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FISHERIES MISCELLANEOUS

HEARINGS

BEFORE THE

SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT

AND THE

SUBCOMMITTEE ON MERCHANT MARINE

OF THE

COMMITTEE ON MERCHANT MARINE AND FISHERIES HOUSE OF REPRESENTATIVES

NINETY-FIFTH CONGRESS

FIRST SESSION

ON

GAO STUDY OF FISHING INDUSTRY—February 18, 1977

ADMINISTRATION OF FISH AND WILDLIFE PROGRAMS (H.R. 2329)—February 22, 1977

FISHERMEN'S PROTECTIVE ACT AMENDMENTS (H.R. 4140)—March 3, 1977

ATLANTIC TUNAS (H.R. 4742)—March 23, 1977

COMMERCIAL FISHERIES RESEARCH (H.R. 4576)-JELLYFISH AUTHORIZATIONS (H.R. 4627)—March 29, 1977

REIMBURSEMENT FOR FOREIGN FISHING LICENSES (H.J. Res. 388)—May 2, 1977

JAPANESE FISHERIES—July 20, 1977

FISHING VESSEL LOAN GUARANTEES (H.R. 4831, H.R. 6395, H.R. 6396, H.R. 6535, H.R. 9169, H.R. 9802)—October 4, 1977

GREAT LAKES FISHERY ACT AMENDMENTS (H.R. 2203, H.R. 9414)—October 4, 1977

MOLLUSCAN SHELLFISH—October 11, 1977

ANTARCTIC FISHERIES AGREEMENT—October 13, 1977

MEXICO FISHERY AGREEMENT (H.R. 9794)—October 31, 1977

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GAO STUDY OF FISHING INDUSTRY

FRIDAY, FEBRUARY 18, 1977

HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
SUBCOMMITTEE ON FISHERIES AND WILDLIFE
CONSERVATION AND THE ENVIRONMENT,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:12 a.m., in room 1301, Longworth House Office Building, Hon. Robert L. Leggett (chairman of the subcommittee) presiding.

Mr. LEGGETT. Good morning.

This is a meeting of the Subcommittee on Fisheries and Wildlife Conservation and the Environment.

This morning we are going to review the report prepared by the General Accounting Office under the direction of Mr. Staats, Mr. Glick and Mr. Landicho, et al.

On November 19, 1975, the former chairman of our full committee, Leonor Sullivan, my colleagues, Mr. Ruppe and Mr. Forsythe, joined me in requesting the General Accounting Office (GAO), to undertake a study to delineate policy issues, options, and costs of revitalizing the U.S. commercial fishing industry. It was requested that this study exclude aquaculture since this was the subject of legislation under consideration by the subcommittee at that time. Also it was requested that, before dispersal of the study team, a similar assessment of the Great Lakes commercial fisheries be undertaken.

The study was designed to serve two broad functions: (1) to provide an objective analysis of the areas where present programs may be inadequate, or noncost effective, or where additional programs are needed; and (2) to clarify the roles of Government and of the private sector in what is collectively referred to as the American fishing industry.

On December 23, 1976, the GAO released its report, which is entitled "The U.S. Fishing Industry—Present Condition and Future of Marine Fisheries."

I would like to point out at this time that, in the interest of early issuance of their report, the GAO did not obtain formal comments from concerned Federal agencies before it was issued. However, the subcommittee intends to request comments from the affected agencies as well as from interested persons in the private sector.

This report, which is officially being presented to the subcommittee today, will be used as one of the many building blocks needed in the development of a comprehensive legislative program to revitalize the U.S. fishing industry.

It goes without saying, after a perusal of the report, that such a legislative program will require a multifaceted approach and will, therefore, be extraordinarily time consuming.

On behalf of this subcommittee, my colleague, Mr. Forsythe, and I hereby commit our interest and energy to completion of this task.

Our witnesses today are Mr. John Landicho and Mr. Jack Glick, who will present the report, comment on its more important features and, in addition, brief the subcommittee on the status of the Great Lakes fishery study now being carried out.

However, before calling on our witnesses, I would like the record to show that the gentlemen we are about to hear today, Mr. Landicho and Mr. Glick, headed the 18-man team that was assigned full time to carry out this study during the past year. Periodically, my subcommittee staff and I met with Mr. Landicho and Mr. Glick and other members of the team, to be briefed on its status and to provide suggestions and guidance as to the direction which the study should take.

I would like to personally thank both of you gentlemen and the entire task force for their dedication to the task and for doing an outstanding job. I think, in years to come, you will find that we will refer to this document as the preliminary "Bible" of the fishing industry and, like the Bible, we expect it to have a long and fruitful life.

And now, Mr. Landicho and Mr. Glick, we will be delighted to have you present the report and make any comments you may deem appropriate at this time.

I used portions of the document in a seminar I conducted last weekend with the National Canning Association folks down in New Orleans, and I believe that the document has identified a number of areas that are significant and are important.

I had hoped, when we started this study, that we would be able to develop the kind of a do it yourself program for actually revitalizing the American fishing industry and doing like the Russians, and doing like, perhaps, the Japanese and some of the mainland Chinese.

The document which we have is not quite that unsophisticated. It has, so far as I can review the salient features of it, identified a number of areas of surplus.

I believe that further an additional study is going to be needed in many of these areas to determine just exactly how that surplus is used, and I think is one of the major problems that we have. We have enacted the 200-mile fishing bill. When we started to do this, we were accused of unilateralism and of all kinds of violations of international understanding, compact theory and thoughts of the Law of the Sea. But we have done it, and other countries have done it. We have now arrived at March 1 almost, and we have our legislation in proper posture. We are prepared to promulgate all the necessary regulations to acquire control over the entire fishery of the United States with the exception of certain tunas within our 200-mile limit.

The purpose of this study was to come up with a program that would spell out how we move into that 200-mile area. Now, we need to do more study in the area because, as I talked to people in the industry, they have read portions of the report but it has not really struck home yet,

and we still find a degree of apathy in the American fishing industry. They are very much concerned about closing out the foreign fishermen, but they have not exactly made plans on using the surplus and we are going to have to perhaps more clearly spell out exactly what that surplus is and how we go about getting it and how the foreigners have used these fish, et cetera.

There is no doubt about the fact that—I know your study team has looked at the Japanese eating habits and some of the other foreign countries' eating habits. If you like fish, you like it dried, fried and frozen, and turn in almost every different kind of fashion. And when you depend on a protein like fish for 40 or 70 percent, why, all kinds of ideas come to mind as to how you can get that fish into hungry stomachs and preserve it.

The United States is not exactly in that position, and so what we are trying to do is develop a market and a fishing capability. And so, necessarily, this is one of the hard first blocks. It has been hard to get this corps of interested people together in the General Accounting Office, and I intend that that corps of folks stay together and continue to study this area. And we are going to solicit your views on further areas that need to be studied in this overall complex, such that we can keep our expertise together and actually effect this fishing renaissance that is so critically required.

So, Mr. Glick and Mr. Landicho, please proceed with your presentation and tell me what I missed in your report.

STATEMENT OF JOHN LANDICHO, ASSOCIATE DIRECTOR, GENERAL ACCOUNTING OFFICE, ACCOMPANIED BY J. P. GLICK, TASK FORCE LEADER, AND RICHARD SEEBURGER, SITE SUPERVISOR, GENERAL ACCOUNTING OFFICE, DETROIT REGIONAL OFFICE

Mr. LANDICHO. Thank you, Mr. Chairman.

First of all, I would like to thank you for the kind comments regarding the task force effort and we stand ready in any way to assist the subcommittee in any further studies or anything that the subcommittee or committee desires us to do.

Mr. Chairman, we are pleased to appear here today at your request to provide a two-part briefing.

The first part will be a presentation concerning our report to the Congress on "The U.S. Fishing Industry—Present Condition and Future of Marine Fisheries."

As you know, this report was issued December 23, 1976. This presentation will be made by Jack Glick, task force leader.

At the suggestion of subcommittee staff members, this briefing will start with the joint request, describe how GAO organized and directed its efforts, and will address certain parts of the report.

The second part of the briefing will be a disclosure of the status of our work concerning the fisheries of the Great Lakes.

This presentation will be made by Dick Seeburger of our Detroit office. He sits on my left, sir. He reports to Jack Glick, task force leader.

So, without further ado, I would like to introduce Jack Glick, the task force leader, and he will proceed with Part 1 of the briefing.

Mr. GLICK. Mr. Chairman, when we were first asked to make this briefing, the staff requested that because some members were new to the subcommittee, that we describe how this job was organized, and we are prepared to do so.

The chairman was informed how the study was organized in the General Accounting Office, the study was performed under the direction of an associate director. Because of the complex nature of the study and the limited time frame for reporting, a task force was created to perform the work. We established a headquarters organization to perform the work necessary at the National Marine Fisheries Service and to coordinate the work of other General Accounting Office organizations which had to be brought into the picture as well as to coordinate our activities with the Congressional Research Service, the Office of Technology Assessment, and the Eastland Commission, who were also performing work in the fishery area.

In the GAO we used our Program Analysis Division to assist us in making economic analyses.

Our General Counsel's Office was used to develop a summary of legislation affecting fisheries and making suggestions as to where this legislation may be modified, amended or otherwise changed.

In addition to that, we also contracted with an outside consultant, the Institute for Marine Studies at the University of Washington, headed by Don McKernan, a well-known fisheries expert, to evaluate the effectiveness of the International Fishing Agreements as they existed in the past, and the effect of extended fishery jurisdiction by the United States on the International Fisheries Convention Agreements.

To do our work in the field, we selected four of our regional offices to participate. Our Boston regional office handled the fishery matters along the Atlantic coast, except for the State of Florida. Our Dallas office performed the work in the gulf, and the State of Florida and our Seattle office handled the fishing on the west coast.

We used our Washington regional office, which is located in Virginia, to perform work at various organizations in the Washington area, concerned with fishery matters.

In addition, we assigned to our European branch the responsibility for doing work in the European area, and to our Far East branch, located in Hawaii, the work we felt was necessary in Japan.

We approached the study from two points. We covered the domestic fisheries and tried to identify problems and possible solutions. And, as I mentioned, we used our European branch and Far East branch to do the work in selected foreign countries.

In the domestic area, we included the harvesting, processing and marketing aspects of those species of fish which accounted for over 80 percent of the volume and 90 percent of the value of the 1974 harvest.

What we tried to do with to identify the various problems relating to resource assessment, harvesting, processing, handling and marketing.

After these problems were identified, we tried to develop alternative solutions.

As previously mentioned, we did make an analysis of the legislation and we did some economic impact studies. With respect to our foreign

study, we wanted to find out how the foreign fisheries operated and how the foreign governments assisted the fisheries to come up with a comparison of what was going on in the United States and the foreign fishing industries.

In our foreign coverage, we actually visited Canada, Denmark, Japan, the United Kingdom, and West Germany. We also included in our report the fishing industry in Mexico and in the Soviet Union. We did not visit Mexico because, at the time of our visit, it was heavily engaged with the State Department in international fishing negotiations. With respect to the Soviet Union, because of the time restraints and the limited amount of information we would be able to obtain there, we felt we would only be able to see and hear what they wanted us to hear and see. We relied on the literature available at the National Marine Fisheries Service, because it had just completed a report on Soviet fishing for the National Ocean Policy Study of the Senate.

During this study, in addition to holding periodic briefings with the subcommittee, we worked closely with the Office of Technology Assessment, and came to some agreement as to areas that are going to be covered to avoid overlap and duplication.

Mr. LEGGETT. As I understand, the final document OTA has not contributed as yet?

Mr. GLICK. That is correct. They are in the process of bringing their report together.

Mr. LEGGETT. Do you have any timetable on that?

Mr. GLICK. I have heard that they plan to get something out in March, but I think that there is a possibility of some slippage.

I do not know what their final timetable is. Congressional Research Service, as you know, Mr. Chairman, has been doing quite a bit of work for you in the aquaculture area, and we had frequent meetings with them. We worked closely with the Regional Fisheries Commissions established by the Eastland resolution. The work that they were doing was predominantly at the fisherman level, and we relied quite heavily on their contacts with the fishermen. We felt that the fishermen would speak more freely and openly with those people than they would with the people from the General Accounting Office. It was quite a bit of help.

Although we did, in a number of instances, go down to the fishermen level and speak to individual fishermen, as well as various fishing associations, unions and so forth.

As you mentioned, Mr. Chairman, we did deliver the report to the full committee and to your subcommittee on December 23, 1976. However, at that time, printed copies were not available for full distribution, and when they became available on January 17, we made distribution to all the interested congressional committees and non-Government organizations.

Because of the widespread interest in fisheries, we made copies of the digest of our report available to all Senators and Congressmen representing the States bordering the Atlantic and Pacific Oceans and the Gulf of Mexico. A number of these Senators and Congressmen have expressed interest in the report and have requested that copies be sent to them. We have done this. We anticipate that we will receive numerous additional requests from other Senators and Congressmen.

In the first volume of our report, we identify the problems faced by the U.S. commercial fishing industry and present suggested alternate possible solutions to these problems.

In volume 2, which we look at as important as volume 1, if not more so, includes a compilation and analysis of Federal laws affecting the industry, and suggest certain changes for consideration by the Congress.

In volume 2 we present the profiles of the 13 most important fish species, showing problems and opportunities for growth for each species. We also include the profiles of the fishing industry, in the seven selected foreign nations which I just referred to.

We also present statistics showing for a 5-year period the catch by species by the United States and 13 foreign nations in the area which will become our 200-mile zone. This information was obtained from the data that was in the FAO computer system. We developed a program to extract this information.

In addition, in the appendix we have included the study which was made, under contract with the General Accounting Office, by the Institute for Marine Studies of the University of Washington on the effectiveness of international fishing agreements and the effect of extended jurisdiction by the United States on international fisheries conventions and agreements.

We considered numerous factors in determining what the Federal role of the fisheries should be. Our Nation's fishery resources are valuable national assets because of their potential to further contribute to the economy and food supply.

While its contribution to the Nation's gross national product and food supply is relatively small, the U.S. fishing industry is important because it provides direct employment to 240,000 persons and indirect employment to many others in supporting businesses and industries.

The fishing industry also provides the American consumer with a nutritious source of food and an alternative type of protein.

Certain areas, such as management of the resource and negotiations with foreign nations, we believe, are clearly the responsibility of the Federal Government. Other areas, such as the processing, marketing and distribution of fish products, and some technological advancements, seem to be more of an industry rather than a Government responsibility although, in some instances, governmental assistance might be needed.

We think that there are opportunities to strengthen the industry by increasing the harvest of fish, increasing the efficiency of harvesting operations and overcoming barriers in processing, marketing and distributing fish and fish products.

The issues which we feel restrict the realization of some of these opportunities are as follows:

The first is the resource management issue. The principal problems that must be dealt with, we feel, are the common property nature of the resource; fragmented jurisdiction and the lack of precise data. We feel that without resolving these issues, it would be difficult to achieve a sustainable level of fish resources and without adequate resources there would be no industry.

Under the common property issue, often too many fishermen, vessels and gear concentrate in harvesting a particular species which has re-

sulted in overfishing. The haddock and the inshore fishery for American lobster in the Atlantic are examples.

When this happens, harvesting costs increase and efficiency decreases. In short, there is too much effort in relation to the amount of available resources.

The solution to deal with the problems caused by common property is to limit fishing effort. Public Law 94–265 provides the regional fishery management councils with authority to establish limited access schemes in management plans which, if implemented, could be effective in controlling fishing.

Limiting effort would help management to conserve the resource while increasing the efficiency of fishermen, improve expected return on investments, and encourage the development of underutilized species.

However, it must be recognized that limiting fishing will result in social and economic problems for those fishermen who are displaced.

The second issue is fragmented jurisdiction. Generally, individual States have jurisdiction over the territorial sea bordering their coastlines which, in some instances, has been delegated to cities, towns and counties.

Under Public Law 94–265, the Federal Government will have jurisdiction over the contiguous zone which extends beyond the territorial sea and for vessels operating on the high seas.

Fisheries management is difficult when only one governmental entity is involved—for example, a single State—but it becomes more difficult when several governmental entities become involved, particularly when States, cities, towns and counties desire to protect local interests and political concerns.

Public Law 94–265 provides a framework for overcoming the adverse effects of fragmented jurisdiction by assigning the responsibility to manage species harvested predominantly outside the territorial sea to regional fishery management councils and to the Secretary of Commerce.

Based on our interpretation of the act, it appears that fisheries located predominantly in the territorial sea would not be subject to regulations issued by the Secretary of Commerce.

Species, such as oysters, hard and soft clams, and bay scallops which are harvested predominantly within a State's boundaries, and in some cases beyond 3 miles from shore, but predominantly within the 3-mile limit, would not be subject to the regulations implementing comprehensive management plans.

Consequently, jurisdiction may remain fragmented because State regulations for such fisheries may continue to differ in the absence of uniform plans.

The General Accounting Office believes that comprehensive and coordinated fishery management is a must if resource availability is to be sustained.

The State-Federal Fisheries Management Program, which was a voluntary effort on the part of states and the National Marine Fisheries Service, provided a mechanism to resolve problems created by inconsistent State laws, but progress has been slow.

Therefore, the General Accounting Office believes that Public Law 94–265 could be amended to expand the Government's authority to in-

clude species, harvested predominantly in territorial waters, which span or migrate extensively between State boundaries or beyond the territorial sea, and for which States have not voluntarily implemented effective management plans within a reasonable period of time.

The third issues——

Mr. LEGGETT. I might point out that it is possible to do that, but politics indicate that it is really not probable. But anyway that is not your job.

Mr. GLICK. The third problem, which is going to affect the opportunity to improve the industry, deals with the lack of precise data.

Biological, social, and economic data is needed to make fishery management decisions. Obtaining this data is a complex process.

Although some knowledge exists on the condition of stocks and the interdependence of various species, in most cases scientific proof of fishery conditions has not been available. Social and economic data necessary to measure the probable effect of a given management decision on the fisheries' participants and local economy is also often lacking.

Although complete data will be extremely difficult to obtain because fishery resources are dynamic in nature, the General Accounting Office believes that effort will have to be put forth in this area if effective management is to become a reality.

We believe that Public Law 94–265 takes a major step in this direction by requiring the regional councils and the Secretary of Commerce to engage in data collection efforts. GAO cannot prejudice the adequacy and effectiveness of these future efforts, but believes their success will be contingent on the amount of available resources and effort expected.

GAO also believes that the Federal Government could take the initiative to insure close cooperation with States, universities, and industry necessary to develop the techniques required to collect and analyze data. GAO believes that for those foreign countries desiring to fish in our 200-mile economic zone, the Federal Government should require them to agree to cooperate in developing, collecting, and evaluating data.

The next issue concerns the effect of environmental conditions on the fishing industry.

The availability of fish resources is affected by natural and man-induced environmental changes.

The physical alteration or destruction of coastal and estuarine areas where it is estimated that about two-thirds of the U.S. marine fish spend a portion of their life cycles can adversely affect the Nation's fisheries by impacting on the size and condition of fish stocks.

The pollution of marine waters, such as discharges of toxic waters, dredging, and filling operations, can either reduce the ability of fish to reproduce or destroy them outright. In some instances, although their survival is not affected, pollution can render the fish unsafe for human consumption.

The overall economic loss attributable to adverse environmental conditions is difficult to estimate, but there have been numerous instances where substantial losses have occurred.

Federal laws concerned with environmental quality have been enacted. Federal, State, interstate, and local agencies have the responsibility to implement these laws.

The Federal laws concerned with environmental quality are steps in the right direction to solving environmental problems. However, we believe that enforcement of the laws and close coordination and cooperation of the participating agencies are essential to alleviate environmental problems. Additional or expanded research should be conducted where needed to minimize the short- and long-term effects of pollution.

The fishing industry has a built-in problem, and this has to do with the highly fragmented nature of the industry.

Fishermen consist, for the most part, of small independent fishing vessel operators, more than 90 percent of whom employ less than five people. The fish processing and distribution components likewise consist principally of small establishments.

As a result, there is little opportunity for capital accumulation and, therefore, even if a reasonable chance for a fair return did exist, few industry members could make the investments necessary to develop new fisheries from underutilized species.

GAO believes that a possible solution to alleviate the problems caused by fragmentation is through expanded use by industry of cooperatives and joint ventures.

In 1974, there were over 100 cooperatives in the United States, Puerto Rico, and the Virgin Islands. By way of contrast, Japan had a network of more than 3,000 fishery cooperative associations providing support to the Japanese fishing industry and are in direct contact with Japanese Government agencies concerned with fishery matters.

The General Accounting Office believes the Government should explore the Federal assistance, such as technical and financial, that is needed by the industry on a short-term or temporary basis to create an environment in which industry could operate with little or no Federal assistance.

In this regard, existing authority available under the various programs of Federal organizations, such as the Small Business Administration, Economic Development Administration, Farmers Home Administration, and National Marine Fisheries Service, should be utilized to the extent that they can meet these needs.

In the event these programs are inadequate, the Congress and/or Administration might then consider what additional assistance would be required and act accordingly.

Our fishermen are many times adversely affected by the jurisdictional action taken by foreign countries. Actions taken, or which might be taken by these countries, to extend jurisdiction over their fishery resources have had and will have adverse effects on certain segments of our fishing industry.

For example, the shrimp and tuna fisheries would be adversely affected unless the foreign nations extending their jurisdictional authority permit U.S. vessels to fish in their waters. The spiny lobster fishery has already experienced difficulties because the Bahamian Government declared the spiny lobster a creature of its Continental Shelf and excluded U.S. fishermen from fishing this resource in its waters.

The General Accounting Office believes the Government should assist the industry because it cannot control the actions of foreign governments, yet suffers the consequences of those actions.

Public Law 94–265 provides the Government with the authority to impose specific sanctions, such as import prohibitions on fish and fish products of the foreign governments whose actions adversely affect U.S. fishermen.

Now, should this prove to be unsuccessful, the General Accounting Office believes that the Government might consider solutions, such as:

Encouraging displaced fishermen to transfer to domestic fisheries having growth potential and to fully use existing Government programs for financial and technical assistance needed. To the extent that additional financial and technical assistance programs might be needed over and above what is already available would be an appropriate matter for congressional and/or administration consideration.

Second, the Government might consider assisting these fishermen by providing employment retraining assistance so that they could move into new jobs rather than be unemployed and by establishing a program to buy back idle vessels of displaced fishermen.

In this regard, the vessels bought back could be resold for use in underutilized fisheries.

The fishing industry is also faced with certain types of costs, particularly in the harvesting operations which have gotten to be quite burdensome for them. For example, the fishing industry is subject to high costs for vessels, nets and netting, and insurance.

Additionally, the terms of loans to fishermen usually include high interest rates and short loan repayment periods which may cause cash flow problems for vessel owners.

For example, the fishermen must do their fishing in U.S.-built vessels which cost up to 30 percent more than foreign-built vessels.

Pursuant to law, foreign-built vessels cannot be registered in the United States. Although in some fisheries, vessel replacements might be warranted, the high cost of U.S.–built vessels, compared to foreign-built vessels, might tend to discourage vessel owners from replacing them.

Interest rates of 12 percent with payback periods of 5 to 7 years on vessels with expected lives of 15 to 20 years have been pointed out as examples.

Import duty on nets and netting can run as high as 50 percent. This discourages vessel owners from purchasing foreign products. As a result, this keeps the cost of domestic nets at a high level.

In the area of insurance, it has been estimated that insurance is 5 to 7 percent of the total fishing costs, excluding depreciation, and it is become increasingly difficult to obtain insurance at any price.

We believe that harvesting costs can be reduced by removing the restriction on the use of foreign-built vessels to land fish in domestic ports. However, GAO believes that this must be weighed against the effect such action might have on the domestic shipbuilding industry and national interests.

We believe that possibilities should be explored to lower interest rates and extend loan repayment periods. GAO believes this should be a joint effort by the Government, fishermen and banks to ascertain what options are possible and how they can be implemented.

Lowering tariffs on nets and netting material is something we believe should be given consideration as should the possibilities for the lowering of interest rates.

Our analysis of foreign countries assistance programs showed that financial aid for vessel purchases can result in excess capacity. For example, Canadian and Japanese officials expressed the belief that their capital investment subsidies have contributed to the buildup of excess fleet capacity. GAO believes that Federal programs for financial aid should be closely coordinated with fisheries management to prevent financing unnecessary effort.

We believe that there are many opportunities to develop underutilized species, "unused resources," as the chairman referred to earlier in his remarks.

The fish resources available to the U.S. fishing industry are considerably greater than amounts presently harvested by U.S. and foreign fishermen.

For example, the croaker, the mullet, and the anchovy are not fished to any great extent by domestic or foreign fishermen. Pacific hake and pollock, while fished intensely by foreign nations, are underutilized by domestic fishermen.

Before most underutilized species can be brought into commercial production, various barriers, such as resource assessment, harvesting technology, handling and transportation, product development, processing technology, and marketing and economic analysis must be overcome. In addition, the fragmented structure of the industry and the common property concept must be faced.

Although Public Law 94–265 encourages the development of underutilized species, what must be decided is the approach to be followed and amount of effort to be expanded. In this regard, the General Accounting Office believes the most effective means to accomplish this objective are through joint Federal and industry sponsored development projects directed at overcoming major barriers applicable to a specific underutilized species or related group of species.

GAO believes that to induce industry participation, the Federal Government could do the following:

First. Develop a management program to conserve the resource after the fishery has been developed;

Second. Establish property rights, such as a guaranteed share of the annual quota for fishermen who pioneered the development of underutilized species; and

Third. Encourage the use of existing Federal financial assistance programs now available to fishermen and processors where private capital is not available. The financial programs should be utilized to the extent that they can meet the needs of fishermen and processors. If such programs are inadequate, the Congress and/or administration might wish to consider what additional assistance is needed.

We believe there are other areas where Federal involvement might be warranted. If the viability and expansion of the industry are to be maintained and promoted, some Federal assistance, such as research and development programs, might be warranted in areas of harvesting techniques and gear, processing methods, product development, product quality, marketing and distribution, and labor availability.

The General Accounting Office does not offer any specific solutions. However, it believes that before undertaking an assistance program, if any, a congressional and/or administration policy decision should be made as to the amount of Federal effort and rsources to be applied. In

this connection, the Congress and/or the administration will have to determine whether Federal assistance should be furnished to the industry where benefits will accrue to a single firm as opposed to the total industry or major segments thereof, or a project is too costly in terms of the benefits to be derived, or a problem is common to many industries and Government assistance is not being furnished to other industries.

Mr. Chairman, we are pleased to be of service to the subcommittee. We hope that the report can be used as a platform in the development of proposed legislation and will be useful in your deliberations on what needs to be done to help the fishing industry grow and prosper.

As Mr. Landicho pointed out, we stand ready to assist the subcommittee where we can be of help in the subcommittee's consideration of the proposed legislation.

Mr. LEGGETT. Thank you very much, Mr. Glick.

Your analysis is helpful, and while it is general and while it does include some idyllic solutions that might not be possible, obviously those are things that have to be reviewed.

As an example, I think to change the rules on foreign-flag construction of ships, even with respect to minor fishing boats, would create such flak that it would take the full work of this committee to resolve that. I would hope that, No. 1, your report could have the effect of giving some major background knowledge to the Office of Management and Budget.

We had a policy in the past of providing generally no assistance to the American fishing industry, and this is a policy that has bothered this committee. And we have been very much concerned about this legislation. We do not want that. We want effective programs and we want the full support of the administration and OMB in that regard.

Your suggestion that perhaps we could do like the Japanese and carve out various areas and close them to outsiders is worthy of review. Whether or not it is worthwhile and, whether or not it would be constitutional to carve up the oceans is still a question. It has proven effective to the Japanese.

The committee went up and looked at some of the fishing at Lake Saroma, and we determined what happened there was that the fishermen who had long fished on Lake Saroma got together and formed a number of cooperatives, one of which we visited, areas that were normally fished, and the area apparently under Japanese long-term recognition of prescriptive rights closed the area to outsiders. The people that were enfranchised in the fishing operations were apparently doing reasonably well.

Whether or not we could move to something like that presents some rather fundamental problems of drafting, constitutionality and politics which present real problems. But we will be studying those more with you.

The idea of developing a licensing program for the domestic fishery is something that we wrestled with when we developed the 200-mile bill, and a number of folks were very interested that we raised the foreign fishing and raised some money, but they were not so enthusiastic that we decided to license the domestic fishermen. We do have the authority under the law to get into this kind of thing, but the chances of doing that until we effect some real improvements in the American fishery are rather lean and really not reasonable targets for this committee to have this morning.

It is strange that we talk about getting people out of American fishing industry to make it more profitable for those who remain at a time when we have the opportunity of doubling and quadrupling our harvest in a number of different areas.

We are well aware, of course, that the lobster industry is perhaps saturated, and it may well be that the price of lobster is high because we have a few number of fishermen catching a smaller number of fish than used to be caught, but the problem with the price of automobiles is higher today because you only have the "Big Four" involved, or the "Big Three."

I think these are difficult areas to penetrate.

I presume that we are cutting out in the order of one-third of foreign fishing the first year and that third of foreign fishing in foreign fish will be fished by American fishermen. What I would like to know is this:

Does your report address itself to how we go about fishing that one-third reduction of foreign fishing for the current fishing year?

Will the American fishermen take that one-third?

How will they take it, if they do, what will they do with it?

Of course, in order to answer that question, you almost have to go species by species and look at the various types of fish. And what I would like to know is, hidden in the several thousand pages you have accumulated in this report, do you have the answers to my questions?

Mr. GLICK. Mr. Chairman, in volume 2 of the report, we discuss the various problems faced by the industry in each of the 13 major species that we are currently fishing. And we point out where we think our opportunities for improving the harvest of those species are.

As you well know, the American fish consumer is—their interest is in the—what we could refer to as the luxury type fish, the salmon, the shrimp, the tuna. In order to increase the harvest of some of these other species, there would have to be a development and educational program, to try to convert or get people to eat some of the less popular species or, as an alternative, to develop foreign markets for those fish which are, in large numbers, off our shores but which we do not harvest.

Now, with respect to one of your earlier questions about whether we could go out and increase our catch, and to take a lot of that which has been harvested by foreign nations, from a look of our fleets, it would have to be vastly improved and enlarged, and more modern vessels with improved storage facilities would have to be obtained.

Mr. LEGGETT. Well, is your answer then that, as a result of the reduction of foreign harvest of American fish within our 200-mile economic zone, that that fish will not be taken in the immediate foreseeable future by American fishermen which apparently was the reason why we cut down the foreign take?

Mr. GLICK. Well, I think when these stocks have had a chance under U.S. management to rebuild themselves, and the industry knows that they will be given the first opportunity to go out and harvest those fish without the competition from the foreign countries, that this in itself will be an incentive for the industry to do something on its own, to go out and harvest the fish provided there is a market for them.

Mr. LEGGETT. Well, just on the salmon, for example, we are cutting out totally the foreign take of salmon, the Japanese take of salmon in the area where they are currently allowed to take. I guess that would be west of that line.

Now, will American salmon fishermen take that salmon?

Mr. GLICK. Well, I do not think there is any question with respect to the salmon. If they are not caught on the high seas, those salmon are going to return to the place where they were spawned and, as they come back in, our fishermen will not have to go out on the high seas to catch them. They will catch them close in and they will increase the harvest if they are available. Many more salmon will come back and our salmon fishermen will harvest more salmon.

Mr. LEGGETT. In all of your studies, did you find any tangible evidence of American fishermen making preparations to either build new boats or consolidate or develop cooperatives, or incorporate, or to get postured in any way to take more fish as a result of the enactment of the 200-mile fishing law?

Mr. GLICK. Well, the answer is that categorically——

Mr. LEGGETT. You can answer yes or no and explain if you want.

Mr. GLICK. I would say that at the time we were there, which was last spring, and early summer, we did not identify any real effort to go out and increase the harvesting capacity. It did not seem to be——

Mr. LEGGETT. That could be your next mission.

Mr. GLICK. That was after the law had just been enacted. We did not see any evidence that——

Mr. LEGGETT. I have a queazy feeling in the pit of my stomach in this overall regard.

Mr. Studds.

Mr. STUDDS. Thank you, Mr. Chairman.

Gentlemen, I am a peaceful soul and——

Mr. LEGGETT. You are not at all.

Mr. STUDDS. Yes, I am.

Mr. LEGGETT. We know you, Studds. Go ahead.

Mr. STUDDS. I had looked forward for a long year plus to this report. I had told my fishermen week after week, month after month, all along, GAO is coming up with a definitive analysis of what is wrong. And we will get recommendations. And as soon as that report comes here, we are going to take right off.

Now, I am naive, I guess. This is my first major exposure to the work of the GAO. I always envisioned that in the middle of the double-talk and clap-talk from the rest of the Government, that here was one friendly arm of the Congress.

I would say to you, having read the summary in this committee staff report, having listened to your summary, having skimmed and read portions of your report, that I am something less than overwhelmed by your response to the request made by the members of this committee a year ago.

What I would like to do is to read to you from the letter of Mrs. Sullivan, Mr. Ruppe, Mr. Forsythe, and Mr. Leggett, the letter of November 19, 1975, which presumably set the framework for the GAO report, and I will simply excerpt those questions and directions to the GAO which seem to me to be totally unaddressed by this report, and not only that, but which I understood to be the heart and soul of the reason why we had asked for this report, and then I am going to come back and ask you some specifics about them.

I quote selectively from the letter:

We are therefore requesting that GAO undertake a study to delineate policy issues, options and costs of revitalizing the U.S. commercial fishing industry. We want the study to serve two broad functions:

One, provide an objective analysis of a number of areas where present programs may be inadequate or noncost effective or where additional programs are needed. And we want you to consider the adequacy and cost effectiveness of financial assistance programs available to various segments of the fishing industry.

Parenthetically, I might say in your sumary you said, and I quote, "In the event that these programs are inadequate."

That is a restatement of the question, not an answer to the question.

I see absolutely nothing in here that deals with one of the key questions addressed to the GAO, namely which of this myriad and hodgepodge of Federal programs are working, which are not, which need to be changed, which need to be abolished, where do we need new ones?

And you come back to us and say in the event that these programs are inadequate.

Reading further from the letter, which was the charter presumably for your study:

What is the impact of foreign subsidized fisheries on the competitive position of the U.S. industry? What is the impact of Government subsidies of selected food commodities on the competitive position of fish products in the marketplace? What type of financial assistance, if any, should the Government provide to strengthen the competitive position of fish products? What forms of assistance to the industry might be justified? What is the Government's role in processing and marketing of seafood? What Government programs can be considered to strengthen the U.S. fishing industry?

"If possible"—I guess that was the hooker in there—"identify the costs and benefits of such Government programs to the extent possible."

And I am continuing to read from the letter:

The assessments you make and the findings you reach should be formulated in your report so that various Government and industry actions necessary to strengthen the U.S. fishing industry are considered; present Federal programs are evaluated for cost-effectiveness; necessary investment and operating costs of securing for our fishing industry a competitive position in U.S. and world markets are estimated, if possible (together with recommended sources of funding); and appropriate Federal roles in recommended programs of action are suggested. Please identify.

I guess we should have capitalized "please"—

To the extent practicable whatever new or modified legislation you find is needed to accomplish the purpose of strengthening our domestic and distant water fisheries operations.

I have to say to you, in all respect, that I do not see any evidence that a single one of those questions has been addressed, much less answered, in your report.

The questions have been restated. And, as I said, the symbol to me of that is your statement to us that began, "In the event that these programs are inadequate."

What we asked you was, are they adequate?

Now, I apologize for the tone and tenor of my voice, but a lot of us have really been anticipating the study with great enthusiasm. A lot of us have to face our fishermen, who it may come as some surprise to some folks that they are capable of reading and analyzing documents, and I am going to have to go back to Cape Cod and have them throwing this at me, and it is heavy. It does not say a blinking thing with re-

spect to the questions that the senior members of this committee asked the GAO to address themselves to.

Mr. GLICK. Well, we attempted to—we have approached this job to get specific answers to those specific questions.

Mr. STUDDS. I would appreciate your pointing to any one of the questions that I read to you.

Mr. GLICK. Let us talk about, for example, financial assistance.

We got varous opinions from different fishermen as well as associations as to the need for financial assistance.

Some fishermen said we do not want any Federal assistance. Others said they did.

We tried to find out from these agencies—and there are four, I think, that furnished some financial assistance.

Mr. STUDDS. You think. That was one of the questions.

Mr. GLICK. There are four—well, the four that we mentioned in the report, we went to these agencies to try to find out the extent to which the fishermen came to them for assistance and were denied assistance.

There are no records of denials. We do not know. We could not tell how many fishermen went to the Small Business Administration, for example, and asked for a loan and were turned down.

Mr. STUDDS. Did you ask why fishermen did not bother to go in the first place or whether they even knew about the programs in the first place, or whether the programs were adequate or inadequate which we addressed in the letter?

Mr. GLICK. I am sorry, I did not get the question.

Mr. STUDDS. If, in the first place, there are at least four, maybe more—I was hoping for a clear answer to that question—throughout the Federal bureaucracy. It is a maze, too incomprehensible to the Members of the Congress, let alone someone trying to make a living on the sea. They are inadequate.

The question we asked you to address yourself to is what is the matter with them, where are they, which ones work and which ones do not work, and tell us what changes you think ought to be made?

Mr. GLICK. We identified the four.

Mr. STUDDS. We know there is a SBA program and Farmers Home program. You say here, "utilize the existing financial assistance programs under SBA and NMFS, and evaluate the necessity of providing Federal assistance if the existing programs are indeed adequate."

That was the question we asked you. Are they or are they not?

Mr. GLICK. As I tried to make the point, we do not know to the extent that fishermen have tried to use these facilities.

Mr. STUDDS. What have you been doing during the last year?

Mr. GLICK. We went to the agencies and asked them do you have records of applications for fishermen—for loans requested by fishermen?

The agencies did not have records to show applications which were denied. Unless, for example, we understand—at least we were told that if a fisherman went to one of these organizations to—this is primarily EDA and SBA—if they were told that there was no chance of them getting a loan, they maintained no record of those applications.

The only records which they had available were if they permitted the fishermen to make an application for a loan and then it was turned down.

So we were unable to determine to what extent these programs were actually being used by fishermen.

Mr. STUDDS. Did it occur to you to ask the fishermen?

Mr. GLICK. We did ask some of the fishermen. Some said they did not need Federal assistance, and some of them said they did. We had a meeting with a number of the various associations, and their response at that meeting was almost opposite from the information that our staff members were able to get from talking to the fishermen, as well as the processors. They said that they were not having that much trouble.

Mr. STUDDS. We do not need a year's study to tell us there is diversity in the fishing industry.

Mr. GLICK. That was not the only part of the study that we concentrated on. But we felt that without knowing how effective these programs were—and we could not determine this because we could not get complete records from the agencies—we were not able to come up and say whether those programs are adequate or not.

Mr. STUDDS. You simply could not answer what is the single-most direction in the study?

Mr. GLICK. Based on the information that we were able to gather, we could not make——

Mr. STUDDS. So your report, I gather, you acknowledge, is of singular uselessness to this committee in its attempt to assess Federal programs of assistance for fisheries?

Mr. GLICK. We attempted, as I said before, to get this information, and I do not know where else we could go except talk to these people and go to the agency and see what records they had to back up how effective those programs were.

That information was really not available.

We know the extent of the assistance that was given, and we show it in the report for a 2-year period. But whether that was adequate, there was no way for us to tell.

Mr. STUDDS. Where is the old GAO spunk?

I have read GAO reports where they are withering in their work. You have not anything in here about that.

What about some of the other questions?

What is the impact of foreign subsidized fisheries on the competitive position of the U.S. industry?

Did you address that question?

Mr. GLICK. Well, we point out in our profiles of the industry in foreign nations where the Federal subsidy or Government subsidy assistance has not particularly assisted the fishing industry in those countries and, in fact, sometimes they work to the industry's detriment, because it resulted in overcapitalization.

What these countries had done, for example—take the case of Denmark. There they place a high importance on the quality of fish, and they give very little Federal Government assistance. Yet it is a highly profitable industry in Denmark.

Mr. STUDDS. Did you address the question, what is the impact of Government subsidies of selected food commodities on the competitive position of fish products in the marketplace?

Mr. GLICK. No, we did not do this.

Mr. STUDDS. Well, it was in the letter.

I am staggered, as the Chairman appears to be, by your suggesting retraining programs for fishermen.

Do you suggest that they become textile or shoe workers?

Here we are, this Congress has just acted, as you know, to conserve the fisheries resource off our coasts. We have every indication that percentagewise the volume of the U.S. catch is going to increase dramatically in the next 5, 10, or 15 years, and you are talking about retraining fishermen and buying back their boats.

They are going to love that.

Mr. GLICK. Well, Congressman, going back to the history of how this letter was originated, these questions and points that you are quoting from the letter, they were not given to us as mandates. They were incorporated in the letter as areas which we might consider in our study.

