups of the United States.

7. *The Interstate Marine Fisheries Commissions perform a variety of useful functions on behalf of their member States and the Federal government, and these should be continued. Those Commissions should apply their experience and existing institutional capabilities to staff support of the new Regional Councils* [but not in the voting context specified in H.R. 200 Sec. 303(b)(1)(A)].

The following notes in further explanation of the seven points outlined above may be helpful in indicating the rationale supporting those positions. Where appropriate, I also have referenced my letter of August 29.

(1) *Concerning inclusion of management provisions* in the legislation, unanimous agreement on this need was conditioned only by the emphasis of New Egland spokesmen that this not unduly delay or in any way jeopardize passage of an extended jurisdiction bill. Others emphasized that extended jurisdiction alone would not solve the problems faced by U.S. fisheries and fishermen; a rational management regime also must be created.

(2) *Concerning Council size and composition,* MAFAC was clearly ambivalent. All agreed that States should be represented on the Councils by their fisheries directors, but some noted that unless this membership were specified, some Governors might opt in favor of political interests and not make that designation.

All agreed that Councils should be smaller and more operationally workable than as specified in H.R. 200; however, representatives of special interest groups were concerned that an appropriate balance might not be achieved between interests (e.g., commercial vs. recreational) unless specified. I think the spectrum of views divided approximately as follows:

(a) Those who favor a "blue-ribbon citizens" approach, with members (other than those from government) selected for overall knowledgeability, integrity, reputation, etc. as is presently true on many State fisheries commissions. This group is concerned with the constituency representative approach, which forces increased numbers upon the Council, can never be totally representative in any case, and raises the problem of user-interests seeking to regulate themselves. (I personally support this view.)

(b) Those who believe that a balanced representation of user-group interests must be legislated, even at the price of increased numbers on the Council. Recreational interests are vehement in insistence that their interests must be adequately represented—in their view, for the first time. Commercial interests are equally concerned that the growing wave of recreational-environmental concerns not be allowed to dominate decisions on resources of vital economic and nutritional value to the nation and the world. Both groups feel they should be a part of the actual decision-making body, not relegated to "advisory" status.

My own recommendations concerning Council size and structure (letter of August 29, p. 4–5) are consistent with those of MAFAC and include specific additional suggestions which I believe will be useful to you.

(3) *Concerning balance of initiative and authority* between Regional Councils and central government (the Secretary) MAFAC showed solid consensus for vesting all possible initiative and responsibility at regional, not central levels. They emphasized the clear nationwide consensus on this principle, as stated repeatedly in national, regional, and local conferences of the past two years, and specifically enunciated in development of NOAA's National Plan for Marine Fisheries.

With respect to current House and Senate bills, MAFAC considered the Senate draft to more closely support this fundamental concept, then does H.R. 200. Many provisions of H.R. 200 assign very important initiatives to the Regional Councils (e.g., Sec. 304. Preparation of Fishery Management Plans by Councils). However, other sections centralize authority with the Secretary which many feel should be left with the Council.[1]

MAFAC emphasized (and I strongly support) both operational and political reasons for specifying that this primary initiative for plans and regulations rests with the Councils (recognizing of course that it is the function of duly constituted State and Federal authorities to implement and enforce those regulations as specified in the legislation). Far too many fisheries must be considered, and these are too complex and regionally differentiated to permit efficient development of management plans and implementing regulations on anything other than a regional basis. Furthermore, political acceptability of those regulations will depend heavily on active participation in their generation by regional and local Advisory Committees to the Council.

(4) *Concerning preemptive authority of the Secretary* to impose Federal regulations within territorial waters, MAFAC agreed generally with National Standard (2) that "Too the extent possible, an individual stock of fish shall be

---

[1] As example, I offer the following [H.R. 200, Sec. 304(b)(5)—italic added for emphasis]: "Any Council *may* prepare such proposed regulations as it deems necessary and appropriate to carry out any management plan prepared by it and the Secretary *shall take such regulations into account* when developing proposed regulations to be promulgated pursuant to Sec. 307."

This wording at least infers an intent for the Secretary to accept Council plans only if he chooses. I find this inconsistent with the explicit provisions for plan development in Sec. 304(b)(3); also with what I believe to be the real intent of the House Committee as development in Committee Report No. 94–445. I therefore urge that this confusing section be stricken as denigrating the initiative that should be assigned to the Councils.

To further explain this view, the *Specific Plan Requirements* of H.R. 200 [Section 304(b)(3)] delineate the elements integral to fisheries regulations as tasks to be accomplished by the Council in developing a management plan (e.g., designation of fishery zones, catch limits, gear restrictions, effort management, etc.). Sec. 305 provides for referral back to the Council of any plan (and its proposed regulations) considered unsatisfactory by the Secretary on the basis of his statutory responsibilities for maintenance of national standards, interface with other Federal agencies with respect to international implications, etc. These processes seem more than adequate, and the sense of Sec. 304(b)(5) would more nearly be that the Secretary *shall* take implementing action on regulations presented by a Council as part of an approved plan (not merely "take them into account"). Only in exceptional cases, and subject to all the due processes specified elsewhere in the bill, should he be empowered to take unilateral action.

managed throughout its range." Consistent with this Standard, they also generally accepted the premise of the findings expressed in H.R. 200 [Sec. 309(b)(1)]:

"The Congress finds that anadromous species, certain coastal species, and certain Continental Shelf species move, during their life cycles, within waters over which more than one State has jurisdiction, and move from such waters to waters that are not within the jurisdiction of any State. The Congress further finds that, although the purpose of this Act is not to affect State jurisdiction over fish principally within waters under State jurisdiction, there may be instances where Federal regulation within such waters of any anadromous species, coastal species, or Continental Shelf species may be necessary in order to insure the effectiveness of a management plan implemented under this Act for a fishery."

However, MAFAC clearly considered preemptive action by the Secretary [as proposed under H.R. 200 Sec. 309(b)(2)] a "last resort" mechanism for resolution of Council deadlocks. They also believed that it must be limited by adequate "due process" safeguards, such as requirement of a two-thirds vote of concurrence by the Council(s) concerned [as for emergency actions—H.R. 200 Sec. 307(e)]. Participants also noted that this authority should apply only to territorial waters, not to internal waters of any State.

In my letter of August 29, I emphasized the sensitivity of this issue and the factors which I believed would influence its acceptability. Preeminent among these is the degree to which initiatives and adequate controls are vested with the Regional Councils. My comments on August 29 were as follows:

"While the *findings* expressed in paragraph (1) of Sec. 309(b) may be acceptable in principle, many States will object vigorously to the preemptive provisions of paragraph (2). These objections may be ameliorated somewhat if this preemptive capability is adequately balanced by "due process" requirements (e.g., by the need for two-thirds concurrence of the appropriate Regional Council).

"In my view, this legislation will be difficult to implement effectively without reasonable concurrence on this issue. I believe State views will be conditioned strongly by two factors: how much reliance can they place in the "due process" protections against unwarranted interference in State operations; and will they gain enough from active participation in management of resources throughout the 200 mile extended jurisdiction zone to offset some possible losses of autonomy within three miles?"

(5) *Concerning strong opposition to "temporary emergency" powers proposed in H.R. 200, Sec. 308*, MAFAC saw no need for this last-minute add-on to the House bill in view of the normal emergency capabilities of Sec. 307(e) [Sec. 203(e) of the Senate draft]. Apparently these special emergency powers were suggested to permit early control of foreign fishermen; yet they apply only to the contiguous fishery zone which already is closed to foreign fishermen. Additionally this provision would empower the Secretary with unusual unilateral authority during the first 90 days after enactment of the law—authority which could extend for another 180 days for a total of nine months of unilateral control.

As noted in my August 29 letter, I join MAFAC and all others with whom I have discussed this provision in urging its total deletion as operationally unnecessary and politically inflammatory.

(6) *Concerning National Standards and their underlying definitions*, MAFAC strongly supported the need and general thrust of those Standards, but expressed concern about certain of the definitions. Major discussions centered upon definitions of optimum yield and the triumvirate of fisheries proposed for temporary emergency action under H.R. 200 Sec. 308 (depleted, in danger of depletion, or under intensive but unregulated use).

With respect to "depleted" fisheries, MAFAC was particularly concerned with the interpretations which had led to development of such totally misleading lists of fisheries as are carried in Appendix I of H.R. Report 94–445 (p. 95–99), for which, under Section 308, the Secretary could be required to develop temporary emergency management plans. To suggest that the Federal government must leap into immediate emergency regulation of these fisheries in the contiguous fishery zone without any of the due process of plan development and review, is totally unrealistic and unnecessary. I can see absolutely no basis for such precipitous action with respect to species listed for the Northeast Pacific, for example (Pacific cod, Pacific flounders and soles, hake, Pacific halibut, all rockfish, sablefish, Dungeness crabs, razor clams, pandalid shrimps).

While this question becomes somewhat moot if Section 308 is rejected as we have urged, I join with many others in suggesting that such term as "overfished"

be used if that is what is meant, rather than "depleted" which leads to serious dangers of misinterpretation.

With respect to other terms for which concern has been expressed and for which changes have been suggested. I refer your staff to page 2 of my August 29 letter (re anadromous, fish, fishery, highly migratory species, optimum yield). It is worth noting particularly that MAFAC agrees that the provisions of this proposed management act should apply to marine mammals and to highly migratory species as in the Senate draft—that they should not be excluded as in H.R. 200.

(7) *Concerning the role of the Interstate Marine Fisheries Commissions,* MAFAC invited the three Commission Directors to particpate throughout the September 3–5 discussions, and particularly to discuss possible interactions of the Commissions with the new Regional Council concept. Three major conclusions were outgrowth of those discussions:

(a) The Commissions serve valuable communication, planning and coordination functions for their member States with each other and with both executive and legislative branches of the Federal government. Many of these services are not directly related to the management functions proposed for the Regional Councils, and these separate functions should be maintained.

(b) The Commissions provide an already operating institutional mechanism for interaction among State and Federal agencies and with fisheries user groups and associated interests, which should be put to the service of the new Councils, and which could materially speed their effective organization. This supportive capability already is functioning via the NMFS State-Federal Fisheries Management Program, under which fisheries management plans are being prepared for Dungeness crab, surf clam, northern shrimp, and selected other species on both Atlantic and Pacific coasts.

(c) The role of Commission officers in the Regional Councils should be in the mode of staff support rather than as voting members.

The role of the Interstate Marine Fisheries Commissions was discussed further and toward the same general conclusions, in my August 29 letter (p. 1, 5–6). In that discussion I urged that the Congress make this role explicit either in the text of the bill or through recommendations in the Committee Report.

Let me again emphasize that these remarks constitute my own assessments of the MAFAC discussions and their correlations with my earlier recommendations, not those of MAFAC or of PMFC and its member States. I am sure you will hear directly from Dr. Don Bevan, who organized and chaired the MAFAC workshop, with an official review of that important meeting and its conclusions. We are of course hopeful that the MAFAC recommendations to Dr. Robert White will have significant effect on NOAA views concerning this landmark legislation. I also anticipate that you will hear directly from PMFC States concerning their views and areas of special concern.

I appreciate this opportunity to comment further on these critically important matters. If hearings are scheduled on this legislation by your Committee, I would appreciate being notified so that testimony can be presented by the Pacific States or by PMFC on these important issues.

Yours sincerely,

JOHN P. HARVILLE,
Executive Director.

FISHING VESSEL OWNERS' ASSOCIATION, INC.,
Seattle, Wash., September 12, 1975.

Senator WARREN G. MAGNUSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: Thanks for your letter of July 15th inviting my comments on a draft bill including domestic management in addition to extension of U.S. jurisdiction to 200 miles. My views on the draft bill on management are as follows:

Page 5, Line 14. The word maximum should be changed to optimum. There are times and places where we would want to take less than the maximum poundage of fish in order to permit U.S. participation in a fishery or to satisfy market demand for a particular size of fish.

Page 6, Line 5. "controlling interest" isn't defined. Perhaps it might be well to state that controlling interest means just that in form or in fact. One could have a controlling interest in an enterprise without have such appear on public records.

Page 7, Line 13. I prefer the term oceanic species rather than migratory species as the latter term can by some be interpreted to include salmon because of the long migrations that they make.

Page 7, Line 21. My definition of optimum is as follows: Optimum yield means the yield which will result when it is found necessary to take more or less than the maximum sustained yield because of social, economic or ecological requirements when the reason for such deviation from maximum yield is clearly defined and stated. Maximum yield means the maximum quantity of fish by weight which when taken can be sustained year after year.