We had as the chairman will recall, the——

Mr. STUDDS. If the letter was not your mandate, what was?

Mr. GLICK. But the way you read these questions from the letter, the emphasis is that they were—that they wanted direct answers. I am sure the committee would like that——

Mr. STUDDS. That is not too underhanded an interpretation, is it?

Mr. GLICK. There were areas which the committee wanted us to consider in our study. Where we felt that we could address those specifically we did so. But they were not considered as mandates to GAO.

Mr. STUDDS. I would appreciate it, just in terms of commonsense, that when the chairman and ranking minority members of the Congress addressed a letter to the General Accounting Office and asked specific questions, that it should not be stretching it too much that in doing so they want response to those questions.

Mr. GLICK. Well, we tried very hard to answer—to be as responsive to that request as we possibly could. But also we were under severe time constraints, and it was our measured judgment that what we would try to do was address the major issues.

Mr. STUDDS. We knew the major issues. You sit here and you have reformulated the questions which we asked you.

Every member of this committee knows what the problems are.

But what we are trying to get at is the answers. You have a many-hundred-page statement of the problems.

Mr. LEGGETT. Perhaps I should intervene here.

Mr. STUDDS. Do not worry, the chairman always does.

Mr. LEGGETT. Well, in your kindly fashion, I really hesitate to intervene. Perhaps your criticism is somewhat of the Chair.

We attempted, with the help of GAO and the Congressional Research Service to draft a letter to figure out what kind of answers needed to be arrived at in order to respond to what we project to be a renaissance in the American fishing industry and this was the negotiated letter that came about through a number of meetings with the General Accounting Office, the Congressional Research Service and with the staff of this committee.

We started from scratch and we met monthly with the General Accounting Office, all the interested members of this committee and we reviewed where we had been. We never got any specific answers. We reviewed generally the problems that the General Accounting Office was having with the ascertainment of specific answers to the questions that we were interested. We had requests for extension of time to respond.

We did get maximum cooperation from the General Accounting Office in that they did 23 complete man-years to the study and I think that after every member has had a chance to completely read the report, then what we ought to do is come back and then have a further cross-examination of the writers and determine where the inadequacies are and at that point either give the mission of further amplification back to GAO or to the Congressional Research Service or to the National Marine Fisheries Services or to private contractors or to the industry and come up with some answers.

I think the fact that we have kind of jointly mused together, and come up with a document which does have specific information on specific fisheries with some idealistic solutions and some which are practical, not as specific perhaps as we would like, is significant.

If you compare this document as an example to the national report of the National Marine Fisheries Service, necessarily you have to conclude that we have had on the order of 3,000 percent improvements on the overall quality of the plan.

Now, that does not say much for the plan of the National Marine Fisheries Service but you go back and look at what they have done and I think they spend on the order of 1 or 2 man-years in the preparation of that plan. So what we are trying to do now is to get some people right in fisheries development and have them work with these councils and if the councils have questions, we can assimilate those questions and challenges and relate back to the committee and to the General Accounting Office.

I can critique this report as effectively and as aggressively as any member of this committee. I am sure the General Accounting Office can critique what they have done and they can compare all of the compromises that we have made in arriving at our current results. I do not think that it accomplishes too much to say that we have done exactly nothing at this point through this study. After all, we are working with the only agency that is available to work or that has volunteered to work and they have agreed to work with the National Marine Fisheries Services, the Congressional Research Service, and the Office of Technological Assessment.

What we found is that the Office of Technological Assessment works extremely slowly and only on specific matters and we could spend a hearing critiquing the cooperation that we receive from that agency. But I do not really think that would be too productive at this point.

We could critique this document and badger the be-jeebers out of GAO with respect to the expertise that perhaps they did not get out of the National Marine Fisheries Service and the Fish and Wildlife Service which should have been there but which probably is not.

Unfortunately we are trying to create something out of nothing. We have taken a number of people out of the General Accounting Of-

fice who have not had precise training in fish development organizations and we have tried to organize them into some kind of program.

As I indicated, hopefully we have something that we can begin with. It is not a final document, it is not as precise as I had hoped we would achieve but I would hope that the members of the committee would take the trouble to read every individual section of the document, go back and talk to your fishermen. Get them to read sections that apply to their fisheries and then come back with their suggestions, and let us formulate a revised program with more specifics. Let us try to work with this group or any other groups that anybody wants to suggest and hopefully come up with some answers.

I think we have to build up the bureaucracy of the National Marine Fisheries Service and we have to build up the individual private sectors of the fisheries of the United States, so that they can work with Federal agencies. I think your criticism is exactly warranted but let us not be federally machosistic about our endeavor and try to make something out of what we have instead of just driving it like a spike into the ground.

Mr. STUDDS. Let me say, we now have used up my time, and it is time for the other members.

The frustration that I have expressed, I guess, is a result of unduly high expectations for this report.

This subcommittee, in the voice of our chairman, is committed to a major reassessment and restructuring of programs of assistance to the fisheries, and this Congress—and I at least— looked toward this study as a key or even the key in guiding us into the substance and nature of that reassessment and that restructuring. My frustration, which the chairman in his chracteristic way has softened but not eliminated, is the degree to which it appears that we do not have much assistance in that venture.

I am delighted that the chairman has made that commitment and that the subcommittee will proceed.

Mr. LEGGETT. We could meet among ourselves and determine where we go from here.

Mr. STUDDS. My time and I have both expired.

Mr. LEGGETT. We have to build together and the Chair is open on how to build. It was on our idea that the GAO was the place to start. They have come a long way and I believe the last report of the General Accounting Office in this general area that came out in May of about 1975, as I recall, was that the American fishing industry was a basket case and we ought to forget it. I think that is a generalization of the report.

Mr. STUDDS. You folks did not say that.

Mr. LEGGETT. No, this is an upbeat as to where they have been. They are great on downbeating so we have given that formidable challenge.

Mr. AuCoin?

Mr. AUCOIN. Mr. Chairman, I thank you for recognizing me.

After the exchange that just occurred, and the chairman's subsequent comment, I feel that a lot of my thunder has been stolen, but I do feel obligated to echo the comments of my colleague from Massachusetts.

I too looked upon this report as giving us a roadmap. The Chair himself said at the outset——

Mr. LEGGETT. I have said it a dozen times through the years, we are going to get a roadmap from GAO.

Mr. AUCOIN. And the chairman, at the beginning of this session, said that "this is our Bible."

But honestly, if this is our Bible, for the future of the American fishing industry, we are all headed for Hades. There is not much in it, Mr. Chairman. I think we can all see that. And I think that is what the gentleman from Massachusetts is talking about.

Let me give you a couple of examples.

One of the keen concerns I have is the very question that the witness raised on page 5 of the outline, and that had to do with the underutilization of some species of fish in our own markets. The recommendation from the Agency to solve that problem—and it is a very, very real one—is that the Congress and the Federal Government need to get involved in an educational effort to get people interested in these underutilized species.

That is the very kind of obvious conclusion the gentleman from Massachusetts objects to, and contends that is no guidance whatsoever for policymakers. I agree.

I came here revved up, waiting to see exactly how we might be able to develop the marketing techniques to solve that problem and what specifically GAO would suggest to this committee in the way, perhaps, of augmenting sea grant, or modifying or developing sea-grant programs, or finding some other mechanism to accomplish that purpose.

And yet what GAO has said is that we got to get the people interested. We certainly know that we have to get people interested. I would say this: We have got something, Mr. Chairman, but it sure ain't no bible. It is hardly a roadmap.

And I hope with further discussion among the committee members we can perhaps focus on some of the glaring holes we see in this, and then decide what further actions we should take to pursue in detail the options available to us in setting policy to solve some of the problems.

The witnesses talk about not being able to get from the agencies answers to questions about the adequacy of various financial assistance programs for fishermen that are on the books at the Federal level, Mr. Chairman.

Well, maybe part of GAO's findings ought to be the adequacy of the recordkeeping within the agencies so that Congress has some benchmarks to use in the future. The agencies should begin to compile this information, so it would be available if, pray tell, 5 years from now, or 10 years from now we get back into this task. Beyond that, the gentleman from Massachusetts asked the question I would have asked: Did GAO talk to any fishermen? Apparently you talked to some who said they do not want any Federal aid, and others said they do.

I talked to fishermen in my own district, and they tell me the industrial loan program under the Farmers Home Administration is an absolute nightmare; it is so fraught with paperwork, gobbledegook and redtape that no lender in his right mind is going to bite off that kind of task when he has more lucrative, more promising, and more attractive outlets for his capital.

What would the GAO suggest in this area? What about the guaranteed loan program under the SBA? It has problems that make it virtually unworkable for many fishermen.

I do not have all of those detailed answers. Not one member of this committee can obtain them. GAO could. But it has let us down.

I must also comment on the conclusion that has been referred to about reducing the number of fishermen in the industry to increase profitability.

I have not completely had a chance to review the charge given to your agency but I have been operating under the assumption that one of our tasks at the Federal level, and in this committee, is to develop a policy to enhance those resources; to make decisions now, so this country can begin to get on the road to one day enabling our consumers to turn to the sea for food to a far greater degree than they do today.

Reports on nutrition already indicate that the American diet contains too much red meat. Americans ought to be getting more protein, more fish food, and so forth. But the recommendation you have given us is for retrenchment in the U.S. fishing industry—not for enhancement and expansion.

I am perfectly frustrated with the entirety of the report.

This just does not seem like a GAO report to me. I have seen what the agency has done in other program areas, and this is just an empty piece of paper.

We have a lot more work to do before we can go forward. Many areas of specific concern to me have been left out of this study.

I will yield back my time.

Mr. LEGGETT. That is not a question. That is a statement, so the witnesses really do not need to respond to that.

I suspect this meeting will have the effect of stimulating the adrenaline of all of us, and I think it will have the effect of kind of showing us really where we are.

On page 11 of your report you indicate that the Japanese have gone from 10 billion to 23 billion pounds from 1956 to 1974, which is a 125-percent increase.

Mainland China has had a 200-percent increase from 5.8 to 15 billion pounds. The Soviet Union has gone from 5.7 to 20 billion pounds. The United States, you indicate, has gone from 6½ billion pounds to 6 billion pounds.

And you also have a very good report that indicates that our imports have escalated up to 62 percent over the past 15 years, where hither to they were approximately, less than 40.

And I think what the committee is really after is a solution on how the U.S. goes from 6 billion pounds up to 15 billion pounds, and how we cut those imports from 62 to 30 percent. It may well be that you have this spelled out in your report.

I know that by delegating the responsibility to prepare this report all over the United States, the Far East and Europe, that the mission has become somewhat obfuscated, but I would hope that as we continue to work together we could sharpen up some of these numbers, and sharpen up some of the targets.

With that I will recognize Mr. Bonior.

Mr. BONIOR. Thank you, Mr. Chairman.

I just do not have any comments to make now. I do have one question concerning the reference in the letter to the Great Lakes study.

Mr. LEGGETT. We are going to get to the Great Lakes study. I know

the gentleman is concerned with that. I have not reviewed the Great Lakes study, but we will save that question for just a moment.

Mr. Hughes?

Mr. HUGHES. Thank you, Mr. Chairman.

I do not think it is productive at this point to do anything except to share my disappointment with the Chair and with the General Accounting Office. I expected more.

I suspect that part of the problem is that there is really no easy solution to our declining domestic fishing industry.

I think that the GAO in seeking answers perhaps could have gone beyond the involved agencies for information. I do not think an inquiry is as productive as it could be if we limit our investigation and our dialog to just the agencies and departments at the Federal or the State level. I find that often we just talk among ourselves, and not really getting to the problems.

I have a meeting tonight with a group of 40 or 50 of my fishermen. And as the GAO indicates, our fishing industry is a rather small industry of individuals and small firms. And we do not really harvest or cultivate. We more or less hunt for fish. That has been, I think, a part of our history. And we are competing today with floating factories.

I really looked forward to some insight into the problems from the General Accounting Office, particularly as to what the subsidized fleets in other countries are doing to our industry.

I know for a while we experimented with factories, and they just did not work in this country. And I am afraid that part and parcel of our problem is that we are dealing with tremendously huge industries that are subsidized in many other countries, that utilize the best of technology, and that have to have that protein as part of their subsistence. I'm not so sure that we have ever looked upon fishing in that fashion. And that's unfortunate.

Fishing is a dying industry in my part of New Jersey. I am sure the same decline is occurring in many parts of the country.

I agree with my colleague, Mr. AuCoin, when he says that the SBA offers very little hope. Most of my fishermen just do not even bother, because they look upon SBA loans as an exercise in futility. My fishermen are unable to retain their vessels in many instances because it is a high risk venture. They are not able to get a decent price and it is a seasonal type of operation in most instances.

The youngsters that grew up in fishing families are not interested in going into the fishing business, because they have seen how hard their fathers or their grandfathers worked before them, and really have nothing to show for it except losses and frustration.

And I suspect that what we have to arrive at by way of conclusion is that we have a lot of work cut out for us.

The General Accounting Office apparently has done what they feel they can do in providing us with guidelines. It is of some assistance. I found some of the data that I have looked at, Mr. Chairman, somewhat helpful. I have not read the report entirely. It is a mammoth job to get through.

But I thank the General Accounting Office, and hope that they will continue to work with us in trying to develop ways to help our fishing industry.

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Thank you very much.

Mr. LEGGETT. Thank you, Mr. Hughes.

I might state that you have to go back into history as to how we have gotten to where we are. And we determined we wanted some production studies made in this general subject area.

We have drawn on the Library of Congress and we have drawn to the maximum on the National Marine Fisheries Service, but we really did not think we could get too much more out of them.

So we were casting around for experts, and we suggested that the GAO come in. They were not enthusiastic about taking on this project at the outset. And it was only because the leadership of this committee convinced them to take it on that they did, and through a series of meetings the GAO was eventually warmed up to the subject.

Their original conclusion was that they could not come out with a blue book type General Accounting report on this subject, because they were just not prepared, or structured to handle it.

We promised them all sorts of assistance from various and sundry Federal agencies, which agencies the GAO did not have a handle on at the outset, and likewise the Library of Congress and the OTA.

As it finally developed, the OTA assistance did not materialize for the final report.

The General Accounting Office did provide a blue cover on the report, which I am pleased to see, but perhaps you would have been better off to have left the blue cover off to indicate your reservations with respect to the total adequacy of the final product.

And I would hope that having the General Accounting Office involved in this matter, and giving them almost an impossible task to accomplish in a year period, that we do not lose patience with each other, and that we can continue to work and develop and come up with individual solutions on this program.

Obviously, anybody could have come up with a report, and said, yes, let us build a lot of fish factories, and let us mimic the Soviets in exactly what they have done, and let us get rid of private enterprise and various and sundry fisheries, and let us develop a pseudo-socialistic program, and let us get all of the small fishermen out of this business, and let us get the big corporations in—which is frankly a solution that I had asked the Accounting Office to explore.

And it may well be inevitable that before we can take adequate amounts of harvests like the Soviets, and like some of the competitors that we are closing out of this field, we are going to have to assume a posture very much like they have, and do it through Government auspices.

We have a long ways to go before we change the beef, lamb and poultry tastes of the American public to fish. And this is a subject matter that we can spend five volumes on obviously, and end up with all sorts of studies.

Now, I know Mr. Mannina has made a special study of some of the recommendations of the report. You filed your analysis and recommendations with the committee. And I have looked at some of those, and the question is, George—if we address ourselves to the legislative challenges, which you have posed in your seven or eight page monograph, is that going to change Heaven or Earth for the fishing industry, or is that merely going to dot the I's and cross the T's?

Mr. MANNINA. Mr. Chairman, I would suggest that it does offer potential.

However, to complete the work begun by GAO will require perhaps 3 to 5 years of work by this subcommittee, and substantial additional study by the subcommittee, the General Accounting Office, and the agencies.

I do believe this subcommittee can make an impact Ned and I will soon have on your desk, and the desks of the other members, specific suggestions as to how we can move forward with this particular study—possible game plan, if you will.

Mr. LEGGETT. Now, you have the report, is that correct?

Mr. MANNINA. Yes.

Mr. LEGGETT. And, Ned, you have read the report?

Mr. EVERETT. Yes.

Mr. LEGGETT. Have you read all of the report?

Mr. MANNINA. Yes.

Mr. LEGGETT. Is there anybody else on the staff, or any Member of the committee that has read all of the report?

Mr. MANNINA. Mr. Cook has.

Mr. LEGGETT. Mr. Cook has, and Mr. Cook is our counsel, who is wise in environmental matters, and new in fishery matters. Are you prepared to make an assessment?

What I want from somebody who has read the report, is an assessment of the report. We have heard assessments from two of my colleagues on my right who have not read the report.

Mr. AUCOIN. All of it.

Mr. LEGGETT. Yes, all of it. And they say it is not a Bible.

So I am just wondering if you gentlemen, who have read the report, can make a general assessment of the nature of the contribution which it makes to the general knowledge.

Mr. MANNINA. Mr. Chairman, I would reorganize the report from the way the General Accounting Office has presented it. GAO presents several different recommendations, in about 12 or 13 different areas spread out throughout the entire report.

The underlying theme of the report is that the U.S. fishing industry is suffering from the fact that fish is a common property resource. Too many fishermen enter a fishery and it becomes unprofitable and thus the fishermen are unable to attract necessary capital.

Mr. LEGGETT. It is really the wrong capitalization, is it not?

We have too many small boats, and not enough big ones to catch the fish.

Mr. MANNINA. Too many folks get into it, and they get overcapitalized, or whatever you call it, and they are unable to attract the additional moneys needed for expansion.

There are certain things that can be done, and one of the things the GAO report suggests is limited access.

In this regard it should be noted that the Fishery Conservation Management Act provides authority to the regional councils to establish a limited access system.

Mr. LEGGETT. I would suspect Mr. Studds' people would be utterly overjoyed with a limited access program.

Mr. STUDDS. They would be somewhat astonished to be described as "overcapitalized," too.

Mr. MANNINA. Well, there are things that can be done to assist the industry. For example, the subcommittee could reconstitute the existing loan programs to provide for longer term and lower interest loans to assist those fishermen to develop new fishing vessels.

By the same token, we could establish an insurance program for hull insurance—a problem which is confronting the industry.

Mr. LEGGETT. We could have a Federal insurance program. We could have long-term 5-percent loans like Farmers Home gives.

Mr. MANNINA. You could. You could also evaluate the existing program for developing underutilized species. To develop an underutilized species you have to do four things.

First, you have to find out where the resource is; second, you have to find out how to harvest it; third, you have to find out how to process it; and fourth, you have to develop a market for it.

The existing Federal programs of market development are inadequate. I think that is reasonably clear. How to upgrade those programs is not completely addressed in the GAO report.

Presumably the National Marine Fisheries Service does have some programs in resource assessment and in development of processing and harvesting technologies. These programs are underfunded.

Whether the statutory authority is adequate, I cannot say. Again the GAO study does not address that issue.

Mr. AUCOIN. Which programs are underfunded?

Mr. LEGGETT. The marketing development programs.

Are you the director of the marketing program of NMFS Mr. Slavin?

Mr. SLAVIN. Yes; I am Assistant Director for Fisheries Development.

Mr. LEGGETT. Right. And Joe was a participant last week in a conference, but Joe, like myself, had more questions than answers. And that is kind of a problem.

Mr. MANNINA. Yes; but if this committee is desirous of moving forward, and devoting the appropriate staff time, there are definite areas that this subcommittee can have an impact on, Mr. Chairman.

There is another problem that the GAO points to, and that is the destruction of fish habitat. I believe the figure is either 50 or 90 percent of fish found 200 miles from the U.S. coasts spends some percentage of their time in U.S. coastal regions. The GAO study contains documentation of decreased harvests caused by habitat destruction.

Perhaps the subcommittee might want to consider some program following up the 1970 estuarine study to identify those areas necessary for additional conservation. Again it requires further study.

You also may want to consider some upgrading of existing habitat protection programs.

Mr. LEGGETT. Well, the marketing program of NMFC, of course, is a real neat area to look at to determine whether or not we are doing as much in the National Marine Fisheries Service to promote marketing as they are in the Department of Agriculture.

Mr. MANNINA. Definitely.

Mr. LEGGETT. The Department of Agriculture promotes the marketing of fresh fruits and vegetables. I know they have a whole fresh fruits and vegetables division, and it is aimed at moving refrigerator cars around the United States.

And I would suspect that if we want to get into fish, like we get into the various kinds of agricultural commodities, we may have to move from 200 people at NMFS to perhaps several thousand people at NMFS.

And I would suspect if we compared all organizational capability with the Japanese capability—let us see, we have 140,000 fishermen in the industry?

Mr. GLICK. 240,000 employees in the fishing industry.

Mr. LEGGETT. 240,000?

And we have 200 million people. And the Japanese have half as many people, yet how many people do they have in the fishing industry?

You probably have those figures in this document someplace.

I would suspect they probably have three or four times as many people involved in fishing in Japan.

Mr. AUCOIN. Talking about the marketing side, and how we are equipped to enhance or encourage that through Federal programs, I think we have some overlap in those.

We have sea grant, and NMFS, and who knows how many others. I think if we are going to get into this in a serious way, we are really going to have to look at where the jurisdiction should rest, and give it the support it needs.

Mr. LEGGETT. Well, the report here gives big emphasis on aquaculture, even though we told them to exclude it, as one of the great solutions for the development of the fishing industry.

And we find that while this committee has general control over an aquaculture development bill we have on the order of about 40 different grants under the sea grant program in the Oceanography Subcommittee of this committee. They are looking at all of those programs.

And whether or not John Glue in NMFS, who has the overall responsibility for aquaculture development, is really keyed into all of those sea grant programs, and whether he was working aggressively to move them from the study stage up to the development stage is questionable.

Mr. AUCOIN. Mr. Chairman, if I may just add one other comment, since you mentioned aquaculture?

I would just make one other observation. A lot of my fishermen, and probably fishermen elsewhere, are very concerned with the advent of an aquaculture program, they are concerned that we are going to end up with a glut of fish on the market. The commercial fishermen are looking at aquaculture in very, very wary terms. They are concerned.

I think we should be looking at it in consumer terms. We ought to be looking at it in terms of adequate supplies of food, and we ought to be looking at it in terms of the increase in protein we can produce and use domestically as well as export.

This again places a high priority on the marketing systems, and marketing research, because if we do have a glut of fish on the market, and then develop aquaculture, we are just going to be adding fuel to an already burning fire.

I know you understand that, but I think it is worth noting in this discussion.

Mr. LEGGETT. Well, certainly, as an example, we have had statements made by some people that one-third of the shrimp industry in Florida is going to be in the aquaculture mode in 5 years.

Well, if the Floridians are closed out of Brazil, like the Texans were closed out of Mexico, it may well be they will have to go to aquaculture, and there really will not be any displacement, it will just be a shift.

But you could write a book, believe me, on every one of these subjects. They all have an awful lot of fragile assumptions.

George, continue on with your analysis.

Mr. MANNINA. Well, there is one major area the subcommittee is going to have to face up to, and that is State regulations. The GAO documents several instances where the States have promulgated regulations restricting the ability of fishermen to use the most effective harvesting techniques.

Mr. LEGGETT. I know Alaska, for example, has some restrictions on harvesting crab.

Mr. MANNINA. So does Delaware, New Jersey, and some other places. I am not sure that Massachusetts and Oregon has, but there are certain problems associated with regulations.

Also, with respect to the management of the 200-mile zone, GAO points out that there is a potential conflict at the State-Federal line when the State regulations are inconsistent with Federal programs.

So in the context of developing a comprehensive program to stimulate fisheries, you may have to face up to that State-Federal interface. I am not certain exactly how one does that, short of preempting the States, but whether that is a decision that we must resolve immediately is questionable.

Similarly the GAO study points up the need for quality fish products. Iceland, for example, has a premium price for quality products. It has stimulated the market, and it has helped the fisherman. They also have a comprehensive fish inspection program.

The United States in contrast operates under a voluntary fish system inspection which is implemented by the Department of Commerce. Query whether the FDA, the Department of Agriculture, or the Department of Commerce is the best agency to undertake a mandatory program, if it is in fact desirable to establish such a program.

Again these were questions which were not specifically addressed in the GAO report, but it may be something we should move forward on.

Marine recreational fishing is another area addressed in the GAO report.

Currently we do not know how many marine recreational fishermen we have, and we do not know what they are catching. But we do know that this is an important area to be considered in any comprehensive program.

For example, the commercial catch in your State of California is only one-fourth of the size of the recreational catch.

Mr. LEGGETT. Are you saying that is a fact?

Mr. MANNINA. Yes, sir.

With respect to management of the species, we do not know what additional considerations are required in California because of the recreational fishing.

As a housekeeping matter, many of the sections of the existing code are spread all over hell's half-acre, are inconsistent, and are out of

date. Perhaps they should be codified into a separate title, as the GAO recommends, Mr. Chairman, to provide a streamlined and effective program that hopefully will be as readable as Federal regulations.

But in any event, there are specific efforts this committee could undertake, but it should be viewed as an integrated picture. You may consider breaking it into its component parts. But if you break it into its component parts, at all times the subcommittee needs to keep in mind the overall picture of where we are going.

And if you follow the GAO report recommendation the central element of the entire operation is a limited access system.

Whether such a system contains incentives for fishermen to move into different fisheries including underutilized resources, is a good question.

I should also tell you that Mr. McCollister of Stanford University has——

Mr. STUDDS. I think he is here.

Mr. MANNINA. He is the one who sent us Ted Dintermon, who is sitting on my left. Standard has a group of 5 or 6 professors. 15 Ph. D. candidates in engineering and economic systems, and 5 NOAA professionals prepared to move forward under the subcommittee's direction to perform the cost-benefit analyses that GAO was requested to examine in evaluating the effectiveness ofexisting programs and whether, given a certain pot of money, how that money should be distributed.

Ted will be going out to Stanford some time early in March, to hopefully carry with him what directions this subcommittee would like. And to that end, hopefully Ned Everett and I will have on your desks early next week some thoughts more detailed than our discussion today.

Mr. STUDDS. May I ask whether the economics of the industry is also in your discussion?

For example, what about the possibility of a futures market?

Mr. MANNINA. It is certainly a possibility.

Mr. STUDDS. As you know, these folks are subject to the momentary fluctuations of the hour.

Mr. MANNINA. Some nations have a price support system for their fishermen. I gather the parallel is to agriculture. But that may be something else you may want to consider.

Mr. AUCOIN. What was the program in Iceland that you were referring to?

Mr. MANNINA. Well, they have a program that, as I understand it—and perhaps the GAO may wish to elaborate further—but as I understand, they grade the fish when it is at dock. They have an inspector right on the dock grading the highest grade fish, and so on. The highest grade fish is priced at a higher level, and you come down the line.

Mr. AUCOIN. Yes, precisely, I agree.

Mr. LEGGETT. Of course, you can do that when you are dealing with lots of fish, but where you go into a grocery store that has 50 kinds of beef cuts, and 10 kinds of chicken cuts, and just 2 kinds of fish, and both frozen, then we do not have exactly the same thing.

Well, I think this discussion is useful, and I think were we to take this as a bible, I think it would be very, very misleading, and very much a disservice to the American fishermen.

I think what we ought to do is: The committee ought to really bring NMFS before us, and let us take a good look at how they are structured, and let us have a comparison with how the structuring is of some other agencies.

As you know, NMFS has tried to restructure itself. They have indicated they want 20 more people in this department, and 30 more people in that department. They have asked for a considerable beefing up under the 200-mile limitation. And after it was massaged by the Bureau of the Budget last year, and presumably this year, they came out with virtually where they were before, and with hardly even a cost of living additive.

And you cannot expect an agency to expand and do well when we are chopping off at the pocketbook end. And we are going to have to give them, I think, a better budget, and help them to organize.

I do think it might be well to recognize that our fishing industry is extremely fragile, and it might be well to give the challenge to the University of Washington, for instance, to come up with a program to assist the fisheries in the Northwest, and using this document as perhaps a fragile base, to give the challenge to Stanford, if they want to assume it, to put in some of their dough and come up with a program for California—and God knows we can use some help out there—and a program for elsewhere.

So, let us give the challenge to the universities, and give them some grants, and have them use some of their own money so they can come up with the specifics of what we do in these various areas in order to go from point A to point X. We do not have that material in these documents before us to determine actually how we fish.

We have asked a lot of questions, and in turn GAO has asked a lot of questions. And we have to seek more specific answers from the experts, and ask some questions back to GAO.

Mr. MANNINA. Mr. Chairman, an additional item which is something not addressed in the GAO study, but which may be important to the development of an organized and complete fisheries policy, is a reorganization of the Fish & Wildlife Service & the National Marine Fisheries Service so that all U.S. fisheries are handled by one agency.

Mr. LEGGETT. My view is we ought to have a fisheries agency, and that fisheries agency ought to be organized with fresh water and salt water, and with recreation and commercial departments in it, because they all overlap.

And when we have departments like we have—where we have the Fish and Wildlife Service, and the National Marine Fisheries Service, and both of them are concerned with the endangered species, the Marine Mammal Act, these fisheries councils, and both of them have to relate to one State fish and game agency, which makes it very complicated, and both of them have to relate to one committee in Congress, and numerous other overlaps—what we do is complicate things.

We split these agencies at a time when we were trying to create a department to explore the oceans, but it really has not met the challenge of the seas, like the Space Agency has met the challenge of outer space.

I think the deep ocean exploration—whether it be minerals or basic research, or whatever—is perhaps totally separate from fish development. And I have expressed this to the Carter reorganizers, and I was

hoping this committee might think this over and decide something in terms of where we want to go.

Mr. MANNINA. Mr. Chairman, if I may add one comment?

I have been doing most of the talking here, and I do not want to leave the impression that these are all original ideas. What I have been talking about is a composite of a brain-storming session, that Ned and Jeff and Ted and I have had.

Mr. LEGGETT. Pretty good.

Well, you speak for a group very well. So it is now after 12 o'clock.

We are going to have some more meetings with you, Jack and John, if you are still game. And you know, it is one thing to be on the side of the GAO, which is constantly critiqueing the executive branch of Government; but to be on the side of the GAO which is being critiqued by the Congress, well, it is not a particularly comfortable position to be in.

But I think with the explanations I have given, that we pretty well understand ourselves.

Now, we have the Great Lakes study, but it is also 20 minutes after 12. And I would suspect that the Great Lakes study, being extensive and comprehensive and complete, would take a while to present, and a while to critique.

How about giving you a five minute presentation?

Mr. LANDICHO. Mr. Chairman, the briefing is on the status of our study of the Great Lakes fisheries.

May I first say, though, that we have heard the comments of the members of the subcommittee and yourself, but I assure you our efforts to assist this subcommittee have not diminished in any form.

We recognize the intensity with which some of the members have come forth, but that has not diminished our interests, and we stand ready to assist this committee in any way—whether it be further program evaluation, or what have you.

Mr. LEGGETT. We appreciate your continued cooperation. We are going to be seeking it.

Mr. LANDICHO. Dick Seeburger will present the status of our study of the Great Lakes fisheries. This is rather a candid presentation of where we stand in our study.

We do have handouts. I think there might be a little difficulty in your seeing our charts. So, if I may, Mr. Chairman, I will approach you to give you the handout.

Mr. LEGGETT. All right.

We note your first chart about the Great Lakes fishery.

Mr. SEEBURGER. The Great Lakes fishery consists of Lakes Superior, Michigan, Huron, Erie and Ontario.

Mr. LEGGETT. Why the different colors?

Mr. SEEBURGER. I will be getting to that, sir. There are five.

Of course, these are the largest fresh water lakes in the world, having a combined surface of 95,000 square miles. They are bordered on the north by the Canadian Province of Ontario, and on the United States side by Minnesota, Wisconsin, Illinois, Indiana, Michigan, Ohio, Pennsylvania and New York.

The U.S. waters are under the jurisdiction of these eight States, and the colors indicate the waters belonging to the respective States.

Mr. LEGGETT. That is all fragmented jurisdiction, is that right? And the orange is Canada, I presume?

Mr. SEEBURGER. Yes.

Mr. LEGGETT. All right.

Mr. SEEBURGER. Michigan's water is blue. Of course, on your charts it is a little different.

Mr. LEGGETT. How much time did you spend on the study, to get to this point?

Mr. SEEBURGER. Basically, we really got rolling about the first of the year.

Mr. LEGGETT. All right.

So you have only been on it a month, is that right?

Mr. SEEBURGER. Yes. As far as fishery management is concerned, since the States control the waters, the Federal Government has no authority.

What I am saying is that management of the fishery resource is, by law, a function of the States.

There are three user groups competing——

Mr. LEGGETT. I see your chart.

Mr. SEEBURGER. Pardon me?

Mr. LEGGETT. I see your chart, and what it indicates to about 99 percent of the users are recreational, and a few percent are commercial and Indian, is that right?

Mr. SEEBURGER. That is correct.

Mr. LEGGETT. That is both with respect to license values, and number of fishermen. There are 2.7 million recreational people, as compared to 134 full time commercial fishermen.

Mr. SEEBURGER. Correct, sir.

Mr. LEGGETT. And 100 Indians?

Mr. SEEBURGER. Correct. And those Indians do not obtain licenses.

We have been told by the States there is a question about the State authority to regulate Indian fishermen. There are also some other Indians who probably fish for their own food.

That problem is a matter of litigation, and it is in various stages, in both the Federal and our State court system.

Mr. LEGGETT. And your next chart shows that the commercial landings are $9 million, or 1 percent of the total?

Mr. SEEBURGER. Actually less than one percent of the total, yes, sir.

The next chart shows the 11 species caught by U.S. Great Lakes fishermen. As you can see, whitefish, yellow perch, and chubs provide the greatest value about 75 percent of the value of the landings.

Now, there are other high dollar species, such as lake trout and walleye, but these species are regarded by the States as recreational species, and they do restrict the harvest.

Mr. LEGGETT. Now, do you have a comparison of the recreational dollar value, that is, the dollar value of the recreational species, but by species?

Mr. SEEBURGER. No, we do not.

Mr. LEGGETT. And I would presume that if any of these commercial species are expanded, it would be at the expense of the recreational users, is that right?

Mr. SEEBURGER. Yes, particularly with your lake trout and your walleye, and——

Mr. LEGGETT. Perch?

Mr. SEEBURGER. Yes, the yellow perch are a prized recreational species also.

Mr. LEGGETT. All right.

Mr. SEEBURGER. Now, there are several Federal agencies involved in the Great Lakes fishery. They do have programs, but in the most important area, namely that of fishery management, the States have the primary responsibility. They license the fishermen—both recreational and commercial—and they regulate, allocate the resource, and provide enforcement. They also have the prime responsibility for research in the fisheries, and also in the hatcheries program.

The Federal Government has prime responsibility in the control of sea lamprey.

Mr. LEGGETT. They are pretty well controlled, are they not?

Mr. SEEBURGER. They have achieved significant things in that area.

However, we have been told by some people that the lamprey are now down to about the same level that they were when they started to destroy the high dollar species.

Mr. LEGGETT. Let me ask you this.

On that previous chart, as I recall, the coho salmon was the species that controlled the lamprey, but where do you show the coho on the species that are harvested?

Mr. SEEBURGER. The salmon did not control the lamprey. That was done by lampricides.

Mr. LEGGETT. That was done by what?

Mr. SEEBURGER. They did not control the lamprey. But the salmon are planted by the States, and they are a recreational fish, exclusively.

Mr. LEGGETT. What was it that controlled the lamprey?

Mr. SEEBURGER. Lampricides, and they have some electrical barriers.

Mr. LEGGETT. That is a chemical?

Mr. SEEBURGER. Yes, that is a chemical.

Mr. LEGGETT. I see. I misunderstood.

OK, and the salmon are strictly a recreational fish?

Mr. SEEBURGER. Yes.

Mr. LANDICHO. Right. That previous chart just shows the commercial.

Mr. LEGGETT. Yes.

Mr SEEBURGER. Then we have Federal agencies providing support for research and hatchery programs.

Mr. LEGGETT. All right.

Mr. SEEBURGER. The four fishery-oriented Federal agencies operating in the Great Lakes are the Great Lakes Fishery Commission, who is responsible for this sea lamprey control program we are talking about.

They also serve as a forum for coordinating fishery matters, but they do not have authority to compel action by the States or other agencies.

Next, the Fish and Wildlife Service, which is responsible for Federal research on the Great Lakes, also does stock assessment. It also supports a hatchery program, is involved in habitat improvement, and provides R. & D. grants to the States.

The National Marine Fisheries Service operates a small liaison office in Ann Arbor, Mich., staffed by three full time people. It also provides R. & D. to the States.

The Office of Sea Grant operates the sea grant programs, but most sea grant funds go to universities.

Of these four agencies, the Great Lakes Fishery Commission and the Fish and Wildlife Service spend most in terms of dollars, but these dollars benefit both the recreational and the commercial fishermen.

The only funds which directly benefit commercial fishermen are those spent by the National Marine Fisheries Service, and some projects under the sea grant program.

There are several other non-fishery-oriented Federal agencies operating in the Great Lakes.

Mr. LEGGETT. You do not need to go over those. I have read them, and they are available for anybody who wants to look at it.

Now the question is where do we go from here?

Mr. SEEBURGER. That is about it.

Mr. LEGGETT. Well, there are some members of the committee who are interested specifically in this, so I think that rather than giving you just a general challenge to look at it and study it, we will get a letter to you, which is more specifically directed to what we want you to study in this regard.

Obviously, what you are telling us here is that the discretion of the Federal Government under the existing allocational authorities is reasonably limited, and we can overstudy some of these areas, or we can sharpen up our pencils in determining exactly what we want to study from the Federal viewpoint.

Mr. Bonior, any questions at this point?

Mr. BONIOR. Not at this point.

Mr. LEGGETT. All right.

We will continue to look at this, and we will give you a revised direction.

Mr. SEEBURGER. Thank you.

Mr. LEGGETT. This is very helpful.

Gentlemen, thank you very much.

[Whereupon, at 12:30 p.m., the subcommittee recessed, subject to the call of the Chair.]

ADMINISTRATION OF FISH AND WILDLIFE PROGRAMS

MONDAY, FEBRUARY 22, 1977

HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
SUBCOMMITTEE ON FISHERIES AND WILDLIFE
CONSERVATION AND THE ENVIRONMENT,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:08 a.m., in room 1334 Longworth House Office Building, Hon. Robert L. Leggett (chairman of the subcommittee) presiding.

Mr. LEGGETT. The meeting of the Subcommittee on Fish and Wildlife will please come to order.

This morning the Subcommittee on Fisheries and Wildlife Conservation and the Environment will receive testimony from the Departments of Interior and Commerce on H.R. 2329—a bill to improve the administration of fish and wildlife programs.

This bill is almost identical to H.R. 5523, which the committee took to the floor last Congress, passed, and sent to the Senate, whereupon that body added several minor amendments. Due to the hour at which the bill was returned to the House, the measure did not receive further House attention.

I might tell my colleagues, I am going to briefly explain this bill in my opening remarks, and hopefully the testimony will go quite quickly, because we have already held lengthy hearings on the predecessor legislation.

Briefly explained, section 2 would amend the Fish and Wildlife Act of 1956 to authorize the Secretary of the Interior, when entering into cooperative agreements with colleges and universities, game and fish departments of the State and nonprofit organizations, to assign scientific personnel—instead of only technical personnel as provided by present law—to assist in carrying out cooperative research and training programs for fish and wildlife resources.

In addition, it would for the first time authorize the use of Federal funds for direct support of graduate students doing research in fish and wildlife ecology and resource management.

Section 3 would clarify and strengthen the law enforcement authorities of the U.S. Fish and Wildlife Service and the National Marine Fisheries Service. In this regard, it would provide statutory authority for officers and employees designated by their respective Secretary to enforce fish and wildlife laws to carry firearms.

Also, it would allow such officers and employees to make warrantless arrests in certain situations, and to conduct warrantless searches of persons, places, and conveyances, as provided by law.

In addition, it would authorize the Secretary to establish and conduct national training programs for State fish and wildlife law enforcement personnel, and to develop new and improved approaches, techniques, systems, equipment, and services in order to strengthen and improve fish and wildlife enforcement.

Section 3 also authorizes cooperative agreements with other Federal and State agencies to the extent either Secretary deems it necessary and appropriate for effective law enforcement. Finally, broad disposal authority is provided for abandoned or forfeited property.

Section 3 would authorize the Secretary of the Interior to recruit, train, and accept the services of volunteers. Volunteers representing all segments of our populations are today working in the fields of health, education, welfare, and various community activities.

For the first time, the U.S. Fish and Wildlife Service would be able to utilize these public-spirited individuals to assist in carrying out fish and wildlife conservation and outdoor recreation programs.

Section 5 would amend the Migratory Bird Conservation Act to clarify the authority of the Secretary to purchase or rent easements with funds derived under the act. Present law has been interpreted to permit the Secretary to purchase or rent only the fee simple title in such property.

Section 6 would amend the National Wildlife Refuge Administration Act of 1956 to broaden the Secretary of Interior's management authority in refuge areas by allowing the taking of migratory game birds in more than 40 percent of such areas when it would be beneficial to the proper management of the species.

Finally, the bill contains a number of technical amendments to conform the various wildlife laws to reflect these new and clarified responsibilities.

The subcommittee would like to move this bill as quickly as possible to facilitate the improvement in management of our fish and wildlife laws.

At this point, I am going to ask counsel to generally explain the differences between the bill that we have before us and the bill that passed the House unanimously last year.

Mr. SPENSLEY. H.R. 2329 is similar to H.R. 5523 in the second session of the 94th Congress, except for amendments which were added to the Senate side.

The Senate added amendments to H.R. 5523, to substitute for references to the "Department of the Interior" and the "Department of Commerce" the words "U.S. Fish and Wildlife Service" and "National Marine Fisheries Service," respectively. This was done in section 2.

Also in section 2, under the law enforcement training program provision, the Senate added amendments to clarify the reference to training programs so that they would be conducted to the maximum extent practicable under established programs.

Further, in section 2(c) of the law enforcement cooperative agreement provision, it added a phrase to include State laws on lands, waters, or interests therein under his jurisdiction which are admin-

istered or managed for fish and wildlife purposes, or portions of any lands with refernce to lands for which cooperative agreements could be entered into with Federal or State agencies.

Under section 2(d), it added a disclaimer, indicating that nothing in the section, referring to disposal of abandoned or forfeited property, shall be construed to invalidate any law enforcement agreement, or delegation made by the Secretary of the Interior or the Secretary of Commerce with respect to fish and wildlife matters prior to the date of enactment of this Act.

Also, several technical changes were made.

The last amendment added a new section 8 to H.R. 5523, an amendment to the Revenue Sharing Act of June 15, 1935, which provided that moneys which were received by the Department of Interior for the leasing of industrial lands could be used for improvement of refugees, rather than having that money returned to the general Treasury.

Mr. LEGGETT. Then without objection the statement of Director Lynn Greenwalt will appear in the record, and also the statement of Jack Gehringer, the Deputy Director of NMFS, along with a copy of the bill that will be introduced and any departmental reports connected thereto.

[The following was received for the record.]

STATEMENT OF LYNN A. GREENWALT, DIRECTOR, FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

I appreciate this opportunity to appear here today to discuss H.R. 2329 a bill to improve the administration of various fish and wildlife programs. We recommend enactment of this bill with minor technical amendments as described in the Departments report which I believe you have received.

With your permission, I will review the provisions of each section of the bill and its impact on existing fish and wildlife programs.

The first section of H.R. 2329 directs that the bill be referred to as the "Fish and Wildlife Improvements Act of 1977", a fitting title.

Section 2 of the bill would amend the Fish and Wildlife Cooperative Units Act to allow the use of Federal cooperative research and training funds to support researchers in Fish and Wildlife Service sponsored research projects. The Cooperative Fishery Unit and Cooperative Wildlife Research Unit program currently consists of 45 units involving 28 participating universities throughout the country. The program conducts research into fish and wildlife resource management, facilitates the training of fish and wildlife personnel, provides technical assistance to conservation agencies, and promotes education in natural resources through demonstrations, lectures and publications. The existing Act, however, limits Federal participation to the assignment of scientific personnel, supply of equipment and payment of incidental expenses.

The proposed amendments would extend our participation in the program by allowing Fish and Wildlife Service base monies to be used more directly to perform research functions of specific benefit to us. This would put us on par with the other cooperators in the program. We feel that the amendments would have a strong and beneficial impact on the unit program. Both graduate students and research technicians could be used to perform needed research in fish and wildlife ecology and resource management.

The amendments would allow the Fish and Wildlife Service to be more flexible with its base monies and to be more involved with fish and wildlife research projects within its direct areas of concern. It would also improve our ability to coordinate the efforts of several units on research problems of regional or national significance. The Service's role as national coordinator of these programs would be enhanced.

Mr. Chairman, section 3 of H.R. 2329 establishes a much needed uniform comprehensive law enforcement authority for the Service. Our special agents are

responsible for the enforcement of more than a dozen fish and wildlife statutes, each with differing enforcement authorities. This variety of authority raises obvious problems for the agent who has to keep in mind the authorities for different statutes. In addition, there is considerable overlapping protection provided by some of these statutes. For example, the bald eagle—our national emblem—is protected by the Bald Eagle Act of 1940. Two subspecies of the bald eagle are also listed as an endangered species and therefore receive protection under the Endangered Species Act of 1973. Since the eagle is a migratory bird, the provisions of the Migratory Bird Treaty Act are also applicable. If an aircraft has been used illegally to take or harass an eagle, the airborne hunting provisions of the Fish and Wildlife Act of 1956 have also been violated.

The point to this long example is that, with the exception of the Bald Eagle Act and the airborne hunting provisions, the enforcement authority is different under each of these statutes. If the evidence is adequate to show violations under each statute, we simply choose the statute with the strongest enforcement authorization. However, the penalty provisions of a statute we might be forced to choose to overcome an authority problem may not be appropriate to the case. If, as sometimes occurs, our evidence is stronger in one area and weaker in another, we may be forced to prosecute under a statute with a weaker penalty provision. For instance, if a warrantless search was involved and we are forced to rely on the Migratory Bird Treaty Act, the problem is apparent since, according to the 10th Circuit Court, warrantless searches are not provided for under that Act. No matter how the case turns out, however, there is no reason to continue this situation of a legal game of chance. H.R. 2329 fills a void in present separate authorizing statutes by clarifying a fish and wildlife enforcement agent's authority to use all of the powers presently permitted by law. The provision in section 3(a)(1) of the bill related to search, seizure and arrest, with or without a warrant, are standard Federal enforcement tools which should be uniformly available to agents enforcing fish and wildlife laws.

The explicit authority to search with or without a warrant or other process as provided by law is sorely needed by fish and wildlife enforcement agents. In the past the Service has operated under the assumption that its agents had implied authority to make the same warrantless searches as other Federal enforcement officers. The well known Aiuppa case of 1964 reversed a conviction for unlawful possession and transport of over 500 migratory birds on grounds that Service agents lacked statutory authority under the Migratory Bird Treaty Act to conduct a search without a warrant based on probable cause. Had the migratory birds in question been endangered species or eagles, the authority to search without a warrant would not have been in question and the case lost on a technicality. The Endangered Species Act and the Bald Eagle Act specifically provides for warrantless search. This is just one example of inconsistency in fish and wildlife laws which can be resolved by enactment of section 3 of H.R. 2329.

A key provision in section 3 of the bill is the express authority for enforcement agents to carry weapons for self-defense. Since the 1920's five of our agents have been killed in the line of duty and over 200 have been assaulted. While our agents have long carried sidearms to protect themselves, statutory authority is needed to obviate problems with State and local gun control and registration requirements.

Another important provision in section 3 of the bill is the authority to dispose of forfeited or abandoned property. Forfeited property has become a real concern to us over the past decade. Numerous fish and wildlife laws provide for forfeiture of property illegally held but only patch work authority for the disposition of such property. We presently have approximately 2.5 million dollars' worth of property in various forms of storage. We lack adequate storage facilities, especially for perishable products, and we lack specific authority to dispose of such forfeited property.

In some cases disposal of forfeited property under the surplus and excess property statutes administered by the General Services Administration is ont appropriate. Under Federal surplus and excess property statutes, we may be compelled to sell the property at public auction or to allocate property excess to the programmatic needs of the Department to other agencies. After over a year of negotiations, the General Services Administration has advised us that the only solution they can see is legislation.

We need specific authority to dispose of this property when it cannot be devoted to official use and when allocation or sale would be contrary to law or sound public policy. The provision in H.R. 2329 would allow such property as appro-

priate to be loaned to public or private scientific institutions or individuals in order to promote scientific knowledge, research or to educate the public in the interests of conservation. Perishable edible goods could be donated to such institutions as orphanages, homes for the aged or prisons. Other property could be destroyed at the discretion of the Secretary or referred to the General Services Administration for public sale or other appropriate disposition under Federal surplus and excess property statutes when such action would be consistent with applicable law and policy.

Another important provision in section 3 is the authority related to cooperation with other Federal and State agencies in enforcement of Federal fish and wildlife laws, and enforcement of all Federal, State, and local laws on fish and wildlife service lands. There are presently numerous laws inconsistently providing for cooperation with other agency personnel for enforcement of discrete programs. While we have been utilizing "deputies" for some 75 years under various statutes, our authority is neither uniform nor clear. Nowhere is the status of non-Federal personnel established for purposes of such laws as the Federal Tort Claims Act, Federal assault and murder statutes, or Federal employee benefit programs. Moreover, we do not have flexibility to select the enforcement powers or laws which are delegated to other personnel. The provision in H.R. 2329 will clarify these authorities and will help us to further professionalize the Federal fish and wildlife law enforcement services.

A provision in section 3 which perhaps should be clarified, is that in subsection (a)(1)(H) providing authority to arrest for "any offense against the United States", not just crimes relating to fish and wildlife. Such ancillary authority is desirable in the efficient performance of enforcement duties relative to fish and wildlife laws. The provision goes on to indicate that our enforcement officers will not "pursue any subsequent investigations of any violation which is not related to fish and wildlife matters." We have neither the personnel nor funds to engage in extensive investigative work involving crimes that are not related to fish and wildlife. However, there are instances where it may be necessary to do some initial investigative work to, for example, preserve evidence until the responsible Federal or State enforcement agency can be informed or called to the scene. We want to make sure that the limitation in the bill is not construed to prevent such immediate or on-scene activities.

Sections 4 and 5 of H.R. 2329 clarify or resolve a number of problems we have experienced in our land acquisition and management activities under the Fish and Wildlife Act of 1956, and the Migratory Bird Conservation Act.

With regard to the Fish and Wildlife Act of 1956, section 7 of the law limits our land acquisition authority to the acquisition of refuge lands. Rising land costs and increased public pressure to preserve wildlife habitat and natural areas for current and future public enjoyment necessitate having alternative methods of acquiring land. The provision in section 4(a)(1) of H.R. 2329 will allow us the option of acquiring easements and other less than fee interests in land for fish and wildlife.

Nationwide, farm land prices have gone up nearly 30 percent in the past two years. Land acquisition dollars cannot stretch indefinitely. An important element of our anticipated acquisition program under these circumstances should be aimed at a least cost, habitat preservation program without intensive management.

High land costs can in some cases be avoided by the acquisition of an easement. This would be particularly true where the management needs of the wildlife resources does not require land management. Easements can be useful when objectives are achieved by merely retaining the status quo.

One of the amendments to the Migratory Bird Conservation Act in section 5 will also clarify our authority to acquire lands and waters on interests therein for the conservation of migratory birds. As presently written, the Act authorizes the purchase or rental in fee title or in lesser interest areas for migratory bird refuges. It does not allow the acceptance of a lesser interest as a gift. There are situations where this may be desirable.

H.R. 2329 also contains an amendment to the Migratory Bird Conservation Act which would allow the acquisition of habitat other than for inviolate sanctuary purposes. By allowing retention of hunting rights this amendment could facilitate acquisition of habitat by both fee and easement. There are situations where habitat is difficult to acquire because the owner, State Governor and others do not want the lands "locked up" as an inviolate sanctuary or taken off the tax rolls. This authority would probably have the most

impact on hunting clubs and large estates that are now maintaining habitat at private expense but are under continuous pressures for conversion. The habitat would be preserved and the government would in many cases realize a saving in generally lower costs involved in such acquisition.

Along these same lines, the amendment to the National Wildlife Refuge Systems Administration Act in section 6 would provide for greater flexibility in the management of migratory birds. The Secretary would be given authority to open an area acquired as an inviolate sanctuary to more than 40 percent taking of migratory birds if a finding is made that it would be beneficial to the species. This amendment should solve two problems which often constrain our management of refuges. We are presently required under the National Wildlife Refuge System Administration Act to close all but 40 percent of a refuge to the taking of migratory birds at any one time. While the provision of sanctuary for migratory birds is important, there are situations where management flexibility is desirable. Discretion to open or close all or a portion of a refuge could reduce that potential for large scale waterfowl mortality from communicable diseases such as Dutch duck plague and fowl cholera. These diseases can have catastrophic impact where dense concentrations of waterfowl occur. Hazing and other techniques are not always effective in reducing such concentrations. Manipulation of hunting pressure could be used to prevent or reduce such large concentrations of waterfowl which often occur when sanctuary is provided and other requirements, such as food and open water, are present. Abundance of food and open water can also cause delays in traditional migration flows of waterfowl. Shortstopping, as this is called, could be reduced or prevented is we could manipulate hunting pressures by opening and closing all or a portion of a refuge.

H.R. 2329 contains authority for the Fish and Wildlife Service to accept gifts and donations of real and personal property as well as voluntary uncompensated personal services. Because of the growing awareness and concern over the need to conserve and enhance our resources, many individual citizens and groups have expressed a strong desire to donate their energies to environmental protection, outdoor recreation improvement and fish and wildlife conservation.

Volunteer work has always been a traditional value of American life. It has already contributed much toward the improvement of conditions in our cities, neighborhoods, parks and recreation areas. Volunteer workers representing all segments or our population are today working in the fields of health, education, cultural affairs and social work.

Unfortunately, in the past because of a lack of disability insurance coverage and the inability to provide simple amenities such as lunch and transportation, the Service has been forced to turn down hundreds of offers for volunteer service each year. The contributions of such individuals would be great. Their work would provide a needed supplement to our already overcommitted career work force and would also act to further disseminate environmental awareness opportunities for dedicated individuals.

An estimated 1,000 workers could be utilized in a variety of programs in over 100 national wildlife refuges, fish hatcheries, and in our field offices. Some of the anticipated activities for the volunteers would be the presentation of slide programs and nature talks, wildlife population surveys, visitor use and attitude biological and technical data collection, and the preparation of fish and wildlife exhibits at refuge information centers. It is expected that the skills of these volunteers would be those which are often unavailable to the regular staff, such as special writing ability, photographic skill, and the ability to work with and stimulate young people. High school and college students, retired business and professional people, craftsmen and naturalists could all be utilized by the Service without competing with the jobs of career workers.

Section 7 of the bill would amend the Migratory Bird Hunting and Conservation Stamp Act to resolve a technical problem in the date the "duck stamp" is valid and the date of redemption of the stamp by the Postal Service. Because of the hunting season and for administrative efficiency, a July 1 through June 30 as the valid dates of the stamp and a June 30 date of redemption of the stamp by the Postal Service is necessary. With changes in the Federal fiscal year, reference to the stamp being valid "only during the fiscal year for which issued" required amendment by striking the word "fiscal". This was accomplished by P.L. 94-273, section 43. However, at the same time, but if different legislation—the Wetlands Loan Act extension—the June 30 expiration date was struck and "September 30 of each fiscal year" inserted in lieu thereof. As a result, the dates between which which the stamp is valid contradict the provision of a June 30

expiration date and a further provision for a fiscal year period of validity. The amendment in section 7 of H.R. 2329 will remedy the situation.

The final section in the bill provides for revenues generated at the Crab Orchard National Wildlife Refuge to be subject to the Refuge Revenue Sharing Act rather than deposited in the Treasury as general receipts.

Crab Orchard was originally acquired by the United States as part of the Illinois Ordinance Plant administered by the War Department and the Crab Orchard Land Utilization Project acquired by the Resettlement Administration of the Department of Agriculture. These lands were transferred to the Secretary of the Interior by the Act of August 5, 1947. The refuge presently consists of approximately 43,000 acres of land in Williamson, Jackson and Union Counties.

The Crab Orchard Refuge industrial complex authorized by the August 1947 Act presently comprises 2,300 acres of the refuge. Approximately 1.5 million square feet of floor space are occupied by industrial tenants who use the space for industrial production, warehouse storage and two technical schools. Refuge personnel issue about 55 leases each year.

Receipts from the leases have amounted to over one million dollars since fiscal year 1971. This money is deposited in the United States Treasury and becomes part of the general funds of the Federal Government. Because of the requirements of the Act, these receipts are not available to the Fish and Wildlife Service to defray expenses incurred in the administration of the industrial complex, nor are they available for revenue sharing payments to Williamson County.

Considerable expense is involved in administering the industrial complex. The refuge provides such things as fire and police protection, sewage treatment and maintenance of access routes. Funding and manpower resources which should be available for wildlife management and environmental education are being used by the Service for administration of the industrial complex.

With the amendment provided in section 8 of H.R. 2329 the Service will be able to defray its expenses for administration of the industrial complex from the revenues collected, and the remaining receipts, if any, will be incorporated into the formula used to determine the revenue sharing payment to the county.

It is my understanding that under the revenue sharing formula the adjusted fair market value of the lands will probably be greater than the net receipts from the revenues. Therefore no increase in the payment to the county will result from enactment of the amendment. The Service will be the major beneficiary of this amendment in that funds will be available specifically for administration of the industrial complex. The Service will be in a better position to improve its administration of the industral complex which in turn will benefit the industrial tenants.

The problem related to the payment to the county is one that other counties with refuges also face. As you have previously indicated, Mr. Chairman, this matter will be receiving careful review by the Committee. This amendment will allow Williamson County to benefit in any changes made in the future to the refuge revenue sharing program.

In conclusion Mr. Chairman, I would like to bring to your attention a potential problem that might occur in movement of this legislation through the Congress. The bill provides authority for law enforcement and a volunteer program to the National Oceanic and Atmospheric Administration as well as to the Fish and Wildlife Service. While we have no objection to this, we are concerned that referral of the bill to both the Senate Commerce and Transportation Committee and the Senate Environment and Public Works Committee may cause delays in its enactment.

This concludes my prepared statement Mr. Chairman. I would be pleased to answer any questions you might have.

Thank you.

STATEMENT OF JACK GEHRINGER, DEPUTY DIRECTOR, NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE

Mr. Chairman, it is a pleasure to appear before you today to discuss H.R. 2329, a bill that would amend a number of existing fish and wildlife statutes to improve their administration by the Secretary of the Interior and the Secretary of Commerce. Sections 3 and 4 are of interest and concern to the Department of Commerce.

Section 3 of the bill consolidates the enforcement authority of the Department of the Interior and the Department of Commerce with respect to the protection of fish and wildlife resources. Specifically, this section, among other things, would (1) incorporate fish and wildlife enforcement powers of the Department of the Interior and the Department of Commerce into one law, (2) authorize the establishment by those Departments of fish and wildlife enforcement training and research and development programs, and (3) provide law enforcement cooperative agreements by those Departments with other Federal and State agencies. Section 4 of the bill would amend the Fish and Wildlife Act of 1956 to clarify language dealing with the protection of fish and wildlife resources in section 7 of the Act, and, among other things, would authorize the Secretary of the Interior and the Secretary of Commerce to use the services of volunteers in conducting fish and wildlife programs under their jurisdiction.

Enactment of H.R. 2329 would alleviate an existing problem; that is, the law enforcement authority of both the Fish and Wildlife Service and the National Marine Fisheries Service is fragmented and scattered throughout various statutes. In some program areas, this authority has not been clearly defined, thereby resulting in an assumption by the Services that their enforcement officers have "implied" authority to take certain actions. H.R. 2329 would provide uniform, comprehensive law enforcement authority for both Services, and the Department of Commerce recommends enactment of sections 3 and 4. We defer to the Department of the Interior on the other provisions of the bill.

We would like to point out that this Department already has general authority to conduct training and research and development programs similar to those authorized under section 3(b). As a matter of policy, we believe that training conducted for State and local law enforcement officials should be provided on a reimbursable basis, where appropriate.

Mr. Chairman, this concludes my statement. I will be happy to answer any questions you may have.

[H.R. 2329, 95th Con., 1st sess.]

A BILL To improve the administration of fish and wildlife programs, 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 "Fish and Wildlife Improvement Act of 1977".

SEC. 2. FISH AND WILDLIFE COOPERATIVE UNITS ASSISTANCE

The first section of the Act of September 2, 1960 (74 Stat. 733; 16 U.S.C. 753a) is amended—

(1) by striking out "technical personnel" and inserting in lieu thereof "scientific personnel"; and

(2) by inserting immediately after "respective units," the following: "to the provision of assistance (including reasonable financial compensation) for the work of researchers on fish and wildlife ecology and resource management projects funded under this subsection".

SEC. 3. ENFORCEMENT AUTHORITY FOR THE PROTECTION OF FISH AND WILDLIFE RESOURCES

(a)(1) AUTHORITIES FOR DESIGNATED PERSONNEL.—In addition to any other authority conferred by law, any officer or employee of the United States Fish and Wildlife Service who is designated by the Secretary of the Interior, or any officer or employee of the National Oceanic and Atmospheric Administration who is designated by the Secretary of Commerce, to enforce any Federal law relating to fish or wildlife may, in the performance of such law enforcement duties, exercise such of the following authorities as each such Secretary, after written notice to the United States Attorney General, may deem appropriate:

(A) Carry firearms.

(B) Secure, execute, and serve any order, warrant, subpena, or other process, which is issued under the authority of the United States.

(C) Search without warrant or other process any person, place, or conveyance as provided by law.

(D) Seize without warrant or other process any evidentiary item as provided by law.

(E) Offer and pay rewards for services or information which may lead to the apprehension of violators of such laws.

(F) Make inquiries, and administer to, or take from, any person on oath, affirmation, or affidavit, concerning any matter which is related to the enforcement of such laws.

(G) Upon the request of any law enforcement agency of any State, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands, assist such agency in the enforcement of State or local laws and regulations relating to fish or wildlife.

(H) Make an arrest with or without a warrant—

(i) for any offense against the United States if such officer or employee has reasonable grounds to believe that the person to be arrested is committing an offense in his presence or view, or

(ii) for any felony under the laws of the United States if such officer or employee has reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

Nothing in this paragraph shall be construed as authorizing any such officer or employee to initiate or pursue any subsequent investigation of any violation which is not related to fish or wildlife matters.

(2) The Secretary of the Interior and the Secretary of Commerce shall each designate, through publication in the Federal Register, those laws under his jurisdiction which he determines the purpose of which to be the protection or conservation of any fish or wildlife. Any law so designated shall be a "Federal law relating to fish or wildlife" for the purposes of paragraph (1).

(b) LAW ENFORCEMENT TRAINING PROGRAM.—(1) In order to provide for and encourage training, research, and development for the purpose of improving fish and wildlife law enforcement and developing new methods for the prevention, detection, and reduction of violation of fish and wildlife laws, and the apprehension of violators of such laws, the Secretary of the Interior and the Secretary of Commerce may each—

(A) establish and conduct national training programs to provide, at the request of any State, training for State fish and wildlife law enforcement personnel;

(B) develop new or improved approaches, techniques, systems, equipment, and service to improve and strengthen fish and wildlife law enforcement; and

(C) assist in conducting, at the request of any appropriate State official, local or regional training programs for the training of State fish and wildlife law enforcement personnel.

Such training programs shall be conducted to the maximum extent practicable through established programs.

(2) There are authorized to be appropriated beginning with fiscal year 1978 such funds as may be necessary to carry out the purposes of subsection (b), and the Secretary of the Interior and the Secretary of Commerce may each require reimbursement from the States or expenditures made pursuant to subsections (b)(1)(A) and (C).

(c) LAW ENFORCEMENT COOPERATIVE AGREEMENT.—Notwithstanding any other provision of law, the Secretary of the Interior and the Secretary of Commerce may each utilize by agreement, with or without reimbursement, the personnel, services and facilities of any other Federal or State agency to the extent he deems it necessary and appropriate for effective enforcement of any Federal or State laws on lands, waters, or interests therein under his jurisdiction which are administered or managed for fish and wildlife purposes and for enforcement of any laws administered by him relating to fish and wildlife. Persons so designated by either Secretary, who are not employees of another Federal agency—

(1) shall not be deemed a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, competitive examination, rates of compensation, and Federal employee benefits, but may be considered eligible for compensation for work injuries under subchapter III of chapter 81 of title 5, United States Code;

(2) shall be considered to be investigative or law enforcement officers of the United States for the purposes of the tort claim provisions of title 28, United States Code;

(3) may, to the extent specified by either Secretary, search, seize, arrest, and exercise any other law enforcement functions or authorities under Federal laws relating to fish and wildlife, where such authorities are made applicable by this or any other law to employees, officers, or other persons designated or employed by either Secretary; and

(4) shall be considered to be officers or employees of the Department of the Interior or the Department of Commerce, as the case may be, within the meaning of sections 111 and 1114 of title 18, United States Code.

(d) DISPOSAL OF ABANDONED OR FORFEITED PROPERTY.—Notwithstanding any other provision of law, all fish, wildlife, plants, or any other items abandoned or forfeited to the United States under any laws administered by the Secretary of the Interior or the Secretary of Commerce relating to fish, wildlife, or plants, shall be disposed of by either Secretary in such a manner as he deems appropriate (including, but not limited to, loan, gift, sale, or destruction).

(e) DISCLAIMER. Nothing in this section shall be construed to invalidate any law enforcement agreement or delegation made by the Secretary of the Interior or the Secretary of Commerce with respect to fish and wildlife matters prior to the date of enactment of this Act.

(f) REFUGE RECREATION ACT.—Section 4 of the Act of September 28, 1962 (76 Stat. 654, 16 U.S.C. 460k–3), is amended by adding at the end thereof the following new sentence: "The provisions of this Act and any such regulation shall be enforced by any officer or employee of the United States Fish and Wildlife Service designated by the Secretary of the Interior.".

(g) BALD EAGLE PROTECTION ACT.—The first sentence of section 3(a) of the Act of June 8, 1940 (54 Stat. 251, 16 U.S.C. 668b(c)), is amended to read as follows: "The provisions of this Act and any permit or regulation prescribed under the authority of this Act shall be enforced by an officer or employee of the United States Fish and Wildlife Service designated by the Secretary of the Interior.".

(h) NATIONAL WILDLIFE REFUGE SYSTEM ADMINISTRATION ACT.—Section (4)(f) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(f)) is amended to read as follows: "The provisions of this Act and any regulation prescribed under the authority of this Act shall be enforced by any officer or employee of the United States Fish and Wildlife Service designated by the Secretary of the Interior. Any property, fish, bird, mammal, or other wild vertebrate or invertebrate animals or part or egg thereof seized with or without a search warrant shall be held by such person or by a United States marshal, and upon conviction, shall be forfeited to the United States and disposed of by the Secretary, in accordance with law.".

(i) BEAR RIVER MIGRATORY BIRD REFUGE.—(1) The first sentence of section 6(a) of the Act of April 23, 1928 (45 Stat. 449, 16 U.S.C. 690e), is amended to read as follows: "The provisions of this Act and any regulation prescribed under the authority of this Act shall be enforced by any officer or employee of the United States Fish and Wildlife Service designated by the Secretary of the Interior.".

(2) Section 6(b) of such Act is amended by striking at the end thereof the term "and disposed of as directed by the court having jurisdiction." and inserting in lieu thereof the term "and disposed of as directed by the Secretary of the Interior, in accordance with law."

(j) UPPER MISSISSIPPI RIVER WILDLIFE AND FISH REFUGE ACT.—The first sentence of section 8(a) of the Upper Mississippi River Wildlife and Fish Refuge Act (16 U.S.C. 727) is amended to read as follows: "The provisions of this Act and any regulation prescribed under the authority of this Act shall be enforced by any officer or employee of the United States Fish and Wildlife Service designated by the Secretary of the Interior.".

(k) FISH AND WILDLIFE ACT OF 1956.—The first two sentences of section 13(d) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742j–1(d)) are amended to read as follows: "The Secretary of the Interior shall promulgate such regulations as he deems necessary and appropriate to carry out the enforcement of this section. The provisions of this section and any regulations promulgated thereunder shall be enforced by any officer or employee of the United States Fish and Wildlife Service designated by the Secretary of the Interior.".

(l) MIGRATORY BIRD TREATY ACT.—Section 5 of the Migratory Bird Treaty Act (16 U.S.C. 706) is amended to read as follows:

"SEC. 5. The provisions of this Act and any regulation prescribed under the authority of this Act shall be enforced by any officer or employee of the United States Fish and Wildlife Service designated by the Secretary of the Interior. Any

judge of any court established under the laws of the United States and United States magistrates may, within their respective jurisiction, upon proper oath or affirmation showing probable cause, issue warrants in all such cases. All birds, or parts, nests, or eggs thereof, captured, killed, taken, sold or offered for sale, bartered or offered for barter, purchased, shipped, transported, carried, imported, exported, or possessed contrary to the provisions of this Act or of any regulation prescribed thereunder shall, when found, be seized and, upon conviction of the offender or upon judgment of a court of the United States that the same were captured, killed, taken, sold or offered for sale, bartered or offered for barter, purchased, shipped, transported, carried, imported, exported, or possessed contrary to the provisions of this Act or of any regulation prescribed thereunder, shall be forfeited to the United States and disposed of by the Secretary of the Interior in such manner as he deems appropriate.".

(m) MIGRATORY BIRD HUNTING AND CONSERVATION STAMP ACT.—Section 6 of the Act of March 16, 1934 (48 Stat. 452, 16 U.S.C. 718f) is amended to read as follows:

"SEC. 6. The provisions of this Act shall be enforced by any officer or employee of the United States Fish and Wildlife Service designated by the Secretary of the Interior. Any judge of any court established under the laws of the United States and any United States magistrate, may, within his respective jurisdiction, upon proper oath or affirmation showing probable cause, issue warrants in all cases involving violations of this Act. Any bird or part thereof taken or possessed contrary to this Act shall, when seized, be disposed of by the Secretary in accordance with law.".

(n) BLACK BASS ACT.—Section 6(a) of the Act of May 20, 1926 (46 Stat. 846, 16 U.S.C. 852(a)), is amended by inserting immediately after "Act" in the first sentence thereof the following: ", in addition to any other authority provided by law,".

(o) TITLE 18.—(1) Section 43(c)(2) of title 18, United States Code, is amended by striking out "authority" in the first sentence and inserting in lieu thereof the following: "authority, in addition to any other authority provided by law relating to search and seizure,".

(2) Sections 3054 and 3112 of such title 18 are each amended by inserting immediately after the first reference to "customs" in the first sentence thereof the following: ", in addition to any other authority provided by law,".

(3) Section 1114 of such title 18 is amended by inserting immediately before "or of the Department of Labor" the following: ", the Department of Commerce,".

SEC. 4. FISH AND WILDIFE ACT OF 1956

Section 7 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742f) is amended—

(1) by striking out paragraphs (4) and (5), and inserting in lieu thereof the following:

"(4) take such steps as may be required for the development, advancement, management, conservation, and protection of fish and wildlife resources including, but not limited to, research, development of existing facilities, and acquisition by purchase or exchange of land and water, or interests therein.";

(2) by inserting "and" immediately after the semicolon at the end of paragraph (3); and

(3) by adding at the end thereof the following two new subsections:

"(b)(1) In furtherance of the purposes of this Act, the Secretary of the Interior is authorized to accept any gifts, devices, or bequests of real and personal property, or proceeds therefrom, or interests therein, for the benefit of the United States Fish and Wildlife Service, in performing its activities and services. Such acceptance may be subject to the terms of any restrictive or affirmative covenant, or condition of servitude, if such terms are deemed by the Secretary to be in accordance with law and compatible with the purpose for which acceptance is sought.

"(2) Any gifts and bequests of money and proceeds from the sales of other property received as gifts or bequests pursuant to this subsection shall be deposited in a separate account in the Treasury and shall be disbursed upon order of the Secretary for the benefit of programs administered by the United States Fish and Wildlife Service.

"(3) For the purpose of Federal income, estate, and gift taxes, property, or proceeds therefrom, or interests therein, accepted under this subsection shall be considered as a gift or bequest to the United States.

"(c)(1) The Secretary of the Interior and the Secretary of Commerce may each recruit, train, and accept, without regard to the provisions of title 5, United States Code, the services of individuals without compensation as volunteers for, or in aid of programs conducted by either Secretary through the United States Fish and Wildlife Service or the National Oceanic and Atmospheric Administration.

"(2) The Secretary of the Interior and the Secretary of Commerce are each authorized to provide for incidental expenses such as transportation, uniforms, lodging, and subsistence of such volunteers.

"(3) Except as otherwise provided in this subsection, a volunteer shall not be deemed a Federal employe and shall not be subject to the provisions of law relating to Federal employment, including those relative to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

"(4) For the purpose of the tort claim provisions of title 28 of the United States Code, a volunteer under this subsection shall be considered a Federal employee.

"(5) For the purposes of subchapter I of chapter 81 of title 5 of the United States Code, relating to compensation to Federal employees for work injuries, volunteers under this subsection shall be deemed employees of the United States within the meaning of the term 'employees' as defined in section 8101 of title 5, United States Code, and the provisions of that subchapter shall apply.

"(6) There are authorized to be appropriated to carry out this subsection $100,000 for the Secretary of the Interior and $50,000 for the Secretary of Commerce for each of the fiscal years 1978, 1979, and 1980.".

SEC. 5. MIGRATORY BIRD CONSERVATION ACT

Section 5 of the Migratory Bird Conservation Act (16 U.S.C. 715d) is amended to read as follows:

SEC. 5. The Secretary of the Interior may—

"(1) purchase or rent such areas or interests therein as have been approved for purchase or rental by the Commission at the price or prices fixed by the Commission; and

"(2) acquire, by gift or devise, any area or interests therein;

which he determines to be suitable for use as an inviolate sanctuary, or for any other management purpose, for migratory birds. The Secretary may pay, when deemed necessary by him and from moneys authorized to be appropriated for the purposes of this Act (A) the purchase or rental price of any such area or interest therein, and (B) the expenses incident to the location, examination, survey, and acquisition of title (including options) of any such area or interest therein. No lands acquired, held, or used by the United States for military purposes shall be subject to any provisions of this Act.".

SEC. 6. NATIONAL WILDLIFE REFUGE SYSTEM ADMINISTRATION ACT OF 1966

Section 4(d)(1)(A) of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd(d)(1)(A)) is amended by striking out "; and" at the end thereof and inserting in lieu thereof "unless the Secretary finds that the taking of any species of migratory game birds in more than 40 percent of such area would be beneficial to the proper management of such species; and".

SEC. 7. MIGRATORY BIRD HUNTING STAMP ACT

Section 2 of the Migratory Bird Hunting Stamp Act (16 U.S.C. 718b) is amended by striking out "September of each fiscal year" in the fifth sentence thereof and inserting in lieu thereof "June of each year".

SEC. 8. CRAB ORCHARD NATIONAL WILDLIFE REFUGE

The second sentence of section 2 of the Act of August 5, 1947 (61 Stat. 770; 16 U.S.C. 66g), is amended to read as follows: "Such lands as have been or may hereafter be determined to be chiefly valuable for industrial purposes shall be leased for such purposes at such time and under such terms and conditions as the Secretary of the Interior shall prescribe. All moneys received or collected in connection with such leases shall be subject to the provisions of the Act of June 15, 1935, as amended (49 Stat. 383; 16 U.S.C. 715s).".

U.S. CIVIL SERVICE COMMISSION,
Washington, D.C., February 23, 1977.

Hon. JOHN M. MURPHY,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reply to your request for the views of the Civil Service Commission on H.R. 2329, a bill "To improve the administration of fish and wildlife programs and for other purposes."

Our comments are limited to the personnel provisions of this legislation.

Section 3(c) authorizes the Secretary of the Interior and the Secretary of Commerce to utilize by agreement the personnel and facilities of other Federal agencies and State agencies to aid in the enforcement of fish and wildlife laws. Employees of State agencies would not be considered Federal employees except for tort claims under title 28, United States Code, injury compensation under subchapter III of chapter 81 of title 5, United States Code, and the protections against criminal assault under sections 111 and 1114 of title 18, United States Code. To further clarify that State employees are not to be considered Federal employees for the purposes of title 5, except for the one purpose intended, we suggest that section 3(c) (1) be revised as follows: "(1) shall not be deemed a Federal employee for the purposes of title 5, United States Code, but may be eligible for compensation for work injuries under subchapter III of chapter 81 of title 5, United States Code;".

Section 4 amends section 7 of the Fish and Wildlife Act of 1956 by, among other things, adding a new subsection (c) authorizing the Secretary of the Interior and the Secretary of Commerce to recruit, train, and accept, without regard to the provisions of title 5, uncompensated services of volunteers to aid in programs conducted through the Fish and Wildlife Service or the National Oceanic and Atmospheric Administration. Such persons would not be deemed Federal employees except for the laws relating to injury compensation, tort claims, and assault against Federal officers.

We have no objection to the use of volunteers as proposed in H.R. 2329 provided they are not used to replace regular employees. We suggest that such a proviso be included, and further that subsection (c) (3) be amended by placing a period after "Federal employment" and deleting the remainder.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report.

By direction of the Commission:

Sincerely yours,

GEORGIANA SHELDON,
Acting Chairman.

DEPARTMENT OF COMMERCE,
Washington, D.C., September 20, 1977.

Hon. JOHN M. MURPHY,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for our comments on H.R. 2329 a bill—"To improve the administration of fish and wildlife programs, and for other purposes."

H.R. 2329 deals with a number of programs concerning fish and wildlife resource management. It contains eight sections. Section 2 deals with fish and wildlife cooperative research units administered by the Department of Interior. Section 3 concerns basic law enforcement authority for the protection of fish and wildlife resources. Section 4 contains several amendments to the Fish and Wildlife Act of 1956 (16 U.S.C. 742, et seq.) concerning programs involving the administration of resource management activities. Section 5 deals with the Migratory Bird Conservation Act (16 U.S.C. 715d). Section 6 concerns the administration of the National Wildlife Refuge System. Section 7 amends the Migratory Bird Hunting Stamp Act (16 U.S.C. 718b), and section 8 concerns the Crab Orchard National Wildlife Refuge. Sections 3 and 4 are of interest and concern to the Department of Commerce's National Marine Fisheries Service.

Section 3 of the bill consolidates the enforcement authority of the Department of the Interior and the Department of Commerce with respect to the protection of fish and wildlife resources. Specifically, this section, among other things, would: (1) incorporate fish and wildlife enforcement powers of the Department of the Interior and the Department of Commerce into one law; (2) provide for

cooperation with other Federal and State agencies in the enforcement of Federal fish and wildlife laws; (3) authorize the disposal of certain abandoned or forfeited items; and, (4) extend the application of Federal criminal sanctions for the protection of employees of the Department of Commerce. Section 4 of the bill would, among other things, authorize the Secretary of the Interior and the Secretary of Commerce to use the services of volunteers in conducting fish and wildlife programs under their jurisdiction.

Enactment of H.R. 2329 would alleviate an existing problem; that is, the law enforcement authority of both the Fish and Wildlife Service and the National Marine Fisheries Service is fragmented and scattered throughout various statutes. In some program areas, this authority has not been clearly defined, thereby resulting in an assumption by the Services that their enforcement officers had "implied" authority to take certain actions. H.R. 2329 would provide uniform, comprehensive law enforcement authority for both Services, and the Department of Commerce strongly recommends enactment of this legislation.

Our enforcement officers are responsible for the enforcement of approximately two dozen fish and wildlife statutes and treaties, each with differing enforcement authorities. This variety of authority raises obvious problems for the officer who has to remember the authorities for different statutes.

H.R. 2329 fills a void in present, separate authorizing statutes by clarifying a fish and wildlife enforcement agent's authority to use all of the powers presently permitted by law. The provisions in section 3(a)(1) of the bill related to search, seizure and arrest, with or without a warrant, are standard Federal enforcement tools which should be uniformly available to agents enforcing fish and wildlife laws.

The explicit authority to search with or without a warrant or other process as provided by law is sorely needed by fish and wildlife enforcement agents. In the past the Department has operated under the assumption that its agents had implied authority to make the same warrantless searches as other Federal enforcement officers.

A key provision in section 3 of the bill is the express authority for enforcement agents to carry weapons for self-defense. While our agents currently carry sidearms to protect themselves, statutory authority is needed to obviate problems with State and local gun control and registration requirements.

Another important provision in section 3 of the bill is the authority to dispose of forfeited or abandoned property. Forfeited property has become a real concern to us over the past decade. Numerous fish and wildlife laws provide for forfeiture of property illegally held but only patchwork authority for the disposition of such property. We presently have approximately $350,000 worth of property in various forms of storage. We lack adequate storage facilities, especially for perishable products, and we lack specific authority to dispose of such forfeited property.

A provision in section 3 which perhaps should be clarified is the authority to arrest for "any offense against the United States," not just crimes relating to fish and wildlife. Such ancillary authority is desirable in the efficient performance of enforcement duties relative to fish and wildlife laws. The provision goes on to indicate that our enforcement officers will not "pursue any subsequent investigations of any violation which is not related to fish and wildlife matters." We have neither the personnel nor funds to engage in extensive investigative work involving crimes that are not related to fish and wildlife. However, there are instances where it may be necessary to do some initial investigative work to, for example, preserve evidence until the responsible Federal or State enforcement agency can be informed or called to the scene. We want to make sure that the limitation in the bill is not construed to prevent such immediate or on-scene activities.