Page 9, Paragraph 3. There should be an exception here to provide for U.S. authority over its own citizens where a highly migratory species is not covered by an international fishery agreement. Otherwise there would be no control of any kind over tuna within the U.S. 200 mile zone where no international agreement is in existence.

Page 10, Line 6. I don't like the use of the term "two hundred meters". The continued use of this term only serves to legitimize it as the outer boundary of the continental shelf. It thereby arbitrarily divides a species of fish in half—one-half outside and one-half inside of 200 meters. The term should be dropped as the definition "to the depth where such resources can be exploited" is adequate and sufficiently comprehensive.

Page 10. I like the paragraph on reciprocity. It may be difficult to implement but it is helpful to serve as a guideline. I would not object too much of the word shall in line 1 of Page 11 is changed to may.

Page 11, Line 18. This paragraph should include the right of the Secretary to set fishing regulations for foreign vessels in addition to fees.

Page 15. With reference to Section 201(b), I do not think all this detail is necessary. The Secretary should have the authority necessary to manage. I do believe that the Secretary should be the final authority but management proposals should come to him through the regional councils or should be proposed by him for consideration by the regional councils. In other words he should not be able to impose regulations which have not been acted upon first by appropriate regional councils.

Page 17, Line 9. This paragraph should be limited to "management and conservation shall not discriminate between residents of different states." Inclusion of citizens of a foreign nation in this paragraph contradicts the intent of the legislation to reserve the maximum yield for U.S. citiezns.

Pages 18 and on. While my preference is for the use of the exisitng marine commissions, I realize there is inadequate support at this time for the commissions as management agencies. I think it is a mistake to separate Alaska from the southerly Pacific Coastal States. If Alaska were included in an overall council, species limited to Alaska could be managed by those having an interest in the species. Those having no interest should not be allowed to vote on proposals for management of the species.

Page 20, Paragraph (2). Compensation stated should not exceed $100.00 per day. If the rate is too high it will attract people whose interest is in the compensation involved rather than the service to be performed.

Page 21. It should be made clear possibly by an additional paragraph labeled (4) that where a material part of a fishery extends beyond the geographic area of responsibility of a single Council into an area of responsibility of a foreign country, management of such a fishery shall be lodged in an international body. Where such a body does not now exist, a new one should be created. It is my opinion that bodies such as the International Pacific Salmon Commission and the International Pacific Halibut Commission should be retained in their present form. It is not completely clear to me whether the text of the staff working paper provides for this. If it does not, it should as we should not tamper with these two successful commissions.

Page 22, Line 4. While I haven't attended too many meetings of scientific advisory boards, my experience with groups generally leads me to suggest that not more than six should be members of the board rather than the twelve proposed. A fewer number would make it easier to expedite decisions.

Page 22, Line 18–19. State fishery management agencies should not be presented on advisory committees as the heads of such agencies will be members

of the council and their scientific people will be members of the scientific advisory board.

Page 26. I don't believe it is necessary to clothe the Secretary with emergency powers which will circumvent the regional councils. Management regulations should provide certain flexibility to take care of the need to make quick changes. This should be done at the regional level and not in the Secretary's office. Lines from 13 to 20 on Page 26 should be stricken.

Page 26, Section 204. This entire section should be stricken also as it will result in considerable delay that is unnecessary. The Secretary could not be stopped from appointing an ad hoc group to advise him any time he wishes. The provision as written would mean that every decision the Secretary made no matter how thoroughly it was considered at regional levels would be appealed to the Review Board. There is always an opportunity for judicial review anytime anyone believes his rights are being abridged by any act of a council or the Secretary. Such appeals should be handled at the regional level where anyone who disagrees with a proposal has the right to take his case before the council, the Scientific Advisory Board and the advisory committee. The Fishery Management Review Board is an unnecessary addition to what will of necessity to be a bureaucratic mechanism. If after taking his case up with the three regional entities, anyone who still is not satisfied can take his case to the courts something that is also available to him if a national review board is set up. The review board therefore only adds another delaying mechanism to the system without providing any finality to a contested proposal.

Page 32, Line 4–5. It is not clear to me if the penalities which have been applied in the last year or two running upwards of a quarter of a million dollars against foreign vessels will continue or whether they will now be limited to $50,000.00. This legislation should provide for different fines for large foreign vessels from those imposed on smaller domestic vessels. It may be that foreign fines can be imposed based on other laws but in any event it should be made clear that presently imposed fines for foreign violations should continue.

Page 33, Section 207. There should be provisions in the section for possible use of state agencies in enforcement where the Secretary deems this advantageous. The enforcement job will be difficult without the use of state personnel who are now working in the field and have the experience and the numbers to assist in this task.

Commenting generally, I would say that creation of regional councils instead of using existing commissions will make the state commissions obsolete. If the proposed legislation does not provide for their demise, separate legislation should.

I shall be pleased to expand on any of these views at any time.

Sincerely,

HAROLD E. LOKKEN, *Manager.*

SOUTH CAROLINA WILDLIFE AND MARINE RESOURCES DEPARTMENT,
Charleston, S.C., September 16, 1975.

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

DEAR SENATOR MAGNUSON: I am writing to provide some preliminary comments on the staff working paper on the "National Marine Fisheries Protection Act of 1975". I understood that you and your staff are working on the bill and that it is nearing the mark-up stage.

In general, I feel that the staff working paper provides a good beginning and that it contains much of merit. Several of my staff, as well as I, have been over this version, thus, the following comments represent our collective thinking.

The South Carolina fisheries have not been seriously impacted by foreign fisheries and mostly lie within waters of state jurisdiction, nonetheless, we do support extended jurisdiction as being very much in the national interest.

One aspect of the legislation does give us concern and we hope those who refine the present version will keep this concern in mind. Many fishery stocks are exploited on both sides of the line demarking the territorial limit and the limit of state jurisdiction. Even in a number of cases where all of the harvest is outside the territorial limit, the states still have the responsibilities for protecting juveniles which occupy inshore bays and estuaries. While we agree with the need for federal supremacy outside the territorial limit, we believe

the above mentioned conditions dictate close linkage between management plans in the extended zone and those in coastal waters within state jurisdiction. In short, fisheries such as the oyster, hard clam, blue crab and the South Atlantic shrimp are being well managed by states and the federal government should not preempt the management of these fisheries under any circumstance.

We especially like the council composition and size as reflected in the senate working paper over that described in H.R. 200. We would suggest that in Section 202(B)(1)(A), the state official be further designated as one already having responsibility for coastal (in-state) fishery management. This arrangement is already being followed in the formation of state-federal regional management councils now being established i.e., the South Atlantic Regional Shrimp Management Council (Florida, Georgia, South Carolina, North Carolina and the National Marine Fisheries Service).

In Section 202(C), Duties and Authorities (1), Name an Executive Director, etc.—and other staff . . .

Although an Executive Director for each council may (?) be necessary, in our judgment, the council could better utilize for staff work, personnel of the National Marine Fisheries Service and state fishery agencies where appropriate. Otherwise, building council staffs to the full limits allowed by law could create a third layer organization in addition to NMFS and state agencies. Such an addition of staff would be extremely costly with few benefits.

In Section 3(1), we would prefer option A for the definition of "optimum yield" as being much more flexible than option B.

For those fisheries that are prosecuted largely within the three-mile limit and only occasionally fished outside (the South Atlantic Shrimp Fishery, for example), we question whether fishermen should be required to obtain a federal permit in addition to the existing state licenses. Furthermore, where legitimate permit fees are assessed, we feel a portion should be allocated to the states to reimburse them for management costs such as (a) protecting and maintaining nursery grounds for fishes that will be caught offshore, (b) collection of catch and effort statistics for landings within the state, (c) law enforcement where appropriate, and (d) participation in council activities and providing staff work for the councils.

We look forward to seeing the next version of this important bill. We are pleased to offer what support we can and whatever assistance we may provide.

Sincerely yours,

EDWIN B. JOSEPH, *Director.*

THE COMMONWEALTH OF MASSACHUSETTS,
DEPARTMENT OF FISHERIES, WILDLIFE AND RECREATIONAL VEHICLES,
DIVISION OF MARINE FISHERIES,
Boston, September 17, 1975.

Hon. WARREN G. MAGNUSON,
Chairman, Commerce Committee,
U.S. Senate, Washington, D.C.

DEAR SENATOR MAGNUSON: It has been brought to my attention that the Senate Commerce Committee will soon be finalizing its version of a 200-mile interim fisheries extension bill based on your "Staff Working Paper" dated July 11, 1975 and possibly the contents of H.R. 200, the current house version of extended fisheries jurisdiction. I would like to take this opportunity to indicate my views with regard to some of the details of these bills which are of vital concern to this agency.

First of all, I am certain you are aware of our total support for extended fisheries jurisdiction at the earliest possible date. Ever since the late 1960's many of us here in New England have been concerned with the relentless over-exploitation of coastal fisheries by foreign fishing fleets off our coast.

Massachusetts was the first state to pass an extended fishery jurisdiction law (in 1971) with, of course, the intent of forcing action on the federal level through public awareness of the problem. There is some satisfaction in the growing national support for extended jurisdiction and I am optimistic that through the efforts of you and others in Congress this necessary step will be taken in the near future.

The following comments should not be construed to indicate any lack of support for the general intent of either H.R. 200 or your bill. Rather I hope that the consideration of these details would strengthen and add support to this vital legislation.

Section 202(a). Creation of Councils

I support the concept of a New England Regional Fishery Management Council provided in H.R. 200 as a more practical expression of regional fishery interests on the East Coast. However, this further breakdown from the Senate version of the North Atlantic Council should be incorporated with wording from the Senate draft which requires cooperative action by two or more Councils involved in the same fishery. In this manner proper identity of the different interests and stocks would be obtained and yet cooperation assured on overlapping resources.

Section 202(b). Composition

It is vital that the state fishery management agency be a member of the Regional Management Council—otherwise a dual management regime could develop in a coastal state where the Governor chose not to appoint the state fisheries administrator to the Council. Such a chaotic situation would do irreparable harm to what must be a highly cooperative state-federal partnerhip. In addition every effort must be made to insure the inclusion of qualified professional fishery resource managers in the Councils. For that reason I also believe that the NMFS Regional Director should be a member as spelled out in the H.R. 200. I do not believe, however, that the Regional Director of FWLS should be named since that agency's jurisdiction is extremely limited in the marine field and could be better treated on an advisory basis.

I have mixed feelings about H.R. 200's inclusion of private citizens in a policy role but would be willing to accept that concept provided the total number of appointments was not large and that a reasonable balance between commercial and sport fishing interests was assured. I believe the Senate version of restricting public membership to advisory roles is not acceptable to many industry interests and could cause considerable opposition to the bill. Thus some compromise between the number of public members included on the Councils in H.R. 200 and the one such member recommended by the Senate version would seem most acceptable.

Section 205. Relationship to State Laws

I believe that some preemptive powers over the states must be incorporated in any management bill since the Management Councils must be able to effectively manage the stocks wherever they exist. H.R. 200 however, lodges preemptive power over the coastal states in the Secretary rather than the Management Councils. Preemption would be much more palatable to the states if it came as a majority vote of the Councils of which they are an integral part.

This issue is a key one to the entire concept of retaining management jurisdiction over fisheries at the most effective local level. Except for insuring general conformance to national goals and interests there is no rational argument for vesting regulatory authority on the Washington bureaucrat level rather than on the regional level. I believe this concept of regional control is a most important issue and should be developed more explicitly in both the Senate version and H.R. 200.

I hope the above comments are constructive and can be considered in your further deliberations on this legislation. Please accept my sincere appreciation for all your past efforts with regard to fisheries which hopefully soon will be consummated with the passage of this vital legislation.

Sincerely,

FRANK GRICE, *Director.*

WOODSTREAM CORP.,
Lititz, Pa., September 18, 1975.

Senator WARREN G. MAGNUSON,
Chairman, Committee on Commerce, U.S. Senate Office Building, Washington, D.C.

DEAR SENATOR MAGNUSON: At this address we employ between 250–300 people in the manufacture of recreational sport fishing equipment. At our plant in Louisiana we employ in the neighborhood of 500 in the manufacture of small sport fishing boats.

Not only will our local business be affected adversely if we do not establish a 200 mile U.S. marine fisheries jurisdictional zone, but also that of the substantial sport fishing industry and boat industry.