Because of increased emphasis placed on budgetary matters, we would like to point out that this Department does not anticipate any significant financial or manpower changes in its programs under H.R. 2329. This Department already has general authority to conduct training and research and development programs similar to those authorized under section 3(b). As a matter of policy, we believe that training conducted for State and local law enforcement officials should be provided on a reimbursable basis, where appropriate.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our letter to the Congress from the standpoint of the Administration's program.

Sincerely,

C. L. HASLAM,
General Counsel.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., February 21, 1977.

Hon. JOHN MURPHY,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to the request of your Committee for the views of this Department on H.R. 2329, a bill "To improve the administration of fish and wildlife programs, and for other purposes."

We support the enactment of H.R. 2329, if the bill is amended as described herein.

H.R. 2329 would provide for improvements in the administration of various programs administered by the Fish and Wildlife Service for protection and enhancement of fish, wildlife and plants by: (1) amending the Fish and Wildlife Cooperative Units Act of September 2, 1960 (74 Stat. 733; 16 U.S.C. 753a–753b), to allow the use of Federal cooperative research and training unit funds to support graduate students in Service-sponsored research projects (section 2); (2) clarifying and strengthening the law enforcement program of the Service and the National Oceanic and Atmospheric Administration in order to provide more effective protection for fish, wildlife and plant resources (section 3); (3) amending the Fish and Wildlife Act of 1956 (16 U.S.C. 742a–742j; 70 Stat. 1119), as amended to (a) clearly allow the acquisition of interests in land and water, and (b) authorize the Secretary of the Interior to accept gifts or bequests of real or personal tangible or intangible property, and voluntary, uncompensated personal service in support of Service programs (section 4); (4) amending the Migratory Bird Conservation Act (16 U.S.C. 715–715r; 45 Stat. 1222), as amended to clarify the Secretary's authority to acquire by gift or devise an easement for the conservation of migratory birds, and further to provide for the acquisition of areas for inviolate sanctuary purposes and other purposes (section 5); (5) amending the National Wildlife Refuge Administration Act (16 U.S.C. 668dd–668ee; 80 Stat. 927), as amended to allow the Secretary to open more than 40 percent of a refuge to the taking of migratory birds if he finds that such taking would be beneficial to the species (section 6); (6) amending the Migratory Bird Hunting and Conservation Stamp Act (16 U.S.C. 718–718h; 48 Stat. 452), as amended to provide a June 30 date for redemption of the "duck stamp" by the Postal Service (section 7); and (7) amending the Crab Orchard National Wildlife Refuge Act of August 5, 1947 (16 U.S.C. 666f–666g; 61 Stat. 770) to make receipts from industrial complex leases subject to the Refuge Revenue Sharing Act (16 U.S.C. 715s; 49 Stat. 383), as amended (section 8).

Section 2 of the Fish and Wildlife Improvements Act of 1977, as H.R. 2329 is to be known, amends section 1 of the enabling Act for the Cooperative Fishery Unit and Cooperative Wildlife Research Unit program of the Fish and Wildlife Service. This is a cooperative program involving some 45 units at universities throughout the country. Program objectives are to: (1) conduct research basic to the management of fish and wildlife resources; (2) facilitate training of fish and wildlife personnel at the graduate level; (3) provide technical assistance to conservation agencies in fish and wildlife management programs; and (4) promote education in natural resources through demonstration, lectures and publications. The amendment contained in H.R. 2329 would provide that Service operational funds for the units can be used with the same degree of flexibility as those funds provided by other cooperators in the program.

Section 3 of H.R. 2329 provides a uniform comprehensive law enforcement authority for enforcement of fish and wildlife laws. Section 3(a)(1) provides basic authority for enforcement of all fish and wildlife programs. Its provisions relating to search, seizure and arrest fill a void in present separate authorizing statutes by clarifying an agent's enforcement authority to allow him to use all the powers presently permitted by law.

Section 3(b) establishes a comprehensive program for fish and wildlife training, research and development. This program will coordinate State and Federal enforcement efforts through a common training and development program. We believe that State conservation agencies are a national resource in skill and manpower essential to the effective execution of national fish and wildlife policies. This program would formally establish close enforcement liaison with the State agencies.

Section 3(c) provides for cooperation with other Federal and State agencies in enforcement of Federal fish and wildlife laws. The provision would authorize the

Secretary of the Interior to enter into agreements with other Federal and State agencies to obtain assistance and cooperation in the enforcement of fish and wildlife laws.

Section 3(d) provides authority for the Secretary to dispose of forfeited or abandoned property, and section 3(e) provides for the continuation of any enforcement agreements or delegations made prior to enactment of H.R. 2329.

Subsections (f) through (o) of section 3 amend various statutes in order to make fish and wildlife law enforcement provisions uniform.

With regard to section 3, we recommend the following technical amendments:

page 7, line 23—strike out "(c)" and insert in lieu thereof "(a)".

page 8, line 1—strike out "an" and insert in lieu thereof "any".

page 9, line 5—strike out "WILDLIFE" and insert in lieu thereof "WILD LIFE".

page 9, line 7—strike out "Wildlife" and insert in lieu thereof "Wild Life".

Section 4 of H.R. 2329 amends the Fish and Wildlife Act of 1956 to clarify the Secretary's authority to acquire interests in land and water as well as to accept gifts and donations of real and personal property. The Secretary is also authorized to accept volunteer services in aid of the work of the Service. We recommend a technical amendment to section 4(a)(1) as follows:

page 12, line 20—strike out "devices" and insert in lieu thereof "devises".

Section 5 of H.R. 2329 amends the Migratory Bird Conservation Act to clarify the Secretary's authority to acquire by gift less than fee interest in lands and waters for migratory birds. The bill further provides for the acquisition of habitat other than for inviolate sanctuary purposes. There may be situations where migratory bird habitat may be protected by easement at little or no cost if the owner may continue to hunt. This amendment would permit the acquisition of those rights when protection of the habitat is essential, but the sanctuary provision is not. This could prevent future conversion of habitat for real estate development. It would probably have the most impact on hunting clubs and large estates that are now maintaining habitat at private expenses, but are under continuous pressure for conversion. In addition, there are a number of situations where proper management of migratory bird populations requires maximum flexibility to manipulate the various management tools available. A mandatory 60 percent closure is not always amenable to achieving this flexibility. The potential for large scale waterfowl mortality from communicable diseases such as Dutch duck plague (DVE) or other environmental catastrophes could be diminished by effectively reducing, when necessary, dense concentrations of waterfowl through control of hunting pressure.

Hazing and other techniques are not always effective in reducing such concentrations. Manipulation of hunting pressure could also be used to prevent large concentrations from forming, which often occurs when sanctuary is provided and other necessary requirements, such as food and open water, are present. Undesirable delays of traditional migration flows (shortstopping) could also be reduced by flexibility to open or close all or a portion of a refuge to migratory bird hunting.

Section 6 amends the National Wildlife Refuge System Administration Act to allow the opening of a sanctuary by more than 40 percent to taking of migratory birds if the Secretary finds that such taking would be beneficial to the species.

Section 7 amends the Migratory Hunting and Conservation Stamp Act to provide for a June 30 date of redemption of the "duck stamp" by the Postal Service. Because of the hunting season and for administrative efficiency, a July 30 year as the valid dates of the stamp and a June 30 date of redemption of the stamp is necessary. With changes in the Federal fiscal year reference to the stamp being valid "only during the fiscal year for which issued" required amendment by striking the word "fiscal". This was accomplished by P.L. 94-273, section 43. However, at the same time, but in different legislation (Wetlands Loan Act Extension) the Congress struck the June 30 expiration date and inserted "September of each fiscal year." As a result the dates between which the stamp is valid contradict the provision of June 30 expiration date and a further provision for a fiscal year period of validity. A remedy to this conflict is provided in the amendment contained in section 7 of H.R. 2329.

A technical amendment is necessary in this section as follows:

page 16, line 1—insert "AND CONSERVATION" before "STAMP".

page 16, line 2—insert "and Conservation" before "Stamp".

Section 8 of the bill provides that revenue generated on the Crab Orchard National Wildlife Refuge, Illinois, will be subject to the Refuge Revenue Sharing Act rather than deposited in the Treasury as general receipts. This amend-

ment will make the revenues generated at Crab Orchard subject to the same requirements as are the revenues of other refuges in the system.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

CECIL D. ANDRUS,
Secretary of the Interior.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., October 6, 1977.

Hon. JOHN MURPHY,
Chairman, Merchant Marine and Fisheries Committee, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing you in regard to the "Fish and Wildlife Improvement Act of 1977", (H.R. 2329) reported by your Committee in February. I want to take this opportunity to urge that this legislation be enacted at the earliest possible time.

As you are aware, H.R. 2329 provides for improvements in the administration of various programs administered by the Fish and Wildlife Service for protection and enhancement of fish, wildlife and plants. Enactment of these amendments will 1) allow more flexibility in the use of Fish and Wildlife Cooperative Units program funds, 2) clarify and strengthen Fish and Wildlife law enforcement authorities, 3) clarify authority to acquire easements for the conservation of migratory birds and provide for the acquisition of areas other than for inviolate sanctuary purposes, 4) correct a discrepancy in the redemption date of the "duck stamp" and the period in which it is valid, 5) provide for standard refuge revenue sharing payments to be made to counties in Illinois in which the Crab Orchard National Wildlife Refuge is located, and 6) authorize the Service to accept gifts of real and personal property and volunteer services on behalf of its programs.

We are particularly anxious to see the provisions in sections 5 and 6 of H.R. 2329 related to habitat preservation enacted. For the past two years the Fish and Wildlife Service has been developing new objectives, priorities and policies for its land acquisition programs for migratory birds. The Service proposes to acquire, through fee title and easement purchase, approximately 1.9 million acres of waterfowl habitat, primarily wetlands, during the next 10 to 15 years. This proposal does not reflect total habitat needs, just the most critical of the more than 15 million acres of wetlands of great importance to waterfowl. In order to accomplish this goal within existing fiscal constraints, purchase of easements or other less than fee interests is an essential part of the proposed program.

The Service has the authority to acquire less than fee interests in land for national wildlife refuges. However, due to the inviolate sanctuary provisions of the Migratory Bird Conservation Act and limitations imposed by the National Wildlife Refuge Administration Act, hunting rights must be purchased on all refuge acquisitions.

The inability to acquire wetland preservation easements without obtaining hunting rights threatens critical wintering habitat in the Central Valley of California where some 65 percent of the entire Pacific Flyway waterfowl spend the winter. An estimated 90 percent of the natural wetland habitat in the Valley has been destroyed. While the construction of reservoirs and intensive management of the remaining wetlands by State and Federal agencies and private hunting clubs mitigates some of this loss, any significant loss in the future is expected to seriously jeopardize Pacific Flyway waterfowl and aggravate the already critical situation of overcrowding of birds on refuges, disease outbreaks that kill large numbers of waterfowl and crop depredation problems. Hunting clubs control about 60 percent of the prime habitat still in the Central Valley. Because of cost factors, hunting clubs which now provide the wintering habitat are under pressure to convert their land to other uses not compatible with waterfowl. Economic incentives in the form of easements can perpetuate this habitat, but only if the hunting rights are retained by landowners. In this area cessation of hunting is not critical to the welfare of the resource; preservation of the habitat is.

The Fish and Wildlife Service's ability to preserve the Central Valley habitat hinges almost entirely upon acquisition of wetland preservation easements without acquiring the hunting rights. Landowners and the county governments oppose

fee acquisition and the closing of additional areas to hunting. In order to obtain the required approval from the Governor, acquisition of easements without hunting rights will be necessary. Approximately $1.5 million is planned in FY 1978 for such easements assuming the authority provided in H.R. 2329 is enacted.

If we do not have the flexibility to purchase easements without hunting rights, our wetlands preservation efforts will be seriously impaired nationwide since the use of easements will not be confined to the Central Valley of California. We propose to purchase easements in the lower Mississippi River Delta where habitat preservation is the major objective and easements will provide a more cost-effective method of achieving that objective. Private hunting clubs hold critical wetland habitat throughout the nation. Without suitable economic alternatives, these properties are being drained or converted to more profitable uses. The wetland preservation easement is an economic alternative which can preserve this resource into perpetuity.

It is also important that section 3 of H.R. 2329 be enacted to provide a uniform comprehensive law enforcement authority for enforcement of fish and wildlife laws.

Fish and Wildlife Service Special Agents are responsible for the enforcement of more than a dozen fish and wildlife statutes, each with differing enforcement authorities. This variety of authority raises obvious problems for Federal enforcement personnel who have to keep in mind the authorities for different statutes and for the public who must comply with the statutes.

There is considerable overlapping protection provided by some of these statutes. For example, the bald eagle—our national emblem—is protected by the Bald Eagle Act of 1940. Two subspecies of the bald eagle are also listed as endangered species, and therefore receive protection under the Endangered Species Act of 1973. Since the eagle is a migratory bird, the provisions of the Migratory Bird Treaty Act are also applicable. If an aircraft has been used illegally to take or harass an eagle, the airborne hunting provisions of the Fish and Wildlife Act of 1956 have also been isolated. With the exception of the Bald Eagle Act and the airborne hunting provisions, the enforcement authority is different under each of these statutes. Obviously, prosecution of violations becomes very difficult in situations where differing authorities apply.

There has been some concern voiced regarding the provisions in section 3(a)(1) of the bill related to search, seizure and arrest, with or without a warrant. The National Rifle Association contends that warrantless search or arrest deprives one of his Fourth Amendment rights. Your Committee, in reporting the bill, recognized that these provisions are standard Federal enforcement tools which should be uniformly available to agents enforcing fish and wildlife laws. We hope that the concerns voiced by NRA will not adversely impact future consideration of this legislation.

The courts have long recognized that there are exceptions to the general rule that requires police officers to secure warrants prior to any search or arrest. The bill, by providing that warrantless searches and seizures may be made only "as provided by law," and by providing that warrantless arrests may be made only where the officer "has reasonalbe grounds to believe that the person to be arrested is committing an offense in his presence or view" or where, in felony cases, he "has reasonable grounds to believe that the person to be arrested has committed or is committing . . . [the] felony," limits warrantless actions to situations where they are clearly authorized under the Fourth Amendment.

H.R. 2329 contains authority for the Fish and Wildlife Service to accept gifts and donations of real and personal property as well as voluntary uncompensated personal services. This authority is similar to that already provided to the National Park Service in this Department and to the Forest Service in the Department of Agriculture.

Because of the growing awareness and concern over the need to conserve and enhance our natural resources, many individual citizens and groups have expressed a strong desire to donate their energies to environmental protection, outdoor recreation improvement and fish and wildlife conservation. The Service has been forced to turn down hundreds of offers for volunteer service because of lack of authority to provide disability insurance coverage.

An estimated 1,000 volunteers could be utilized in a variety of programs in over 100 national wildlife refuges, fish hatcheries and field offices. It is expected that the skills of these volunteers would be those which are often unavailalbe to the regular staff, such as special writing ability, photographic skill, and the ability to work with and stimulate young people. High school and college students, retired business and professional people, craftsmen and naturalists could

all be utilized by the Service in meaningful activities and at little or no cost to the Federal government.

Obviously, the provisions of H.R. 2329 are not absolutely essential to continued operation of fish and wildlife programs. Enactment will, however, result in much needed administrative efficiencies and effectiveness, and the provisions related to acquisition of easements and retention of hunting rights by the landowner may result in substantial savings in Federal expenditures for habitat preservation.

For these reasons I have taken this opportunity to ask your support in obtaining rapid enactment of H.R. 2329.

Sincerely,

CECIL D. ANDRUS,
Secretary.

UNITED STATES POSTAL SERVICE,
LAW DEPARTMENT,
Washington, D.C., March 4, 1977.

Hon. JOHN M. MURPHY,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The Postal Service would like to take this opportunity to offer a brief comment on the bill H.R. 2329, the proposed "Fish and Wildlife Improvement Act of 1977".

Our interest is in section 7 of the bill, which proposes what we regard as a technical amendment to section 2 of the Migratory Bird Hunting and Conservation Stamp Act[1] (16 U.S.C. 718b), which deals with the redemption by the Postal Service or unused Stamps sold under the Act. There is a minor error in the drafting of the amendment, which proposes to strike out "September of each fiscal year" in the fifth sentence of section 2 and insert in lieu thereof "June of each year". However, the fifth sentence presently refers to "September of each year", not of each "fiscal" year, since the word "fiscal" was deleted from the sentence, already, by section 34 of the Fiscal Year Adjustment Act, Pub. L. No. 94–273, 90 Stat. 380 (1976). Accordingly, we suggest that section 7 be revised to read as follows: Section 2 of the Migratory Bird Hunting and Conservation Stamp Act (16 U.S.C. 718b) is amended by striking out 'September" in the first sentence thereof and inserting in lieu thereof "June".

In addition, we would like to comment on the brief explanation offered for section 7 during recent House debate on an unsuccessful motion to suspend the rules and pass the bill. 123 Cong. Rec. H 1489 (daily ed., February 28, 1977).

The explanation offered was that the amendment was "to maintain a July 1 through June 30 years as the valid dates of the stamp and to provide for a June 30 date of the redemption of the stamp by the Postal Service." We believe that the explanation of the effect of section 7 is too sweeping. It has been the position of the Postal Service and the Department of the Interior that as a matter of law, even without the proposed amendment the Stamps presently are valid on a July–June year, and both agencies have proceeded on that basis in their administration. Section 34 of the Fiscal Year Transition Act, as it amended other provisions of the Migratory Bird Hunting and Conservation Stamp Act than the fifth sentence of Section 2, made that intent clear. The Postal Service has also considered that the enactment of that amendment impliedly preserved the redemption provision on its historical schedule, so that the Postal Service's redemption authority extends until the end of the Stamp year on June 30, rather than only until September of the Stamp year, which would have made the provision senseless. Accordingly, we regard section 7 not as a necessary legal change, but as a technical amendment to eliminate outdated language. The amendment is needed in order to avoid unnecessarily confusing members of the public who might read the language of the fifth sentence of section 2 as amended without an understanding of how it developed or how it fits into the statute as a whole.

For purposes of explanation of section 7 in a sectional analysis for a committee report or floor debate, we would suggest the following: Section 7 is a technical amendment to section 2 of the Migratory Bird Hunting and Conservation Stamp Act to correct an outdated reference to the ending month of the stamp issuance year, for purposes of the stamp redemption provision. Under section 34 of the Fis-

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[1] The original printed bill referred in section 7 and in the caption of that section to the former title of the Act, the "Migratory Bird Hunting Stamp Act". However, the version proposed unsuccessfully for passage under suspension of the rules on February 28, 1977 (which we assume to be a star print) correctly referred to the present title of the Act.

cal Year Adjustment Act, the stamp issuance year was maintained on a July 1 through June 30 basis, despite the change in the Government fiscal year.

Sincerely,

W. ALLEN SANDERS,
Assistant Legal Counsel.

Mr. LEGGETT. I will direct the attention of the committee to the hearing that we held on this matter on October 30, 1975, H.R. 5523, as reported, and Committee Report No. 94–1053 which was unanimously passed by the subcommittee and the full committee, and the House last year.

I would ask the witnesses at this point if any of them have any further and additional substantive comments to make, in addition to what were made on the bill that was passed out of the subcommittee last year?

STATEMENT OF LYNN A. GREENWALT, DIRECTOR, U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY DR. JOHN P. ROGERS, CHIEF, OFFICE OF MIGRATORY BIRD MANAGEMENT, AND CLARK R. BAVIN, CHIEF, DIVISION OF LAW ENFORCEMENT, U.S. FISH AND WILDLIFE SERVICE

Mr. GREENWALT. Mr. Chairman, I have none.

STATEMENT OF JACK W. GEHRINGER, DEPUTY DIRECTOR, NATIONAL MARINE FISHERIES SERVICE, U.S. DEPARTMENT OF COMMERCE, ACCOMPANIED BY MORRIS M. PALLOZZI, CHIEF, LAW ENFORCEMENT DIVISION, NATIONAL MARINE FISHERIES SERVICE, AND HERBERT BLATT, ASSISTANT GENERAL COUNSEL, NOAA

Mr. GEHRINGER. No, sir.

Mr. LEGGETT. Does the committee have any questions at this point?

I will undertake a motion that the bill be ordered reported again by the subcommittee, rather than wait for a quorum.

If there is no objection, we will take this bill up before the full committee, and report the bill out as soon as we get a quorum of the full committee. We will ask the committee to discharge the subcommittee from further consideration of the legislation.

Mr. DE LA GARZA. May I ask a question?

Mr. LEGGETT. Yes.

Mr. DE LA GARZA. This is just for general information.

I would like to ask Mr. Greenwalt this question. If somebody brings parrots in from Mexico, is it you, or APHIS that sets the regulations that says how long they have to be quarantined?

Mr. GREENWALT. That is in the Department of Agriculture, APHIS.

Mr. DE LA GARZA. I had a question on that, but you are the wrong party.

Mr. LEGGETT. This is not the parrot department, apparently.

Counsel has asked that he be given leave to submit some questions to the witness, to which the witness can provide the answers, and those will be incorporated in our record. Is there further legislation to come before the subcommittee at this time?

If not, thank you gentlemen for coming here, and the meeting will stand adjourned.

[Whereupon, at 10:18 a.m., the subcommittee adjourned, subject to the call of the Chair.]

FISHERMEN'S PROTECTIVE ACT AMENDMENTS

THURSDAY, MARCH 3, 1977

HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
SUBCOMMITTEE ON FISHERIES AND WILDLIFE
CONSERVATION AND THE ENVIRONMENT,
Washington, D.C.

The subcommittee met in room 1334 Longworth House Office Building at 2:55 p.m., Hon. E (Kika) de la Garza, presiding.

Mr. DE LA GARZA. The subcommittee will be in order.

I apologize for the absence of the chairman of the subcommittee, but he is detained on the floor with very important tax legislation. He has asked me to start the hearings.

Without objection, the statement that the chairman would have made at the initiation of this meeting will be inserted in the record, along with a copy of the bill.

[The following was received for the record:]

STATEMENT OF THE HONORABLE ROBERT L. LEGGETT, CHAIRMAN OF THE SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT

The Subcommittee on Fisheries and Wildlife Conservation and the Environment will please come to order.

This afternoon, the Subcommittee will hold hearings on legislation to extend section 7 of the Fishermen's Protective Act.

The Fishermen's Protective Act had its inception in 1954 when certain South American countries—mainly Peru, Ecuador and Chile—were illegally seizing American tuna vessels while fishing within 200-miles of their shores. At that time, those foreign nations claimed a 200-mile territorial sea and/or fishery jurisdiction, whereas the United States only recognized a three-mile territorial sea and a three-mile fishery jurisdiction.

In 1966, the United States began to recognize a 12-mile fishery jurisdiction, when we extended our fishery zone from three to twelve miles, and then, as all of us know, we began to recognize the right of any nation to regulate the fisheries off their shores out to 200 miles this past Tuesday, when our 200-Mile Fishery Zone Act went into effect. However, the United States still does not recognize the right of any nation to regulate tuna beyond three miles from its shores.

Under section 3 of the Act, American fishing vessel owners are reimbursed for any fines, fees, and other direct charges which are required to be paid in order to secure the prompt release of the vessel and crew resulting from an illegal seizure. Since the inception of the Act, there have been more than 100 of such seizures, involving fines and fees totalling more than $8 million.

In 1968, the Act was amended to add a new section 7 to it, which brings us to the purpose of the hearings being held this afternoon.

Section 7 of the Act authorizes a voluntary insurance program to be entered into between the Secretary of Commerce and American fishing vessel owners for the purpose of reimbursing such vessel owners for damages to their vessels and fishing gear and loss of fishing time resulting from any illegal seizure. It is the intent of this section to provide reimbursement for all losses suffered as a result

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of an illegal seizure, except for those items reimbursed under section 3 of the Act, having to do with fines, fees, and other direct charges.

More specifically, section 7 provides that if the vessel is seized by a foreign country on the basis of a jurisdictional claim which is not recognized by the United States, the Secretary shall reimburse the owner of the vessel for all actual costs resulting from any damage to the vessel and its gear, the loss or confiscation of the vessel or its gear, and any dockage fees or utilities. In addition, the owner of such vessel and its crew are to be reimbursed for the loss of any fish caught before the seizure, which are confiscated or spoiled during the detention period, and for 50 percent of the gross income loss as a result of such seizure.

To assist in paying for this program, section 7 requires the owners of vessels entering into agreements with the Secretary to pay an annual fee. The fees are required to be adequate to recover the cost of administering the program and a reasonable portion of any payments made under the program. In setting such fees, the Secretary is required to pay at least 33⅓ percent of the total cost of the program. Presently, the Federal Government is paying about 60 percent of such cost.

The legislation under consideration today, H.R. 4140, which was introduced by Congressman Forsythe and me, would extend this voluntary insurance program for an additional three year period upon its same terms and conditions.

[H.R. 4140, 95th Cong., 1st sess.]

A BILL To extend the provisions of the Fishermen's Protective Act of 1967, relating to the reimbursement of seized commercial fishermen, until October 1, 1980

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1977(e)) is amended by striking out "October 1, 1977" and inserting in lieu thereof "October 1, 1980".

Mr. DE LA GARZA. These hearings are in regard to H.R. 4140, to extend the provisions of the Fishermen's Protective Act of 1967, relating to the reimbursement of seized commercial fishermen until October 1, 1980.

The first witness that we have to hear is from the Department of Commerce, Mr. Joseph W. Slavin, Assistant Director, National Marine Fisheries Service.

We will be very happy to hear from you at this time, sir. If you have anyone accompanying you, they are welcome to sit with you.

STATEMENT OF JOSEPH W. SLAVIN, ASSISTANT DIRECTOR FOR FISHERIES DEVELOPMENT, NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE, ACCOMPANIED BY MIKE GRABLE, CHIEF, FINANCIAL ASSISTANCE DIVISION

Mr. SLAVIN. Thank you, Mr. Chairman.

I have with me on my left Mr. Michael Grable, who is Chief of our Financial Assistance Division, of the National Marine Fisheries Service.

I have a very brief statement that I will go through and then entertain any questions you might have.

The proposed legislation before this committee, H.R. 4140, would extend section 7 of the Fishermen's Protective Act for 3 years from its present expiration date of October 1, 1977, until October 1, 1980.

The Department of Commerce would prefer a 2-year rather than a 3-year extension and has transmitted to the Congress draft legislation consistent with this view.

Prior to passage of the Fishery Conservation and Management Act of 1976 (FCMA) which established U.S. jurisdiction over a fisheries

zone extending to 200 miles off our coasts, we regarded everything 12 miles beyond any country's coastline as the high seas.

When Peru and Ecuador claimed 200-mile fisheries zones and began seizing U.S. tuna vessels fishing in those zones in the 1960's, our national response was the Fishermen's Protective Act of 1967.

Under this act, U.S. tuna vesels could be insured by the Federal Government against certain costs and losses associated with seizure, beyond the traditionally recognized 12-mile zone, by a foreign government.

Although the FCMA in effect recognizes the right of other nations to claim 200-mile fisheries conservation zones, the act continues the provisions of the Fishermen's Protective Act fully in force for the U.S. tuna fleet.

This is due primarily to the fact that the FCMA excludes highly migratory species—tuna—from inclusion in our 200-mile fisheries conservation zone.

The net effect is that the United States does not exercise fisheries jurisdiction over tuna in our 200-mile zone and does not recognize the right of any other country to do so in its 200-mile zone.

Additionally, the FCMA amended the Fishermen's Protective Act to allow continued seizure insurance under certain conditions, for vessels other than tuna vessels—for example, shrimp vessels—while operating in other countries' 200-mile zone.

The National Marine Fisheries Service of the National Oceanic and Atmospheric Administration of the U.S. Department of Commerce administers section 7 of the Fishermen's Protective Act, which provides a form of insurance for the following resulting from vessel seizure:

1. Fifty percent of lost fishing income;
2. The market value of confiscated or spoiled fish;
3. Damage, destruction, or confiscation of vessels and gear; and
4. Dockage fees, utilities, and other actual costs.

To date, there have been 119 seizures eligible for compensation under section 7 of the act. Ecuador was responsible for 88 of these seizures; Peru, for 30; and Panama for 1.

Claims resulting from these seizures have totaled almost $3.3 million. About 40 percent, or $1.3 million of that amount, was generated by vessel owners in the form of fees paid for section 7 insurance agreements. The rest was paid by the U.S. Government through congressional appropriations. Fees have also paid the cost of administering the program.

We believe section 7 of the act has worked well, providing valuable protection to the Nation's distant water tuna and shrimp fleets. We believe that, particularly in the case of the tuna fleet, there is an established need for the continuation of section 7.

This Nation's high seas tuna vessels represent one of our best fishing fleets. The fleet consists of 137 purse seine vessels with an estimated replacement value in the vicinity of $1 billion. Last year, that fleet landed 311,616 tons of tuna worth over $179 million at dockside prices. We estimate the retail value of that tuna was over $372 million. The catching and processing portions of the tuna industry alone support an estimated 20,000 jobs.

Extension of section 7 would continue to provide the U.S. distance water fishery fleets with insurance against the risk of seizure.

Thank you, Mr. Chairman.

I will be glad to answer any questions you might have.

Mr. DE LA GARZA. Thank you very much.

You say that you have transmitted draft legislation. The only difference in that legislation and the bill before the subcommittee is that it would extend the program for only 2 years rather than 3?

Mr. SLAVIN. That is correct.

Mr. DE LA GARZA. With respect to the number of seizures you mentioned, does that mean from the initiation of the legislation?

Mr. SLAVIN. Yes, sir; that's correct.

Mr. DE LA GARZA. You did not mention any in Mexico.

Have you reimbursed any fishermen in the gulf as a result of an illegal seizure?

Mr. SLAVIN. No; we have not. There have not been any seizures of shrimp vessels covered under our program in the gulf.

Mr. DE LA GARZA. I know there have been seizures of boats; but I do not know if they were insured or not under the program covered by the legislation.

Mr. SLAVIN. There have been no seizures——

Mr. DE LA GARZA. Involving those that have joined the program?

Mr. SLAVIN. That is correct.

We have had fair participation by shrimp boats in the act.

Mr. DE LA GARZA. None of those got caught?

Mr. SLAVIN. That is exactly right.

Mr. DE LA GARZA. It is always the poor one that gets caught.

Does counsel have questions?

Mr. EVERETT. Just a couple, Mr. Chairman.

What fishermen do you anticipate will be participating in the program in the future in view of our March 1, 1977, 200-mile fishing zone Act that just went into effect? Will it just be tuna fishermen?

Mr. SLAVIN. I anticipate it will be mainly tuna vessels. But there is a provision under the 200-mile act that does apply to cases where, for example, we do not have an agreement with a foreign country and we might recognize their 200-mile limit. If that foreign country established regulations that would be stricter than our regulations, then theoretically that vessel could get reimbursed under the Act. But I do not see this coming about in the near future.

Mr. EVERETT. How many vessel owners are participating under a program at this time?

Mr. SLAVIN. About 166 vessels.

Mr. EVERETT. 166 vessels?

Mr. SLAVIN. Yes. It is 157 in tuna and nine in shrimp.

Mr. EVERETT. Can you provide for the record the anticipated cost to the Federal Government, assuming we should report H.R. 4140 as introduced, for the 3-year extension of the program? You might break that down on a year-by-year basis in view of the fact that you are only recommending only a 2-year extension of the program.

Mr. SLAVIN. We will be pleased to do that.

[The following was received:]

FUTURE COSTS

There is no reasonable method of projecting the future costs of Section 7 of the Fishermen's Protective Act since the costs are dependent on the level of seizures by foreign countries, which of course is unpredictable.

The most logical theoretical projection would be an extension of our experience through FY 76 which is an average of three (3) seizures per year at a cost of $340,000 per year. The fishing industry has paid approximately forty-three (43) percent of this through fees, leaving an average cost to the Government of approximately $193,000 per year.

Should there fail to be any seizures during the next three years then there would be no cost to the Government since administrative expenses are paid for by fee collection.

Mr. EVERETT. They are all the questions I have, Mr. Chairman.

Mr. DE LA GARZA. Mr. Mannina?

Mr. MANNINA. Joe, why do you want 2 years instead of 3?

Mr. SLAVIN. When we submitted our own bill to OMB for clearance, we requested, and OMB agreed to a 2 year extension. We do not really object to 3 years, but the rationale behind 2 years is to approach it conservatively and to go through with our own bill. We are not prepared to draw a hard line between 2 and 3 years.

Mr. MANNINA. Thank you.

Mr. DE LA GARZA. Thank you very much. We appreciate your being here.

Our next witness is Mr. August Felando, representing the American Tuna Boat Association.

We are happy to have you here, sir.

You have someone with you, and if you would please identify him for the record.

STATEMENT OF AUGUST FELANDO, EXECUTIVE DIRECTOR, AMERICAN TUNABOAT ASSOCIATION, ACCOMPANIED BY CAPT. JOE MEDINA

Mr. FELANDO. I do not have a prepared statement. My name is August Felando. I am general manager of the American Tunaboat Association; and to my right is Capt. Joe Medina, the skipper and operator of the tuna vessel *Captain Joe Medina*, named after his father, and also the managing owner of the tuna vessel *Queen Mary*.

Mr. DE LA GARZA. We appreciate your being here and we welcome you. Captain Medina has been here before and we are happy to have you again.

Mr. FELANDO. Mr. Chairman, we support H.R. 4140. We believe it is correct to extend it for the 3 years.

One concern that we have is the fact that with the enforcement of U.S. 200-mile bill, perhaps other countries might take retaliatory action against our vessels or might be confused about the position of the United States with respect to tuna. So we are a little concerned that possibly our risk of seizure may increase. I hope we are wrong in that concern.

The fact is that there is no private insurance available to us to cover this risk. And as was witnessed in prior seizures, particularly the ones that occurred in February, March of 1975, when vessels and crewmembers were detained from 26 to 40-some days in port, vessel cargoes

were confiscated even though the tuna was not caught off the coast of the seizing country, where there was property damage and extensive losses associated with it; we think this type of protection is essential to maintain the economic viability of our fleet.

I would like to point out and clear one thing:

We do not receive full reimbursement for our losses. I have a chart with me and I would like to introduce that in the record.

The chart indicates that based on our records since 1961 to 1975 we estimate that our total losses sustained in connection with seizures on the high seas are considered by the United States to be unlawful; that we estimate our losses to be conservatively estimated at $11,205,289. We estimate that the recovery to the vessel owners is about 70 percent of that figure.

So I want to make it very clear for the record that we first put up the money after either borrowing it from a bank or some cannery or from our own funds to pay the fines and other charges that would come under section 3 of the act, and then filing a claim for that payment under section 3 of the act.

With respect to section 7 payments, clearly we do not receive full reimbursement for our losses. Another indication of losses that are never recovered, in 1975, crewmembers sustained personal injuries. There is no recovery for this under the act. Some of these individuals were hospitalized for long periods of time after that seizure in Ecuador. They received no compensation for injuries associated with the seizure.

So for the record, I think it should be clearly established that the vessel owners of fishermen come up with the money to pay for release of the vessel. We then file claims with the Departmnt of State under section 3, and then we file claims under guarantee agreement.

Mr. Chairman, I would like to make one other point.

The committee has correspondence between myself and the Secretary of State in dealing with another problem, and that is when a vessel, for instance, should purchase a license off Ecuador, feeling that it does not want to take the risk of losses that might result from a seizure by Ecuador; and under Ecuador's rules, if you buy a license, you cannot fish within 60 miles off the coast.

In my correspondence I bring this out and ask the question whether after buying a license, the vessl or crewmembers are prejudiced with respect to seizure that occurs within 60 miles, even though the U.S. recognizes that there is no obligation on a U.S.-flag vessel to purchase any license to fish beyond 12 miles.

I do not know whether I have given articulate explanation of the problem. I think it is all set forth in the correspondence.

This question has been raised now I guess for about a year. I still do not have an answer.

That was the only additional remark that I would like to make at this time. We think this legislation is absolutely needed for our survival.

Mr. DE LA GARZA. Thank you very much.

The chart which you have. I do not know if it will be technically possible to make it a part of the record. If so, it shall be done; if not, then we will file it with the records of the subcommittee.

Mr. FELANDO. That will be perfectly satisfactory. I do not see any need to place it in the record.

Mr. DE LA GARZA. With respect to the question you asked, if this humble member sitting in the chair would have his prerogative, I would say you would be covered.

I am sure the chairman will take it up with the Secretary of State and try to ascertain what your rights are under the legislation.

The understanding of the occupant of the chair was that you would be protected under what we would consider international waters, regardless of the requirements imposed by another country. Hopefully that might be the case.

Our new legislation extending the fishing zone of the United States to 200 miles may compromise that somewhat in regards to other nations; but we best find out from an interpretation from the Secretary of State or other agencies involved.

Mr. FELANDO. Thank you, Mr. Chairman.

Mr. DE LA GARZA. Any questions?

Mr. MANNINA. Thank you, Mr. Chairman.

In Ecuador, you said you are restricted, coming within 60 miles of the coast. In Peru and Panama, do you have the same kind of restrictions?

Mr. FELANDO. No such restrictions.

Mr. MANNINA. Thank you.

Mr. FELANDO. Fish right up to the beach in Peru.

Mr. MANNINA. Thank you.

Mr. EVERETT. Two questions.

You mentioned your losses are reimbursable, thus far running about 70 percent.

Mr. FELANDO. Yes.

Mr. EVERETT. Are they reimbursements under section 3 or 7 or sections 3 and 7?

Mr. FELANDO. Sections 3 and 7. I have not included in that estimate the fees that we paid under section 7.

Mr. EVERETT. Of that 30 percent that is not reimbursable, are you projecting the loss resulting from a loss of perhaps time on a 50-percent or 100-percent basis?

Mr. FELANDO. 100 percent lost time; and there are other charges that are not paid under section 7.

Mr. EVERETT. Of that 100 percent, the 50 percent is not allowable to be——

Mr. FELANDO. You have to understand that 50 percent is based on an average catch per day, not of actual catch. It is an average catch that is estimated based on 3 years' experience of the particular vessel; and you have to understand that that is an annual average, as distinguished when, let us say, the vessel was operating the first part of the year where your average generally is higher.

However, we think this is a satisfactory proposal. I do not want to suggest that we find fault with it. I just want to make clear in the record that a lot of people think we get fully reimbursed for our losses. This is just not a fact. I would have to go to my records to provide you with the answers to the questions you have raised if you wish me to.

Mr. EVERETT. You can supply that for the record.

Mr. FELANDO. Yes.

Mr. EVERETT. One other question.

If and when the tuna fleet is able to start back fishing and should go down off the coast of Ecuador and Peru, do you anticipate any seizures at that time?

Mr. FELANDO. I think we have to anticipate that as a way of life. It is a tough thing; but that is just a way of life.

Mr. EVERETT. Are your vessels voluntarily buying licenses as they go south on these trips?

Mr. FELANDO. Right now I do not know of any vessel that has purchased a license off Peru, maybe Joe can correct me.

Mr. MEDINA. No; we are buying a few licenses. Last year in Peru when they jumped the price from $20 a ton to $80 a ton, I do not think anybody has bought since.

Mr. EVERETT. How about Ecuador?

Mr. MEDINA. There has not been any bought in Ecuador, has not been any fish around there in the last few months. It could change.

Mr. EVERETT. Would you say then that if you could follow the fish and they end up off the coast of Ecuador, that you are not planning to buy licenses when you could go into their 200-mile zone?

Mr. MEDINA. I would say we would.

Mr. FELANDO. They have the problem that there are some vessel owners who do not want to take a risk with their crewmembers' lives and go through the problem of what happened in 1975. I do not suggest at all that our vessels would automatically purchase licenses down there; there are a lot of vessel owners and crewmembers who would not.

Mr. EVERETT. If the vessel should be seized, even though you purchase a license, wonder if you agree with me that that license fee would not be reimbursable under section 3?

Mr. FELANDO. That is correct.

Mr. EVERETT. They are all the questions I have Mr. Chairman.

Mr. DE LA GARZA. Any other questions?

Mr. EVERETT. I do have one question for Mr. Slavin.

Would you supply for the record the appropriation request in this program in your 1977 budget and also for fiscal 1978 so we can get some idea on the amount of money that you anticipate will be needed for carrying out this program.

Mr. SLAVIN. Yes.

[The following was received:]

APPROPRIATIONS

An appropriation of $61,000 was received for fiscal year 1977. An identical request has been made for fiscal year 1978. Of course, if claims exceed this, plus the balance in the fund, an additional appropriation will be required. If claims do not exceed that, the appropriations will be returned to the Treasury upon termination of the Fishermen's Protective Act.