Therefore, I respectfully urge that the following principles be incorporated in any 200 mile bill that may emerge from your Committee:

1. Specific inclusion of recreational fisheries representatives in any regional fisheries management councils and/or national review board that may be proposed.

2. Specific recognition in any statement of national standards of a recreational fishing entitlement to an equitable share of the yield/or catch in managed fisheries.

3. Specific provision of some mechanism to permit individuals or groups of anglers and other fishermen to force action from a regional council.

4. Accountability by the Secretary of Commerce to a National Review Board, with right of appeal thereto by affected parties with respect to his actions.

5. Exemption of fisheries regulations from the requirements of the National Environmental Protection Act (NEPA), as an environmentally-protective activity, except when exotic species are introduced or catch is likely to exceed the maximum sustainable yield for any species.

I strongly feel that this bill with the above features incorporated will be in the very best interest of our country.

Cordially,

DAVID S. MORRISON.

DEPARTMENT OF FISH AND WILDLIFE,
Portland, Oreg., September 18, 1975.

Hon. WARREN G. MAGNUSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MAGNUSON: Oregon has followed the progress of the National Marine Fisheries Protection and Management bill closely. We have discussed this legislation with other Pacific coast states, industry representatives, the federal government, and others. We support the general approach of the "Staff Working Paper" of the Commerce Committee and we specifically want to endorse the comments sent to you by Dr. John Harville, Executive Director, Pacific Marine Fisheries Commission, on August 29.

We wish to emphasize the following points regarding both the "Staff Working Paper" and H.R. 200, the companion bill in the house.

Section 202. Regional Fishery Management Councils

There are far too many members on the management councils defined in draft legislation. While we recognize the desire to include representatives of all users, it is of no benefit to have such a large membership that decisions are difficult to make. Of the two bills, our preference is for the Senate version which provides councils of 7 to 9 members.

We also recommend that at least one of the representatives be from the agency of each state responsible for management of the fisheries. This individual could be the state official appointed by the Governor.

We particularly support paragraph 202(c)(2) which exempts fisheries principally located within the boundaries of a state from regulatory authority by the councils.

Section 203. Emergency Action

We strongly support the provision for emergency action but we object to having this power reside with the Secretary. Provision for emergency action should be retained by the councils and be implemented by a two-thirds vote of the council. Maximum authority and responsibility should be retained at the field level.

Regarding emergency action, we strongly object to language in H.R. 200, Section 308, which requires the Secretary to take action within 90 days of enactment of legislation. Councils may not be established by that time and "due process" provisions will be set aside. We do not see the need for this emergency action.

Section 205. Relationship to State Laws

We support the language of the Senate draft which retains maximum state authority over natural resources within territorial seas. We recognize, however, that some species, such as anadromous fish, are harvested beyond territorial seas. If management plans are developed by regional councils for these species, then

management within a state's territorial waters must be consistent with the management plan. The authority to force a state to comply, if necessary, should be retained at the Regional Council level rather than with the Secretary. It is necessary, however, to have some authority that can require an individual state to comply with management plans.

We again want to urge our support of the extended jurisdiction legislation and the need to include management responsibility for offshore fisheries in the bill.

Sincerely,

JOHN W. MCKEAN, *Director.*

STATE OF NEW JERSEY,
DEPARTMENT OF ENVIRONMENTAL PROTECTION,
Trenton, September 18, 1975.

Hon. WARREN MAGNUSON,
Chairman, Senate Committee on Commerce,
Senate Office Building, Washington, D.C.

DEAR SENATOR MAGNUSON: We have reviewed the Staff Working Paper for S. 961, dated July 11, 1975, and respectfully offer our comments for your consideration.

New Jersey is on record as favoring a fishery jurisdiction of 200 miles, having testified to that effect at several hearings on the subject. We feel that the contiguous fishery zone described in S. 961 is a clear and concise enunciation of our position. This definition is preferable to the comparable section in H.R. 200.

The licensing portion of the proposal (page 16, line 16) causes us some concern. This section gives the Secretary broad licensing powers, but fails to set out how the resulting revenues would be used. We recommend that a substantial portion of these monies be allocated to fund the stock assessment and research which the National Marine Fisheries Service must conduct in order to manage the resource.

We further recommend that an equitable portion of the licensing funds be given to the coastal states to enable them to carry out their significant responsibilities under this act.

The standards section, particularly standard No. 3, should explicitly state that each state be given its equitable share of the resource. Catch quotas should be determined on a state by state basis to insure that states at the end of a stock's range receive their fair share of the catch. Without such protection, New Jersey commercial fishermen, being at the wrong end of the yellowtail flounder's range, would have to be content with an incidental catch after fishermen north of the state had harvested the allowable quota. This is but one example of the inequities which would result from the adoption of a regional catch quota.

Generally, we favor the Regional Management Council concept. However, since the fisheries north and south of Cape Cod are quite different, it might be more efficient to divide the North Atlantic Council into groups representing the North and Middle Atlantic.

We feel that the bill is a significant and well drafted proposal. With the adoption of suggestions noted above, it would receive our wholehearted support.

Faithfully,

DAVID J. BARDIN, *Commissioner.*

THE SHURKATCH FISHING TACKLE CO., INC.,
Richfield Springs, N.Y., September 18, 1975.

Senator WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: As a manufacturer of sport fishing tackle whose customers are all interested in recreational fishing, I wish to support the pending 200-mile Senate bill with certain suggestions and recommendations that will protect our recreational fishermen, as follows:

1. I believe that the National Enivornmental Protection Act should not be involved in this except when the catch of fish appears to exceed the maximum sustainable yield for any species of when exotic species are introduced into the area.

2. I believe that the Secretary of Commerce should be accountable to a National Review Board so that any groups or individuals may question his actions or rulings. I believe that some mechanism should permit individuals or groups to appeal and get some action from a regional council. I believe that a statement should be made giving recognition to the recreational fishermen being entitled to their share of the fish in any managed fishery program. I believe that a recreational fishery representative should be included on any Fisheries management council, local or national, or any Board that may be proposed in the future.

Thank you for taking the time to listen to our suggestions.

Very Truly Yours,

FREDERICK S. DOOLITTLE, *President.*

YACHTING PUBLISHING CORP.,
New York, N.Y., September 18, 1975.

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

DEAR SENATOR MAGNUSON: Thank you for your very kind letter of Sept. 15 advising me to recommend to Dr. Robert M. White that he support the nomination of Dr. Frank Carlton for U.S. Commissioner to the International Convention for the Conservation of Atlantic Tunas. This I will be happy to do.

On a different matter I would like to take this opportunity to express my concern over certain portions of the pending 200-mile U.S. economic zone Senate Bill now being drafted by the Senate Committee on Commerce. My concern covers five specific points:

1. That the bill specifically include representatives of the recreational fisheries industry in any regional fisheries management councils and/or any national review board that may be proposed.

2. That in any statement of national standards, specific recognition be given to recreational fishing entitlement to an equitable share of the catch or yield in managed fisheries.

3. That some specific provision be made for a mechanism to permit individuals or groups of anglers and other fishermen to force action from a regional council.

4. That the Secretary of Commerce be made accountable to a National Review Board, and that affected parties have right of appeal to such a Board with respect to his actions.

5. That fisheries regulations be exempted from the National Environmental Protection Act (NEPA), as an environmentally protective activity, except when exotic species are proposed for introduction into U.S. fisheries waters, or when catch is likely to exceed the maximum sustainable yield for any species.

As you may know, Yachting Magazine is the leading monthly U.S. publication in recreational boating, with a current estimated total readership of over 500,000. Our mail is increasingly heavy with pleas and demands from recreational fishermen and also from non-fishing boat owners for a 200-mile U.S.-managed fisheries zone, and also for guarantees that the recreational fisheries shall be adequately represented and their requirements given fair consideration when legislation is drafted to implement such a zone.

Thanking you for this opportunity to express these important points of view, I am,

Respectfully,

FRANK T. MOSS,
Associate Editor, Member of MAFAC.

BALBOA ANGLING CLUB,
Balboa, Calif., September 18, 1795.

Re Studds-Magnuson 200-Mile Fish Conservation Zone Bill Nos. H.R. 200, H.R. 1070, S. 1961 (these were H.R. 8665 and S. 1988) also, the bill known as: National Marine Fisheries Protection and Management Act of 1975.

Senator ERNEST F. HOLLINGS,
U.S. Senate,
Washington, D.C.

The Board of Directors of the Balboa Angling Club, speaking for a membership of over 500 avid Pacific Coast sport-fishermen, want to go on record with your office as strongly supporting the establishment of a 200 mile Marine Conservation Zone as indicated by the above proposed legislation.

However, we strongly oppose the present proposals which do not give recognition or representation to some 1.4 million fellow sport-fishermen in California on the regulatory bodies that will be managing and administering this conservation zone. Obviously, the power to regulate includes the power to exclude. It is vital that recreational anglers be given representative status in adequate numbers on any regulatory body that will affect our interests.

It would be patently unfair to have a regulatory body dominated by commercial fishing interests which would award fishery quotas to the exclusion of sport-fishermen. For this reason, we trust that we can count on you, as our representative, to protect our interest in the recreational aspect of the fishery management program by providing for and requiring adequate sport-fishing representatives on the management board.

Very sincerely,

JAMES E. BRYANT, *President.*

ANDE, INC.,
West Palm Beach, Fla., September 19, 1975.

Senator WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate Office Building, Washington, D.C.

DEAR SENATOR MAGNUSON: In regards to the new bill increasing a 200-mile coastline jurisdiction bill. I hope that recreation fishing shall be represented on said board. Also that the different regions shall have an avenue of recognition to above board.

This agency shall be accountable to sound type of review board. Have noticed in the past that congress sets up an agency which has nobody to account to or for.

We hope you take the above into advisement.

Sincerely,

C. W. GERLACH, *President.*

DEWITT PLASTICS,
Auburn, N.Y., September 19, 1975.

Senator WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate Office Building, Washington, D.C.

DEAR SENATOR MAGNUSON: We strongly urge you to help us in our effort to improve fishing in behalf of our business, the sport, and our angling customers by the:

1. Inclusion of a representative of the Recreational Fisheries in any regional fisheries councils and/or national review board.
2. Recreational fishing entitlement to equitable share of yield of managed fisheries.
3. The right by some means for fishermen or groups of them to force action from a regional council.
4. Right of appeal by affected parties to the Secretary of Commerce for his action, with a national review board.
5. Exemption of fisheries regulations from the requirements of the National Environmental Protection Act (NEPA) as an environmentally protective activity except when exotic species are introduced or catch is likely to exceed the maximum, sustainable yield for any species.

We will watch with interest the proceedings for I'm sure the leadership that the United States shows in this Senate Bill will have a great bearing on other countries watching what we here in the United States do, and hope that they may follow the leadership we can show.

Yours very truly,

FRANK P. DEWITT.

THE COMMONWEALTH OF MASSACHUSETTS,
EXECUTIVE DEPARTMENT, STATE HOUSE,
Boston, September 19, 1975.

Hon. WARREN G. MAGNUSON,
U.S. Senator, Washington, D.C.

DEAR SENATOR MAGNUSON: I am writing to urge your support for S. 961 and its prompt passage.

This important legislation will not only help to revitalize our fishing industry but also preserve one of the most important sources of protein for future generations of Americans.

Further delay of passage will benefit only the foreign fishing fleets off our shore and do nothing to bolster our sagging economy.

Your support will be greatly appreciated.

Sincerely,

MICHAEL S. DUKAKIS,
Governor.

ATLANTIC STATES MARINE FISHERIES COMMISSION,
Washington, D. C., September 19, 1975.

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

DEAR SENATOR MAGNUSON: I am aware that the Senate Committee on Commerce is in the process of preparing in final form a 200-mile extended fisheries zone bill based on S. 961 and "Staff Working Paper" dated July 11, 1975. It is possible that you are also considering the provisions of H.R. 200, a similar bill that has recently been favored by the House Merchant Marine and Fisheries Committee.

Accordingly, I am taking the liberty of providing you with a copy of a letter to the Honorable Lawton Chiles and the entire Florida Congressional Delegation by Harmon W. Shields, Executive Director of the Florida Department of Natural Resources. Mr. Shields is the Administrative Commissioner to ASMFC from his state.

Mr. Shields' comments on the Secretary's preemptive authority as it affects fisheries within the Territorial Sea as described in H.R. 200 are pertinent to the interests of all Atlantic Coast States—in fact, all the coastal states of the Nation. I would urge that ocnsideration be given in the Senate bill that where preemptive powers over the management of stocks of fish that are entirely or partially within State's jurisdiction would apply, this authority be given to the proposed Regional Councils and only to the Secretary if he is requested to do so as a last resort by a majority of the appropriate Council.

All fifteen state fisheries administrators of the Atlantic Coast States that comprise this Compact consider the potential federal preemption of management of fisheries within the Territorial Sea as the most serious deficit of the proposed legislation.

We respectfully request your consideration of our position on this serious issue.

Sincerely yours,

IRWIN M. ALPERIN,
Executive Director.

Enclosure.

STATE OF FLORIDA,
DEPARTMENT OF NATURAL RESOURCES,
Tallahassee, Fla., September 2, 1975.

Hon. LAWTON CHILES,
U.S. Senate,
Washington, D.C.

DEAR LAWTON: The Gulf States Marine Fisheries Commission recently held a meeting of the Commissioners to discuss HR 200, The Marine Fisheries Conservation Act of 1975, which deals with extended jurisdiction. Although this legislation has been modified several times, HR 200 has, according to our information, favorably passed the subcommittee and full committee and will shortly go before the House where passage is expected.

Although there are several points which we feel would be detrimental to the interests of Florida and her sport and commercial fisheries; one stands paramount! Under the present wording, we are told that the Secretary of Commerce can totally pre-empt a state's authority over any fishery if that state refuses to go along with a management plan (which could have been promulgated by the Secretary without the concurrence of the Council). More importantly this preemption would not cover just the area outside the three mile (or better yet, 12 mile limit) but would affect all but the "Internal Waters" of the state. Presently there is no written definition of "Internal Waters" but it is held to mean only those waters landward of the coastline. Thus, federal pre-emption would pertain to all coastal waters except inland bays and estuaries!

This is an extremely serious problem. Although we do not like the idea of any federal pre-emption, at least we can understand the need for continuity of enforcement beyond the state's territorial sea. Such pre-emption right up to the coastline, however, is totally unwarranted and should be dropped from this legislation.

I am personally requesting your help on this matter in any way you feel appropriate. Perhaps an amendment defining "Internal Waters" to include the territorial sea would accomplish the necessary changes. In addition, we feel that any regulations proposed under this law should require at least majority approval of the regional council. As we now understand it, the Secretary of Commerce alone could promulgate a management program.

I would greatly appreciate any help you could give, and if you need further information, please let me know.

Sincerely,

HARMON W. SHIELDS,
Executive Director.

SUNSET LINE & TWINE CO.,
Petaluma, Calif., September 19, 1975.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce, U.S. Senate Office Building, Washington, D.C.

DEAR SENATOR MAGNUSON: I just returned from your State and the biggest complaint I heard was that salmon fishing was not good this past season. The poorness of the commercial, as well as sport, fishing is pretty much based on the foreign fleets that are taking our offshore fish.

The other day, driving home from work, I saw a bumper sticker which read, "Enjoy U.S. Fish—100,000,000 Russians Do".

It would be my hope that you will establish a 200 mile U.S. Marine Fisheries Jurisdictional Zone for the benefit of the people of this country.

While overfishing by foreign fleets will have a specific effect on our business, since we are in the sport fishing, as well as commercial, line business, this is not entirely my wish to see the 200 mile limitation put into effect. The main reason is that these foreign fleets are taking and doing nothing about replenishing. I recall so well the commercial fishermen in the Monterey area overfishing sardines to where the fisheries were depleted. The local crab of San Francisco are threatened, the anchovies of Southern California are threatened, and the salmon of Washington State are threatened.

I do not believe we can wait any longer for the protection of our valuable resources.

Cordially yours,

A. W. AGNEW.

THE EMERGENCY COMMITTEE TO SAVE AMERICA'S MARINE RESOURCES,
Englewood Cliffs, N.J., September 22, 1975.

Hon. WARREN MAGNUSON,
U.S. Senate, Washington, D.C.

DEAR SIR: The Emergency Committee to Save America's Marine Resources takes this opportunity to strongly endorse the recommendations recently made by Dr. Frank Carlton of the National Coalition for Marine Conservation and Dick Stroud, Executive Vice President of the Sport Fishing Institute, relative to the inclusion of specific protections for recreational fishing in your 200 Mile Limit bill, S. 961. While we have been assured that recreational interests will be treated fairly within the scope of the present bill, past experience indicates that it will be much safer if such protection is specifically written in. Unless, recreational fishing interests are at least equally represented with those of the commercial fisheries, there is the distinct possibility that exploitation will receive higher priority than conservation. We've seen this happen all too frequently on the state level and hope to avoid the same situation in the new federal legislation.

Failure to give adequate recognition to the recreational fisheries will not only be a defeat for the far more than 10 million salt water sport fishermen in this country, but also have an adverse effect on the multi million dollar sport fishing industry which encompasses everything from boat liveries and "mom and pop"

tackle shop to tackle manufacturers of all sizes. It is quite likely that the economic value of the salt water sport fishery may well exceed that of the commercial fishery, and, yet representatives of the tackle industry are rarely if ever invited to participate on advisory boards or get involved in planning for the future of the marine fisheries. I trust that the latest legislation you are formulating now will take this into account and provide adequate remedies for past oversights.

Thank you for your great efforts on behalf of saving America's marine fisheries!

Sincerely yours,

ALLAN J. RISTORI,
Chairman.

STATE OF NEW JERSEY,
DEPARTMENT OF ENVIRONMENTAL PROTECTION,
September 22, 1975.

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

DEAR WARREN: You will remember me as the chairman of the Atlantic States Marine Fisheries Commission when we were working for the enactment of S. 627, sponsored by the late Bob Bartlett, which became P.L. 88–309, the Commerical Fisheries Research and Development Act. This is one of the most popular of all fisheries programs (all 50 states participating) and the domestic fishing industry, both sport and commercial, is, and will be, forever grateful for your strong support.

I am still a member of the Atlantic States Marine Fisheries Commission representing New Jersey; also a member of the New Jersey Fish and Game Council in the Division of Fish, Game and Shellfisheries. It is in this capacity that I am writing to express the grave concern of our professional state fisheries management personnel over proposed marine fisheries programs and legislation. I am advised that this concern is shared by a number of other state scientists and fisheries administrators. Knowing from past experience of your efforts to aid and not hurt the domestic fishing industry at all levels, I am submitting their report to you as I know it will be given very careful consideration by you and your staff.

I have not been as active at the federal level as in the past years, but I look forward to seeing you again soon.

With best personal wishes,

Sincerely yours,

DAVID H. HART,
Fish and Game Councilman.

Enclosure.

STATE OF NEW JERSEY,
DEPARTMENT OF ENVIRONMENTAL PROTECTION,
September 19, 1975.

Capt. DAVID H. HART,
Cape May, N.J.

DEAR DAVE: As requested, we have reviewed the Staff Working Paper for S. 961 dated July 11, 1975. the August 20, 1975 version of H.R. 200, and Report No. 94–445 entitled "Marine Fisheries Conservation Act of 1975" and submit the following:

We are concerned with the cumulative effects of a number of provisions that are present in both of the bills. These provisions are considered as overriding matters which act to negate those sections that are intended to assure the states that their jurisdiction is not in jeopardy. H.R. 200, in fact, states (Section 309(b)(1)) that federal jurisdiction will prevail in state waters under some situations. In effect, the legislation as proposed eliminates state authority over marine fishes and continental shelf species: it relegates the states' professional fisheries management interests to occasional representation on an advisory committee or less definite participation in the program—it subjugates their input to the approval of the resource user; and it strips the states of the authority to derive income from the resource users through licensing thereby practically eliminating their capability to manage "their" fisheries resources and related habitat.

We believe that these and other aspects of the bills are contradictory to proven and/or advocated fisheries management organizational arrangements such as demonstrated by the proposed National Fisheries Plan, the State-Federal Fisheries Management Program, and the model Marine Fisheries Management Act that was developed by the Council of State Governments' Task Force on Effective Fisheries Management Programs.

Following are our comments on specific areas of the bills. I trust that our concerns will be reflected in their subsequent versions.

1. Regional Marine Fisheries Councils. The Council concept is excellent. Such a system is presently in operation on a limited, poorly funded scale in the State-Federal Fisheries Management Program; however, the councils should be comprised of professional fisheries managers with the users on advisory boards. There are numerous examples of such boards and councils which are mismanaging our resources. The councils of fishery managers should be required to appoint advisory committees which include the users and the general public, and also species management or stock management sub-councils composed of fishery scientists with special knowledge regarding the species and stocks in question. The concept in S. 961 which permits councils to join or coordinate actions when dealing with species whose range overlaps council boundaries is sound and should be retained. H.R. 200 has the best regional boundaries for the Atlantic Coast councils (Page 40) and this should be retained.

2. Secretary's Powers. We do not believe the Secretary should have such broad powers as provided for in either S. 961 or H.R. 200. His powers should be limited to matters of international scope or emergency measures. The council of professional fisheries managers should handle domestic matters that do not constitute an emergency.

We are in full agreement with the thought that, at times, state fisheries managers are unable to act as they would like to in order to properly manage the resources, and at such times outside help would be welcome; however, we feel that such help could be provided in a more understanding fashion by our professional colleagues on the council as recommended in (1) above, rather than by the Secretary.

3. Licensing. States have authority and obligation to protect the habitat which has so often been declared as the key to survival of 60 to 90% of the living marine resource. In addition, the states provide access and facilities for the fishermen's use. H.R. 200 provides for the federal government to license all fishermen and retain the funds. S. 961 provides for licensing but does not specify how the funds will be used. Neither bill recognizes the fact that the states have taken a leading role in habitat protection and the development of access, often at the expense of the hunter and fresh water license buyer. Funding for the states is vital. Without state programs, important renewable resources would be lost.

4. Contiguous Zone. S. 961 clearly defines the 197-mile fisheries zone and clearly separates state and federal jurisdiction. This is good. Conversely, however, H.R. 200 establishes a 200 mile fisheries zone which includes the states' waters, and which we feel, preempts the states' authority in spite of the fact that it goes on to assure us that it will not, except in certain cases. It goes on further to refer to the states' "internal waters" without defining them. H.R. 200 is confusing on this point.

5. Exemption of certain species. We heartily agree with the provision in S. 961 (P. 21, line 13) which exempts "fisheries which are principally located in the waters within the boundaries of a single state" from management by councils, and recommend that it be retained.

6. Federal Officials as Chairmen. We are particularly concerned by provisions in S. 961 which reserve the chairmanship of the Regional Fisheries Management Council (P. 20, line 1) and the Scientific Advisory Board (P. 22, line 6) to certain federal personnel. We feel that these groups are competent to select their own chairman, and would choose the most competent individual regardless of who his employer might be. The members of both of these groups would give their support and best effort to a chairman whom they elected. An "automatically" appointed chairman would be at a distinct disadvantage.

7. Optimum Sustainable Yield. Both of the definitions offered in S. 961 are nebulous. The concept is fine, but idealistic, and defies precise definition. How

can we ever determine that a species is being utilized at this ideal level? We need a more objective yardstick. Many migratory species have spawning and/or nursery areas in one portion of the coast and do not reach other portions of the coast until they are mature. Will the states that maintain the nursery habitat be allowed a share of the catch at the expense of a reduced catch of larger, more valuable fish at another point? Or will fishermen in the nursery area be denied a portion of their livelihood so that someone up the coast can benefit? Perhaps the optimum use would best be decided on a species by species basis by the Regional Management Councils cited in (1) above.

Sincerely yours,

A. BRUCE PYLE,
Chief, Bureau of Fisheries Management.

CHRYSLER CORP.,
MARINE/INDUSTRIAL PRODUCTS OPERATIONS,
September 22, 1975.

Senator WARREN G. MAGNUSON,
Chairman, Committee on Commerce,
U.S. Senate Office Bldg., Washington, D.C.

DEAR SENATOR MAGNUSON: In connection with any bill on establishing a 200-mile fishing limit that may come from your committee, I respectfully urge that the following might be taken into consideration:

(a) That *recreational fisheries* people might participate in any regional or national councils and boards that might be set up.

(b) That *recreational fishing* get its fair share of the managed fisheries yield.

(c) That *sport fishermen* be allowed to force action from a regional council.

(d) That the Secretary of Commerce be accountable to a National Review Board, with a right of appeal by affected parties.

(e) That, in general, fisheries regulations be exempt from the NEPA—except when a catch might exceed the maximum sustainable yield for any species.

We urge this action with respect to the more than 70 percent of boat users who engage in the sport of fishing.