Mr. EVERETT. Thank you, Mr. Chairman.

Mr. DE LA GARZA. Do you have any statement you would like to make, captain?

Mr. MEDINA. No.

Mr. DE LA GARZA. Thank you very much for being here. We appreciate your testimony. I am sure it will be quite helpful to the subcommittee.

Mr. FELANDO. Thank you.

Mr. DE LA GARZA. Is there any other person who would like to appear on this legislation?

[No response.]

Mr. DE LA GARZA. If not, the subcommittee stands in recess, subject to the call of the Chair.

[Whereupon, at 3:20 p.m., the hearing in the above-entitled matter was recessed, to reconvene subject to the call of the Chair.]

ATLANTIC TUNAS

WEDNESDAY, MARCH 23, 1977

HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
SUBCOMMITTEE ON FISHERIES AND WILDLIFE
CONSERVATION AND THE ENVIRONMENT,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2:20 p.m., in room 2337, Rayburn House Office Building, Hon. Robert L. Leggett (chairman of the subcommittee) presiding.

Mr. LEGGETT. The meeting of the Subcommittee on Fisheries and Wildlife Conservation and the Environment will please come to order.

This afternoon, the subcommittee will hold hearings on H.R. 4742, to extend for three years the appropriation-authorization for the Atlantic Tunas Convention Act of 1975. This Act provides the necessary statutory authority for the United States to carry out its functions and responsibilities under the International Convention for the Conservation of Atlantic Tunas, also know as ICCAT.

ICCAT was signed on May 14, 1966, and subsequently entered into full force and effect on March 21, 1969, upon receiving the required ratifications of seven of the parties to the Convention. Parties to the Convention presently include the United States, Canada, Brazil, Cuba, France, Portugal, Spain, Ghana, the Ivory Coast, Morocco, Senegal, South Africa, Japan, Korea, the U.S.S.R. and Angola. The Governments of the Dominican Republic, Gabon and Venezuela have signed the Convention, but have not ratified it.

The Convention was a response to the increasing exploitation of tuna resources of the Atlantic Ocean by a large number of nations of Europe, Africa, the Americas and Asia. It further indicated the concern of the fishery experts of the ratifying nations over the danger of over fishing and the decline in productivity levels of stocks of tunas and tuna-like fishes.

The Convention provided for the establishment of a Commission with each one of the contracting parties represented on the Commission by not more than three delegates. The Commission, which is required to meet once every 2 years, is charged with the responsibility of conducting research "on the abundance of tuna and tuna-like fishes, biometry and ecology of the fishes, the oceanography of their environment, and the effects of natural and human factors upon their abundance."

The Commission is also empowered, on the basis of scientific information, to make recommendations to maintain the population of

Atlantic tunas "at levels which will permit the maximum sustainable catch."

The Commission's recommendations thus far have centered around the Atlantic bluefin tuna and the Atlantic yellowfin tuna, both of which have been overfished.

Although the United States ratified the Convention in 1967, it did not possess the statutory authority to carry out is responsibiliies under the Convention until this committee reported implementing legislation, which became Public Law 94–70 on August 5, 1975.

Section 10 of that law authorizes to be appropriated such sums as may be necessary for carrying out its purposes and provisions, including necessary travel expenses of the U.S. Commissioners and the U.S. share of the joint expenses of the Commission.

The appropriation authorization of the law expires September 30, 1977, and H.R. 4742 would extend it for an additional 3 years.

We have Mr. Gehringer here again as our witness. Jack, we're pleased to have you before the subcommittee for the second time this week.

The bill provides no additional funds. It merely extends the date.

[The bill and departmental report follows:]

[H.R. 4742, 95th Cong., 1st sess.]

A BILL To authorize appropriations for fiscal years 1978, 1979, and 1980 to carry out the Atlantic Tunas Convention Act of 1975

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 10 of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971h) is amended by striking out "fiscal year 1977" and inserting in lieu thereof "fiscal years 1977, 1978, 1979, and 1980".

DEPARTMENT OF STATE,
Washington, D.C., April 20, 1977.

Hon. JOHN M. MURPHY,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for the opportunity to comment on H.R. 4742, a bill to authorize appropriations for fiscal years 1978, 1979, and 1980 to carry out the Atlantic Tunas Convention Act of 1975.

The Department of State is strongly in support of this legislation, which would enable the United States to continue to fulfill its financial obligations and thus participate in the work of the International Commission for the Conservation of Atlantic Tunas.

This Commission is responsible for managing important fisheries for tuna in the Atlantic Ocean. Through a cooperative international scientific effort, the member countries have been monitoring the status of the stocks of the various species of Atlantic tuna and billfish, and have adopted conservation measures for yellowfin and bluefin tuna. Other conservation measures have been considered and are regularly examined at Commission meetings.

The United States played a leading part in bringing the International Commission for the Conservation of Atlantic Tunas into being, and has actively participated in the Commission's work. We have a strong interest in international tuna conservation and the Department believes we should continue our involvement with the Atlantic Tunas Commission, which H.R. 4742 would make possible. The amount of the U.S. contribution is based in part on the level of U.S. catch, and it seems unlikely that the U.S. contribution would exceed $50,000 annually for fiscal years 1978, 1979 and 1980.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely,

DOUGLAS J. BENNETT, Jr.,
Assistant Secretary for Congressional Relations.

Mr. LEGGETT. Do you have a prepared statement?

Mr. GEHRINGER. Yes; I do, sir.

For the record, Mr. Chairman, I'm Jack W. Gehringer, Deputy Director, National Marine Fisheries Service. I have with me today Mr. Herbert Blatt, with the Office of General Counsel, and Mr. Robert Ayers, Acting Assistant Director for Fisheries Management of the National Marine Fisheries Service.

With your permission, sir, I'll read my statement, and then be available for questions.

Mr. LEGGETT. All right. Go ahead and do that.

STATEMENT OF JACK W. GEHRINGER, DEPUTY DIRECTOR, NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE

Mr. GEHRINGER. I am pleased to present this statement today in full support of the bill under consideration, H.R. 4742, to extend the authorization for appropriations in the Atlantic Tunas Convention Act of 1975, the legislation implementing the International Convention for the Conservation of Atlantic Tunas. This treaty established the International Commission for the Conservation of Atlantic Tunas (ICCAT) which is the international organization with key responsibilities for the management and conservation of Atlantic tunas. Since its inception in 1969, ICCAT has effectively refined its role in obtaining and coordinating the information necessary for maintaining stocks of Atlantic tuna and tuna-like fish. In addition, ICCAT has become involved in the joint formulation of regulatory proposals for submission to the Parties to the Convention.

The Commission has more than doubled its membership from the original seven countries which ratified the Convention in 1969. The 16 countries which are currently members are those that the chairman read off a few minutes ago. In addition to the member countries, observers from a number of other countries and international organizations regularly attend the annual meetings.

In order to carry out its management responsibilities, the Commission organized the Standing Committee on Research and Statistics (SCRS) which is composed of scientists from member countries and is responsible for coordinating data collection and stock assessment programs and reviewing the information obtained from these programs. Work by the committee has resulted in the acquisition of a significant data base for tunas and tuna-like species in the Atlantic. One of the most recent accomplishments by the committee is the establishment of a computerized data processing bank at the Secretariat headquarters in Madrid. Dr. Brian Rothschild of the National Marine Fisheries Service is currently serving his second 2-year term as chairman of this committee.

In addition to its role in the SCRS, the United States has been instrumental in developing the management and regulatory policy of the Commission. The Commission has now taken regulatory action with regard to two species of Atlantic tunas. In 1972, the Commission recommended a ban on the taking and landing of yellowfin tuna weighing less than 3.2 kg in amounts greater than an incidental catch allowance per trip of 15 percent of all yellowfin onboard a vessel.

In 1974 the Council, the executive body that meets between the biennial meetings of the Commission, recommended, and the Commission approved by mail vote, two additional regulatory measures which concern Atlantic bluefin tuna. These conservation recommendations include a 6.4 kg minimum size regulation and a limit on fishing mortality of bluefin tuna to recent levels for a period of 1 year. In the interpretation of the limit on fishing mortality to recent levels, member nations were left free to choose whether to limit catch or effort. At its 1975 meeting, the Commission extended the regulation limiting fishing mortality on bluefin tuna for 2 years, until August 30, 1978.

The developments which culminated in the approval of regulatory measures for Atlantic bluefin tuna were in large part initiated by the United States. Responding to increased concern expresed in this country over the status of Atlantic bluefin tuna stocks, the United States at the 1973 ICCAT meeting delivered a formal statement of concern, recommending prohibitions on the taking of very small bluefin tuna and suggesting a practical size limit of 7 pounds. The United States also expressed concern over the taking of large bluefin tuna and urged reductions in the capture of large tuna of this species. In 1974, it was the United States that proposed the regulatory proposals which were ultimately approved for Atlantic bluefin tuna.

It has been the existence of these regulatory measures which has given the United States the authority to manage the bluefin resources off its own coasts.

Although the Commission has studied additional regulatory proposals, annual reviews of the discussions held during the meeting of the SCRS had led member nations to conclude that additional management measures for various Atlantic tuna stocks are not clearly indicated at this time.

In concluding my remarks, I would like to strongly urge continued congressional support for this international organization and for the appropriation authority which is necessary for full U.S. participation in this body.

That's the end of my formal statement. I'll be pleased to try to answer any questions.

Mr. LEGGETT. All right.

How much money has your agency spent on ICCAT, or on this program, in the past 3 years?

Mr. GEHRINGER. We have not asked for, nor received, any funds under the ICCAT legislation. However, we have expended in the research area approximately half a million dollars over a 2-year period.

Mr. LEGGETT. That's out of your own budget?

Mr. GEHRINGER. Out of our own budget, under a different authority, yes sir.

Mr. LEGGETT. How about the State Department?

Mr. GEHRINGER. The State Department is present if you would wish to address that to them.

Mr. LEGGETT. Mr. Hallman, I understand you are here from the State Department.

Mr. HALLMAN. Yes, sir.

Mr. LEGGETT. How much have you spent under this authority?

Mr. HALLMAN. It's varied from year to year because the amount is based on a number of factors, including our catch in the area. But it's approximately $40,000 a year.

Mr. LEGGETT. Does this come out of your regular budget, or does it come out of a special appropriation for this item?

Mr. HALLMAN. I think it's a special appropriation.

Mr. Lewis, also with the Department, is here, and perhaps he can confirm that.

Yes, it's a special appropriation, and I think this year we're seeking $43,000 for fiscal year 1978.

Mr. LEGGETT. How much did you spend last year?

Mr. HALLMAN. Last, year $41,500 was appropriated.

Mr. LEGGETT. And the year before that?

Mr. HALLMAN. The year before that, $40,000; and the year before that, $41,000 was appropriated.

Mr. LEGGETT. How much is authorized in this program? Is it open ended?

Mr. GEHRINGER. To my knowledge, yes.

Mr. LEGGETT. This program is aimed at saving tuna in the Atlantic, and it relates to primarily these two species, is that right, the yellowfin and the bluefin?

Mr. GEHRINGER. It includes tuna and tuna-like species, which does include more species than the two on which we presently have regulations.

Mr. LEGGETT. Do you have any plans for regulating the other species?

Mr. GEHRINGER. We have no immediate plans at the present time.

Mr. LEGGETT. So essentially you're regulating the two species of tuna, is that right?

Mr. GEHRINGER. That is right.

Mr. LEGGETT. And the State Department participates in those negotiations with Brian Rothschild's statistical backup material?

Mr. GEHRINGER. Yes, sir.

Mr. LEGGETT. How often do you meet?

Mr. GEHRINGER. The Commission and the Council meet separately every other year.

Mr. LEGGETT. What does the State Department do with their money the year they don't meet, Mr. Hallman?

Mr. HALLMAN. The appropriation is something that we are responsible for each year, and even though the Commission meets every other year the Council meets the year in between. It's almost a technicality as to the difference. So essentially there is a meeting every year, and we're responsible for the appropriation on an annual basis.

Mr. LEGGETT. Are you the full-time person working on this in State?

Mr. HALLMAN. Yes, sir. It's myself, basically.

Mr. LEGGETT. I see. You're a full-time ICCAT person, is that right?

Mr. HALLMAN. It requires a relatively small amount of my time but, yes, I follow ICCAT.

Mr. LEGGETT. You say you spend a small amount of time?

Mr. HALLMAN. I have many other things which I do, but one of the things which I do is the Atlantic Tunas Commission work, yes.

Mr. LEGGETT. And how much of your time do you actually spend on that?

Mr. HALLMAN. Maybe a tenth of my time, or maybe even less than that.

Mr. LEGGETT. How do you use up your $40,000?

Mr. HALLMAN. The Commission uses the money that all the member governments give to the Commission.

Mr. LEGGETT. Do you contribute money from that $40,000 to the Commission?

Mr. HALLMAN. Exactly, yes.

Mr. LEGGETT. Do you support our members who go to the Commission out of that?

Mr. HALLMAN. The payment of travel for members to the Commission is a separate item that we spend, and the legislation which implements the Convention provides for payment of three Commissioners, their travel expenses, as well as up to three members of the advisory committee.

Mr. LEGGETT. But that's out of a separate authorization?

Mr. HALLMAN. That's out of a separate authorization, yes.

Mr. LEGGETT. How much money do we actually transfer to the Commission out of this $40,000?

Mr. HALLMAN. Last year it was $38,000 some odd. The year before that, it was $36,000; and it was $29,000 before that.

Mr. LEGGETT. All right. That's to cover their general housekeeping, is that right?

Mr. HALLMAN. That's right. It's their housekeeping, their staff. It helps pay for the ICCAT staff, as well as for certain research-related projects.

Mr. LEGGETT. Where do they have their headquarters?

Mr. HALLMAN. Madrid.

Mr. LEGGETT. These two species that we regulate, how do we police them, Jack?

Mr. GEHRINGER. If I may ask Mr. Ayers to answer that question?

Mr. AYERS. The yellowfin regulations are policed by sampling landings by U.S. vessels at U.S. ports, and the only one of concern is Puerto Rico.

The bluefin regulations are policed not only by our own staff but also by several of the State agencies under contract.

Mr. LEGGETT. So you contract with the States, and they report the 5.4 kg. size?

Mr. AYERS. Yes, sir; and the seasons and bag limits and so forth.

Mr. LEGGETT. All right.

Mr. Forsythe.

Mr. FORSYTHE. Thank you, Mr. Chairman.

Jack, 16 countries have ratified the Convention. Who's missing? Whom should we have that we don't have?

Mr. GEHRINGER. Italy.

Mr. HALLMAN. Italy might be the only one, I think.

Mr. FORSYTHE. Italy would be the only really significant country?

Mr. GEHRINGER. Yes, sir.

Mr. FORSYTHE. Does Italy come under these observers that are also there?

Mr. GEHRINGER. Yes, sir.

Mr. FORSYTHE. Is there a reason why Italy has not joined the Convention?

Mr. HALLMAN. They're really a very insignificant factor in the fishery. Their tuna catch is quite small. They do catch some tuna in the Mediterranean, I believe, and for that reason they are considered a potential member, and they do come as observers. Why they have never joined, frankly, I don't really know why they haven't taken that step.

Mr. FORSYTHE. In other words, we effectively have those nations that we are concerned about in terms of the tuna fishery?

Mr. HALLMAN. Yes.

Mr. FORSYTHE. And are we getting good response across-the-board in abiding by the regulations?

Mr. AYERS. I think that the answer to that is that it's improving. Initially there was some slowness in abiding by the regulations. The first one that was in place was the minimum size on the yellowfin, and the first year it was pretty generally ignored, the second year it was better, and the third year it's been better yet. I think that compliance is satisfactory now. There is still room for improvement, but it's getting better.

Mr. FORSYTHE. How much do you have with the New Jersey tuna fishermen, sports fishermen?

Mr. AYERS. We're having some, sir.

Mr. FORSYTHE. Mr. Chairman, I have no further questions.

Mr. LEGGETT. Let me ask you this: Do you set quotas under this legislation?

Mr. AYERS. Yes, sir; in the case of bluefin we set quotas. Quotas have not been established for the yellowfin and the other species thus far, although that may be necessary in the future. Bluefin is the only one for which we have set quotas.

Mr. LEGGETT. What kind of bluefin quota have you set?

Mr. AYERS. It varies. What we've done is break it into various fisheries. The first fishery is the seine fishery for small fish, from about 5 years of age down. The quota for that one last year was 1,000 tons. There is also a quota on large fish, giant fish, over 300 pounds, taken primarily in the New England area, and that quota was 2,000 fish. Now, these can come in the 1,000-pound variety and it is a lot easier to count in numbers of fish than it is in tons.

Also there's a bag limit on Mr. Forsythe's rod and reel fishermen in the New Jersey area.

Mr. LEGGETT. As I recall, this fishery was fished substantially by the sport fishermen.

Mr. AYERS. Yes, sir.

Mr. LEGGETT. In fact, the bluefin was fished more by the sport fisherman than the commercial fisherman?

Mr. AYERS. Until recently, that's been true, sir. Now almost everyone who catches one sells the fish. So depending on your definition of a sport fisherman, there may not be very many, especially in the larger fish. They're very valuable, and they commonly go for about $1.50 a pound. For a 500-pound fish that's a pretty attractive incentive to catch one.

Mr. LEGGETT. Where do they sell it?

Mr. AYERS. They primarily are sold to the Japanese. They are a very desired product, from which they make sushimi, a very popular Japanese dish, and the bulk of them are transported to Japan.

Mr. LEGGETT. The commercial fishermen that take those tuna, do they sell them to Japan too?

Mr. AYERS. Yes, sir.

Mr. LEGGETT. Are any of them canned in the United States?

Mr. AYERS. As far as I know, none are canned. But some are consumed fresh here, both as sushimi as well as other ways. But the market is relatively limited.

Mr. FORSYTHE. Would the chairman yield?

Mr. LEGGETT. Yes.

Mr. FORSYTHE. Where is the transfer made when they're going to Japan if they're caught on the east coast?

Mr. AYERS. There are two different ways of doing it.

One common way is to air-freight them from New York to Tokyo, and they are that valuable that they can afford to ice them and deliver them fresh to the fish markets in Tokyo.

Another common way is that there will be Japanese buyers in the New England area buying from various U.S. buyers. Usually this is done under contract, in fact, in all cases.

Mr. FORSYTHE. They're still landed in the United States?

Mr. GEHRINGER. Yes. Well, not physically landed, but the cash transaction is made ashore, so for all practical purposes, yes.

Mr. FORSYTHE. Thank you.

Mr. LEGGETT. Are these migratory fish too?

Mr. AYERS. Yes, sir, they are.

Mr. LEGGETT. Highly migratory?

Mr. AYERS. Highly migratory. We believe that most of the spawning is near the State of Florida.

Mr. LEGGETT. Are the Japanese catching some of those too?

Mr. AYERS. Yes, sir. The Japanese have an active long-line fishery in the Western Atlantic and, of course, there has been a substantial fishery over a long period of time in the Eastern Atlantic and the Mediterranean. Part of the Mediterranean fishery dates back well before the time of Christ.

Mr. LEGGETT. The yellowfin that's caught from boats that are located in Puerto Rico, are those fish delivered to the cannery there?

Mr. AYERS. That's right. The bulk of the fishery is off the coast of Africa for both the yellowfin and skipjack. If they're sold to U.S. interests, they're either transshipped back to Puerto Rico or Maryland or other canneries, or are brought back by the fishing vessel itself.

Mr. LEGGETT. How about albacore?

Mr. AYERS. We have a very small albacore fishery in the Atlantic, although other nations have a substantial albacore harvest.

Mr. LEGGETT. Is that regulated now by ICCAT?

Mr. AYERS. No, sir. There are no regulations.

Mr. LEGGETT. Any other questions?

Mr. EVERETT. Just a few questions.

Mr. LEGGETT. Yes, Mr. Everett.

Mr. EVERETT. I wonder if both the State Department and Commerce Department witnesses could provide for the record the estimated cost this legislation to the Federal Government should the committee report it out in its present form. I would like it broken down for the 3-year period.

[The following was received for the record:]

COST OF ATLANTIC TUNAS CONVENTION ACT OF 1975

Department of Commerce estimated costs of carrying out the provisions of this Act.

Fiscal year:	*Amount*
1978	$650,000
1979	650,000
1980	650,000

STATE DEPARTMENT ESTIMATE

The State Department estimates that the U.S. contribution to the ICCAT and thus the amount which might be appropriated for this purpose will not exceed $50,000 per year for the three-year period provided by the legislation.

Mr. EVERETT. With respect to section 4 of the act, it provides that: "The United States Commissioners shall appoint an advisory committee," and this you have done, and it could be composed of anywhere from 5 to 20 individuals.

Can you tell me how many are on the advisory committee at this time?

Mr. AYRES. Yes, sir. We have 16 members on the advisory committee at the present.

Mr. EVERETT. And under section 9, the Federal Advisory Committee Act, it says that: "No advisory committee shall meet or take action until an advisory committee charter has been filed."

I assume you have a charter for this advisory committee. Could you provide us with a copy of that charter?

[The following was received for the record:]

CHARTER OF THE ADVISORY COMMITTEE TO THE UNITED STATES NATIONAL SECTION OF THE INTERNATIONAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNAS

I. PURPOSE

(*a*) The purpose of the Advisory Committee (hereinafter referred to as the Committee) shall be to serve the United States Section (hereinafter referred to as the Section), that is, the three United States Commissioners of he International Commission for the Conservation of Atlantic Tunas (hereinafter referred to as the Commission), the Department of State (hereinafter referred to as the Department, and other agencies of the United States Government, in a solely advisory capacity with respect to U.S. participation in the work of the Commission, with particular reference to development of U.S. policies, positions, and negotiating tactics.

(*b*) Members of the Committee may attend all public meetings of the Commission, Council, or any Panel and any other meetings to which they are invited by the Commission, Council, or any Panel.

(*c*) The Committee shall be invited to attend all non-executive meetings of the United States Commissioners and at such meetings shall be given an opportunity to examine and to be heard on all proposed programs of study and investigation, reports, recommendations, and regulations of the Section.

II. AUTHORITY

The Committee is established pursuant to Section 4 of the Atlantic Tunas Convention Act of 1975 (P.L. 94–70).

III. ORGANIZATION

(*a*) The Committee shall have two officers, a Chairman, and an Executive Secretary, and not less than five nor more than twenty public members plus the *ex officio* members as provided in F below.

(*b*) The Committee shall elect its own Chairman.

(*c*) The National Oceanic and Atmospheric Administration (NOAA), Department of Commerce, shall provide an Executive Secretary for each meeting of the Committee.

(*d*) The public members shall fairly represent the various groups concerned with the fisheries of the regulatory area of the International Convention for the Conservation of Atlantic Tunas (hereinafter referred to as the Convention), including fisherman, vessel owners, processors, and others concerned with the fisheries covered by the Convention, all of whom shall be well informed concerning the fisheries of the Convention area.

(*e*) The public members of the Committee shall be appointed by the Commissioners and shall serve for a term of two years. They shall be eligible for reappointment.

(*f*) Upon approval of the Commissioners and the Deputy Assistant Secretary for Oceans and Fisheries Affairs (hereinafter referred to as the Deputy) of the Department, a representative from the fisheries agencies of each of the States, the residents of which maintain a substantial tuna fishery in the regulatory areas of the Convention, may be invited to serve as *ex officio* members of the Committee.

(*g*) Officers of the Department; the National Oceanic and Atmospheric Administration, Department of Commerce; the United States Coast Guard; and, with the approval of the Deputy, any other agencies of the United States Government responsible for matters pertaining to fisheries in the Convention area, may attend all meetings of the Committee.

(*h*) Staff and support functions required for operation of the Committee shall, to the extent possible, be supplied from the existing staff of NOAA. In cases where NOAA certifies in writing that it cannot reasonably provide such services it shall be the responsibility of the Department to do so.

(*i*) The Deputy shall act for the Secretary of State in fulfilling the responsibilities of the Department under the International Convention for the Conservation of Atlantic Tunas and the Atlantic Tunas Convention Act of 1975. The Deputy shall supply liaison support functions between the Committee and other Government agencies.

IV. OPERATIONS

(*a*) The Committee shall meet at least once a year, or more frequently if necessary. The meetings shall be called by (1) the Chairman, subject to the approval of the Deputy or a Commissioner who is also a full-time employee of the United States Government (hereinafter referred to as a Government Commissioner), by (2) the Commisioners, or by (3) the Deputy. There shall be no requirement of a quorum.

(*b*) No meeting shall be held unless attended by the Deputy, or his representative, or by a Government Commissioner, or his representative. The agenda shall be approved by one of these designated Federal employees and by the Chairman of the Section. Any of these designated Federal employees present at any meeting is authorized to adjourn the meeting whenever he determines adjournment to be in the public interest.

(*c*) The Chairman, a United States Commissioner, or the Deputy or his representative shall convene, preside over and, except as provided in IV. B. above, adjourn all meetings.

(*d*) The Executive Secretary, who shall be an employee of NOAA, shall prepare the minutes of each meeting which shall as a minimum contain: a record of all persons present; the names of persons from the public who attend the meeting and their interests or affiliations; a description of matters and materials discussed and conclusions reached and the rationale for same; and copies of all reports received, issued, or approved by the Committee.

(*e*) The Chairman shall certify the accuracy of all Committee minutes.

(*f*) The functions of the Committee shall be solely advisory, and any determination of action to be taken as a result of the work of the Committee shall be made by the Section or an appropriate full-time employee of the United States Government.

(*g*) The Committee may receive, compile, or discuss data or reports showing the current or projected commercial operations of identified business enterprises, or classified material not to exceed Confidential, subject to each member of the Committee holding an appropriate security clearance, each such instance to be determined by the Deputy or a Government Commissioner, or by an appropriate member of one of their staffs. Members of the Committee shall receive an appropriate security check before appointment. Copies of the Departmental regulations governing administratively controlled or classified documents shall be furnished to each member of the Committee.

(*h*) The Committee records will consist of all papers and documents pertaining to the Committee's establishment and activities, including its Charter; agenda, summary minutes and all documents relating to Committee proceedings; its roster; and all communications between the Commissioners or an agency of the United States Government and Committee members; and all written materials and reports considered and/or issued by the Committee.

(*i*) The Committee shall report, either orally or in writing, to the Secretary of State through the Deputy and to the Section.

V. FUNDING

(a) All funding required for the organization and operation of the Committee shall be provided pursuant to Article II. G. and Article IV. D. of this Charter.

(b) The members of the Committee shall serve without compensation but shall be allowed transportation and per diem as set forth in Section 4(1) and (2) of P.L. 94–70.

(c) The annual estimated operating costs of the Committee are less than $2,000 and .04 man years.

VI. TERMINATION

The Committee is a continuing statutory body. A new Charter will be issued on a biennial basis, in accordance with Section 14(b)(2) of P.L. 92–463, from the date this Charter is approved.

VII. ACCESSIBILITY OF PUBLIC TO THE COMMITTEE

(a) Meetings of the Committee will be announced in the Federal Register and by Department of State Press Release at least fifteen days prior to the convening of a meeting.

(b) The Federal Register Notice and the Department of State Press Release will give the date, hour and place of meeting and the agenda of items to be discussed.

(c) Members of the general public who wish to attend a meeting will be admitted up to the limits of the capacity of the meeting room, unless it is formally determined to be in the public interest that the meeting or any part thereof be closed to the public in accordance with P.L. 92–463.

(d) When it is formally determined that it is in the public interest, as related to 5 U.S.C. 552(b), not to disclose the Committee's deliberations, the notice in the Federal Register and the Department of State Press Release announcing the meeting will so state and omit the agenda.

VIII. FILING

This Charter shall be considered filed as of this date and copies shall be provided to the appropriate standing committees of the Senate and the House of Representatives, having legislative jurisdiction for the Department of State, and to the Library of Congress pursuant to the provisions of P.L. 92–463.

Mr. EVERETT. Also, under section 14 of the Federal Advisory Committee Act, after a 2-year period, the advisory committee created after 1972 will self-destruct after 2 years unless, in the case of an advisory committee established by an act of Congress, its duration is otherwise provided for by law.

I assume this advisory committee was not established until some time last year.

I would appreciate it if you would take a look at your charter and advise us whether we need to allow for the continuation of this committee. Would you interpret the language of the act to indicate that it is a permanent advisory committee and no legislation to continue it is needed?

Mr. GEHRINGER. Yes; we'll furnish that for the record.

[The following was received for the record:]

ADVISORY COMMITTEE

The Congress need take no action to allow for continuation of the advisory committee established pursuant to the Atlantic Tunas Convention Act of 1975. However, under the requirements of the Federal Advisory Committee Act (P.L. 92–463) the committee charter must be renewed every two years (see also Section VI of the charter) and copies filed with the appropriate Congressional Oversight Committee.

Mr. EVERETT. With respect to the tuna and tuna-like fishes that are covered by the act, could you also supply for the record a list of the species of tuna that are covered and also a list of the species of tuna-like fish that are covered. Tuna, as you know, are exempted from the coverage of the 200-mile fishing zone act. Whereas tuna-like fish are covered by the 200-mile Fishing Zone Act. We would like to have a breakdown on these species so that we can see clearly which ones are allowed to be taken under the 200-mile act and which ones would be managed pursuant to ICCAT.

[The following was received for the record:]

SPECIES COVERED BY THE ICCAT CONVENTION

Article IV of the ICCAT Convention states "the Commission shall be responsible for the study of the populations of tuna and tuna-like fishes (the Scombriformes with the exception of the families Trichiuridae and Gempylidae and the genus Scomber) and such other species of fishes exploited in tuna fishing in the Convention area as are not under investigation by another international fishery organization.

These species have been identified in the ICCAT Field Manual for Statistics and Sampling of Atlantic Tunas and Tuna-Like Fishes as follows:

Order and family	Scientific name	Vernacular name
Scombriformes:		
Scombridae (Thunnidae)	Thunnus thynnus (Linnaeus)	Bluefin tuna.
Do	Thunnus maccoyii (Castelnau)	Southern bluefin tuna.
Do	Thunnus albacares (Bonnaterre)	Yellowfin tuna.
Do	Thunnus alalunga (Bonnaterre)	Albacore.
Do	Thunnus obesus (Lowe)	Bigeye tuna.
Do	Thunnus atlanticus (Lesson)	Blackfin tuna.
Scombridae	Euthynnus alletteratus Rafinesque	Atlantic little tuna.
Do	Katsuwonus pelamis (Linnaeus)	Skipjack.
Do	Sarda sarda (Bloch)	Atlantic bonito.
Do	Auxis thazard (Lecépède)	Frigate makerel.
Do	Auxis rochei (Risso)	Bullet makerel.
Istiophoridae	Istiophorus albicans (Latreille)	Atlantic sailfish.
Do	Makaira indica (Cuvier)	Black marlin.
Do	Makaira nigricans (Lacépède)	Atlantic blue marlin.
Do	Tetrapturus albidus (Poey)	Atlantic white marlin.
Do	Tetrapturus pflueger (Robins and De Sylva)	Longbill spearfish.
Do	Tetrapturus belone (Rafinesque)	Mediterranean spearfish.
Xiphiidae	Xiphias gladius (Linnaeus)	Broadbill swordfish.

Species of which the United States does not assert fishery management authority under the FCMA

Scombridae (Thunnidae)	Thunnus thynnus thynnus (Linnaeus)	Blufin tuna.
Do	Thunnus maccoyii (Castelnau)	Southern bluefin tuna.
Do	Thunnus albacares (Bonnaterre)	Yellowfin tuna.
Do	Thunnus alalunga (Bonnaterre)	Albacore.
Do	Thunnus obesus (Lowe)	Bigeye tuna.
Do	Thunnus atlanticus (Lesson)	Blackfin tuna.
Scombridae	Euthynnus alletteratus (Rafinesque)	Atlantic little tuna.
Do	Katsuwonus pelamis (Linnaeus)	Skipjack.

Mr. EVERETT. I think those are all the questions I have, Mr. Chairman.

Mr. LEGGETT. Very good.

Mr. Trible.

Mr. TRIBLE. No questions, Mr. Chairman. Thank you.

Mr. LEGGETT. This bill spends no more money than we have been spending, presumptively, and we really haven't been spending very much money. The regulations have been slight.

I presume that the Commission is not necessarily dominated by any one country or any particular interest. Is that right? Do we have any numbers on their make-up between commercial and recreational?

Mr. GEHRINGER. Yes, sir. With respect to the three present Commissioners, Carmen Blondin of the National Marine Fisheries Service is the U.S. Government representative; there is a member of the tuna industry, Charlie Carry; and a member of the recreational interest, Frank Carlton. We think it gives a balanced effect.

Mr. LEGGETT. Let me ask this: As I understand it, this covers fishing off the coast of Africa, and some of that fishing involves seining for porpoise, is that right?

Mr. AYERS. No, sir. There are no porpoises involved in this fishery.

Mr. GEHRINGER. Not to our understanding.

Mr. LEGGETT. There's no porpoise involved in this fishery?

Mr. AYERS. To say there are none, of course, is very risky. But the practice of setting on porpoises is not followed in the Atlantic.

Mr. GEHRINGER. We have no knowledge of setting on porpoise in the Atlantic.

Mr. LEGGETT. In the Atlantic, neither the North Atlantic nor South Atlantic, is that right?

Mr. GEHRINGER. Yes, sir.

Mr. LEGGETT. Thank you very much.

Mr. Emery's presence is noted.

The meeting will stand adjourned until further call of the Chair.

[Whereupon, at 2:47 p.m., the subcommittee adjourned, subject to further call of the Chair.]

COMMERCIAL FISHERIES RESEARCH AND JELLYFISH CONTROL AUTHORIZATIONS

TUESDAY, MARCH 29, 1977

HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
SUBCOMMITTEE ON FISHERIES AND WILDLIFE
CONSERVATION AND THE ENVIRONMENT,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2 p.m., in room 1334, Longworth House Office Building, Hon. John B. Breaux, presiding.

Mr. BREAUX. The Subcommittee on Fisheries and Wildlife Conservation and the Environment will please come to order.

This afternoon the subcommittee will hold appropriation authorization hearings on legislation designed to provide assistance to our commercial fishing industry.

The bill H.R. 4576, introduced by Mr. Forsythe and Chairman Leggett, would increase the amount of funds authorized to be appropriated under the Commercial Fisheries Research and Development Act for fiscal year 1978, the last year of the program, and it would extend the program for two additional years, through September 30, 1980.

This Act authorizes the Secretary of Commerce to cooperate with the 50 States, the Commonwealth of Puerto Rico, and the Governments of the Virgin Islands, Guam, and American Samoa in carrying out research and development of our Nation's commercial fisheries. This 1954 act was the catalyst that brought both the States and the Federal Government together on a cooperative program to improve the commercial fisheries of our Nation.

The benefits from the program are widespread and enjoyed not only by the States, but by other groups as well. The States have benefited by increased research capabilities through the construction of laboratories and have enhanced fishery stocks through the construction of fish culture facilities.

Other Federal agencies benefit as the program contributes supporting knowledge resulting in a strengthened national effort. Also, there is substantial benefit to industry and the public from projects dealing with technology, extension, research, and enabling better use of fisheries products.

This grant-in-aid program, which is carried out on a 75–25 matching fund basis with the States, has been very popular with the States and it was because of this popularity and the passage of the 200-mile Fishery Zone Act that prompted this legislation to be introduced.

The other bill to be heard by the subcommittee today is H.R. 4627, a bill introduced by Ms. Mikulski. This bill would extend the jellyfish

control program for an additional three years at the same funding level authorized to be appropriated under present law, which is $400,000 per year. In carrying out the purpose of the Jellyfish Control Act, the Secretary of Commerce is authorized to cooperate with the States in giving financial and technical aid for the study and control of jellyfish and other such sea pests which adversely affect fish and shellfish, as well as water-based recreation. The cost of this legislation is shared with the States on a 50–50 basis, with the total Federal share of research programs being limited to $400,000 for each fiscal year.

In the interest of maintaining a cohesive hearing record, I would appreciate any witness testifying on both bills to please separate their testimony and testify on each bill separately if possible.

I would also like to ask, if you have not done so prior to your testifying, that you make sure that the clerk has a copy of your testimony for the record.

The bills and departmental reports will appear in the record at this point.

[The bills referred to are as follows:]

[H.R. 4576, 95th Cong., 1st sess.]

A BILL To authorize appropriations for fiscal years 1978, 1979, and 1980 to carry out the Commercial Fisheries Research and Development Act of 1964

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4 of the Commercial Fisheries Research and Development Act of 1964 (16 U.S.C. 779b) is amended—

(1) by amending subsection (a) to read as follows:

"(a) There are authorized to be appropriated to the Secretary of Commerce for apportionment to the States to carry out the purposes of this Act the following sums:

"(1) $5,000,000 for each of the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, and September 30, 1977,

"(2) $10,000,000 for each of the fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980.;

"(b) In addition to the amounts authorized in subsection (a) of this section, there are authorized to be appropriated to the Secretary of Commerce—

"(1) $1,500,000 for each of the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, and September 30 1977, and

"(2) $3,000,000 for each of the fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980,

which shall be available to the States in such amounts as the Secretary of Commerce may determine appropriate for the purposes of this Act:"; and

(3) by amending subsection (c) to read as follows:

"(c) In addition to the funds authorized in subsections (a) and (b) of this section, there are authorized to be appropriated to the Secretary of Commerce the following sums which shall be made available to one or more States in such amounts as the Secretary of Commerce may determine to be appropriate for developing a new commercial fishery therein:

"(1) $100,000 for each of the fiscal years ending June 30, 1974, June 30, 1975, June 30, 1976, and September 30, 1977.

"(2) $500,000 for each of the fiscal years ending September 30, 1978, September 30, 1979, and September 30, 1980.".

[H.R. 4627, 95th Cong., 1st sess.]

A BILL To authorize appropriations for the jellyfish control program for fiscal years 1978, 1979, and 1980

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3 of the Act entitled "An Act to provide for the control or elimination of jellyfish and other such pests in the coastal waters of the United States, and for other purposes", approved Novem-

ber 2, 1966 (16 U.S.C. 1203), is amended by striking out "and June 30, 1977" and inserting in lieu thereof "September 30, 1977, September 30, 1978, September 30, 1979, and September 30, 1980".

Mr. BREAUX. Are there any opening statements from Mr. Forsythe?

Mr. FORSYTHE. No.

Mr. BREAUX. Mr. Emery?

Mr. EMERY. No.

Mr. BREAUX. Our first witness today will be from the Department of Commerce.

I would like to welcome our good friend from the Department of Commerce, Jack Gehringer, Deputy Director, National Marine Fisheries Service. Jack, please take your place. If anyone is accompanying you, will you identify them.

We have a copy of your two statements and they will be made a part of the record in their entirety.

You may proceed as you wish.

[The prepared statement on H.R. 4576 follows:]

STATEMENT BY JACK W. GEHRINGER, ON H.R. 4576

Mr. Chairman and members of the committee, thank you for the opportunity to appear before this committee today to testify on the need to extend the Commercial Fisheries Research and Development Act of 1964, as amended (P.L. 88-309), which is scheduled to expire September 30, 1978.

The Department of Commerce recommends passage of legislation which would extend the authorizations of appropriations under subsections 4 (a) and (b).

Under the present law subsection 4(a) authorizes $5 million per year to carry out the purposes of the Act. These funds are apportioned, among the 50 States and the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands, by statutory formula on the basis of the most recent three-year average of the values of raw fish landed and products processed in each State. Each recipient is assured a Federal apportionment of at least one-half of one percent and no more than six percent of the funds appropriated by the Congress in any fiscal year. The Federal share is up to 75 percent of the cost of approved projects. Funds appropriated under subsection 4(a) totaled $4.1 million in each fiscal year 1966 through 1969 and $3.8 million in each fiscal year after 1969 except for an additional $0.95 million for the 1976 fiscal year transition quarter.

Subsection 4(b) authorizes $1.5 million per year to assist the States in which there has been a commercial fishery failure due to a resource disaster caused by natural or undetermined causes. These funds can be used in the form of grants to help restore the affected fishery and for research and development to prevent a similar failure in the future. Funds appropriated under subsection 4(b) have cumulatively totaled $3.45 million, and have been made available to the States on the basis of need. No funds have been appropriated under this authorization since fiscal year 1974.

Subsection 4(c) authorizes $100,000 per year in grants to assist the States in developing new commercial fisheries. No funds have been appropriated under this authorization.

The key function of the Act is to combine the financial resources and expertise of the States and the Federal Government in a cooperative effort for the development and effective regulation of the Nation's commercial fisheries resources. All 50 States and the other recipients of the funds have participated in carrying out project activities, and more than 300 people, including scientists and staff support, are continuously employed by the States to gather information to help solve fisheries problems and to provide a data base for better management of the fisheries.