Thank you for your consideration.

Yours very truly,

WILLIAM J. LAURENT,
Advertising Manager.

THE GARCIA CORP.,
Teaneck, N.J., September 23, 1975.

Hon. WARREN MAGNUSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MAGNUSON: The Garcia Corporation strongly endorses the suggestions made by Dick Stroud, Executive Vice President of the Sport Fishing Institute and Dr. Frank Carlton, President of the National Coalition for Marine Conservation relative to the inclusion of the specific protection for marine recreational interests in the 200 mile fisheries legislation which your committee is currently considering.

Our company which exceeds, 100 million dollars in the sporting goods sales, specifically requests that the following principles be incorporated in the 200 mile legislation:

1. Specific inclusion of recreational fisheries representatives in any regional fisheries management councils and/or national review board that may be proposed.

2. Specific recognition in any statement of national standards of a recreational fishing entitlement to an equitable share of the yield/or catch in managed fisheries.

3. Specific provision of some mechanism to permit individuals or groups of anglers and other fishermen to force action from a regional council.

4. Accountability by the Secretary of Commerce to a National Review Board, with right of appeal thereto by affected parties with respect to his actions.

5. Exemption of fisheries regulations from the requirements of the National Environmental Protection Act (NEPA), as an environmentally-protective activity, except when exotic species are introduced or catch is likely to exceed the maximum sustainable yield for any species.

Your outstanding efforts in behalf of saving America's marine fisheries are very much appreciated throughout the industry. We trust you will see to it that recreational fishing interests are similarly protected within the 200 mile limit.

Yours sincerely,

RICHARD C. WOLFF,
Vice President.

THE GARCIA CORP.,
Teaneck, N.J., September 23, 1975.

Hon. WARREN MAGNUSON,
U.S. Senate Office Building,
Washington, D.C.

DEAR SENATOR MAGNUSON: I am pleased to read that a Senate bill establishing a 200 mile U.S. marine fisheries jurisdictional zone is now being drafted. I request that the following principles be considered and incorporated in any bill put together by this Committee:

1. Specific inclusion of recreational fisheries representatives in any regional fisheries management councils and/or national review board that may be proposed.
2. Specific recognition in any statement of national standards of a recreational fishing entitlement to an equitable share of the yield/or catch in managed fisheries.
3. Specific provision of some mechanism to permit individuals or groups of anglers and other fishermen to force action from a regional council.
4. Accountability by the Secretary of Commerce to a National Review Board, with right of appeal thereto by affected parties with respect to his actions.
5. Exemption of fisheries regulations from the requirements of the National Environmental Protection Act (NEPA), as an environmentally protective activity, except when exotic species are introduced or catch is likely to exceed the maximum sustainable yield for any species.

I look forward to your comments.

Very sincerely yours,

IRWIN ROBINSON,
Vice president, marketing communications.

WHITNEY-FIDALGO SEAFOODS, INC.,
Seattle, Wash., September 23, 1975.

Hon. WARREN G. MAGNUSON,
Chairman, Senate Committee on Commerce, Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR MANGUSON: Please accept these comments regarding S. 961, the Emergency Marine Fisheries Protection Act of 1975, on behalf of Whitney-Fidalgo Seafoods, Inc. These comments were prompted by a review of a statement dated June 7, 1975, by Mr. Ammon G. Dunton, Jr., of the firm of Dunton, Simmons & Dunton, on behalf of the Zapata Haynie Corporation in opposition to certain provisions in S. 961. Mr. Dunton's statement contains several factual and legal errors which we believe require correction. Mr. Dunton errs in his understanding of the purpose and effect of both existing and proposed laws which regulate the entry of non-United States citizens into the domestic fisheries business. Mr. Dunton's statement makes numerous allegations regarding the condition and operation of the U.S. salmon industry which are untrue. Mr. Dunton's statement ignores the serious constitutional implications of his proposal.

This reply is divided into four sections: 1) a description of Whitney-Fidalgo Seafoods, Inc.; 2) legal requirements (existing and proposed) regarding the ownership of fishing companies and equipment by non-U.S. citizens in the domestic fishing trade; 3) a rebuttal of erroneous factual allegations concerning the Alaska salmon industry contained in Mr. Dunton's statement; and, 4) an analysis of the constitutional requirements for "grandfathering" corporations now operating fishing vessels with the permission of the Secretary of Commerce.

WHITNEY-FIDALGO'S OPERATIONS

Whitney-Fidalgo Seafoods, Inc., ("Whitney-Fidalgo") is a Maine corporation engaged in the fishing and fish processing business, primarily in the States of Washington and Alaska. Whitney-Fidalgo owns and operates eight salmon can-

neries and five frozen seafood processing facilities in the two states. The company also owns and/or operates 98 salmon vessels, including 49 seiners and 28 tenders. All of the officers and all but one of the directors of Whitney-Fidalgo are citizens of the United States. It has 321 regular and as many as 1,900 seasonal employees in its processing plants, substantially all United States citizens. Each of the company's vessels is crewed by an American master, who hires his own crew, all citizens of the United States.

In 1973 Whitney-Fidalgo was acquired by Kyokuyo Co., Ltd., a Japanese corporation (Kyokuyo), through a public stock tender offer. The offer was made with the permission of the Maritime Administration of the U.S. Department of Commerce for transfer of up to 100% of the outstanding common stock. Ninety-eight percent of the stock was tendered by shareholders to Kyokuyo. Two percent of the stock continues to be held by American citizens. Management of the company has been essentially unchanged since transfer of the ownership of the stock. All the officers and managerial employees employed by the company in 1973 have remained with Whitney-Fidalgo. Operation of the company, including the distribution of its products, has been essentially unaffected by the acquisition.

For purposes of the law regulating fishing in United States waters, Whitney-Fidalgo has remained a United States citizen. Each of the vessels owned and operated by Whitney-Fidalgo is a U.S.-flag vessel and is, therefore, a "vessel of the United States" eligible to fish in the territorial waters of the United States and the contiguous fishing zone adjacent thereto, 16 USC 1081, 1091. However, under § 2 of the Shipping Act, 1916, as amended, ("the Act"), 46 USC 802, Whitney-Fidalgo is a noncitizen. As a result, no vessel may be transferred to Whitney-Fidalgo without permission of the Maritime Administration pursuant to §§ 9 and 37 of the Act, (46 USC 808, 835).

THE GRANDFATHER PROVISIONS OF S. 961 ARE CONSISTENT WITH THE REGULATORY PURPOSE OF THAT BILL

Senate Bill 961 ("the Bill") extends the continuous fishing zone, now 9 miles beyond the territorial water, to 197 miles beyond the territorial waters of the United States. Unlike the present continguous fisheries zone, however, fishing with the 197 mile zone will be limited to "citizens of the United States" rather than to "vessels of the United States." The effect of S. 961, then, is not only to extend by 188 miles the area within which non-U.S. vessels will be prohibited from fishing, but also to outlaw fishing by U.S. vessels owned by a U.S. corporation with foreign stock ownership. The bill, without an appropriate "grandfather" clause, does more than extend the prohibited zone; it reduces the class of persons who are entitled to fish, and it does so in a way which would effectively put a long-standing American company, employing American citizens, out of business.

Section 3(5) of S. 961 provides "grandfather status" to fishing companies which have a controlling interest owned by non-citizens pursuant to the approval of the Secretary of Commerce under Sections 9 and 37 of the Act prior to the effective date of the bill. Such "grandfathered" companies would be deemed to be citizens for purpose of the Bill and would continue to enjoy the right to fish within the 200 mile zone.

Two American fishing companies, Whitney-Fidalgo and Seacoast Products, a menhaden fishing company, which have previously been purchased by non-citizens, would be adversely affected by the Bill without the grandfather clause. Both these companies are American fishing companies. Whitney-Fidalgo, which operates fishing vessels licensed in Washington and Alaska, is now, and would continue under S. 961, to be subject to all the management directives and conservation laws of the States of Washington and Alaska, and of the National Marine and Fisheries Service. Whitney-Fidalgo markets most of its products within the United States, and has exactly the same interest in preserving the viability of U.S. fisheries as does any other American based fishing corporation. Its ability to operate profitably is dependent upon continued availability of adequate fish stocks, and it is subject to, and has cooperated with, all regulatory and conservation agencies in precisely the same manner as any other American fishing company.

Senate Bill 961 proposes an extensive and sophisticated plan for the management and conservation of the fisheries for domestic fishermen. Whitney-

Fidalgo, as an American company operating vessels subject to the jurisdiction of the Federal and state governments, would continue to be subject to all fisheries management regulations.

The "grandfather" provisions of § 5 of S. 961 recognize the unique status of Whitney-Fidalgo and Seacoast Products by placing them on an equal footing with other American fishing companies under the Bill. These two companies both operate U.S.-flag fishing vessels based in the United States, captained and crewed by U.S. citizens, and subject to the same regulations as all other American fishing companies. None of the regulatory provisions of the Bill would be at all diminished. The grandfather provisions would, however, mitigate the impact of the ownership provisions of the bill, but only with regard to those two companies already purchased but only with regard to those two companies already purchase by non-United States citizens. The Bill effectively prohibits future foreign acquisitions of U.S. fishing companies. The grandfather provisions will not in any way dilute that prohibition.

In his statement to the Committee, Mr. Dunton makes several allegations concerning the legal effect of the "grandfather" provisions of § 3(5) of S. 961:

"Foreign nationals either organized American corporations, which in turn acquire American fishing vessels, or better still, acquire American corporations which already own American fishing vessels (sic). 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. (Dunton Statement, p. 3.)

This description of the effect of the "grandfather" section is wholly inaccurate. Following enactment of S. 961, no company not a citizen of the United States as defined therein would be able to operate fishing vessels within the 200 mile zone. A corporation, to be a citizen of the United States would be either one that is 75% owned legally and equitably, by citizens of the United States or one

"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 USC 808, 835) * * *" (emphasis supplied)

While that would include companies which had *previously been* acquired with the permission of the Secretary, it would clearly *prohibit creation or acquisition* of fishing corporations by non-U.S. citizens. Foreign nationals could neither organize nor acquire an American corporation which already owned fishing vessels. The permission of the Secretary, even if granted, would be wholly ineffective to allow fishing within the 200 mile zone. Only Whitney-Fidalgo and Seacoast, both of which were acquired prior to the enactment of the Bill and with the permission of the Secretary, would be "grandfathered" under the Bill.

Nor is there any foundation to the suggestion that vessel transfer applications are treated in a summary fashion. Apart from the independent analysis of the transfer conducted by the Maritime Administration, views are solicited of other agencies, including the National Oceanic and Atmospheric Administration. NOAA regulations regarding foreign investment in U.S. fishing companies dated September 13, 1974, provide strict guidelines for approval of transfers. Each transfer is independently considered and NOAA has required full hearings on a vessel transfer proposed by Whitney-Fidalgo. In any event, the grandfather provisions of S. 961 would not in any way eliminate existing requirements for prior Maritime Administration approval of vessel transfers to companies such as Whitney-Fidalgo. Under existing standards, the public interest is safeguarded.

In support of his allegation that

"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 fisheries zone."

Mr. Dunton alleges that

"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." (Dunton statement, p. 4)

Whitney-Fidalgo and Seacoast are the only corporations which are subject to foreign ownership which would cause them to be deemed non-U.S. citizens

under the Shipping Act corporate definition, and which own or operate vessels in the U.S. fisheries. This information has been confirmed with the U.S. Coast Guard Documentation Section, The National Marine and Fisheries Service, and the Maritime Administration. Only these two companies would be subject to the grandfather provisions of the Act because only Whitney-Fidalgo and Seacoast had either a controlling interest or vessels purchased prior to the enactment of the 200 mile bill with the permission of the Secretary of Commerce. (There are, however, companies which have less than a controlling interest foreign owned, and which therefore have not sought approval for their ownership from the Secretary of Commerce, which may be adversely affected under the Bill.) There are other fish processing companies, canneries or other land based operations which may have majority or minority control owned by non-citizens of the United States, including Japanese interests. After passage of the Bill, those corporations with 25 percent or more foreign ownership would be prohibited from fishing within the 200 mile zone. None of those companies would receive grandfather status under the Bill.

Thus, it is simply not true that there are fourteen fishing companies which have been acquired with permission of the Secretary of Commerce pursuant to sections 9 and 37 of the Shipping Act, and would therefore be eligible for grandfather status.

On page nine of the appendix to his prepared statement, Mr. Dunton lists eleven companies allegedly owning U.S.-flag vessels which would be non-citizens under the Shipping Act definition. In fact, however, Coast Guard records indicate that ten of these companies do not own any U.S.-flag vessels, and the remaining one, Togiak Fisheries, Inc., is a citizen of the U.S. under the Shipping Act definition.

Mr. Dunton charges that:

"The proposed bill would institutionalize foreign control of our domestic fishing industry and make existing foreign controlled corporations conduits for other foreign ownership." (Dunton Statement, p. 6)

While it is difficult to understand exactly what he has in mind by this charge, it is hard to believe that the continued operation of Whitney-Fidalgo and Seacoast would "institutionalize foreign control of our domestic fishing industry." The bill would enable Whitney-Fidalgo and Seacoast to continue to operate the vessels they now own, and would make them eligible to apply for permission to the Secretary under §§ 9 and 37 for acquisition of replacement or additional vessels. Whitney-Fidalgo could not remain an active competitor in the fishing industry without the capability of updating and enlarging its fleet. We believe that permission for additional vessel acquisition should be readily granted, but the fact would remain that each subsequent acquisition would require approval by the Secretary.

Mr. Dunton also claims that the grandfather clause was incorrectly drafted because:

"The Secretary of Commerce has never approved the transfer of controlling interests in corporations under such sections." (Dunton Statement, p. 8)

That is untrue. By Transfer Order No. MA–12901, August 28, 1973, the Administrator of the Maritime Administration approved:

"The transfer of up to 100% of the outstanding common stock in Whitney-Fidalgo Seafoods, Inc., to an alien . . ."

THE FACTUAL ALLEGATIONS CONCERNING THE ALASKA FISHERIES CONTAINED IN MR. DUNTON'S LETTER ARE WITHOUT BASIS IN FACT

Mr. Dunton's statement displays ignorance of conditions in the Alaska salmon fishery. He says:

"In this way Japanese investors have already acquired most of the American salmon fleet." (Dunton Statement, p. 4)

The only U.S. salmon fishing company operating fishing vessels with a controlling interest held by Japanese investors is Whitney-Fidalgo. Whitney-Fidalgo owns less than one hundred fishing vessels, most of which are less than average value salmon seiners. As of 1974, there were a total of 437 seiners and 2,805 gillnetters licensed to fish in Washington, and 1,372 seiners and 7,385 gillnetters licensed to fish in Alaska. There is relatively little duplication of vessels licensed to fish in the two states. This shows that out of approximately 10,000 licensed salmon fishing vessels in Washington and Alaska, less than one percent are owned

by Whitney-Fidalgo. Mr. Dunton's claim that Japanese investors have already acquired most of the U.S. salmon fleet is hollow.

On page 5 of his statement Mr. Dunton charges that:

"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 foreign owners in the least."

The truth is otherwise. First, as explained above, it is untrue that the Japanese have acquired "the bulk of the domestic salmon fishery." Second, it is untrue that the declaration of a conditional fishery has anything to do with the acquisition of domestic fishing vessels by foreigners. Over 99% of the vessels in the domestic fisheries are owned by U.S. citizens. The declaration of a domestic fishery was because of the growth of that 99% segment. By declaring the fishery conditional, NOAA removed financial inducements which encouraged expansion of the fishing fleet, which was clearly large enough to harvest the available resources. The announcement declaring a conditional fishery, together with the explanatory statement which appeared in the Federal Register on April 2, 1975, is atached as an appendix to this letter. It speaks solely in terms of the difficulty of management of an increased fleet and the necessity for limiting further entry into the field. The statement that Mr. White

"stated that the available domestic salmon stocks were being overfished and were endangered . . ."

is simply without basis in fact. The announcement in the Federal Register nowhere speaks of overfishing of the domestic salmon stocks or endangering the domestic salmon fishery.

Indeed, the purchase of Whitney-Fidalgo by Kyokuyo has not perceptibly altered the business of the company or its sales program. It is hard to imagine how Whitney-Fidalgo's operations, which were virtually unchanged after acquisition by Kyokuyo, could in any way be considered to relate to the necessity for the declaration of a domestic fishery.

THE GRANDFATHER PROVISIONS OF THE BILL ARE CONSTITUTIONALLY REQUIRED

Absent the grandfather provisions, S. 961 would prohibit Whitney-Fidalgo from operating any of its fishing vessels in the 200 mile contiguous fishing zone. The prohibition would result in an unconstitutional taking without compensation in violation of the Fifth Amendment of the Constitution, as well as the equal protection requirements of the Fifth and Fourteenth Amendments.

Whitney-Fidalgo would, by virtue of the passage of the bill without a grandfather clause, be deprived of property without just compensation and in violation of the Constitution. The recognized property right which would be the subject of the unconstitutional taking would be Whitney-Fidalgo's rights to employ its fishing vessels in their traditional fishing territory. Fishing rights have been consistently recognized as property protected against an uncompensated taking. For example, in *Jackson vs. U.S.*, 103 F. Supp. 1019 (Ct. Cl., 1952) the court held that the government must pay compensation for the exclusion of a fisherman from his traditional fishing grounds. In that case the Secretary of War had promulgated a regulation redefining the restricted area of the Aberdeen Proving Ground in Maryland in such a way as to encompass the plaintiff's fishing grounds. The plaintiff, who had been licensed to fish there by the State of Maryland and was unable to secure a fishing license elsewhere, was forced out of business. The court found that:

"The plaintiff had a sort of property right in his fishing ground, and that the government took that property from him." 103 F. Supp. at 1020.

Similarly, in *Todd vs. U.S.*, 155 Ct. Cl. 87 (1971), the court ordered compensation for the loss of fishing rights caused by the establishment of restricted and protected areas in Chesapeake Bay around Patuxent Naval Air Station. The Court held the plaintiff's loss of fishing rights compensable.

The constitutional deprivation suffered by plaintiff is not mitigated by the regulatory rather than taking nature of the proposed legislation. The constitutional prohibition against the taking of property without compensation applies not only to physical appropriations or invasions of property, but also to otherwise valid government regulations which so restrict the use or disposition of property as to constitute a "taking." As Oliver Wendell Holmes enunciated the doctrine in the landmark case of *Pennsylvania Co. vs. Mahon*, 260 U.S. 393 (1922):

"The general rule at least is that while property may be regulated to a certain extent, if regulation goes too far it will be recognized as a taking." 260 U.S. at 415.

This rule remains the law, and, although difficult to apply in some cases, has generally been approved by legal scholars, see, e.g., Charles E. Corker, "Limits To 'The Petty Larceny of the Policy Power'" Proceedings: 1975 *Mineral Law Institute*, 67, and sources cited therein.

Several factors determine whether a regulation constitutes a taking requiring compensation. One important factor is the extent of the diminution of the property value resulting from the regulations. Where the diminution

"Reaches a certain magnitude, in most if not all cases there must be an exercise of eminent domain and compensation to sustain the act." 260 U.S. at 413.

For example in *Bydlon vs. U.S.*, 175 F. Supp. 891 (Ct. Cl. 1959), an executive order banned travel by air below 4,000 feet over certain roadless areas of Superior National Forest in northern Minnesota. The effect of the order was to destroy the businesses of the owners of certain resorts in the areas accessible only by air. The court ordered the government to compensate the resort owners.

A second factor likely to require compensation for a regulatory prohibition is whether the regulation applies to all property of a particular class or places the burden of the loss caused by the regulation on a particular sub-class of the property owners affected by the regulation. *Pioneer Trust & S. Bank vs. Village of Mount Prospect*, 176 N.E. 2d 779 (Ill. 1961). A further factor considered by the court in determining whether a taking has occurred is the extent to which the loss of property values caused by the regulation benefits competitors of the property owners burdened by the regulation, rather than the general population. In *Thompson vs. Consolidated Gas Utilities Corporation*, 300 U.S. 55 (1937), Justice Brandeis, for the Court, held unconstitutional a gas proration order of the Texas Railroad Commission requiring the plaintiff gas producers to buy gas from certain other producers. The court held the regulation unconstitutional stating

"Our law reports present no more glaring instance of one man's property being taken for the benefit of another." 300 U.S. at 79.

In this regard, it is significant that Mr. Dunton speaks for Zapata Haynie Corporation, which we understand to be a competitor of Seacoast Products. Left unsaid in Mr. Dunton's statement is that enactment of S. 961 without a grandfather clause would hobble Seacoast as a competitor and redound to the private economic benefit of Zapata Haynie.

The prohibition of Whitney-Fidalgo from continuing their fishing operations with U.S.-flag fishing vessels in the United States territorial waters would be a complete taking of that portion of their business, would entirely burden one subclass, *i.e.*, foreign owned United States fishing companies, and would do so entirely for the benefit of their competitors, U.S. owned U.S. fishing companies. Each of the factors considered by a court in determining whether a regulation without compensation is unconstitutional points to such a holding in the case of of Whitney-Fidalgo.

The equal protection provisions of the Constitution contained in the Fourteenth Amendment and incorporated into the due process provisions of the Fifth Amendment also indicate the unconstitutionality of the bill absent the grandfather clause. The Supreme Court has previously ruled that a prohibition against U.S. domiciled non-citizens fishing in U.S. waters violates the equal protection clause. *Takahashi vs. Fishing and Game Commission*, 334 U.S. 410 (1948). The Supreme Court in that case rejected the rationale that fishing was a "privilege" which could be unrestrictedly regulated to the detriment of domiciled noncitizens. *Takahashi* has been recently cited with approval by the U.S. Supreme Court, *Graham vs. Richardson*, 403 U.S. 365 (1971).

These cases evidence the correctness of the Committee decision to include a "grandfather clause" in the proposed legislation. Without it, the entire regulatory scheme might be striken as an unconstitutional taking and a denial of equal protection.

CONCLUSION

The grandfather clause contained in the Senate version of the 200 mile bill is constitutionally required and, in addition, can only be considered fair. The allegations made in Mr. Dunton's letter lack either fairness or any regard for the truth. We trust that S. 961 or its successor will retain the existing grandfather language in its present form.

Very truly yours,

DONALD M. BARTON.

Enclosure.

[From the Federal Register, Vol. 40, No. 64, Wednesday, Apr. 2, 1975]

[50 CFR Part 251]

FINANCIAL AID PROGRAM PROCEDURES

FISHERY FOR SALMON IN WASHINGTON, OREGON, AND CALIFORNIA

Notice is hereby given that the Director, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, has under consideration an amendment to the regulations (50 CFR Part 251) which sets forth financial aid program procedures.

It is the intent of Part 251 of this chapter that financial assistance programs will not be made available when upon review of situations and conditions at hand, as well as prospective developments, the Director deems that the use of such financial assistance programs would not be consistent with the wise use and with the development, advancement, management, conservation, and protection of fisheries resources.

The proposed amendment, as set forth below, would incorporate in Subpart B of the regulation a new § 251.23 to classify the "fishery for salmon in Washington, Oregon and California" as a Conditional Fishery as the term is defined in § 251.1(i).

The principal situations and conditions under consideration for determining that the "fishery for salmon in Washington, Oregon and California" is in need of regulation under Part 251 of this chapter are described in the following Explanatory Statement.

Federal and State agencies as well as the public will be given time and opportunity to comment on this proposed amendment. Comments that are received will be evaluated giving full consideration to the national interest and the multiplicity of environmental, biological, economic, social, and other situations and conditions as the Director may deem relevant. Upon evaluation of all comments and available information the Director will take action as may be appropriate and will continue to monitor and assess situations and conditions related to the "fishery for salmon in Washington, Oregon, and California" to determine the continued need for regulation. This proposed amendment is published pursuant to the authority contained in section 4 of the Fish and Wildlife Act, 1956, as amended, Title XI of the Merchant Marine Act, 1936, as amended, section 607 of the Merchant Marine Act, 1936, as amended, the National Environmental Policy Act, and Reorganization Plan No. 4 of 1970.

Written views, data, or arguments on this proposed amendment should be submitted to the Director, National Marine Fisheries Service, Washington, D.C. 20235. All communications received on or before July 1, 1975 will be considered before action is taken with respect to adoption of the proposed amendment. No public hearing is contemplated at this time; however, any persons desiring a public hearing may request such a hearing by writing to the Director, National Marine Fisheries Service, Washington, D.C. 20235. In the event that a public hearing is found necessary, an appropriate notice to that effect will be published in the Federal Register.

By order of the Administrator, National Oceanic and Atmospheric Administration.

ROBERT M. WHITE,
Administrator.