Since fiscal year 1966 when funds were first made available, substantial results have been achieved. A total of 712 projects has been initiated at an estimated total cost, both State and Federal, of nearly $70 million. Of these projects, 578 costing about $54 million have been completed and 134 are continuing at various stages of completion with an estimated cost of more than $15 million.

The projects initiated cover various fields of activities, including aquaculture, construction, coordination and planning, development, research, and disaster aid. For the record, I have included with this testimony a classification of the Federal funds by activity for fiscal years 1966 through 1976, and fiscal year 1976 to show trends. Research continues to be the backbone of the program with 67 percent of the Federal dollars being utilized for this purpose, 9 percent for the collection of statistics, 6 percent for aquaculture, 10 percent for technical assistance and marketing, 6 percent for coordination and planning, and 2 percent for construction and operation and maintenance.

I general, the States and other recipients of the funds are obligating the funds apportioned to them within the year appropriated. Sometimes in the past a few States have had trouble getting matching funds. However, we have established procedures which permit those States to voluntarily release funds to another State than can immediately and effectively use the released funds. In doing so, the Federal dollars are kept active and working.

When the program started, several recipients including Alaska, California, Georgia, Hawaii, Louisiana, Maine, Massachusetts, Michigan, Montana, New York, Washington, Texas, Puerto Rico, American Samoa, Guam, and others constructed laboratories and/or acquired research vessels, and purchased needed equipment, which greatly increased their capabilities to better study and regulate the fisheries.

The program appears to have contributed much to State needs and priorities. For example much scientific information has been obtained on the local stocks of shellfish and finfish. Advancement has been made in aquaculture for the rearing of catfish, trout, shrimp, oysters, clams, and other shellfish. Improvements have been made in fish byproducts and development of new products. It has helped to alleviate resource disaster from such causes as hurricanes and fish diseases. In other words, the Act has served well to assist the States to better and more effectively develop and manage their valuable fisheries resources. Additionally, projects funded with these State-Federal funds have produced results which have received the approval and strong support of the Nation's scientific community as well as the fishing industry.

Some States are using a portion of their Federal dollars made available under this authorization to provide research support for cooperative State/Federal fisheries management. Plans that have been implemented include: American Lobster, Gulf of Maine shrimp, South Atlantic shrimp, surf clams, and dungeness crab, and for those plans that have been proposed for future initiation—Atlantic menhaden, Pacific salmon, and Alaska king crab.

Assessment and statistical programs are being conducted on offshore and Continental Shelf fish stocks which will assist in providing a data base for management plans identified by the Regional Councils under the Fishery Conservation and Management Act of 1976.

We strongly urge that the Congress continue to authorize subsection 4(a) so that the work the States and other recipients are doing in research and development involving commercial fisheries resources of the United States will continue to be assisted. We would point out, however, that we consider the $10 million authorization for subsection 4(a) which is called for in H.R. 4576 to be excessive.

While at this time we recommend extension of subsection 4(b), such assistance may be available through other Federal disaster assistance programs, such as those in EDA.

We do not, however, support extension of subsection 4(c). Funds for this program have never been appropriated and we can see no foreseeable need for such funds in the future.

We suggest that subsections 4(a) and (b) be extended for fiscal year 1979 for such sums as may be necessary. Prompt enactment is vital to enable the States and the Federal Government to have sufficient lead time for orderly and effective planning.

Thank you Mr. Chairman, for affording us the opportunity to testify on this important legislation. We would be pleased to try to answer any questions you might have at this time.

CLASSIFICATION OF THE FEDERAL FUNDS BY ACTIVITY FOR FISCAL YEARS 1966 THROUGH 1976 AND FISCAL YEAR 1976

Classification	Fiscal years 1966–76		Fiscal year 1976	
	Amount (thousands)	Percent	Amount (thousands)	Percent
Aquaculture	$2,709	6	227	6
Construction:				
Fish culture facilities	112			
Fish landing facilities	322			
Stream improvement	21			
Hatcheries	144			
Laboratories	1,753		33	
Research vessels	459		41	
Subtotal	2,811	6	74	2
Coordination and planning	3,772	8	215	6
Development:				
Economics	100			
Exploratory fishing	1,701			
Extension services and marketing	5,241		380	
Operation and maintenance	272		19	
Statistics	1,963		332	
Subtotal	10,609	22	730	19
Research:				
Finfish	12,601		1,453	
Shellfish	11,535		1,100	
Subtotal	24,136	51	2,553	67
Disaster aid	3,449	7		
Total	47,486	100	3,800	100

[The prepared statement on H.R. 4627 follows:]

STATEMENT BY JACK W. GEHRINGER ON H.R. 4627

Mr. Chairman and members of the committee, I appreciate this opportunity to make a statement concerning H.R. 4627, a bill to extend the Act of November 2, 1966, as amended, P.L. 89–720 (sometimes known as the "Jellyfish Control Act") which is scheduled to expire on September 30, 1977. The bill would extend the provisions of the Act to September 30, 1980, at the authorization level of $400,000 per year.

The Act authorizes appropriations for the purpose of controlling and eliminating jellyfish, commonly referred to as "sea nettles", and other such pests, and for conducting research on controlling floating seaweed in order to conserve and protect fish and shellfish resources in the coastal waters of the United States and the Commonwealth of Puerto Rico, and for promoting and safeguarding water-based recreation in these waters. State agencies and Puerto Rico's department responsible for the administration of water-based recreation and fishery resources programs may participate under the Act.

The first Federal funds were made available to the States in fiscal year 1968 to initiate the program. The States of Connecticut, Florida, New York, Maryland, North Carolina, Mississippi, and Puerto Rico, participated in the program through fiscal year 1973. In fiscal year 1974, it was necessary to terminate funding for the jellyfish control program in order to continue higher priority programs. There has been no funding for this program since fiscal year 1974. During the six years the program was operative, Federal funds totaling $829,700 were obligated by the seven States and Puerto Rico to carry out the purposes of the Act. Costs of projects were equally funded by the Federal Government and by the States. I have a tabulation of the Federal dollars utilized by the States toward control of jellyfish and other such seasonal pests for fiscal years 1968 through 1974, if the Committee would like it.

Although jellyfish have long been recognized as a nuisance to recreational users of our coastal waters and to isolated segments of the fisheries, little was being done to control them until enactment of the "Jellyfish Control Act". It is extremely difficult, however, to place a monetary value on the damage caused by these pests. Losses because of them take three forms: (1) economic damage to resorts; (2) reduction in property values; and (3) some loss in recreational opportunities for swimmers and boaters.

During the six years the program was funded under P.L. 89–720, primary emphasis was aimed at the jellyfish problem to estuarine water of the Chesapeake Bay. Some studies were made on the distribution, abundance, and seasonal occurrence of noxious pests in the Gulf of Mexico and in the coastal waters of Puerto Rico. Also, limited research was carried out on marine algae in Long Island waters of New York.

As a result of the studies, scientists indicated that it is physically impossible to screen or divert jellyfish from large recreation areas. However, by the use of air-jet barriers, it may be possible to screen them from small and isolated beaches. Also a protective cream and even a vaccine, can be developed to protect swimmers.

To the best of our knowledge, control of a pelagic and free floating animal such as the jellyfish, in large expanses of water in bays and estuaries is a most complicated and almost physically impossible task. We recognize that much more needs to be known concerning the possible beneficial role of these animals, and their relationship to other important species. We do know, however, that jellyfish might have a beneficial value in that they prey on certain organisms known to be detrimental to oysters.

In addition to the jellyfish problem, we need to know more about the marine algae that is troublesome for boaters in some areas and sometimes is a menace to oysters and other shellfish.

We do not feel that control or elimination of these animals should be pursued further at this time. This legislation is not required for providing grants to pursue scientific studies of these animals. Nor is the extension necessary for us to conduct similar research or for us to fund State research through contracts because this could be done under other existing authorizations. In view of this, we cannot support extension of this legislation at this time.

We thank you for affording us the opportunity to express our views on this legislation. We would be pleased to attempt to answer any questions you may have at this time.

[In thousands of dollars; fiscal years]

State	1968	1969	1970	1971	1972	1973	1974	Tota
Connecticut			7.7	7.1	7.5			22.3
Florida		20.0	29.8	13.8				63.6
Maryland	50.0		50.0	46.0	42.0	50.0		238.0
Mississippi	12.3	21.4	28.4	18.2	19.0	19.0		118.3
New York	11.0		19.5	17.9	13.0			61.4
North Carolina					14.0	3.5		17.5
Virginia	19.2	50.0	75.6	61.8	60.0			266.6
Puerto Rico		8.7	14.0	10.0	9.3			42.0
Total	92.5	100.1	225.0	174.8	164.8	72.5		829.7

STATEMENT OF JACK GEHRINGER, DEPUTY DIRECTOR, NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE, ACCOMPANIED BY HERBERT L. BLATT, OFFICE OF GENERAL COUNSEL, NOAA AND PAUL NICHOLS, GRANT-IN-AID PROGRAM, NATIONAL MARINE FISHERIES SERVICE

Mr. GEHRINGER. Thank you, Mr. Chairman.

I have with me today Herbert L. Blatt, Office of General Counsel, at NOAA; and Paul Nichols, grant-in-aid program, National Marine Fisheries Service.

Mr. Chairman and members of the committee, thank you for the opportunity to appear before this committee today to testify on the need to extend the Commercial Fisheries Research and Development Act of 1964, as amended—Public Law 88-309—which is scheduled to expire September 30, 1978.

The Department of Commerce recommends passage of legislation which would extend the authorizations of appropriations under subsections 4 (a) and (b).

Under the present law subsection 4(a) authorizes $5 million per year to carry out the purposes of the act. These funds are apportioned, among the 50 States and the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands, by statutory formula on the basis of the most recent 3-year average of the values of raw fish landed and products processed in each State.

Mr. Chairman, in view of the length of the testimony and because of the fact I am having difficulty with my voice because I have a cold, with your permission, I would like to just address superficially a portion of the testimony and then read a portion which remains.

Mr. BREAUX. All right, that is fine.

Mr. GEHRINGER. We support the key function of the act which is to combine the financial resources and expertise of the States and the Federal Government to make cooperative effort for the development and effective regulation of the Nation's commercial fisheries resources.

All 50 States and the other recipients of the fund have participated in carrying out project activities, and more than 300 people, including scientists and staff support, are continuously employed to gather information to help solve fisheries problems and to provide data for better management of the fisheries.

Since fiscal year 1966, when funds were first made available, substantial results have been achieved. We are talking about a total of 712 projects which have been initiated at a total estimated cost of $70 million. Of these projects, 578, costing about $54 million, have been completed and 134 are continuing at various stages of completion with an estimated cost of more than $15 million.

We are talking about a wide variety of projects and activities including aquaculture, construction, coordination and planning, development, research, and disaster aid.

We have included with this testimony a classification of the Federal funds activity for fiscal year 1966 through fiscal year 1976 to show the trends.

Research continues to be the backbone of the program with 67 percent of the Federal dollars being utilized for this purpose.

When the program started, several recipients including Alaska, California, Georgia, Hawaii, Louisiana, Maine, Massachusetts, Michigan, Montana, New York, Washington, Texas, Puerto Rico, American Samoa, Guam, and others constructed laboratories and/or acquired research vessels and purchased needed equipment which greatly increased their capabilities to better study and regulate the fisheries.

We feel it has contributed much to the State's needs and priorities in a variety of different species and different program activities.

Now, I would like to read the seventh page of the testimony which is the final page. I have a couple of minor changes in it and I would like you to hear these.

We strongly urge that the Congress extend the authorization in subsection 4(a) so that the work the States and other recipients are doing in research and development involving commercial fisheries resources of the United States will continue to be assisted. We would point out, however, that we consider the $10 million authorization proposed in H.R. 4576 to be excessive.

While at this time we are also recommending extension of subsection 4(b), such assistance may be available through other Federal assistance programs, such as those in EDA. Subsection 4(b) is the disaster aid portion of our act.

We do not, however, support extension of the authorization in subsection 4(c). Funds for this program have never been appropriated and we can see no foreseeable need for such funds in the future.

We suggest that subsections 4 (a) and (b) be extended for fiscal year 1979 for such sums as may be necessary. Prompt enactment is vital to enable the United States and the Federal Government to have sufficient leadtime for orderly and effective planning.

Thank you, Mr. Chairman, for affording us the opportunity to testify on this important legislation. We would be pleased to try to answer any questions you might have at this time.

Mr. BREAUX. OK.

Jack, on the 4(a) authorization we have in the bill a $10 million figure and you say on page 7 of your testimony that you think that is somewhat excessive.

How much excessive?

What is your recommendation as far as authorization?

Mr. GEHRINGER. Well, the program appropriations are $3.8 million. The authorization is $5 million under the present legislation.

At this time we feel that the $5 million is adequate in view of the fact that we have a question in our mind with respect to the States' ability to exceed that amount of money in matching funds.

Mr. BREAUX. What kind of request are you operating with now from the States?

Mr. GEHRINGER. We have requests of approximately $1.6 million in reserve programs.

Mr. BREAUX. Then the total request?

Mr. GEHRINGER. Over and above the $3.8 million that we are funded at the present time?

Mr. BREAUX. One point what?

Mr. GEHRINGER. $1.6 million, so we are talking about $5.4 million to $5.5 million.

However, we are not assured that the States will be able to come up with matching funds to handle a $1.6 million increase.

Mr. BREAUX. We have a very realistic problem that some States, I guess, are not going to bother with the application process even though the Department has reached their ceiling as far as funding of the applications is concerned.

Do you have any indication that might be what is happening?

Mr. GEHRINGER. Well, the authorization ceiling has not been reached insofar as appropriations given to us.

Mr. BREAUX. They realize quite well that we have an authorization of x amount; there are many projects which are worthwhile, but they are not requesting funds for these projects, knowing that the money is not there.

Mr. GEHRINGER. We recognize that there are many projects which are worthwhile, but some States, knowing that the Federal money is not there and has never been appropriated, have not requested additional funding to carry out the work. We have on hand requests for funding projects in fiscal years 1975, 1976, and 1977 which exceeded the appropriated funds (requests older than 3 years or more are discarded): fiscal year 1975—$1,125,000—fiscal year 1976—$1,678,000 and fiscal year 1977—$1,609,000.

Mr. BREAUX. Excuse me, I think it would be helpful if we could get, for the committee to look at before we mark up the bill, a list of how much the requests from the States over the past 5 years exceeded the appropriated funds. In other words, it is kind of a survey of what kind of requests we have been getting in as opposed to the amount actually appropriated for the program.

Mr. GEHRINGER. Mr. Chairman, one of the problems in the past has been carryover of funds between years and the States' ability to obligate all of their funds within the time they were available.

With the change in the legislation, it provides a carryover in a 2-year period for the obligation. We feel that obstacle has been surmounted and we would be most pleased to furnish the information.

Mr. BREAUX. I think that would be helpful.

[The following was received for the record:]

CARRYOVER BALANCES

In the past large carryover balances have caused financial management problems. Significant progress, however, has been made to reduce this problem:

[In thousands]

Fiscal year:	*Carryover*
1970	$1,000.0
1971	976.0
1972	938.0
1973	804.7
1974	379.1
1975	377.6
1976	345.6

In the past, some States had trouble getting matching funds, resulting in carryover balances. A procedure has now been established which permits those states to voluntarily release funds to another state(s) that can immediately and effectively use the released funds. This new procedure should minimize the carryover problem.

Mr. BREAUX. What is the problem in 4(c)?

Mr. GEHRINGER. Section 4(c) is a device for fishery development activities for which we have not asked for funds in the past because we have felt that we could conduct the same kind of activities under other authorizations. We have been conducting those kinds of programs, but not under this authorization.

Mr. BREAUX. Under what authorization are you operating?

Mr. GEHRINGER. Our general authorization. We can conduct the same kind of activities that are envisioned under 4(c) with contracts.

Mr. BREAUX. I am very concerned about overlapping and duplication because we end up not doing enough in any one particular area and we have four or five different areas operating and, as a result, we never do the other.

I am not sure I prefer consolidation if that is what we are looking for.

Are you saying that 4(c) authorization is merely duplicating what we are doing elsewhere and, therefore, you do not need it?

Mr. GEHRINGER. My point, sir, is that we can accomplish what 4(c) calls for under other authorizations.

Mr. BREAUX. Can you tell the committee what you are doing under other authorizations that would make this section not necessary?

Mr. GEHRINGER. I will be happy to furnish the kinds and instances of programs developing new commercial fisheries.

If I may back up, this subsection calls for grants to assist the States. We can do this through contracts to provide this sort of activity.

Mr. BREAUX. I see. What the committee needs is more for the record than just a statement, "Well, we are doing it somewhere else so we do not need the authorization here."

For the record, we need exactly where you are doing it, and under what program you are doing the things that are authorized under section 4(c) of this act.

If you are doing it somewhere else, I am sure the members of the committee would agree that we need to have that point proven even though we believe you.

Mr. GEHRINGER. I will add one point. We have another authorization that would permit us to accomplish what 4(c) calls for; now, whether we would elect to expend request funds to do those activities is a matter of priorities. We will be pleased to furnish the record with those things we have done which we think are applicable.

Mr. BREAUX. Thank you.

[The following information was furnished for the record:]

COMMERCIAL FISHERIES DEVELOPMENT FUNDS, FISCAL YEAR 1977

Activity/resource	Federal dollars	Funding sources
New England development of crabs, squid, herring, ocean quahogs, and discarded fish.	$1,362,000	$862 O.R. & F., $500 add-on initiated in fiscal year 1976.
Development of tuna fishery in central and western Pacific Ocean	1,000,000	S–K reserves released by OMB.
Development of groundfish (such as spot, porgie, croaker, etc.) and pelagics (such as spanish mackerel and mullet) in the Gulf of Mexico and off the South Atlantic coast.	414,000	O.R. & F.
Development of trawl fishery for Alaskan groundfish (pollock, ocean perch, cod, flounders).	849,000	O.R. & F.

Mr. BREAUX. Mr. Forsythe.

Mr. FORSYTHE. Thank you, Mr. Chairman.

Jack, I was not following too closely the questions of the chairman and I may be covering somewhat the same ground here, but I understand that you do have a fair amount of backlog under 4(a) in requests from States and from commercial fisheries and so forth for research work that has not been covered in your authorization or appropriation rather.

I believe the chairman asked you to provide this information for the record; is that correct?

Mr. GEHRINGER. Yes, sir.

Mr. FORSYTHE. Back in the same area again about priorities so far as funding is concerned—we are back—if we are really going to make our 200-mile economic zone work, this is one of the key parts of that which is getting the research in terms of the fisheries and keep it for a region.

I make a comment on the section of making the 200-mile economic zone really work.

Mr. GEHRINGER. Yes, we support the idea that we need that in addition to other authorizations we presently have. We think it is a very good complement to, for example, the bill passed last year.

Mr. FORSYTHE. I understand there is $30 million authorized under the specific program?

Mr. GEHRINGER. That is right.

Mr. FORSYTHE. Do you know what is in the budget on that?

Mr. GEHRINGER. Excuse me?

Mr. FORSYTHE. Do you know what is in the budget for that?

Mr. GEHRINGER. For 19?

Mr. FORSYTHE. 1978.

Mr. GEHRINGER. For 1978, I do not know. I believe $25 million is a possibility, but we will have to furnish that for you.

[The following information was received for the record:]

BUDGET REQUEST

In the National Oceanic and Atmospheric Administration's budget request for FY 1978 there is a total of $15,957,000 for this specific program, of which $11,991,000 is in the National Marine Fisheries Service's budget request for FY 1978.

Mr. FORSYTHE. Mr. Chairman, I have no other questions.

Mr. BREAUX. Mr. Emery?

Mr. EMERY. No questions. Thank you.

Mr. BREAUX. Mr. McCloskey?

Mr. MCCLOSKEY. No questions.

Mr. BREAUX. Does counsel have a question?

Mr. MANNINA. You responded that you had about $1.6 million in backlog requests. Do you not have another $1.6 million for anadromous species?

Mr. GEHRINGER. Yes, that is under Public Law 89–304.

Mr. MANNINA. You submitted for the record some information with respect to what the allocations to the States would be if this legislation were enacted and, in the charts submitted, not all the percentages are filled in. I was hopeful that you could submit for the record a filled-in chart.

Mr. GEHRINGER. Is this the one? Would you give the title?

Mr. MANNINA. Calculation of Apportionment of Funds, and that is for fiscal year 1977.

Mr. GEHRINGER. Yes, we will furnish that.

Mr. MANNINA. Thank you.

[The following was supplied for the record:]

CALCULATED APPORTIONMENT OF $10,000,000 UNDER SEC. 4(a) OF THE COMMERCIAL FISHERIES RESEARCH AND DEVELOPMENT ACT USING FISCAL YEAR 1977 VALUES

PUBLIC LAW 88-309 AS AMENDED FOR FISCAL YEAR 1977

States	Average value of landings and processed fishery products [1]		Apportionmen
	Amount (thousands)	Percent [2]	
			0
Alabama	$56, 401	1. 5824	195, 830
Alaska	341, 269	9. 5747	600, 000
Arizona	7	. 0002	50, 000
Arkansas			82, 360
California	610, 572	17. 1303	600, 000
Colorado	271	. 0076	50, 00
Connecticut	2, 676	. 0751	50, 000
Delaware	16, 879	. 4735	58, 600
Florida	204, 843	5. 7471	600, 000
Georgia	49, 960	1. 4017	173, 470
Hawaii	23, 670	. 6641	82, 190
Idaho	33, 423	. 9377	116, 050
Illinois	10, 004	. 2807	50, 000
Indiana	123	. 0034	50, 000
Iowa	1, 550	. 0435	50, 000
Kansas			50, 000
Kentucky	1, 398	. 0392	50, 000
Louisiana	228, 984	6. 4244	600, 000
Maine	117, 829	3. 3058	409, 110
Maryland	98, 303	2. 7580	341, 320
Massachusetts	292, 399	8. 2036	600, 000
Michigan	8, 297	. 2328	50, 000
Minnesota	4, 110	. 1153	50, 000
Mississippi	83, 717	2. 3488	290, 680
Missouri	15, 417	. 4325	53, 520
Montana	102	. 0029	50, 000
Nebraska [1]			50, 000
Nevada	0	0	50, 000
New Hampshire	21, 092	. 5918	73, 240
New Jersey	83, 809	2. 3513	290, 990
New Mexico [1]	0	0	50, 000
New York	92, 903	2. 6065	322, 580
North Carolina	35, 239	. 9887	122, 360
North Dakota			50, 000
Ohio	36, 807	1. 0327	127, 790
Oklahoma	537	. 0151	50, 000
Oregon	100, 087	2. 8080	347, 510
Pennsylvania	60, 336	1. 6928	209, 500
Rhode Island	18, 634	. 5228	64, 700
South Carolina	22, 499	. 6312	78, 110
South Dakota			50, 000
Tennessee			50, 000
Texas	200, 752	5. 6323	600, 000
Utah [1]	0	0	50, 000
Vermont [1]	0	0	50, 000
Virginia	98, 656	2. 7679	342, 540
Washington	125, 085	3. 5094	434, 300
West Virginia	1	. 0000	50, 000
Wisconsin	14, 880	. 4175	51, 660
Wyoming [1]	0	0	50, 000
American Samoa			281, 590
Guam	124	. 0035	50, 000
Puerto Rico	342, 847	9. 6190	600, 000
Virgin Islands	202	. 0057	50, 000
Trust Territory [1]	0	0	50, 000
Total	3, 564, 284	100. 0000	10, 000, 000

[1] No data available for Nevada, New Mexico, Utah, Vermont, Wyoming, and Trust Territory of the Pacific on landings or processing of commercial fishery products.

[2] Data for the following States are not included to avoid disclosure of private enterprise: Arkansas, Kansas, Kentucky, Nebraska, North Dakota, South Dakota, Tennessee, and American Samoa.

Mr. BREAUX. Mr. Everett.

Mr. EVERETT. With respect to the funding on page 7, so I can get it clear, you are suggesting a continuation of the program for 1978 as an extension of the program to 1979 only. Is that correct?

Mr. GEHRINGER. Yes, sir.

Mr. EVERETT. And you also suggest that 4 (a) and (b) be extended with appropriation authorization for sums as may be necessary?

Mr. GEHRINGER. Yes.

Mr. MANNINA. Does that mean you may be requesting more than the $5 million that is authorized under existing law?

Mr. GEHRINGER. Yes, sir, commensurate with the authorization for sums as may be necessary.

Mr. EVERETT. Would you please provide for the record the anticipated cost of this legislation should it be reported as you recommend?

Mr. GEHRINGER. Yes, sir, I will be happy to.

Mr. EVERETT. Thank you, Mr. Chairman, those are all the questions I have.

[The following was received for the record:]

MAXIMUM AUTHORIZATION LEVEL

Based on the cost of approved on-going projects and the cost for the backlog of applications we have on hand, the $5 million authorization appears adequate at present. However, if the authorization is increased and appropriate requests are received for more than $5 million, we would request sums as may be necessary within the authorization level. The cost of the legislation would be a maximum of $5 million at the present authorization level.

Mr. BREAUX. Do you want to proceed on the other legislation pending before us which is H.R. 4627, jellyfish control program?

Mr. GEHRINGER. Yes.

Mr. BREAUX. We have your statement. It was placed in the record previously and it will be printed in its entirety.

You may proceed as you see fit.

Mr. GEHRINGER. I appreciate the opportunity, again, to make a statement concerning H.R. 4627 to extend the act of November 2, 1966.

If I may paraphrase and summarize and give my conclusionary remarks, I would appreciate that.

Over a period of several years a number of States participated in funding research activities under this piece of legislation and, unfortunately, as far as we are concerned, there was no evidence submitted which suggests that it is practical to eliminate or to control these organisms in such a fashion that would suggest that we continue our research in those two areas, elimination, and control.

We believe that these organisms can not be eliminated or controlled except on a very limited basis in small bodies of water.

We do understand that there has been a protective cream and even a vaccine that has been suggested by some of the studies. We will be happy to furnish information as we are able to obtain it on that.

We feel that control or elimination should not be further pursued at this time and the legislation is neither required to provide grants to the States to pursue this work nor to pursue scientific studies of these animals.

It is not necessary that we have this authorization in order to pursue research or contracts because these things could be done under existing authorizations.

In view of this, we cannot support an extension of this legislation at this time. I will be pleased to try to answer any questions that you may have.

Mr. BREAUX. How much money did you spend, Jack, on total program operations?

Mr. GEHRINGER. My data say $829,000.

Mr. BREAUX. The reason I ask that question is that I am a little confused.

In the report that we have from the 92d Congress, 2d session, on the Jellyfish Control Act, you would have a cumulative total of $1,035,064.

Do you happen to know offhand which one is correct?

Mr. GEHRINGER. Our records indicate that of the $1,035,064 which was appropriated by the Congress: $829,000 was spent by the States for program operations; $78,564 was used for program administration; and $127,500 was impounded.

Mr. BREAUX. Out of $829,000 or $1 million which we spent, whichever is correct, what do we get out of the program?

Mr. GEHRINGER. Insofar as we are concerned, we have gotten some negative results of the ability to control and/or eradicate jellyfish which is a productive end of science. However, we think we have exhausted the desirability of pursuing further these types of studies.

Mr. BREAUX. There is no question but that they were not eradicated in the Gulf of Mexico.

Mr. GEHRINGER. That is a very accurate statement.

Mr. BREAUX. I can personally attest to that fact.

Is anyone in any subagency or in the Government doing any work that would touch on the jellyfish program?

It is not just jellyfish, but species of obnoxious character.

Mr. GEHRINGER. There are a number of studies being pursued with respect to the biology of all invertebrates and other animals. It is my understanding that some studies directly related to jellyfish and their relatives have been and are being pursued. However, most of the studies have not gone into control or eradication.

Mr. BREAUX. There was some testimony about creams or salves being developed that would not run the jellyfish away, but would protect an individual from being stung by the fish.

Has that been effective?

Do you know anything about that?

Mr. GEHRINGER. A protective cream that could protect swimmers from jellyfish sting was developed in the laboratory, but was never carried beyond the experimental stage. Development of a vaccine to protect an individual from being stung by jellyfish was considered, but never developed.

Mr. BREAUX. I would like to have a summary of what we have done over the 5 or 6 years that we have had the Jellyfish Control Act program that might be beneficial to show that it was a workable program.

Is this a basis of priority? You only have so much money and you would rather see it spent elsewhere?

Mr. GEHRINGER. With respect to eradication and control of the jellyfish, we think that it is almost physically impossible to accomplish that except on a very limited basis. We do not think it is a good expenditure of the taxpayers' dollars.

We do think that there are questions regarding biology, distribution and abundance as well as some other aspects of the occurrence of jellyfish which can be studied.

At present, it is my understanding we in the National Marine Fisheries Service are not expending funds on that activity, although we could, under other authorizations.

Mr. BREAUX. Are there any other authorizations?

Mr. GEHRINGER. Our general authorization for research.

Mr. BREAUX. You feel that under the general authorization you would have authority to do additional work on jellyfish research if such were determined to be a necessary and proper expenditure?

Mr. GEHRINGER. Yes, sir.

Mr. BREAUX. Mr. Emery.

Mr. EMERY. For how long a period of time has research been done that you are aware of in jellyfish, in terms of growth and distribution?

Has it been an ongoing effort to determine some of these factors?

Mr. GEHRINGER. Some communities, because of local problems, have expended dollars of their own in an attempt to do some things, but to the best of my knowledge, and I will be happy to verify this, this act was the first attempt to do it on this basis.

A search of the literature and canvass of the scientific communities indicate, that prior to enactment of the Jellyfish Control Act there had been some modest beginning in the academic field and by a few State research laboratories to learn about the life history of the jellyfish and related organisms. We are unaware, however, of any earlier major efforts on jellyfish in terms of growth, distributions, chemical composition, and othe biological factors.

Mr. EMERY. Has there been any particular problem with any given species such as the Portuguese man-of-war that has caused any particular kind of problem that we are attempting to address?

Mr. GEHRINGER. Yes, there are several species of stinging nettles or jellyfish which are extremely bothersome. Of course the Portuguese man-of-war is too. I cannot elaborate in any depth on that. I will be happy to make available any information we have.

The problems the program is attempting to address are: First, associated with water-based recreational activities where individuals are stung by sea nettles, Portuguese man-of-war, and other such pests; and second, where jellyfish and similar organisms clog commercial fishermen's nets. Both are problems that are seasonal and generally limited to local or restricted areas.

Mr. EMERY. Is the problem with which you are familiar one of individuals who are engaging in recreational activities, or is it a problem that relates to commercial enterprises?

Mr. GEHRINGER. I think it is a combination. There are some resort owners who are troubled when their revenue drops off because of the occurrence.

I do know that at times they are at least a real nuisance to the fishing industry. Sometimes they are more of a bother to the general public in bathing.

Mr. EMERY. Is there any potential commercial use that you might be aware of for jellyfish, used as a fertilizer, or can we breed them with a grape to make a—is there any potential use?

Mr. GEHRINGER. Not to my knowledge.

As I understand it, there have been some medical studies with respect to the toxins and whether there is some application there, I do not know.

Mr. EMERY. Thank you very much.

Mr. Chairman, thank you very much.

Mr. BREAUX. Mr. Forsythe?

Mr. FORSYTHE. Nothing.

Mr. BREAUX. Mr. McCloskey?

Mr. MCCLOSKEY. No.

Mr. BREAUX. Counsel?

Mr. EVERETT. Mr. Gehringer, the act itself says it is for the purpose of conserving and protecting fish and shellfish.

Could you provide for the record or explain at this time what we are trying to protect, that is, the resources we are trying to protect from the jellyfish?

I understand there are some problems with oysters or some other fish. Can you indicate what we are concerned with with respect to jellyfish as it relates to shellfish and other fish?

Mr. GEHRINGER. Certain forms of jellyfish are bothersome for shrimpers and other commercial fishermen in certain areas by clogging their nets, making the nets difficult to pull and lift. Also, valuable time is lost in sorting the commercial catch from the undesirable jellyfish and other such pests.

Jellyfish are known to prey on the larvae of certain commercially valuable species such as oysters and blue crabs. It is also possible, however, that jellyfish also prey on the larvae of predators such as the flatworm, which prey on commercially valuable species.

Mr. EVERETT. When you provide your response to that question, could you indicate whether you think this problem has been solved since it was discovered in 1966, some 10 years ago, that we did have this problem? I know there has been some research underway, but as you indicated, not too many results have been forthcoming, so I would assume the problem is still prevalent.

Mr. GEHRINGER. We still have the same kind of problem. However, we feel it is not practical, in fact it may be physically impossible, to control jellyfish in the sense that was hoped initially.

We have learned that and we do think that sort of activity should be further studied.

Mr. EVERETT. Are you aware whether any of these States are carrying out research programs on their own with respect to jellyfish since we have not funded this porgram for the last 3 years?

Mr. GEHRINGER. I do not know, but we shall be pleased to answer it.

Mr. EVERETT. You mentioned the sea-grant college program a moment ago. How much money has been expended under that program that would involve jellyfish research, and if you would also briefly explain what programs are involved?

Mr. GEHRINGER. We will be happy to furnish that.

Mr. EVERETT. Thank you.

[The following information was received for the record:]

JELLYFISH RESEARCH BY STATES

To our knowledge the only work being carried on by the states with respect to jellyfish, since P.L. 89-720 has not been funded, is in the Chesapeake Bay area. The research includes monitoring the seasonal occurrence of jellyfish and the environmental conditions under which they occur. Also, laboratory research on life history, chemical composition, etc., that was being conducted

under the jellyfish program is being continued, but it is sporadic and at about 25 percent of the cost of the original planning.

SEA GRANT RESEARCH ON JELLYFISH

The Sea Grant College Program has research projects on jellyfish at the University of Georgia, University of Florida, and Virginia Institute of Marine Science to obtain information on life history and chemical composition of the animals. The annual total cost of the research is $31,300, of which the Federal share is about $20,850.

Mr. BREAUX. If there are no more questions, Jack, I will conclude my questions.

Thank you for your testimony.

Mr. BREAUX. I will call upon Mr. Emery, from Maine, to introduce our next witness who also might be from Maine.

Mr. EMERY. Thank you very much.

Mr. Chairman and members of the committee, I would like to introduce a personal friend of mine as well as a man of considerable reputation in Maine. Dana Wallace is assistant research director of the Maine Department of Marine Resources.

I first got to know him when I became involved in several pieces of legislation in the State legislature relating to the more efficient production and management of our clam resources. We have consulted from time to time on a number of fishery-related issues.

This afternoon he will address himself to the provisions of 88–309 and answer any questions that you might have about the various projects that the State of Maine is engaged in, and he also would like to address himself to the question of the formula allocation and things of that nature which we think are critical to the operation of this program.

I would like to introduce Dana Wallace, and I will assure you that he will give you a most interesting and relevant presentation this afternoon.

Thank you, Mr. Chairman.

Mr. BREAUX. Thank you very much.

Mr. Dana Wallace, we would like to welcome you here for your testimony this afternoon and also to mention that the committee, at the request of Mr. Emery, will be planning to visit your State sometime later on this year, I think in the month of May. We look forward to seeing you in Maine.

We have a copy of your testimony here.

You may proceed as you see fit.

STATEMENT OF DANA WALLACE, ASSISTANT RESEARCH DIRECTOR, DEPARTMENT OF MARINE RESOURCES, STATE OF MAINE, ON BEHALF OF VINAL O. LOOK, COMMISSIONER, MAINE DEPARTMENT OF MARINE RESOURCES

Mr. WALLACE. Thank you very much. Gentlemen, this is in support of H.R. 4576. My name is Dana E. Wallace and I am assistant research director for the Maine Department of Marine Resources, and this statement is presented in behalf of Vinal O. Look who is the commissioner of the Maine Department of Marine Resources.

I am happy to see that Mr. Alperin of the Atlantic States Maine Fisheries Commission will be testifying as well as Charlie Lyle from the Gulf States Marine Fisheries Commission. Certainly we support the statements that they are going to make, particularly Mr. Alperin who is representing the States from the Atlantic Coast. His remarks are, in essence, the things we would say if we were to get into other areas of concern to all of us.

I will go through our comments quickly, and first comment that I was here 13 years ago when we presented the needs before this committee for this kind of legislation. These concepts had their beginning about 8 or 10 years previous to 1964, when east coast study talked, as members of the ASMFC how we could organize the State and Federal efforts so there could be cooperative ventures. It has long been necessary to move forward in carrying on some of the necessary work in fisheries research, management, education, extension, and the other activities for the entire fisheries industry and the Marine resources.

In 1964 I was chairman of the Biological or Advisory Committee of the Atlantic States Marine Fisheries Commission and participated in the early planning. At the committee hearing on 88–309 I commented on the needs of the industry and made numerous references to the practical way in which the money, if appropriated could be used.

We referred to the long-term efforts of the ASMFC to focus attention on the States' lack of funds in solving pressing local problems and their need to cooperate with the Federal Government on research and management involving commercial species having regional or coastwise significance.

At that time I expanded on some of the important areas such as information and communications and on the biological and ecological studies necessary to determine factual information that would serve as a basis for forecasting the abundance of commercial species and biological and economic management of the fisheries. Comments were made on the necessity of keeping up with technological developments, particularly in the realm of harvesting equipment and methods.

It is now a pleasure to report that despite only partial funding it has worked out as we hoped. The most money available to the States has been $4.1 million for a year. For the most part we have had only $3.8 million per year, and we have had to do our planning on that basis. However, the States have made significant advances on various fronts. All of them may not be all that tangible.

The biggest achievement has been the stimulation and the hope given the States to go ahead and launch programs, with the review and approval of the Federal Government. Without this money, most States, especially the State of Maine would spend virtually nothing on fishery research, in proportion to the relative value of the fisheries because there are so few people interested in these activities.

We think this matching fund approach is very proper. It does give incentive. There were many dedicated people in the Congress, in State fisheries departments, in the National Marine Fisheries Service, the industry and the Atlantic, Gulf and Pacific Commissions who got in and pitched very hard to make all of this possible.

We know that there are other people who are not represented here that, if they had been able to appear before you would be able to make

presentations that would give you concrete examples of what they have done with this money and how it has been of very practical benefit to the entire fishing industry and has made better use of marine resources.

We have concrete achievements. Here I thought we would brush over some of the specific things that we have dealt with so you can see that the money has been very well used.

For instance, in our lobster research; we have found that water temperature levels are of paramount importance in lobster abundance. The temperature regimes of the water along the Atlantic Coast have had a very pronounced effect upon what happens to lobster populations.

The research work that we have done indicated that if we were to change the minimum legal size which lobsters can be taken from $3\frac{3}{16}$ inches to $3\frac{1}{2}$ inches, we could increase the annual production by 18 percent.

We are presently engaged in a lobster tagging study along the entire coast to shed more light on migration patterns of adult lobsters, as well as providing refined information on growth, mortality, catch and effort in order to determine optimum yield.

We expect that in the future, if funds are available, we can do aging studies based on chemical and biogenetic factors in order to better interpret 9 years of survey work of the commercial industry, and given an assessment of the age composition of the lobster population and rate of exploitation. We have other facts and figures, but this information would give up a better backup for our data.

Here we will use the science of gerontology, or aging, and a lot of medical techniques that are being used and can be applied here.

In this particular fishery, we are also looking to a log book system that would make it possible for the commercial fisherman to report his daily catch. We feel that this will give a greater credibility to our management effort, and here again, we are trying to manage this resource on the basis of the scientific facts that have been found out and hopefully, carry on our management efforts on that basis.

When the 88–309 program was first launched in 1966, we had money for the first time for a Research Project on Marine Worms. These are used for bait in the sports fisheries At that time our marine worm industry was worth in the order of $3 million to the harvesters.

The commercial marine worm diggers got together and agreed that they would increase their license fees from $3 to $10 and they would put that additional money into an account that could be matched with Federal money. If this Federal money had not been available, this program would not have been initiated.

You may wonder how marine worms can be important to our economy.

It is important to the diggers and dealers. The price per pound proves it to be the most valuable fisheries resource we have per pound. Depending upon the size of the worm, the price per pound may run anywhere from $10 to $20 a pound; currently $10 a pound is a pretty good average price.

We did some work in a bay where one of the power plants is discharging heated water and we found that the increased hot water being put into the bay did have a very definite stunting effect on the size of the marine worm population.

We develop a marine worm sampling program which has enabled us to determine fishing mortality and other biological parameters as necessary for developing management recommendations for the industry.

We have a long-range goal in our worm investigation which is to determine why some intertidal flats are more productive of worms than others, and how modifications in sediments or other ecological conditions can make flats more conducive to the natural setting, growth and survival of marine worms.

A shrimp research project has given us vital data about the catching of our northern shrimp. This 88–309 aid along with other State/Federal funds has made it possible to do gear research and impose gear restrictions aimed at conservation of the resource.