Explanatatory Statement. The Director considers is necessary to classify the "fishery for salmon in Washington, Oregon, and California" as a Conditional Fishery for regulation under Part 251 of this chapter. The necessary situations and conditions for such classification follow.

Washington, Oregon, and California hav established laws, regulations, and joint agreements to protect and conserve the salmon fisheries in those areas of the Pacific Ocean over which these States have jurisdiction. These States, as well as the Federal Government and universities, carry out research studies and activities related to conservation and management of fisheries resources. Accordingly, based on information related to its salmon fisheries, each of the States of Washington, Oregon, and California established stringent rules and regulations to restrict commercial fishing for salmon. However, during recent years, there have been progressive increases in the number of vessels engaged in taking the limited harvestable portion of salmon in those waters of the Pacific Ocean over which these States have jurisdiction. This condition has made it increasingly difficult for the States to carry out management programs to provide for the season and the conditions under which limited harvests of salmon may be taken while still conserving and protecting salmon fisheries resources.

Management agencies of these States have recognized that there presently exist more than enough vessels and gear to take the harvestable portions of each State's salmon runs and that, in addition, scientific advancement have increased the efficiency of salmon fishing gear. These conditions have made it necessary for State management agencies to place additional regulatory constraints on the commercial fishery for salmon, further complicating already difficult salmon fisheries management efforts. Management has further recognized that limited salmon resources cannot provide reasonable economic returns for an unlimited number of commercial fishermen, vessels, and gear, and that to continue additions of commercial salmon fishing vessels and gear would only further exacerbate the problems of management and affect the economic efficiency of the existing commercial salmon fishing fleet.

Examples of protective regulations used by State management agencies to constrain commercial fishing for salmon in Washington, Oregon, and California include the prohibition of the use of all but certain specified fishing gear, restrictions on the open seasons for commercial fishing, prohibitions that close certain areas to commercial fishing, and minimum size limits for salmon.

In view of the above situations and conditions, it appears that the use of financial assistance programs to add vessel capacity to the fishery for salmon in the States of Washington, Oregon, and California would not be consistent with the needs and objectives of management. Consequently, the Director is considering that the "fishery for salmon in Washington, Oregon, and California" should be a Conditional Fishery in accordance with Part 251 of this chapter.

It is proposed to amend Part 251 of this chapter, Subpart B—Conditional Fisheries to add a new § 251.23 as follows:

§ 251.23 Fishery for salmon in Washington, Oregon, and California.

[FR Doc. 75–8514 Filed 4–1–75; 8:45 am]

TEXAS PARKS AND WILDLIFE DEPARTMENT,
Austin, Tex., September 25, 1975.

Senator WARREN G. MAGNUSON,
Senate Committee on Commerce, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR MAGNUSON: Reference is made to S. 961 and more specifically to the amended version furnished us as a Staff Working Paper dated July 11, 1975. This bill would extend fisheries jurisdiction to 200 miles and provide for management and protection of this valuable resource.

We concur in the objectives of the bill and endorse the concept of extended jurisdiction and regional management programs. There are, however, several areas where amendment of the language would considerably improve the mechanism of operation. The following comments refer to sections of the above-mentioned Staff Working Paper which we understand is the more recent version and which we find to be preferable to the original bill.

Sec. 3.—"(15) 'highly migratory species' means those species of fish which spawn and migrate during their life cycle in waters of the open ocean, including but not limited to, tuna;"

We find this definition too inclusive because it would eliminate many of the very species which most need management and which never leave the 200 mile zone. Shrimp, menhaden, mackerels and other species could be included in this category.

While ours is a major fishery State, we have no species which we would wish to eliminate by definition. A suggested revision of this section is:

Revised Sec. 3(15).—"highly migratory species" means tuna;

Title I. Sec. 101(a).—"(2) Such contiguous fishery zone has as its inner boundary the outer limits of the territorial sea, and as its seaward boundary a line drawn so that each point on the line is one hundred and ninety-seven miles from the inner boundary."

It is possible that a future agreement at the Law of the Sea Conference could extend the territorial sea to 12 miles. With the above wording the 200 mile limit would become a limit of 209 miles. To maintain a 200 mile fishery zone, we suggest:

Revised Title I, Sec. 101(a)(2).—"Such contiguous fishery zone has as its inner boundary the outer limits of the territorial sea, and as its seaward boundary a line drawn so that each point on the line is *two hundred miles from the base line of* the territorial sea.

Title II, Sec. 202(b).—"(A) a State official from each coastal State, in the number designated in subsection (a), within each respective region to be appointed by the Governor of each such State, or in the case of the Trust Territories of the Pacific, by the High Commissioner;"

Since the intent of the bill is to establish a national fisheries program, it is imperative that the regional management programs and regulations be coordinated with those of the individual member States. Therefore, for the sake of coordination and continuity it is imperative that the State fishery management agencies be represented on the regional fishery management councils. The following revision is suggested:

Revised Title II, Sec. 202(b).—"(A) The director of the State agency responsible for the management of marine fisheries from each member State. Where the State representation designated in subsection (a) exceeds one member, the Governor of each such State or Territory, or in the case of the Trust Territories of the Pacific the High Commissioner, shall appoint additional State officials."

We appreciate the opportunity to comment on what we consider to be extremely significant legislation which will have major impact on the fishery resources both now and for future generations.

Sincerely,

CLAYTON T. GARRISON,
Executive Director.

RAGAN & MASON, *September 25, 1975.*

SENATE COMMITTEE ON COMMERCE,
Dirksen Senate Office Building, Washington, D.C.

GENTLEMEN: We represent Seacoast Products, Inc. ("Seacoast") which is a major company in the American menhaden fishery. Seacoast strongly supports the goals of S. 961. However, in the event the final language of S. 961 (specifically Sections 3(2) and 102(e)) would otherwise preclude Seacoast from continuing to engage in the U.S. fisheries on the same basis as other U.S. fishing companies because of its United Kingdom parent, Hanson Trust Limited ("Hanson Trust") then Seacoast urgently requests that a grandfather clause also be included in the bill to prevent such an inequitable and unjust result.

The need for a grandfather clause adequately protecting Seacoast's ability to continue in the fishing business is supported by the following:

(1) After Seacoast and its affiliated companies became subsidiaries of Hanson Trust, thereby rendering Seacoast and its affiliated companies noncitizens within the meaning of Section 2 of the Shipping Act, 1916, the fishing vessels and shipyards formerly owned or leased by Seacoast were transferred back to Seacoast and its affiliated companies with the approval of the United States Government acting through the Maritime Administration pursuant to Sections 9 and 37 of the Shipping Act, 1916, as amended.

(2) All of the crewmen employed on the company's or its affiliates' fishing vessels are U.S. citizens and 95% of the employees of four processing plants are U.S. citizens.

(3) In 1973, Seacoast and its affiliated companies accounted for approximately 30% of the domestic menhaden catch, with its largest competitor accounting for a somewhat larger volume in that year. Thus, the removal of Seacoast and its affiliated companies from the U.S. fisheries would result in the disappearance of a significant competitor in this industry with potentially adverse effects upon the U.S. consumer.

Background.—The predecessor companies of Seacoast and its affiliated companies began operation in the domestic menhaden fishing industry in 1911. For over 60 years this business continued as a closely held family enterprise. By 1973, however, the future of the company was being threatened by differences of opinion among various family members and in order to continue operations it became necessary to sell the company. In December, 1973, the shares of stock held by the domestic parents of Seacoast and its affiliated companies were sold to a subsidiary of Hanson Trust for a purchase price in excess of $32-million. However, the fishing vessels and shipyards were not transferred until the approval of the Maritime Administration was obtained pursuant to Sections 9 and 37 of the Shipping Act, 1916, as amended. Thus, the fishing business which began in 1911 was able to continue uninterrupted, managed and operated by U.S. citizens.

If Seacoast and its affiliated companies are not protected by an adequate grandfather clause, they will be forced to terminate their fishing business or Hanson Trust will be forced to sell its stock interest in these companies back to a U.S. citizen. Notwithstanding the significant constitutional questions posed by depriving the company of its business and forcing a sale of its assets or stock, there is no assurance that there is a buyer for either the stock or the assets. Further, there is no assurance that such a sale would not be incurred at a substantial loss relative to the original investment. The Maritime Administration was well aware of this investment when it gave its written approval to the transfer of the fishing vessels and shipyards and to arbitrarily and unilaterally now remove a right which was knowingly and intentionally given without any restrictions as to time, scope, or geographical areas would be a manifest injustice and certainly would have potentially serious consequences in undermining the trust of other countries such as the United Kingdom.

Finally, there is no assurance that the assets and/or stock would not be purchased by present competitors of Seacoast and its affiliates with adverse effects upon the U.S. consumer and that would not be consistent with the public interest.

We submit that in the event the final version of S. 961 would, through its definitions and prohibitions prevent Seacoast from otherwise continuing to engage in the U.S. fisheries on the same basis as other U.S. fishing companies, then the following grandfather clause should be included at the end of the definition of "citizen" in Section 3(2):

"*Provided, however*, any corporation organized and chartered under the laws of the United States, or any State thereof, of which the President or other chief executive officer and the chairman of the board of directors are citizens of the United States and no more of its directors than a minority of the number necessary to constitute a quorum are noncitizens and which, prior to the date of enactment of this Act, directly or through affiliates owned or operated a vessel documented under the laws of the United States which was at any time within the past two years engaged in a fishery of the United States, shall be deemed to be a citizen of the United States within the meaning of this Act."

We appreciate the opportunity of submitting our views and if there is any further information that may be helpful to you, please let us know.

Very truly yours,

ANDREW A. NORMANDEAU.

U.S. DEPARTMENT OF COMMERCE,
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION,
NATIONAL MARINE FISHERIES SERVICE,
Washington, D.C.

Mr. HARMON W. SHIELDS,
Executive Director, Florida Department of Natural Resources,
Tallahassee, Fla.

DEAR HARMON: Thank you very much for your letter of September 26 pointing out areas of concern to your State in regard to H.R. 200, the Marine Fisheries Conservation Act of 1975. We appreciate your concern and want to thank you for sending us your views.

It appears to me that at this time the proper place to express your views is with the Congress, and I am transmitting a copy of your letter (with enclosures) to the appropriate House and Senate Committee staff.

Sincerely,

ROBERT W. SCHONING,
Director.

Enclosure.

STATE OF FLORIDA,
DEPARTMENT OF NATURAL RESOURCES,
Tallahassee, Fla., September 26, 1975.

Mr. ROBERT W. SCHONING,
Director, U.S. Department of Commerce, National Marine Fisheries Service,
Washington, D.C.

DEAR BOB: In correspondence of September 2, I discussed some of our severe reservations of the Marine Fisheries Conservation Act of 1975, H.R. 200. Since that time we have received copies of the committee report on this act with assurances that it would remove our criticisms and clarify the intent of the act. I, and members of my staff, have carefully reviewed this report and, frankly, we find no significant differences between the intent as stated in the report and our interpretations of the bill itself. The act will allow the Secretary to totally preempt the states' marine fisheries rights except for the "internal waters", which is not defined either in the bill or in the report; however, we understand that this is accepted as being from the high tide mark inland. Furthermore, the Secretary may take this action without approval or even acknowledgement of the Council itself. He may also establish license fees for any or all types of fishing for particular species to be covered and all fees and fines, which may reach $25,000, are to be used by the Secretary to carry out research, ". . . which the Secretary deems appropriate . . .".

I have attached a detailed accounting of these and other sections of the bill which we feel could have serious repercussions to the State of Florida's ability to effectively manage its own marine fisheries. Since we have been assured that preemption and some of the other apparent provisions of the bill are not truly the intent of the legislation, then certainly there should be no objection to changing the wording of the bill itself to reflect this. I feel strongly that H.R. 200, if passed in its present form, will have serious consequences to Florida's ability to manage its own fisheries.

Please study this proposed legislation and its corresponding reports and consider the effect this legislation will have upon your respective state. May I also ask for your help in my efforts to have this proposed legislation amended to accomplish the necessary changes as mentioned in this letter. I would greatly appreciate any help you give in this matter and if you need any additional information, please do not hesitate to contact me.

Sincerely,

HARMON W. SHIELDS,
Executive Director.

Enclosure.

The following sections of House Resolution 200, The Marine Fisheries Conservation Act of 1975, are of concern to me as Executive Director of Florida's Department of Natural Resources. I am also including my comments relative to each section that is of concern to me.