This cooperative shrimp program is of great importance. We feel it is rather unique and it is very far-reaching. The techniques that have been worked out with the nearby States of Massachusetts and New Hampshire is serving as a model for other regional cooperative Federal/State investigation involving resource management. This project has been carried out using a provision of the Compact of the ASMFC that has made available the legal structure for the States to cooperate and develop joint regional resources.

Extension or Advisory-type services have always been a big part of our Maine fisheries aid programs. These matching funds enabled us to have a small full-time staff to help develop and evaluate fishing gear; locate and assess the commercial abundance of utilized and underutilized species, and work directly with fishermen in applying research and development findings.

Marketing programs at both the regional and national level could not have been developed by the Department of Marine Resources without 88–309 funds. Outstanding examples of these programs have been: the production of consumer education materials used to stimulate the sale of all types of Maine foods; a marketing leads service for the commercial fishing industry; the production of two motion picture films which have received a total of 17 national and international awards and which have been seen by some 30 million viewers; and development of fisheries products exhibits and their use at food industry trade shows.

Clearly, we must have matching funds from the Federal Government if we are to continue to perform this vital service for Maine's commercial fishing industry and help to create a continuing demand for high-quality seafood products.

The landings, the amounts received by fishermen in 1976, has something in order of $54 million, but as you well know the value added from the handling and processing of the resource, makes for the creation of economic wealth with the fishing industry being the year-round backbone of coastal Maine and generating in the order of $280 million annually for Maine's economy.

Certainly research development and management needs have existed for many years and have accelerated with the passage of time.

In the first year of the program in 1966, Maine received $223,000. With this tremendous assistance we initiated programs on a priority basis. The impact can be best understood by considering that those funds were more than double our Research, Promotion and Manage-

ment budgets at that time, and for the first time we had money for continuing projects.

Matching funds were immediately a difficulty, but as time has gone on our legislature and budget people have been increasingly sympathetic and have essentially solved this problem. I am fully convinced that if this committee will OK a $10 million appropriation, as far as the State of Maine is concerned. we will match it. I am convinced that most other States will do likewise. Not having full appropriation of authorized funds has always confused the continuity of programs and the launching of new efforts. We think that if this program is put on a more solid basis, we will get the money for matching as will other States.

When you consider the upswing of interest throughout the country and the emphasis that is now going to be placed on marine fisheries, because of the Fisheries Management and Conservation Act of 1976, I think that making the money available to match these funds will be very much in order.

In fiscal 1977 Maine's share of the Federal money had shrunk to $155,500, a decrease of 30 percent since 1966, because of shifts in the value of landings and processed products in other States. Although our own value of landings has increased as has the value of manufactured and processed fisheries products, available Federal funds have decreased, with each dollar becoming more critical as our needs have increased and the cost of everything has skyrocketed.

I would like to insert at this time comments that I have prepared in support of H.R. 2047, which, we had understood earlier would have been heard today. These remarks deal with amending the Research and Development Act (88–309) in order to amend the formula for calculating yearly apportionments to the States.

This is Congressman Emery's bill, and I would like my remarks read into the record here and also recall that when this formula was established in 1964, and based on 100 percent of the value of the raw fish harvested and 100 percent of the value of processed and manufactured products foreign fishing and foreign imports were not having the terrific impact on our domestic fishery that had been evident in recent years.

Since that time, the equal weight given to the poundage of the process and manufactured products in the current allocation formula has worked to the detriment of those States that rely primarily on their domestic catch for income from their fisheries.

While Maine's general trend of production has increased since 1966, the amount of money allocated for matching programs have become increasingly less.

We are proposing a formula that will earmark 25 percent of the available funds based on the processed and manufactured values and 75 percent based on the raw fisheries products. This proposal requires real serious attention and is necessary if the origianl intent of the legislation is to be fulfilled which was to assist the domestic fishing industry.

In the years since enactment, both the value and the landings of significant segments of our fishing industry have fluctuated both up and down. Nevertheless, 88–309 funding for Maine has borne no relationship to these fluctuations, but instead has been overwhelmingly influenced by extraneous fishing activities in other States and, in some

cases, has been substantially affected by the increasing levels of imported fish.

It is ironic indeed that while we have directed the bulk of our 88–309 funds to research, marketing and development activities for those fisheries over which we have full jurisdiction and therefore management control, nevertheless the level of funds that has been available to us for this purpose has been significantly and adversely affected by the very substantial decline in landings of those species which are primarily caught on the high seas and which have been seriously depleted by foreign fishing activities, and the health and well-being of which has been, therefore, entirely out of State or indeed out of Federal control.

This new proposed allocation based on 75 percent of the value of raw fish harvested and 25 percent value of processed and manufactured products, obviously downgrades the weight given to the processing of foreign imports which constitutes a large percentage of the total processing of all fisheries products as well.

It is our firm conviction that State programs should stimulate the domestic catch. It is now of particular importance because as we phase into extended jurisdiction, our domestic fishery industries and States will need all possible economic incentives for the inevitable extension of our fishing fleets and landings.

As domestic production increases and enters into the old and new channels of trade, States that are actively funding and supporting research, development and management and educational programs will be appropriately rewarded under the proposed formula.

Now, going back to my previous statement, as you have heard from others, we, too, have been disturbed that full funding has never been possible for 88–309 programs.

This all appears in great contrast to your unanimous acceptance of the Eastland resolution calling for a national fisheries policy. The studies have been conducted and the final passage and implementation of extended jurisdiction for our country under the Fisheries Management and Conservation Act of 1976 are in existence.

Traditionally, marine fisheries people, unlike agriculturalists, have proportionately little access to financial or other assistance. They receive relatively no help.

My emphasis in these comments has been the highlights of work made possible by the matching funds.

In the future we hope to continue most of these projects and gain greater insight into the complexities of Maine's biological, ecological and social-economic conditions aimed at making definite contributions to the better management and conservation of our entire resource.

Looking to the future with additional funds we can expand our efforts on many programs which are very critical if we are to meet our responsibility in this new age of opportunity made possible under the Fisheries Conservation and Management Act of 1976.

Let me reiterate that in Maine we are talking about resources with landings in the order of 700 and 800 million pounds of fish worth $54 million just to the fishermen, and about $280 million to Maine's economy.

If you use the national ratio of 1:65 for Marine fisheries landing in relation to total value this would give us a total economic impact of about $351 million.

We are speaking here of 20,000 people holding commercial licenses for lobstering, clamming, other fishing and allied activities.

You may ask what we will do if we get some extra moneys?

One of the things we feel strongly is that we have to get out and sell fisheries products. We have to sell our high quality products by fulfilling demands and creating new ways of satisfying consumer needs. Also, back up the supply with good management and conservation of the resource.

We have to fill gaps that hopefully will result from the lack of foreign fish in our markets and move our domestic catch into the channels of trade. These efforts must be well coordinated to be successful.

There is going to be mandatory inspection and quality control programs. In time, we will deliver a consistently good product to the consumer.

We must have a strong statistical program in our State and other States because if we are going to establish and maintain quotas, and make other decisions on the allocation of our resource they must be based on the best possible factual information.

If we are going to determine what moneys are going to be given to the States based on landings or processed product, whatever the funds we have got to have better and better figures; data that we can defend in court, and that must stand up under very close scrutiny.

We need additional environmental information in continuing some of the programs that we have underway.

As far as Maine is concerned, we have been able to do virtually no research on many of the ocean fin fishes. We do have a good herring research program. We need tagging programs on other fin fish which will help us determine which species will be managed by the State of Maine and which by the regional council.

We need to know more about life histories.

What species are predominantly in the State of Maine or in outside waters.

Such decisions have to be made on basic data.

I appreciate your patience in hearing my remarks.

Mr. BREAUX. Thank you very much, Mr. Wallace.

Mr. Forsythe, you are recognized for 5 minutes.

Mr. FORSYTHE. You brought in the Emery amendment and in your testimony you talk about the shrinkage of Federal funds.

How much of that is involved in the appropriation level as opposed to the difference in values in landing and in the processing?

Have you tried to calculate it that way?

Mr. WALLACE. Yes, our funds have been very heavily weighted or influenced by processing of foreign caught fish in other States.

Although our production has gone up, as I mentioned, both in the landing and processing, available Federal funds have dropped off.

The total moneys available for all the State have been fairly constant. There has been $3.8 million for the most part, but our portion of the total amounts have gone down.

Mr. FORSYTHE. Yes.

The appropriation decreased to 3.8 in 1970?

Mr. WALLACE. Yes.

Mr. FORSYTHE. So the real effect has been this change in landing values versus processed values in the formula?

Mr. WALLACE. Yes, sir.

Mr. FORSYTHE. I have a particular interest because we just have received a printout of what the effect of the Emery formula would be and my State of New Jersey loses 10 percent in order for Maine to get 8 percent?

Mr. WALLACE. Yes, we are very well aware of this. Somebody wins and somebody loses.

Mr. FORSYTHE. You can imagine that we are somewhat concerned.

Mr. WALLACE. I know.

Mr. FORSYTHE. Well, I appreciate your concern.

I would certainly agree with my colleague from Maine that Maine's fishing industry is a very, very important and vital part of the economy in the State, a State that I love, by the way.

I spent 15 years in the summers up there, but I think we are going to have to give this formula a pretty good look as we move to markup.

Mr. WALLACE. We do want it looked at very carefully.

Mr. FORSYTHE. Thank you, Mr. Wallace.

Thank you, Mr. Chairman.

Mr. BREAUX. I assure you the gentleman from Louisiana has also looked at the changes in the two different formulas and I note that my State would receive a maximum and remain the same under both formulas and, therefore, I would be very objective in determining which formula is best. [Laughter.]

Mr. Emery?

Mr. EMERY. I guess I ought to comment.

I am most sympathetic to the concerns of the gentleman from New Jersey.

I wouldn't want him to lose a dime.

I am sympathetic.

H.R. 2047 is designed more as a discussion draft to get a discussion of the formula and the allocation system going.

Mr. FORSYTHE. Will the gentleman yield?

Mr. EMERY. Yes.

Mr. FORSYTHE. I assure you we have gotten discussions going.

Mr. EMERY. As we look down the allocation system, under my bill, H.R. 2047, we see a number of States, for example, Nevada, which I don't think can claim that much of a fishing industry that is receiving $19 million——

Mr. MANNINA. $19,000.

Mr. EMERY. $19,000.

I think that under the formula when ever we decide to create changes, we ought to examine the use to which this money is being put in the various States.

It may not have a legitimate claim to a viable commercial fishing industry.

I would hope, Mr. Chairman, that we might be able to incorporate the various recommended changes in the formula in oversight hearings that we may have coming and spend considerable time examining farming and its effect and what we can do with States that are making good use of moneys in 88–309.

My State has become more dependent on it.

Mr. BREAUX. It is the intent of Congressman Leggett to have extensive oversight hearings, and take an indepth look at the formula that is contained in the gentleman's bill to see what would be more equitable.

Mr. EMERY. I appreciate the comments very much.

Let me assure the gentleman from New Jersey and others concerned about the change that I am not interested in reducing allocations to other States to benefit my own, providing that they are making sufficient use of the money and they have proper programs under the proposal as it has been written into the law.

I am very anxious that we come up with a formula that is equitable, whatever it may be.

I am sure that my colleague, Mr. Wallace, would agree with me.

I have no further questions.

Mr. BREAUX. Do you have any questions, counsel?

Mr. EVERETT. Thank you, Mr. Chairman.

Mr. WALLACE, if my arithmetic is correct, the State of Maine is spending about $50,000 per year of its own money in its program?

Mr. WALLACE. Although many of these programs would qualify as 75–25 matching, an administrative decision was made to fund programs on a 50–50 basis so that the money would spread further into more projects, so we are essentially matching 50–50 any and all money available.

Mr. EVERETT. If the legislation is passed in its present form, which calls for a doubling, do you think your State would be able to take advantage of that extra funding?

Mr. WALLACE. Absolutely.

Mr. EVERETT. Do you have any requests pending before the Commerce Department now for any extra funds that may be made available under the act?

Mr. WALLACE. We drew up a list with additional projects that we wished to undertake a year and a half ago and they were sent to NMFS when they asked for such a listing.

Mr. Alperin will comment on the States in general.

Believe me, we know how much money there is.

There is no point in our making a lot of additional requests if we know the money is not there to match it. We tailor the funds we ask for in accordance with what we know is to be available.

Mr. BREAUX. If there is more money available, you would tailor your requests?

Mr. WALLACE. Yes, in the future we will do this, as we have a list of projects; sort of a Christmas list.

Mr. EVERETT. I will ask you about 4(b).

You heard the Department of Commerce say that they would support that at the present level of funding.

Are you in favor of extending that provision also?

Mr. WALLACE. Yes, we are in favor of these other provisions in detail.

Mr. EVERETT. You are also in favor of 4(c)?

Mr. WALLACE. Yes, it will be explained by Mr. Alperin.

Mr. EVERETT. Have you ever had an opportunity to request any funding under 4(c) whereby the Department of Commerce will assist you in commencing a new fishery in the State of Maine?

Mr. WALLACE. No. there is an ocean quahog fishery which is going to be a new fishery where we need assistance. This is entirely a new fishery. If funds were available we could also select other under-

utilized species that could be developed. We need money to do this type of work.

Mr. EVERETT. Thank you.

Mr. BREAUX. As to the funds that the State of Maine is receiving under the sea grant program, some might be used in this type of operation?

Mr. WALLACE. As to the sea grant program, the Department of Marine Resources has in the past received about $75,000 as part of our extension services.

However, the University of Maine does receive other funds which are not available to us. These are separate programs.

Mr. BREAUX. Do you know how they are using their funds?

Mr. WALLACE. The University of Maine is using their funds in a variety of ways. They have an aquacultural development program at their Marine Center at South Bristol. They are doing excellent work there, and we have worked with them on various projects, and communicate regularly. We are also cooperating with the University of Maine and the University of New Hampshire on a program to expand markets for mussels. A number of our research people act as advisors on programs funded by sea grant where graduate students are used. Their extension agents assist our area biologists in providing resource information to the towns for management programs.

Mr. BREAUX. Your agency does not coordinate?

Mr. WALLACE. Yes, we do to some extent, and we review projects with them, but I personally was on sick leave, for a long period of time and did not participate in the last review of this program.

We are the Department of State Government responsible for research, marketing, extension services, and educational activities and allied conservation and management efforts.

Mr. BREAUX. OK.

Mr. Wallace, the committee would like to thank you for your detailed statement and your helpful suggestions which you have made to the committee and we look forward to seeing you perhaps when the committee has an opportunity to visit the State of Maine.

Mr. WALLACE. I hope that you may do so.

[The prepared statement of Mr. Dana Wallace follows:]

STATEMENT OF DANA E. WALLACE, ASSISTANT RESEARCH DIRECTOR IN BEHALF OF VINAL O. LOOK, COMMISSIONER, MAINE DEPARTMENT OF MARINE RESOURCES

Nearly 13 years ago, I appeared before this committee in behalf of the Maine Department of Marine Resources and the Atlantic States Marine Fisheries Commission. During that period, I was Chairman of the Biological or Advisory Committee of the Atlantic States Marine Fisheries Commission and participated in the early planning and presentation of East Coast needs to Congress. At that time, we were pleading for legislation to establish a cooperative state-federal program to promote Commercial Fishery Research and Development. In 1964, I commented on the many needs of our fishing industry and made numerous references to the practical way in which this money would be used. At that time, I referred to the long-term efforts of the A.S.M.F.C. to focus attention on the states' lack of funds to solve pressing local problems, and their need to cooperate with the Federal Government on research and management involving commercial species having regional or coastwide significance.

I expanded on some of the important areas such as information and communications and on the biological and ecological studies necessary to determine factual information that would serve as a basis for forecasting abundance of commercial species and biological and economic management of the fisheries. Comments were

made on the necessity of keeping up with technological developments, particularly in the realm of harvesting equipment and methods.

It is now a pleasure to report that despite only partial funding of the program over the years, the states have made significant advances on various fronts, some of them real but intangible, along with many concrete achievements in the developing of knowledge and its application to the conservation of commercial marine species and their environment.

The matching-funds approach of aid to the states has worked in stimulating research, development, and management efforts along the entire coast. Many dedicated people in the Congress, state fisheries departments, National Marine Fisheries Service, the industry, and the Atlantic, Gulf, and Pacific Commissions aided in developing the provision of P.L. 88–309. Fortunately, for the commercial fisheries and the state programs, this significant legislation became Public Law 88–309. We know that your committee has been hearing the facts as to the tremendous impetus this program has given to research and development activities in the coastal states. I would like to add a few facts and observations in behalf of the State of Maine.

Our lobster researchers have found that water temperature levels are of paramount importance in Lobster abundance. Also that the minimum size at which lobsters are taken should be increased from 3/16" to 3½" carapace length. This would yield about 18% greater poundage of lobster annually. We are presently engaged in a tagging study along the entire coast to shed more light on migration patterns of adult lobsters, as well as providing refined information on growth, mortality, catch and effort in order to determine optimum yield.

As a result of knowledge gained through the 88–309 project, we expect in the future that if funds are available, we can do aging studies based on chemical and bio-genetic factors in order to better interpret 9 years of survey work of the commercial industry, and give us a firm assessment of the age composition of the lobster population and rate of exploitation. We will use the science of gerontology. Additional funds would be useful to incorporate a log book system to be completed daily by the lobster fishermen. This can then be incorporated into our ongoing commercial survey. This will give greater credibility to our management efforts. We are looking forward to managing the lobster population better and have future regulations based on scientific information.

When P.L. 88–309 became a reality, our marine worm industry, worth in the order of 3 million dollars per year to the diggers, responded by initiating and supporting legislation to increase the fee for diggers and dealers licenses, and use these dedicated funds for matching purposes. This voluntary action made possible a successful project. Incidentally, digging a pound of marine worms for bait can pay the digger as high as $30 a pound with $10 a pound being a more average yield, all depending on the size of the worms harvested.

One research finding was that within the influence of a heated water effluent from an atomic power plant, worms became stunted and fewer reached commercial size. This is an industry where demand exceeds the supply and over fishing is a threat to the resource.

A marine worm sampling program was developed which has enabled us to determine biological parameters, such as natural and fishing mortality, necessary for development management recommendations for the industry.

A long range goal is to determine why some intertidal flats are more productive of worms than others, and how modifications in sediments or other ecological conditions can make flats more conducive to the natural setting and survival of marine worms.

The 88–309 shrimp funding project has given us vital biological data and other information about the catching of our northern shrimp. This aid along with other state/federal funds has made it possible to do gear research and impose gear restrictions aimed at conservation of the resource.

Also of great importance is the development of a cooperative shrimp program, with the federal government, Massachusetts, and New Hampshire, that is serving as a model for other regional cooperative federal/state investigations involving management techniques. This latter project has been carried out using a provision of the Compact of the ASMFC that has produced the legal structure for the states to cooperate and develop joint regional regulations.

Extension or Advisory type services have always been a big part of our Maine Fisheries Aid Programs. The 88–309 funds enabled us to develop a small full-time staff to help develop and evaluate fishing gear; locate and assess the commercial abundance of utilized and underutilized species, and work directly with fishermen in applying research and development findings.

Marketing programs at both the regional and national level could not have been developed by the Department of Marine Resources with P.L. 88-309 funds. Outstanding examples of these programs have been the production of consumer education materials used to stimulate the sales of all types of Maine seafoods; a marketing leads service for the commercial fishing industry; the production of two motion picture films which have received a total of 17 national and international awards and which have been seen by some 30 million viewers; and development of fisheries products exhibits and their use at food industry trade shows.

Clearly we must have matching funds from the Federal Government if we are to continue to perform this vital service for Maine's commercial fishing industry and help to create a continuing demand for high quality seafood products.

The fishing industry is the year-round economic backbone of Coastal Maine and generates in the order of 280 million dollars annually for Maine's economy. Research, development, and management needs have existed for many years and are accelerating as pressures on our marine resources have increased.

In the first year of the 88-309 programs in 1966, Maine received $223,000. With this tremendous assistance we initiated programs on a priority basis. The impact can be understood in considering that this amount was more than double our Research, Promotion and Management budget at that time, and for the first time we had funds for continuing projects. Matching funds were immediately a difficulty, but as time has gone on our Legislature and Budget people have been increasingly sympathetic and have essentially solved this problem.

In FY 1977 the federal share had shrunk to $155,500, a decrease of 30 percent since 1966, because of shifts in the value of landings and processed products in other states. Our own value of landings has increased as has the values of manufactured and processed fisheries products. As our available federal funds have decreased, each dollar has become more critical as our needs have increased and the cost of everything has skyrocketed.

As you have heard from others, we too have been disturbed that full funding has never been possible. This all appears in great contrast to your unanimous acceptance of the Eastland Resolutions calling for a national fisheries policy and the studies that have been conducted and the final passage and implementation of extended jurisdiction for our country. Traditionally, marine fisheries people, unlike agriculturist, have proportionally little access to financial or other assistance.

My emphasis in these comments has been the highlights of work made possible by the matching funds of the 88-309 programs.

We hope to continue most of these projects and gain greater insight into the complexities of Maine's biological, ecological, and socio-economic conditions, as well as make definite contributions to the better management and conservation of our resources.

Looking to the future with additional funds we can expand our efforts and better fulfill the many needs of the fishing industry for many types of data. This is all very critical if we are to meet our responsibilities in this new age of opportunity made possible under the Fisheries Conservation Management Act of 1976.

Mr. BREAUX. Our next witness is Mr. Irwin M. Alperin of the Atlantic States Marine Fisheries Commission.

Mr. Alperin, the committee would like to welcome you.

We also have a copy of your testimony, which will be printed in the record in its entirety, and you may proceed as you see fit.

STATEMENT OF IRWIN M. ALPERIN, EXECUTIVE DIRECTOR, ATLANTIC STATES MARINE FISHERIES COMMISSION, ON BEHALF OF ASMFC, AND FOR JOHN P. HARVILLE, EXECUTIVE DIRECTOR, PACIFIC MARINE FISHERIES COMMISSION

Mr. ALPERIN. Thank you, Mr. Chairman.

I am appearing on behalf of the Atlantic States Marine Fisheries Commission, and also for John P. Harville, the executive director of the Pacific Marine Fisheries Commission, because he is busy with council activities on the west coast, and could not come to Washington.

Also, I would like to take this opportunity to thank the members of the Merchant Marine and Fisheries Committee and their staff for their efforts in trying to get some supplemental fishery management money for regional councils that are badly in need of funds to carry out their mandate.

We appreciate your efforts.

Mr. Chairman and members of the subcommittee, we thank you for the opportunity to appear before the committee today to express the views of the member States of the Atlantic States Marine Fisheries Commission and the Pacific Marine Fisheries Commission on H.R. 4576, which would amend the Commercial Fisheries Research and Development Act of 1964, by authorizing new, higher levels of appropriations for fiscal years 1978, 1979, and 1980, to carry out the purposes of the act.

Mr. Chairman, in your address to the newly appointed regional fishery management council members last September, you emphasized that a new regime for fisheries management has been called into being by the Fishery Conservation and Management Act of 1976, and you called upon all concerned to facilitate the work of the new level of government represented by the Regional Councils. These Councils are now in place and operating, and the new regime for fisheries is off to a strong start; with foreign nations generally accepting the 200-mile fishery jurisdiction established by the United States. Councils are actively involved in development of fishery management plans pursuant to Public Law 94–265. Several of these council-developed plans dealing with key fisheries off the New England and Pacific coasts have been forwarded to the Secretary of Commerce for action. A number of others are near completion.

Provisions of the Fishery Conservation and Management Act have established several strikingly new dimensions for fisheries management with which management plans must be consistent. These regard optimum yield, management of a stock as a unit throughout its range and efficiency in utilization of resources. Most emphatically these standards require that conservation and management measures be based on the best scientific information available.

Mr. Chairman, through these new national standards and the specified contents for fishery management plans, the U.S. Congress has indeed opened a new era for fisheries conservation and management, in which both the geographic scope and the operational goals for that management are constructively expanded and modernized. However, this new scope and these new goals place unprecedented demands upon our fisheries research and management capabilities.

Our assumption of management authority throughout the 200-mile conservation zone in concert with management within the territorial sea, the estuaries and rivers, enormously expands both areas to be surveyed and managed, and species and stocks to be considered. We have established our intent to manage according to these new dimensions but it is incumbent that we bolster our capabilities to manage intelligently on the basis of the best scientific information available.

The new regional fishery management councils are funded and staffed for management plan development and implementation, but not for the basic research and monitoring of the fishery. The legislative history of Public Law 94–265 indicates the intent of Congress that

council staffs remain small, and essentially administrative in scope and function. But it follows that in order to assure a continuously updated flow of "best available scientific information" for use by the councils in management planning and by States to meet these new criteria, sometimes in overlapping jurisdictions, the research and monitoring capabilities of State, Federal and interagency cooperative programs must be significantly expanded.

We respectfully urge that one of the most immediately productive areas for this augmentation of management capabilities would be through major increases in support for grant-in-aid cooperative programs under Public Law 88–309, the Commercial Fisheries Research and Development Act of 1964, as amended.

Mr. Chairman, we must point out that despite the progressive annual attrition of inflation, and the constantly increasing need for an improved information base for managing our marine fisheries, the Commercial Fisheries Research and Development Act has been level-funded—at only $3.8 million—for some 7 years—since 1970!

Today, we applaud and strongly support the initiative you have taken, along with Mr. Forsythe, in introducing H.R. 4576, to substantially increase the authorization under this law beginning with the next fiscal year of 1978. In view of the urgent needs outlined for support of regional council programs, and at the same time to permit our States to rejuvenate and expand their research and development program capabilities as intended under Public Law 88–309, we urge that this increased authorization be approved at once, and then implemented through supplemental appropriations for fiscal year 1978.

Mr. Chairman, we would point out that in addition to increasing the authorization of section 4(a) to $10 million for fiscal years 1978, 1979, and 1980, you also would provide substantially increased authorizations for sections 4(b) and 4(c). We in the States are acutely aware that for years now there have been no appropriations made for commercial fishery failure due to resource disaster but surely the disasters have been manifest annually. Resource damage and fishery failures from flood, storm, red tides are commonplace these days. Witness this year's devastation of fishery resources along the Atlantic coast resulting from our abnormally cold weather. In our locale, severe damage occurred to oyster, crab and clam resources throughout the Chesapeake Bay and complete annihilation of the Atlantic croaker—a valuable commercial and recreational species—year class in this same area. There is evidence of near 100 percent mortality of overwintering shite shrimp in North Carolina, South Carolina, Georgia and northeastern Florida. It will take disaster funds to assist in the recovery of these fisheries in spite of past administrations expression that you can't predict the need in advance and the funds sit idle. We know and can demonstrate that there is need for fisheries disaster relief every year.

That's why the legislation was proposed and passed in the first place. And, of course, gentlemen, 4(c) money for the development of new fisheries has never been appropriated since the initiation of the act. Surely this has been a loss to the States since they were obligated to use most or a portion of their allocation of 4(a) funds in the process of establishing new fisheries. Since you, Mr. Chairman, envision these financial assistances we would encourage your assistance in securing

appropriations for these neglected aspects of Public Law 88–309 in fiscal year 1978 and sequence.

We believe it is unnecessary here to overly dwell on the serious negative impacts dealt our programs by inflation over this long 7-year period of less than authorized level-funding. We know you are aware of this problem and the degree to which it can vitiate promising projects and programs needed to update State management capabilities. A year and a half ago States were asked to identify potential grant-in-aid projects should funds be available. A backlog of millions of dollars of worthwhile projects was established—for example, New York listed some 19 projects costing upward of $2 million over a 3- to 5-year period—but they still remain unattended and unattainable today. On the Pacific coast, as examples of high-priority programs, there is need for expanded fish aging determinations as a basis for stock assessment and a coordinated coastwide fisheries data system. Both programs can expand no further without Federal assistance and both are needed to serve equally State management and Fishery Conservation and Management Act objectives. Additionally, Federal aid coordinators in Washington and Oregon indicate that projects totaling more than $1 million are eligible for funding but are presently deferred for lack of available Federal money.

Finally, Mr. Chairman, although we note that your legislation would authorize funds through fiscal year 1980, we believe that for all around economy of effort the Commercial Fisheries Research and Development Act should be extended for 4 or 5 years, rather than 3, as has been our experience in the past extensions.

Mr. Chairman and members of the committee, on behalf of our 20 member-States we most appreciate this opportunity to be heard on this legislation that has been of inestimable assistance to State marine fisheries research and development objectives.

Thank you.

Mr. BREAUX. Thank you very much, Mr. Alperin, for your testimony.

On page 2 you talk about the passage of the 200-mile bill and that we have a great deal more work to do with regional fisheries management councils.

The funding that we have is for management and administrative purposes and not for research and development.

Where would we get the money for that research if it is not contained in this bill?

Mr. ALPERIN. Well, there was a portion of the money that was originally designated in the National Marine Fisheries Service fiscal year 1977 extended jurisdiction funding. $3.1 million was for council activities. $600,000 of that was held back for grant money. None of that grant money has so far been allocated to any independent agency or any State to help the councils in the developent of their plans or to do any research that would contribute to their plans; that is the amount of money I know that is supposedly available for this kind of activity.

Mr. BREAUX. Counsel and I were discussing $25 million under the 200-mile fishing bill.

Wasn't that for commercial development?

[The following was submitted:]

EXTENDED JURISDICTION BUDGET, FISCAL YEAR 1977 REQUEST AS SUBMITTED TO OMB

Activity	Positions	Amount (Thousands)
NOS—Boundary surveys	18	$1,800
Ship support services	31	8,979
Increase FRV ship days 180 to 250	28	1,331
Plan for new ship construction	3	148
Plan and contract for 2 class IV (120's) vessels	---	7,500
Marmap: Data analysis	32	1,994
International fisheries management	9	275
State-Federal fisheries management	88	4,181
Support to regional councils	56	3,111
Regional fisheries management staff	20	515
National review of operations	3	103
Secretary's review/evaluation	7	360
Permit system	2	52
Communication/education	---	100
Enforcement and surveillance	31	1,107
Economic/statistics	28	1,257
Legal/administrative	33	497
Total, NOAA	270	20,090

FISCAL YEAR 1977 EXTENDED JURISDICTION FUNDING

[Funds expjected to be available Oct. 1]

	Position	Amount (Thousands)
National Marine Fisheries Service	176	$9,991
Data analysis	36	1,994
Coastal zone management support	8	280
Intrnational fisheries management	7	275
State/Federal fisheries management:		
Regional fisheries management staff (in NMFS)	25	515
National review of operations (in NOAA)	15	403
Permit system	6	52
Regional council operations	---	3,111
Enforcement/surveillance	31	1,107
Economic/Commission fisheries statistics:		
Regional data management systems	18	715
Bioeconomic data bases	28	1,024
Recreational fisheries	2	515
National Ocean Survey	37	11,012
Boundary surveys	6	1,506
Vessel construction/support	31	9,512
Sea grant	---	500
Executive administration	33	497
Total	246	22,000

Mr. ALPERIN. I don't see any biological research or development money in the $22 million extended jurisdiction budget. (See 1977 Ext. Jur. Frieberg.)

It supports a lot of activities of the National Marine Fisheries Service and NOAA, but I don't know if specifically there is research money, and certainly none that the States would share for their part in Public Law 94–265.

I was privy to the proposed NMFS budget when it was given to Mr. Leggett.

Originally they asked for $20.09 million. (See NMRS fiscal year 1977 Budget Request to OMB.)

There were funds for observers, for building research vessels for administrative support, for the National Marine Fisheries Service and NOAA personnel, and budgets for the regional councils operations, but no research money.

Mr. BREAUX. Counsel was telling me about the $7.5 million that was deferred.

Mr. ALPERIN. That was for vessel construction.

Mr. BREAUX. No; for research.

Mr. ALPERIN. $7.5 million?

I am sorry, I don't understand that.

The $7.5 million was to construct two shallow draft research vessels at a cost of about $3.5 million apiece for assessment work.

Mr. BREAUX. We will have to leave at the second buzzer.

Mr. Forsythe?

Mr. FORSYTHE. Thank you, Mr. Chairman.

You support the bill as now drafted, I gather?

Mr. ALPERIN. Yes, sir, and we do believe money is needed in both 4(b) and 4(c).

Mr. FORSYTHE. Of course you know this is the authorization bout. It is still in the Appropriations Committee which is where the real money is.

Mr. ALPERIN. Yes; we are prepared to come back and ask for your help.

Mr. FORSYTHE. I am intrigued by your exposition of this need in regard to the 200-mile fisheries bill.

I do think you have an important point that this committee should give consideration to.

Mr. ALPERIN. So many of these species are caught principally within the territorial sea and State agencies have been studying them to the degree of the money available.

We need a lot more money to conduct research to write management plans to cover the fish that swim between the territorial seas of 15 adjacent States on the Atlantic coast where most of them are caught and extend into the 200-mile conservation zone.

I don't think there is that kind of money in the $3.8 million that the 50 States and their territories are sharing now under Public Law 88–309.

[The following was received:]

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of Public Law 93–344

Department of Commerce—National Oceanic and Atmospheric Administration

OPERATIONS, RESEARCH AND FACILITIES (SHIP CONSTRUCTION) 13X1450

New budget authority (Public Law 94–362)	[1] $566, 215, 000
Other budgetary resources	62, 781, 270
Total budgetary resources	628, 996, 270
Amount to be deferred: Entire year	7, 500, 000

[1] Does not include $55,000 transfer to General Administration, Department of Commerce, for water resources planning activity.

OMB identification code: 13-1450-0-1-306.
Grant program: No.
Type of account or fund: No-year.
Type of budget authority: Appropriation.

JUSTIFICATION

This deferral of $7.5 million will delay funding until 1978 for the construction of two new (Class IV) fishery research vessels provided in the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1977 (Public Law 94-362). The funds are available until expended. Construction of the two new research vessels was provided for in order to give the National Oceanic and Atmospheric Administration (NOAA) additional ship-days to conduct the expanded fisheries resources conservation, assessment, and management efforts required by section 304 of the United States Fisheries Management and Conservation Act of 1976 (Public Law 94-265). The deferral is appropriate because this expenditure of funds is not actually needed at this time to provide the additional ship-days.

ESTIMATED EFFECTS

The construction delay should have no adverse impact on the fisheries resource program in that the need for additional days at sea can be met by five other existing NOAA ships which will be upgraded.

Outlay effect (estimated in millions of dollars)

Comparison with President's 1978 budget:	
1. Budget outlay estimate for 1977	$572.7
2. Outlay savings, if any, included in the budget outlay estimate	3.8
Current outlay estimate for 1977:	
3. Without deferral	576.5
4. With deferral	572.7
5. Current outlay savings (line 3 minus line 4)	3.8
Outlay savings for 1978	—.1
Outlay savings for 1979	—3.7

Mr. FORSYTHE. New Jersey is interested in the menhaden problem that is largely caught in the territorial sea.

Mr. ALPERIN. I think 90 percent of the menhaden are caught within the territorial sea and internal waters of the States.

I don't know the exact breakdown of landing statistics.

Mr. FORSYTHE. The migratory fish is in other waters also?

Mr. ALPERIN. Menhaden occur in all the Atlantic coast States from Florida to Maine.

Mr. FORSYTHE. Thank you.

Mr. BREAUX. Mr. Hughes?

Mr. HUGHES. Thank you, Mr. Chairman.

I have no questions of the witness.

Mr. BREAUX. OK.

Counsel has one question.

Mr. EVERETT. Irwin, can you take a poll?

I will ask the same thing of the Gulf States Marine Fisheries Commission, and maybe you could pass the same request on to John Harville, executive director of the Pacific Commission.

Could you poll your States informally and supply for the record what the States think they could use of the 4(a) as well as 4(b) moneys, should the legislation be passed?

You pointed out there were a lot of disasters that had occurred.

Did many States ask for disaster relief?

Are they passing these requests onto the Commerce Department or have they elected not to do so since the money has not been available?

Mr. ALPERIN. The States have been leery to ask for anything because, as you know, there is no appropriation provided.

We have had many problems with hurricanes and fresh water damage on the gulf, South Atlantic, and Mid-Atlantic coasts, and serious red tides in New England.

States always have to go to EDA and wait 900 months to get a dollar.

The disaster and fishery failure is ancient history by the time we get money for disasters.

Mr. BREAUX. How about the Small Business Administration?

Some in my district received some.

Mr. ALPERIN. Public Law 88–309 was set up so you could have some money in advance if there would be any available.

We have had annual disasters. This year is no exception.

Even if the money lies idle, it is not that much, and if not used could carry over to the next year and it would help significantly if it were available instantly.

Mr. EVERETT. If you poll the States informally do you think you could get this information for us in a matter of a couple of weeks?

Mr. ALPERIN. Yes, sir, we can do that right away.

Mr. EVERETT. It will be helpful when the bill goes to the floor for a vote.

Mr. ALPERIN. Surely.

Mr. EVERETT. Thank you very much.

Mr. BREAUX. Thank you very much.

Your testmony has been very helpful.

The subcommittee will stand adjourned until 3:45 p.m.

[A short recess was taken.]

[The polling information supplied by Mr. Alperin, Mr. Lyles, and Mr. Haville follows:]

ATLANTIC STATES MARINE FISHERIES COMMISSION ALLOCATIONS

Atlantic Coast States Projects Applicable to the Commercial Fishery Research and Development Act of 1964 (P.L. 88–309) if Funding Levels and State Allocations Were Increased.

MAINE

Title: Marketing Program for Domestic Caught Fish and Shellfish.

Objective: To move domestic-caught high quality fish and shellfish through established and new channels of trade to the consuming public.

Duration: Five years.

Cost: $120,000 per year.

Title: Expansion of Maine Marine Resource Data Collection and Analysis.

Objective: To strengthen the statistical system to assure more pertinent data gathering and economic analysis to meet the needs of industry and the mandatory requirements under the new Fisheries Management and Conservation Act of 1976.

Duration: Five years.

Cost: $100,000 per year.

Title: Improved Environmental Monitoring System at Boothbay Harbor.

Objective: Update of equipment and water temperature data and other parameters of environmental collection since 1905 for wide scientific use.

Duration: Five years.

Cost: $32,500 per year.

Total Cost Per Year: $252,500:

NEW HAMPSHIRE

Title: Salt Water Smelt Study.
Objective: To determine management measures that will result in improved spawning success and resultant commercial harvest of smelt.
Duration: Three years.
Cost: $7,000 per year.
Title: Blue Mussel Study
Objective: Develop growth improvement methods and market potential of an underutilized blue mussel resource.
Duration: Three years
Cost: $9,000 per year
Title: Inventory of Near Coastal Finfish Resources
Objective: Determine the location and abundance of various finfish species in relation to time. Determine the dollar value and management possibilities in the various areas under state control. These would include Great Bay, Hampton-Seabrook Estuary, Isles of Shoals and general coastal area.
Duration: Five years
Cost: $20,000 per year
Total Cost Per Year: $36,000

RHODE ISLAND

Title: Surf Clam Stock Assessment in Rhode Island Territorial waters
Objective: Determine population levels with particular emphasis on locating stocks for the bait fishery.
Duration: Three years
Cost: $40,000
Title: Bio-mass Study of Conches in Narragansett Bay.
Objective: Determine standing stock and M.S.Y.
Duration: One Year
Cost: $20,000 per year
Title: Fisheries Log Book
Objective: Initiate commercial fisheries log book program
Duration: Indefinite
Cost: $15,000 per year
Title: Stock assessment of weakfish
Objective: Determine basic biology of fish caught in Rhode Island gill net and trap fisheries.
Duration: Two years
Cost: $15,000 per year
Title: Stock Assesment of Fluke in Rhode Island waters
Objective: Determine movements and year class strength of fluke summering in Rhode Island waters
Duration: Two years
Cost: $30,000 per year
Title: Monitoring of pesticides and heavy metals in commercial finfish flesh
Objective: Determine presence and levels of pesticides and heavy metals in commercial finfish flesh.
Duration: Two years
Cost: $65,000 per year
Title: Establish shellfish hatchery at Jerusalem, Rhode Island
Objective: To raise and stock, where necessary, scallops, oysters, and hard clams.
Duration: Three years
Cost: $30,000 per year
Title: Assessment of northern crab stocks out to fifty fathoms.
Objective: Determine fishing and natural mortality rates and seasonal movement of northern crab.
Duration: Two years
Cost: $35,000 per year
Title: Distribution of lobster larvae
Objective: Determine the source and seasonal movement of lobster larvae in Narragansett Bay and related waters.
Duration: Two years
Cost: $20,000 per year
Title: Mid-shelf (50 fathoms) lobster tagging.
Objective: Obtain needed management information for lobsters in an area

that has not been previously studied.
Duration: Two years
Cost: $45,000 per year
Title: Establishment of marine fisheries research center at Fort Wetherill
Objective: Tto establish a much needed new wet and dry lab facility for the Rhode Island Division of Fish and Wildlife.
Duration: Three years
Cost: $60,000 per year
Title: Abundance of juvenile menhaden in Rhode Island waters.
Objective: Determine potential year class strength of northern raised menhaden.
Duration: One year
Cost: $17,500 per year
Title: Continuation of program to monitor pesticide and heavy metal concentrations in Rhode Island shellfish.
Objective: To continue present program to provide baseline data for pesticide and heavy metal concentrations in salt pond sediment and in bivalves occurring in these salt ponds.
Duration: Two years
Cost: $100,000 per year
Total Cost Per Year: $467,500

NEW YORK

Finfish

Title: Study of mortality rates of the American lobster in Long Island Sound.
Objective: To determine the effect of increasing the size limit on the lobster.
Duration: Three years
Cost: $10,000 per year
Title: Study of the escapement of black sea bass from lobster pots via lath openings.
Objective: To determine the effect of proposed lath openings on the catch of sea bass.
Duration: One year.
Cost: $5,000 per year.
Title: Study of rate of exploitation of the sportfishery for summer flounder in Great South Bay.
Objective: To determine changes in the fishery which may have occurred due to the increased fishing pressure in New York.
Duration: Three years.
Cost: $5,000 per year.
Title: Study of the bait fish of Long Island Sound.
Objective: To examine techniques for increasing the abundance of availability of bait fish in the Sound.
Duration: Three years.
Cost: $5,000 per year.
Title: Study of the spawning of the weakfish in New York waters.
Objective: To determine the effect, if any, of commercial fishing on the weakfish population in Great South Bay (or N.Y. marine district).
Duration: Three years.
Cost: $15,000 per year.