Section 304(3)(E) specify those licenses, permits, or fees (the amount of which may vary between domestic and foreign fishermen, between different categories of domestic fishermen, or between different categories of foreign fishermen) which should be required as a condition to engaging in any fishery or other activity regulated pursuant to this Act. (See Page 51, Lines 12–18.)

Comment: I am opposed to a federal executive branch of government, specifically the Secretary of the U.S. Department of Commerce, as included in this bill, having the ultimate authority of determining whether or not there will be a salt water fishing license imposed on the citizens of any state.

Section 305 notify in writing the Council of his approval, partial approval, or disapproval of the plan. (See Pages 53–55.)

Comment: This section deals with the Secretary vetoing or approving the Council's fishery plan. The Secretary should not have the authority to veto the Council's plan without some provision included in the law for the Council to override the Secretary's veto.

Section 305(d) If any Council which is requested by the Secretary to prepare a fishery management plan fails to do so within such reasonable time as shall be specified by the Secretary, or if the Secretary disapproves an amended plan under subsection (b) and he determines that such a plan is needed, then the Secretary shall prepare a fishery management plan for the fishery concerned. (See pages 54–55, Lines 24–5.)

Comment: This could conceivably preempt a state's right to manage and protect its marine fisheries except for the "internal waters" for which there is no definition in the proposed bill. I strongly object to the Secretary being able to preempt within the State's territorial sea. Furthermore, under present wording this could be accomplished without Council approval. This in effect makes the Council a figurehead without real authority. There is virtually no system of checks and balances on the Secretary's actions.

Section 306(e) All license fees collected under any fishery management plan and credited pursuant to subsection (c)(3) shall be used by the Secretary to carry out stock assessment and such other research and development which the Secretary deems appropriate with respect to the fishery resources within the geographical area of responsibility of the Council concerned. (See Page 57, Lines 15–21.)

Comment: There should be some provision in the law allowing the affected state and the Council to assist in determining how these funds are to be used. The Secretary alone should not have the authority to determine how these funds are utilized. Again, no Council approval or system of checks and balances.

Section 309(b)(2)(B) such State has taken any action, or omitted to take any action, the result of which will substantially and adversely affect the carrying out of the management plan which applies to a fishery, the Secretary shall promptly declare that such fishery within waters, other than internal waters, under jurisdiction of the State shall be subject to regulation by him pursuant to the management plan, and the Secretary, as soon as practicable thereafter, shall assume responsibility for such regulation. (See Page 64, Lines 3–12.)

Comment: Again, this preempts a state's right to manage and protect its marine fishery within its own territorial sea, except in the "internal waters" with no such definition included in the bill. What would be considered "internal waters" in the Florida Keys?

Section 311(a) Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by paragraph (1), (2), or (5) of section 310 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. (See Page 66, Lines 4–13.)

Comment: This in essence is empowering the Secretary to sit both as the judge and jury to hear violations of the Act. What would be the fine of an individual found guilty by the Secretary for sportsfishing without a license? Based on the present wording, he could be fined up to $25,000 per day of offense.

Section 311(b) Any person against whom a civil penalty is assessed under subsection (a) may obtain review thereof in the appropriate court of the United States . . . (See Page 66, Lines 19–22.)

Comment: Would one assessed a penalty by the Secretary for fishing without a license have to seek review of his case in the United States Court of Appeals?

Summary: I have presented some of my major objections to House Resolution 200. It appears to me that the present acceptance of this bill is based on the fact that most people feel it is simply designed to extend U.S. control to the 200 mile limit. However, the details of the bill are much broader and present the federal government with a vehicle with which to preempt state marine fishery authority. The fact that we have been assured that this is not the intent is of little comfort in the fact of a reluctance to change the wording of the bill itself to reflect this "actual" intent. Although we do not like the idea of any federal pre-emption, at least we can understand the need for continuity of enforcement beyond the state's territorial sea. Such pre-emption right up to the coastline, however, is totally unwarranted and should be dropped from this legislation.

DEPARTMENT OF STATE,
BUREAU OF OCEANS AND INTERNATIONAL
ENVIRONMENTAL AND SCIENTIFIC AFFAIRS,
Washington, D.C., November 19, 1974.

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

DEAR MR. CHAIRMAN: The following is a report on the Special Meeting of the International Commission for the Northwest Atlantic Fisheries, which was held in Miami, November 12–15, 1974. In this Meeting there were four items of major concern proposed by the United States: haddock, yellowtail flounder, herring, and enforcement. The first three relate to both conservation of the resources and protection of American fisheries. In addition, the United States was concerned about an item on squid proposed by Spain. The outcome of the Meeting was successful from the standpoint of the United States on all of these items, although further work remains to be done on some of them.

Haddack was once the major U.S. fishery, but the resource has been in a severely depleted condition for several years. Actions taken in the past have been slowly rebuilding the stock. Our objectives were to further reduce the foreign incidental catches and to reserve the small quantity of haddock to be taken primarily for American fishermen. Our proposals on the incidental catch include severe restrictions on by-catch and an area on Georges Bank to be closed to bottom trawling by large vessels. While the area was not agreed due to the problems it posed for legitimate fisheries for other species, an even more stringent limitation on by-catch was adopted. Foreign vessels will be restricted to a by-catch of haddock of 2,500 kg. or 1 percent of the fish on board, whichever is greater, with a total limit of 50 tons for all foreign vessels. If these limits are reached, vessels must leave the area. The only haddock to be taken other than that will be by vessels which cannot avoid haddock in other fisheries, with the following limitations: United States 4,450 tons, Canada 1,200 tons, and Spain 300 tons. This will allow some flexibility domestically in application, a point which will be of particular benefit to the American fishermen. The regulation allows an adjustment in the quotas for Spain and the United States if Spain decides to curtail its cod fishery. (American fishermen have an opportunity to catch another 2,000 tons in the region primarily off Canada.)

Yellowtail flounder has replaced haddock as the primary American fishery. The stocks are smaller than haddock once was—a stock in good shape on Georges Bank and a severely depleted stock in Southern New England and the Mid-Atlantic. Our objective was to virtually eliminate the incidental catch of yellowtail by foreign vessels and reserve the allowable catch entirely for the American fishermen. The reduction in the foreign incidental catch was to be accomplished by extending a large area closed to bottom trawling from six months to the entire year. This area extends from Maine to Delaware Bay. This was agreed with some adjustment to the boundary; the area is shown in attachment A. In addition, agreement was reached on the U.S. proposal to accelerate a previously agreed phase-out of foreign trawlers in this area smaller than 145 feet in length from the end of 1976 to the end of 1979. Moreover, although not previously proposed by the United States, the severe by-catch restriction of 2,500 kg. or 1 percent was

imposed on foreign vessels for yellowtail taken from the Southern New England stock, with a total limit of 10 tons for all foreign vessels. We had previously thought that removals from the Southern New England yellowtail stock might be allowed at the 6,000 ton level, but a scientific assessment at the Meeting concluded that removals in excess of 4,000 tons will result in further stock decline. Of this, 3,990 tons will be reserved for American fishermen. In addition the 16,000 ton overall quota for the Georges Bank stock was reset from 15,000 tons for the U.S. to 15,900 tons for the U.S.

Herring from the small stock in the Gulf of Maine supports the Maine sardine industry. In addition a small American herring fishery has been developing on the much larger stock which migrates between Georges Bank and the Mid-Atlantic. Both of these stocks have been in decline, and recent American scientific analysis and industry observations indicated that both stocks were in worse shape than thought when the 1975 quotas were established last June, with particular emphasis on the Gulf of Maine stock. Our objective was to reduce the 1975 quotas, while reserving as large a quota in the Gulf of Maine as possible for the American fishery. There is also a significant Canadian herring fishery in the Gulf of Maine and smaller foreign fisheries. Agreement was reached to reduce the allowable catch from 25,000 tons to 16,000 tons, with 10,750 tons reserved for American fishermen. This represents a slight increase in the U.S. proportion. In addition, both the Federal Republic of Germany and the German Democratic Republic pledged not to catch their quotas of 500 tons each in 1975. While agreement was not reached on reducing the 150,000 ton herring quota for the Georges Bank stock in 1975, it was made perfectly clear that there would have to be a very substantial reduction in 1976.

Enforcement of fishery regulations is a critical element to the success of a management program. This is particularly true when there is an intensive fishing effort and overfishing, as in the region off the U.S. coast. This region is now subject to the most comprehensive management regime anywhere in the world. While it could not be expected that the system would work perfectly in 1974, the first year some major elements were in effect, including one never before tried anywhere, the United States was disturbed at indications of extensive non-compliance with various regulations. This ranged from matters of detail to overfishing quotas. Our objective was to emphasize that regulations must be respected at all times and to initiate steps to ensure strict compliance in the future. We did not enter the Meeting with any specific proposals. We did, however, introduce specific evidence on non-compliance in varying degrees by specific countries. During the course of the discussions, a number of useful measures emerged which will achieve our objective. Two resolutions were adopted on these measures, which are attached as B and C. These look to better control by national fisheries authorities, greater participation in the ICNAF scheme of international inspection, introduction of an ICNAF licensing system and observer program, standardization of logbook entries, and a review of the entire system of regulation and enforcement. In addition, the United States Delegation indicated that it would expect adoption at the 1975 Annual Meeting of a procedure for reducing quotas for countries which exceed their quotas by an amount greater than the excess. More important, however, than the institution of these measures was the fact that by the conclusion of the Meeting all foreign Delegations had come to a clear realization that the United States would tolerate nothing short of strict enforceemnt of all agreed regulations. Moreover, it was clear that the United States monitors compliance closely and will not hesitate in revealing evidence of infractions openly to all Members. We believe that all fisheries authorities concerned now understand clearly that when regulations are agreed they must take very positive and comprehensive steps to ensure compliance by their fishing vessels.

Squid fishing is a recent development off the U.S. east coast but is becoming of increasing importance to a number of fleets in this region. A squid quota was instituted in 1974 for the first time. There are two major types of squid in question, "Loligo" and "Illex". The scientific assessment for the quota was based on "Loligo", on which the fishery had been concentrated, but the regulation was drawn in terms of "squid". This introduced an element of confusion in some Members as to whether the quota applied to "Loligo" alone or to "Illex" as well. A greater "Illex" fishery developed in 1974. Spain, with one of the largest squid fisheries, introduced a proposal to permit the "Illex" fishery unrestrained or establish separate quotas, and to change the time period to which the "Loligo"

quota applies. Agreement could not be reached on the question of whether "Illex" is included in the existing "squid" quota, or on the estabilshment of specific quotas for "Illex". The United States insisted that in any case the catches of "Illex" must be included in the second-tier quota which puts an absolute limit on the total catch by each country regardless of the catches allowed under the species quotas. The second-tier quota is less than the sum of the species quotas. It was agreed that while "Illex" need not be counted in the squid quota it must be included in the second-tier quota for 1975 pending clarification at the 1975 Annual Meeting. This is satisfactory from the standpoint of the United States as it keeps the important overall limit in effect and ensures that it will be applied to all species.

Thus, agreement was not reached on all specific proposals of the United States, and work remains to be done. Nonetheless, a significant degree of improvement was made on the matters of major concern to the United States. In the last few years there have been a number of important improvements in the ICNAF regulatory system, and extensive innovative arrangements were introduced in 1974 which have resulted in substantial reductions in foreign fishing effort and in the foreign catch. There will be further reductions in 1975 and 1976. The American catch will increase in 1975 and thereafter. The American fishery position will improve in 1975 with respect of haddock, yellowtail flounder, and herring. Foreign fisheries will be further restricted in 1975. There will be major improvement in enforcement in 1975 and thereafter.

Accordingly, the success of this Special Meeting of ICNAF demonstrates that the interests of both the coastal nation and distant water fisheries can be accommodated through international coopertive arrangements such as envisioned in the U.S. proposals for the Law of the Sea agreement. These look to protecting U.S. fisheries interests both off our own coast and in our distant water fisheries, with special arrangements to deal with the special circumstances involved with highly migratory species (tuna) and anadromous species (salmon). We are convinced that we can continue to improve the position of American fisheries in the short time remaining prior to the conclusion of the Law of the Sea agreement. This time will permit negotiation of protection for other American interests in the Law of the Sea agreement as well.

I also enclose for the information of the Committee a copy of my opening address to the ICNAF Special Meeting as Attachment D. If I can be of any other assistance to the Committee in its deliberations, please do not hesitate to call one me.

Sincerely,

THOMAS A. CLINGAN, Jr.
Acting Assistant Secretary.

○