Shellfish

Title: Comparative reliability of certain bacteria as indicators of pathogens in hard clams.
Objective: To determine the significance of pollution indicator bacteria in hard clams.
Duration: Three years.
Cost: $300,000.
Title: Impact of harvesting methods on the shelf-life of molluscan shellfish.
Objective: To conduct shelf life studies on molluscan shellfish as harvested by several methods.
Duration: Three years.
Cost: $60,000.
Title: Movement of pollutants in Long Island embayments.

Objective: To conduct studies on the impact of tides, currents, rainfall, wind on the movement of pollutants in Long Island embayments as a means of judging the public health safety of closure lines between certified and uncertified shellfish harvest waters.

Duration: Two years.

Cost: $60,000.

Title: Development and maintenance of devices for insuring the recognition of uncertified shellfish harvest areas by the shellfish industry and general public.

Objective: To develop adequate means for advising all interested parties of the existence of uncertified shellfish harvest areas.

Duration: On-going.

Cost: $15,000 per year.

Title: Development of program for informing public of hazards of consuming shellfish from uncertified waters and the safety of certified shellfish.

Objective: See title.

Duration: On-going.

Cost: $5,000 per year.

Title: Floating laboratory for shellfish sanitation control.

Objective: To acquire and operate a floating laboratory for on-scene sanitary surveys of shellfish harvest waters.

Duration: Three years, with renewal.

Cost: $150,000.

Title: Mobile laboratories for shellfish sanitation control.

Objective: To acquire mobile laboratories for on-scene laboratory examinations of shellfish and sea water samples.

Duration: One year.

Cost: $20,000 per year.

Title: Utilization of mobile laboratories for shellfish sanitation control.

Objective: Operate mobile laboratories for shellfish sanitation control—a continuation.

Duration: Three years, with renewal.

Cost: $60,000.

Title: Hard clam management feasibility study.

Objective: To conduct a population inventory as well as harvest study to determine the type of management procedures that may be necessary.

Duration: Three years (extendable to five years).

Cost: $85,000 per year.

Title: Hard clam cultivation investigation.

Objective: To modify a segment of bay bottom to determine whether productivity can be increased.

Duration: Two years.

Cost: $20,000 per year.

Title: Shellfish rehabilitation program (transplant and spawner).

Objective: Remove shellfish from uncertified waters for transplanting to clean areas. Obtain adult shellfish from colder water environments for introduction to local waters in order to introduce additional spawnings of shellfish—a continuation.

Duration: Annually.

Cost: $75,000 per year.

Title: Estuarine monitoring program—N.Y.S. marine region.

Objective: Monitor selected marine waters for variables including pesticides, metals, PCB's and other "exotics" capable of having an adverse impact on the marine environment.

Duration: 10 years

Cost: $30,000

Title: Commercial fisheries resources inventory—N.Y. marine region.

Objective: Inventory marine resources of commercial value in the marine region.

Duration: 5–8 years

Cost: $100,000 per year

Title: Delineation of State underwater lands.

Objective: Define and describe legal boundaries on underwater lands within the marine region as a first step toward a total management program of this area including leasing of underwater lands for shellfish cultivation and other uses.

Duration: 5–8 years

Cost: $750,000 (see 8a attached for continuation)

Total Cost per year: $850,000
Title: Lobster Investigation in Long Island Sound
Objective: To estimate the natural mortality and for the lobster in the Sound
Duration: Three years
Cost: $50,000 per year
Title: Winter Flounder Investigation in Long Island Sound
Objective: To estimate the natural mortality and fishing mortality for winter flounder in the Sound.
Duration: Three years
Cost: $50,000 per year
Title: Investigation of Escapement of Sea Bass and Lobster from Pots
Objective: To determine if slat opening can be used without loss of legal-size sea bass and lobster.
Duration: Two years
Cost: $15,000 per year
Title: Investigation of methods for obtaining catch and effort data for the marine commercial fishery.
Objective: To use catch and effort data in managing the marine commercial fisheries
Duration: Ongoing
Cost: $20,000 first year; subsequent years: Not available.

NEW JERSEY

Title: Estuarine inventory
Objective: To inventory physical, chemical, biological, and use aspects of marine estuarine systems for the purpose of developing information to protect fish and shellfish production capability from development-caused damage and to establish baselines by which to measure trends
Duration: Ten years with subsequent projects to provide for periodic monitoring
Cost: $70,000 per year
Title: Ocean water inventory
Objective: To inventory the physical, chemical, biological and use characteristics of New Jersey ocean waters for the purpose of developing information to use in protection from development-caused damage and to establish a baseline by which to measure trends.
Duration: Three years with subsequent periodic monitoring
Cost: $150,000 first year; $50,000 per year each subsequent year
Title: Shellfish Relay
Objective: To provide for transfer from and beneficial use of shellfish produced in waters condemned for their taking.
Duration: Ongoing
Cost: $150,000 first year; $50,000 per year each subsequent year
Title: Technical assistance to commercial fisheries
Objective: To gather and disseminate information for improvement of and financing of fishing, handling, processing, distribution, and marketing of fish and fish products.
Duration: Ongoing
Cost: $50,000 per year
Objective: To gather, develop, and disseminate information on harvest and value of marine fishes and fisheries of New Jersey.
Duration: Ongoing
Cost: $35,000 per year
Total Cost Per Year: $455,000

DELAWARE

Title: Hard Clam Spawning Studies
Objective: Recent inventory surveys have shown that recruitment rates have been extremely low in Delaware hard clam populations over the past fifteen years. This survey would evaluate spawning success of existing brood stocks.
Duration: Three years
Cost: $30,000
Title: Resurvey of leased oyster grounds
Objective: Delaware's leased oyster grounds have not been surveyed since 1900. Discrepancies involving leases are a constant problem for the state's shellfish management agency.

Duration : One year
Cost : $50,000
Title : Blue Crab migrational studies
Objective : To determine migrational patterns and the relationships between Dealware's lower bay crab populations and the overall commercial harvest.
Duration : Five years
Cost : $25,000
Title : Delaware Bay oyster production
Objective : To determine the water quality and other criteria necessary for successful oyster spawning and larval setting and survival in Delaware Bay.
Duration : Five years
Cost : $100,000
Title : Sturgeon populations in the Delaware River
Objective : Determine the present population of Atlantic and Short Nose Sturgeon in the Delaware River and Bay
Duration : Three years
Cost : $30,000
Title : Commercial Fishing effects on sportfishing
Objective : Determine the effects of commercial fishing on important recreational fish populations in Delaware Bay.
Duration : Three years
Cost : $50,000
Title : Blue mussel commercial fishery
Objective : To develop the harvest and marketing methodology for this underutilized resource in order to provide opportunity for a new fishery.
Duration : Three years
Cost : $25,000
Title : Deep water ports and fishery behavior
Objective : To determine the effect of fish migrations, feeding, spawning and other reactions to major alterations to Delaware Bay due to dredging and filling for offshore deep water part construction and operation
Duration : Five years
Cost : $150,000
Total Cost Per Year : $145,000

VIRGINIA

Title : Management of the hard clam fishery.
Objective : To present and evaluate alternative management schemes for the hard clam fishery, which appears to be near the saturation point.
Duration : One year
Cost : $18,000
Title : Institutional constraints on mariculture.
Objective : To review existing laws and conflicting uses of water with the view of harmoniously integrating mariculture into the multiple uses of estuaries.
Duration : One year
Cost : $20,000
Title : Feasibility of establishing large-scale oyster seed beds, a pilot study.
Objective : To test the feasibility of establishing seed beds to replace or augment those of the James River which now are the basis of the Virginia oyster industry, but appear to be threatened by development.
Duration : Three years
Cost : $110,000.
Title : Development of oyster seed nursery.
Objective : To develop an economically feasible technique of raising hatchery-produced spat to a size large enough to withstand predators.
Duration : Three years
Cost : $100,000
Title : Industry structure in relationship to fluctuating fisheries resources.
Objective : To seek solutions to the technical, economic, and social problems caused by year-to-year fluctuations in supply of raw fisheries products.
Duration : One year
Cost : $30,000
Title : Bacterial criteria for oyster harvesting grounds.

Objective: To determine the kinds, sources, and public health implications of bacteria commonly found near estuarine shellfish beds.
Duration: Three years.
Cost: $120,000
Title: Pathogenicity of Labyrinthula to eel grass.
Objective: To determine the role that Labyrinthula may have placed in the decline of eel grass in Chesapeake Bay.
Duration: Three years
Cost: $76,000
Title: Control of oyster disease.
Objective: To investigate the feasibility of control of the oyster disease Dermocystidium by anticoccidial drugs.
Duration: Two years.
Cost: $60,000
Title: Management strategy for the Striped bass of the Middle Atlantic States, a multistate cooperative program.
Objective: To develop a sound management strategy based on knowledge of population structure, migratory patterns, causes of population fluctuations, and interactions among various user groups.
Duration: Five years.
Cost: $2,000,000
Title: Definition of components of estuarine nurseries.
Objectives: To define the roles of marshes, tidal flats, submerged vegetation beds, deep channels and small creeks in the nurseries of fishes and crustaceans. Better information is needed in order to accommodate fisheries and environmental modification.
Duration: Three years.
Cost: $250,000.
Title: Mariculture of Black Sea Bass, a pilot study.
Objective: To determine the feasibility of culturing sea bass by subjecting wild-caught juveniles to various culture conditions and diets in order to define optimum conditions and to estimate costs.
Duration: Two years.
Cost: $60,000.
Title: Fisheries for Continental Shelf Crustaceans, an Economic feasibility Study.
Objective: Using existing data on distribution and catch rates determine the economic feasibility of developing fisheries for some combination of rock crab, jonah crab, red crab and lobster in the Middle Atlantic.
Duration: One year.
Cost: $24,000.
Title: Population dynamics of the lobster in the Middle Atlantic.
Objective: To determine growth and mortality rates and fishing rates by tagging and by analysis of catch data.
Duration: Three years.
Cost: $140,000.
Title: Potential for expansion of the eel fishery.
Objective: To examine interaction between fisheries for adult eels and for elvers and to evaluate the potential for expansion.
Duration: One year.
Cost: $25,000.
Title: Causes of variability in yearclass strength.
Objective: To seek explanations for the long-term and short-term changes in populations of important fisheries organisms. Correlations will be sought with such factors as weather and climate changes, water quality changes, and fishing intensity.
Duration: Two years.
Cost: $50,000.
Title: Feasibility of a new fishery for brackish water clams.
Objective: To assess the size of the resource, develop harvesting techniques and to enhance the flavor in an attempt to encourage development of a new fishery.
Duration: One year.
Cost: $35,000.
Total Cost Per Year: $907,000.

99-490—78——9

NORTH CAROLINA

Title: Shellfish bottom survey.
Objective: To determine and map current locations of significant concentrations of oysters and clams in the estuarine waters of North Carolina.
To determine and map those areas of public bottom showing promise for development as shellfish management areas.
Duration: Three years plus renewal for two years.
Cost: $45,000 during first year, $40,000 during each of the next two years. Renewal for two additional years at $40,000 per year.
Title: Inshore finfish stock assessment.
Objective: To determine population characteristics of the principal finfish species taken in North Carolina's estuarine finfisheries.
Duration: Three years with subsequent renewals for monitoring activities.
Cost: $100,000 per year.
Title: Evaluation of North Carolina's estuarine monitoring program.
Objective: To place the estuarine monitoring program on a statistically sound basis.
Duration: One year.
Cost: $25,000.
Title: Development of a fishery statistics program.
Objectives: To develop a program which can acquire, organize, store, analyze and retrieve data from (1) research and monitoring activities, and (2) the fisheries.
Duration: Three years plus renewals.
Cost: $80,000 during first year, $100,000 during second year, $125,000 during third year and thereafter.
Title: Blue crab management.
Objective: To develop and implement a blue crab management program for North Carolina.
Duration: Three years plus renewals.
Cost: $20,000 per year.
Title: Calico scallop assessment.
Objective: To determine population characteritiscs of calico scallops offshore North Carolina.
Duration: Three years.
Cost: $25,000 per year.
Title: Sea scallop assessment.
Objective: To determine population characteristics of sea scallop populations utilized by North Carolina's sea scallop fleet.
Duration: Three years.
Cost: $60,000 per year.
Title: Hard clam (Mercenaria mercenaria) management.
Objective: To develop and implement a management program for hard clams in the central and southern coastal areas of North Carolina.
Duration: Three years plus renewals.
Cost: $25,000 per year.
Title: Deep water exploratory fishing
Objective: To conduct exploratory fishing operations in depths greater than 100 fm between Cape Hatteras and the NC/SC border
Duration: Three years
Cost: $75,000 per year
Total Cost Per Year: $475,000

SOUTH CAROLINA

Title: Intertidal shellfish survey
Objective: To study and assess status and harvest potential of intertidal shellfish
Duration: Two years
Cost: $35,000 per year
Title: Crab trap impact survey
Objective: To investigate the impact of lost or abandoned commercial crab traps on the blue crab fishery and to study possible remedies
Duration: Two years
Cost: $15,000 per year
Total Cost Per Year: $50,000

GEORGIA

Title: Study the feasibility of developing a gill net and beach seine fishery for mullet and seatrout

Objective: Determine if adequate stocks of mullet and seatrout are available to support a commercial fishery

Duration: Three years

Cost: $25,000 per year

Title: Study the feasibility of developing a gill net or purse seine fishery for mackerel.

Objective: Determine if adequate stock of mackerel are present off the Georgia coast to support a commercial fishery and determine what types of gear are most effective in capturing the mackerel.

Duration: Three years

Cost: $35,000 per year

Title: Development of seafood markets in Georgia

Objective: To have a seafood marketing expert locate, promote and develop markets for Georgia seafood.

Duration: Five years

Cost: $25,000 per year

Title: Life history studies of important finfish species in Georgia

Objective: To obtain much needed life history data on some of Georgia's potentially important commercial finfish species.

Duration: Three years

Cost: $35,000 per year

Title: Larval and postlarval white shrimp study

Objective: Determine the areas in the estuaries that are most important to larval and post larval development, determine numbers present, possibly develop a system for estimating the fall shrimp catch.

Duration: Five years

Cost: $20,000 per year

Title: Study the feasibility of a commercial fishery for sharks

Objective: Determine populations, spawning, and migrations in conjunction with an economic survey of commercial markets and consumer attitudes

Duration: Three years

Cost: $30,000 per year

Title: Study the feasibility of developing a soft shell crab fishery.

Objective: Determine the best methods for sheding, handling, and marketing soft shell crabs

Duration: Two years

Cost: $15,000

Total Cost Per Year: $185,000

GULF STATES MARINE FISHERIES COMMISSION,
April 12, 1977.

Mr. NED EVERETT,
Counsel, Merchant Marine and Fisheries, Longworth House Office Building, Washington, D.C.

DEAR NED: Listed below are statements from the five Gulf states listing projects which they consider of utmost importance and urgency in fishery research and development, which would be carried out if funds were available. By state these projects and costs are listed below. These projects are in addition to funds already obligated and projects underway.

ALABAMA

Seasonal abundance and distribution of oyster spat set in Alabama. This is a management project $25,000.

Economic survey of the commercial fisheries to determine its impact and benefits to the state and local area. This is a management project $35,000.

Comparison of various materials for cultch material for oyster spat. This is a management project $10,000.

Continuation of recreational finfish catch data in relation to commercial landings. This is a management project $15,000.

FLORIDA

Fisheries extension and marketing program. To develop markets for fishery products through use of home economists and fish cooking demonstrations $21,700.

A study of late juvenile ecology and survivorship of spiney lobster so that annual yields could better be forecast for the fishery. This would supplement the current measurements of annual recruitment of early juveniles carried into Florida's shallow waters from the Caribbean by prevailing ocean currents. More knowledge of this phase of the spiney lobster life cycle would greatly benefit Pan-Caribbean management of its stocks $60,000.

Investigate biological reasons allowing so many species of snapper and groupers to occupy specific shelf reef communities seemingly contrary to the limiting influence of habitat availability. This knowledge would increase our insight into predicting population densities, and greatly aid the management of demersal fish stocks within the F.C.Z $125,000.

Accessary Projects—Culture of selected marine fishes and invertebrates, oyster rehabilitation, and investigating the specific fisheries dependence on coastal plankton community composition. (To tie in with already existing red tide study) $60,000.

LOUISIANA

Mark-recapture work on penaeid shrimp for the purpose of determining growth rates, natural and fishing mortality rates, and movement and migration $300,000.

Population dynamic studies of our most important estuarine species for the purpose of determining the value of individual nursery areas to the productivity of these species in the Territorial Sea and the Fishery Conservation Zone $450,000.

Resource management studies of finfish for the purpose of determining the need for allocation of these resources between various user groups $225,000.

Biological and hydrological monitoring of our estuarine and territorial waters for the purpose of providing baseline management data, information necessary in developing the Coastal Zone Management program, and environmental data utilized in permit evaluations for developmental work in the coastal zone $225,000.

A survey of the blue crab and the blue crab industry of Louisiana for the purpose of developing better management programs for this valuable renewable resource $187,000.

MISSISSIPI

Resource Assessment-Inshore Bottomfish. To determine the extent of stocks of juvenile bottomfish in the estuarine and inshore areas of Mississippi. Many of these fish will later be harvested in the 200 mile area. A management project $50,000.

Economic Study. To conduct an in-depth economic study of the Mississippi-Alabama shrimp industry to determine what legislation, if any, at a state level must be passed to halt the decline of Mississippi shrimp industry $40,000.

Life History Study. To work out the life history of important coastal species. many of which will not be harvested in the 200 mile zone. Among these are, flounder, spotted sea trout, red and black drum, white trout and king whiting, all of which are sought by both commercial and sport fishermen. A management project $75,000.

Improve Resource Assessment of Shrimp in Inshore Areas. Increase frequency and geographical coverage of the resource now underway to improve the accuracy of setting the opening and closing of shrimp season. A management project $25,000.

TEXAS

Trends in abundance of bay finfish. Finfish in Texas bays (2.7 million acres) support large commercial and sports fisheries. Trends in fish abundance will be followed in each Texas bay and used to form management recommendations for both sports and commercial fisheries. A management oriented program $187,500.

Commercial finfish landings. Although total landings of finfish are being obtained, information on the efficiency, catch and catch per unit of effort is lacking for the individual fishermen. Field checks would not only assist in setting desirable harvest rates but would also improve the accuracy of our ongoing finfish landings. Funds would provide increased sampling effort under the Sport and Commercial Harvest Project (2–293–R). A management oriented program $61,100.

Estuarine freshwater inflows. Penaeid shrimp production is affected by freshwater. Regulation of freshwater releases from the many upstream reservoirs

must be timed so that proper salinities are maintained in the estuaries. Inflow rates, salinities, and shrimp production must be correlated to set proper inflow rates. An environmental study $47,300.

Shrimp migrations. Shrimp constitute a $100 million industry in Texas, yet we know little of their migrations in the Gulf. This program would allow us to determine seasonal movements and growth for regulatory purposes $37,500.

Grand total all projects, all Gulf States $2,262,600.

Please bear in mind that most of these projects were drawn from material previously submitted under requirements for 88–309 funding but because of a lack of funds could not be financed. Time did not permit a comprehensive review of our management requirements at this instance. I will continue to urge the states to work through our Technical Coordinating Committee to develop a comprehensive research planning strategy for the entire Gulf and to keep this current for just such emergencies as this.

If you have questions please do not hesitate to call me.

Very truly yours,

CHARLES H. LYLES,
Executive Director.

PACIFIC MARINE FISHERIES COMMISSION,
Portland, Oreg., April 22, 1977.

To: Ned Everett, Staff Counsel, House Merchant Marine and Fisheries Committee.
From: John P. Harville, Executive Director.
Re: Unfunded Projects: P.L. 88–309.

Ned, sorry to be so slow in getting these off to you. I've been waiting for California's input, and telephoned today to ask about it. They've been delayed by illness in a key staff member, but I should have their material Monday and will fire it off to you at once.

Herewith is the list from Oregon and Washington. Note that these are for essentially new projects. Additionally we have the problem of ongoing programs which have suffered the escalating attrition of inflation, yet have been accorded only level-funding for seven years—since 1970! And that level of funding was a reduction of $300,000 from the funding for 1966–69.

For a general list such as this, I thought the expanded titles would be enough. If you need further details, please let me know.

Thanks for your help, and best personal regards.

JOHN.

Attachment: List of Oregon Washington unfunded projects for "309" funds.

U.S. DEPARTMENT OF COMMERCE,
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION,
NATIONAL MARINE FISHERIES SERVICE,
Seattle, Wash., March 25, 1977.

To: The Files.
From: FNW33.
Subject: Material for "309" Congressional Committee Hearings on March 29, 1977.

The following was telephoned to Dr. John Harville, PMFC, at his request on 3/25/77. The list represents unfunded projects that Oregon and Washington could do with additional "309" funds.

Washington:	*Federal dollars*
Devise a preliminary management plan for the harvest of sea cucumbers	$7,500
Investigation of the feasibility of a commercial mussel culture	11,250
Groundfish age reading support	9,000
Summarize and analyze past and on-going coded wire tag studies	30,000
Genetic improvement of hatchery stocks	22,500
Hatchery pollution studies to meet EPA standards	26,625
Survey and planning to determine enhancement of salmon natural production-stream survey	35,625
Water use projects, assessment for resource protection and permits (Ease the crunch by all hydraulic permits.)	125,000
Puget Sound wild salmon stock identification	13,500
Puget Sound and coastal salmon management activities	33,250

Biometrics and administrative support for residential and developmental activities	58,000
Salmon harvest and biological data collection, coordination, update and distribution. (Catch data for distribution to Indians, Federal Agencies, etc.)	50,750
Ocean troll and sport fisheries management	15,000
Net fishery management, Washington coastal (Indian) rivers and harbors. (Management of salmon and sturgeon, Grays Harbor and Willapa Bay.)	112,250
Puget Sound net fisheries test fishing	29,500
Puget Sound mark sampling and data collection	18,250
Salmon stock assessment and run-size prediction—all species	16,875
Total	614,875
Oregon:	
Lingcod and rockfish studies near shore, off shore surveys boat charter and tagging	250,000
Baitfish inshore and offshore, herring and anchovy	250,000
Shrimp—statistical modeling, population, and harvest	30,000
Total	480,000

Dr. Harville also wanted to know how long we had been at the 3.8 million funding for P.L. 88-309. The answer is, since 1970. Previous to that, from 1966 to 1969, "309" funding was 4.1 million each year.

FAE C. BISHOP.

The States have indicated that they have the matching capabilities and need the additional funding for:

FNW—Survey of groundfish, rockfish, and herring stocks and increase shellfish research.

FSE—Studies on South Atlantic shrimp, Atlantic croaker, striped mullet, and other species in the estuarine and coastal waters. Also, increase statistics collection.

FNE—Increase research on American lobster, clam, and scallop, and purchase needed laboratory equipment. Great Lake States would increase ongoing research and start new projects on walleye, yellow perch, and whitefish.

FSW—California would do assessment of the offshore hake, rockfish, and anchovy stocks.

FAK—For needed research on the groundfish, salmon, and king crab stocks.

In addition, we have a backlog of requests, totaling more than $1.6 million per year, under P.L. 89-304 for work on anadromous fisheries resources which would be eligible for funding under P.L. 88-309 provided funds were available:

Pacific salmon: Species and State	*Annual Federal cost*
Alaska	$135,100
California	285,000
Oregon	475,659
Washington	449,085
PMFC	17,000
Subtotal	1,361,844
Striped bass:	
Gulf States	165,000
North Carolina	15,000
Subtotal	180,000
Alewife and sturgeon:	
Maine	76,000
Subtotal	76,000
Total	1,617,844

Some states have expressed a need for additional funding, but hesitate to submit a formal application until they have some assurance that more Federal funds are available.

No decision will be made regarding the funding of the proposed new projects until the new appropriation is firm.

Mr. BREAUX. The Subcommittee on Fisheries and Wildlife will please come to order.

Our next witness represents the Gulf States Marine Fisheries Commission, Mr. Ted Ford, who is assistant director of the Louisiana sea grant program.

He is accompanied by Mr. Charles Lyles, executive director of the Gulf States Marine Fisheries Commission.

The committee would like to welcome you.

Proceed as you see fit.

STATEMENT OF THEODORE FORD III, ASSISTANT DIRECTOR, SEA GRANT PROGRAM, ACCOMPANIED BY CHARLES LYLES, EXECUTIVE DIRECTOR, GULF STATES MARINE FISHERIES COMMISSION

Mr. FORD. Good afternoon.

Mr. Chairman, gentlemen, I am Dr. Theodore Ford, associate director, Office of Sea Grant Development, Center for Wetland Resources, Louisiana State University, Baton Rouge, La. I am appearing here today in my role as chairman of the technical coordinating committee of the Gulf States Marine Fisheries Commission.

Since I represent the Gulf States area, it seems most fitting that I am appearing here today to testify in support of H.R. 4576 since that was my role a number of years ago on the early legislation in both the House, where Congressman T. A. Thompson of Louisiana chaired the House hearings, and in the Senate where Senator Bartlett of Alaska chaired the Senate hearings, that led to the enactment of Public Law 88–309.

I am delighted, of course, to find that our chairman today is from that same district of south Louisiana.

At that time I was working with Marine Fisheries and Research with the Louisiana Wildlife and Fisheries Commission and I was subsequently charged with the implementation of the program in Louisiana.

Accordingly, I am especially appreciative of this opportunity today.

I would like to essentially summarize our statement and try to provide a little more emphasis on certain areas and then be available for any questions which you may have.

First, this commercial fisheries research and development program as provided by 88–309, as amended, is one chiefly derived by the Congress with strong support from the several States. It really provided for the first time an excellent grass roots cooperative interaction for marine fisheries research and development and between the resource agencies of the several States and the executive branch of the Federal Government through the National Marine Fisheries Service and its predecessor. In our collective opinion, the program has been excellent and we commend the wisdom of the Congress in establishing it.

Second, this program enabled the Gulf States to expand their marine fisheries research and development program and to better respond to the resource management needs as well as their fishermen's needs. Federally allocated funds have been obligated promptly in accordance

with the law with State matching funds in well-balanced, high priority projects across the northern gulf.

More than twice the amount of available Federal funds can be used very efficiently.

Third, as a result of Public Law 88–309, the Gulf States have been able to enlarge their staffs by a total of 58 new technical people including biologists, chemists, engineers, marketing specialists, and home economists, and some 85-support personnel, including biological aides, boat captains, deckhands and so on. This group has completed 124 projects.

Research has established or extended base line data on shrimp, oysters, industrial bottom fish, blue crabs, clams, statistics and environmental data relating to commercial fish and shellfish. This knowledge has led to improvement in management programs for the various species under intense management and will be useful as well in managing other species.

Development projects include construction of oyster reefs, planting of oyster cultch, marketing of seafood products, placement of control structures for oyster leases, construction of vessels, ponds, and research and landing facilities.

Fourth, under section 4(b) the disaster provision has assisted in recouping losses to fisheries damaged or destroyed by natural catastrophes, thereby hastening recovery by several years.

I might acknowledge at this point, Mr. Chairman, that there have been several projects carried out in the northern gulf under section 4(b). The funds were very helpful. At the time we felt that the amounts allocated were somewhat inadequate, but they have been well utilized.

Currently, there are no 4(b) funds available.

Fifth, approximately 110 technical and popular publications have reported the good works under this program and more are in the process of publication. These provide the data bases for establishing management guidelines for our renewable fishery resources and contribute valuable data which assists in decisionmaking relative to construction permits in territorial waters and contribute to the implementation of Public Law 94–265, the Fishery Conservation and Management Act, since some 90 percent of the species presently harvested in the gulf fishery conservation zone are estuarine dependent.

Sixth, the demand for fishery products in this country exceeds our present domestic production. Authorization and funding at the $10 million level would be a good investment in improving management, development, and possible enhancement of these renewable resources. Much work needs to be done in the State's territorial waters. Additional available funds will be obligated promptly.

Seventh, the Technical Coordinating Committee and Gulf States Marine Fisheries Commission adopted a resolution some 10 days ago in support of H.R. 4576, with the recommendation that the program be extended for 5 years rather than the 3 years ending September 30, 1980.

Mr. Chairman, that concludes my comments, and I will be happy to answer any questions that you may have.

Mr. Lyles proposes to address the proposed use of section 4(c) funds when you are ready.

Mr. Breaux. You are appearing here before the committee in your capacity as chairman of the Gulf States Marine Fisheries Commis-

sion, Technical Coordinating Committee, and you also have the position of being the associate director, Office of Sea Grant Development, Center for Wetland Resources, Louisiana State University.

I am very proud, of course, of what the university is doing, and what the center is doing.

How do sea grant funds received at the center interact with the funds that you are receiving under this particular legislation?

Mr. FORD. The funds under this legislation are allocated to the State resource agency—the Department of Wildlife and Fisheries today.

Our sea grant program tries to interact specifically in terms of the fisheries area and we cross check needs with the State resource agency that is constitutionally responsible for the fisheries management program.

We have the capability of doing perhaps more specialized sea grant projects which are available by drawing on university expertise, so that they are fully aware of them and concur in them.

Most of the sea grant programs in the last 2 or 3 years or longer, even, have been trying to project what the States needs will be in terms of a technical data base for future coastal zone management activities, so, basically the programs are related.

They are cross checked from time to time. The university primarily checks with the State resource agency, because they have the responsibility and we really don't have, in terms of their constitutional mandate, and I think I could suggest further that not only is this happening in Louisiana, it is also happening in the programs of the several other Gulf States where sea grant programs are in existence.

Mr. BREAUX. I guess what concerns me is the duplicating efforts.

Apparently you are saying that that is not the case.

Mr. FORD. We do not believe that is the case for the simple reason that oftentimes the State resource agency is concerned with a more applied research, if you will, something that is needed on a shorter term basis or they must respond on a quick turnaround basis to the people's interests and needs on a coastwide basis; whereas, the university-type related research carves out a small segment of an overall program, such as Barataria Bay area in our case, so that one part of it might very well relate to another.

If I might give an example, one of the Wildlife and Fisheries Commission's programs in Louisiana today is to try to establish striped bass, which has been very successful on the east coast.

We have some native residual populations. They have not become well established. There is a hatchery and stocking program in some of our larger lakes and reserviors.

They have asked us to see if we can determine through an electrophoretic process which strains of striped bass are the more successful ones, the more useful ones, and this selection process will assist them in their overall spawning-stocking program for that particular species, which is recreationally valuable as well as commercially valuable.

Does that give you an example of how we are trying to eliminate any duplication?

Mr. BREAUX. Your statement is a good summary of how people in my area in the Gulf States fisheries have used the funds as far as adding additional people and doing additional research.

It is a good statement.

Mr. Forsythe?

Mr. FORSYTHE. Thank you, Mr. Chairman.

Thank you, Doctor.

There is only one point where there is anything that I would be concerned about that is in your recommendation, and that is that we use a 5-year authorization rather than the 3-year authorization that is in the bill.

It seems to me if we are able to expand this funding, that we ought to review the progress that is being made.

We tend to not look at programs if they are too open ended.

I would hope that the State people that are interested, as I am, in this legislation, recognize that as an opportunity rather than a negative implication.

Mr. FORD. Mr. Forsythe, basically we do not disagree with you.

I think that in terms of the proposed authorization it might not provide as much comfort in terms of a parameter of time as would a little longer period.

We further recognize that the executive directors of our respective Gulf States Marine Fisheries Commission and the Atlantic and Pacific Commissions would very likely have to come back.

We personally, on behalf of the Gulf States group, appreciate an opportunity to meet with the Representatives of Congress from time to time.

We do not want to be an undue burden on your busy schedule. By the same token, we will appreciate the opportunity to meet with you virtually on call.

Mr. FORSYTHE. We appreciate that but I think that we have tried to go for shorter authorizations.

It is a possibility that has not been well carried out in Congress. Oversight does get it a little bit more immediate.

I hope that you do not feel too unhappy if we are looking at it from that standpoint, because we have programs around here where you have an awful hard time getting at them.

They are still alive and they have outlived their usefulness. I am not saying that in relation to this one. We have to play it by ear.

Mr. FORD. As far as the Northern Gulf States are concerned, we stand ready, available, and will be interested in any opportunity on any reasonable basis to come meet with you or to have you visit our setup and let us show you firsthand the evidence that is being gathered and the types of programs that are being carried out.

We would welcome that opportunity.

Mr. FORSYTHE. I am sure that I would also welcome it.

I think there is a lot of agreement that the States can make use of this all around.

Mr. FORD. Yes, sir.

I hope we can enact this legislation, as it is now written.

Thank you very much.

Mr. FORD. Thank you.

Mr. FORSYTHE. Thank you, Mr. Chairman.

[The prepared statement of Mr. Ford follows:]

STATEMENT OF DR. THEODORE B. FORD

Mr. Chairman, gentlemen I am Dr. Theodore B. Ford, Associate Director, Office of Sea Grant Development, Center for Wetland Resources, Louisiana State University, Baton Rouge, Louisiana 70803. I am appearing here today in my role as Chairman of the Technical Coordinating Committee of the Gulf States Marine Fisheries Commission.

It seems most fitting that I am appearing here today in support of HR 4576 in view of the fact I testified in behalf of the early Legislation in both the House, where Congressman T. A. Thompson Chaired the House hearings and in the Senate where Senator Bartlett of Alaska Chaired the Senate hearings and in the same role in behalf of the Gulf states.

The Commercial Fisheries Research and Development Act of 1964 (P.L. 88–309), provides for State-Federal cooperation in conducting research and development projects designed to enhance the fishery resources of the Nation. Federal funds provided under Section 4(a) of the Act are matched with 25 or 50 percent state funds. No state matching funds are required for allocations made under the Disaster Section 4(b) of the Act.

The passage of this Act in 1964 was a significant step forward in managing and developing our fishery resources. Since its enactment all Gulf states have demonstrated their need for commercial fisheries research and development projects by participating actively in the program. Federal funds allocated to the Gulf states have been and are being obligated nearly as soon as they are received. The Gulf states have chosen well-balanced and high priority commercial fisheries research and development projects and these have been of real significance in the management and development of the commercial fisheries of the Gulf of Mexico.

The record of progress for the Gulf states has been excellent. All funds available under P.L. 88–309 have been utilized for research, construction, and development projects directed toward the management and development of the commercial fishing industry. As a result of P.L. 88–309, the Gulf states have been able to employ a total of 58 new technical people including biologists, chemists, engineers, marketing specialists and home economists. Additionally, some 85 support personnel have been employed to assist the technicians in carrying out their programs. These employees were also supplied with better facilities and equipment needed for carrying out their various projects. To date, a total of 124 projects have been completed in the five Gulf states. Research includes projects which have resulted in establishing base line data on shrimp, oysters, industrial bottom fish, blue crabs, clams, statistics and environmental data relating to commercial fish and shellfish. These are serving management programs for various species under intense management by the states as well as the accumulation of vast amounts of knowledge which will be useful in managing other species. Development projects include construction of oyster reefs, planting of oyster cultch, marketing of seafood products, placement of control structures for oyster leases; additionally, funds were utilized for the construction of vessels, ponds, and research and landing facilities.

Under the disaster section 4(b) of the Act, the Gulf states utilized funding to aid in recouping losses to fisheries that were severely damagd or destroyed by natural catastrophies. Without these vital funds, the states could not have provided this assistance and the fisheries would in all probability have taken many years to recover.

Publications, both technical and popular, rsulting from these projects have been numerous. Approximately 110 of these technical publications have been released to date, and more are in the process of being published. Upon publication, care has been taken to insure wide circulation, resulting in their being of tremendous aid in establishing management guidelines for our fishery resources.

We wish to stress that this important fisheries legislation has enabled all the Gulf states to increase their research efforts throughout the coastal zone on important renewable fisheries resources and to establish guidelines to best manage these resources. The data obtained during this program provides four basic information categories: (1) it provides base line knowledge to manage fisheries within state territorial waters, (2) it provides hydrographic information for use in the U.S. Coastal Zone Management Program, (3) it provides environmental knowledge utilized in permit evaluations for dredging and other development work in the coastal area, and (4) which perhaps is most important, since the passage of P.L. 94–265 (the Fishery Conservation and Management Act), it will

provide base line information for the Regional Fishery Management Councils in the preparation and implementation of fishery management plans within the Fisheries Conservation Zone and State Territorial Waters for those species that are estuarine dependent. By way of explanation the majority of the commercial species landed in the U.S. are estuarine dependent, and in the Gulf of Mexico, over 90 percent of commercial species are estuarine dependent.

In conclusion, I would like to state that the demand for fishery products in this country is well beyond our present domestic production. It is therefore, highly desireable that funding of $10,000,000.00 be provided for this functional State-Federal program that has and is continuing to provide information necessary to carry out the best management guidelines for the continued use and possible enhancement of our renewable natural resources. If the legislation is passed at this authorized funding level, and funds are appropriated, then the Gulf states would utilize these funds initially for:

(1) Mark-Recapture work on penaeid shrimp.

(2) Population dynamic work on our most important estuarine species (i.e., shrimp, menhaden, industrial bottom fish), to determine which nursery areas are primary contributors to fisheries in the Fishery Conservation Zone and what each estuarine system produces.

(3) Resource management studies on finfish to determine possible resource allocation between user groups.

(4) Biological and hydrological monitoring of our estuarine and territorial waters.

(5) Evaluation of the blue crab and the blue crab industry in the Gulf of Mexico.

The above items are mentioned solely for the purpose of pointing out where initial work is necessary and where these funds could be utilized; it is not intended to imply that this is the only work needed, for there is definitely a great deal more that must be done.

I urge you, Gentlemen, to increase this funding to $10 million because in a world where hunger is rampant, the safety and stability of this Nation is at stake and the research to better manage these resources can go a long way in the effort to alleviate that problem and help insure the stability of this Nation.

I thank you and appreciate having the opportunity of testifying here today.

Mr. BREAUX. Accompanying Ted is Charlie Lyles.

He is executive director of the Gulf States Marine Fisheries Commission.

Charlie, we have your statement and I will ask you if you would like to make some comments.

Mr. LYLES. Mr. Chairman, I would like to say a word or two.

I would like for the resolution and the prepared statement which I presented to be a part of the record.

Mr. BREAUX. Without objection, both of those items will be included in the record.

Mr. LYLES. Thank you, sir.

[The prepared statement of Mr. Lyles follows, together with the resolution:]

STATEMENT OF CHARLES LYLES, EXECUTIVE DIRECTOR, GULF STATES MARINE FISHERIES COMMISSION

Mr. Chairman, Gentlemen, thank you for permitting me to say a few words in favor of HR 4576, a bill by the Hon. Robert L. Leggett, the Hon. Edwin B. Forsythe and others to increase the funding under PL 88-309 to $10 million.

A major accomplishment of the five Gulf states using 88-309 funds has been the accumulation of an enormous data base which the states have amassed over the past decade using these matching Federal funds. Almost all the Gulf states conduct a monitoring and assessment program in which they develop data on the abundance of year classes of many of the animals ultimately harvested beyond the territorial waters of the state and thus beyond state control. This vast backlog of data could not have been amassed without these funds. Not only have the states fully utilized these data in management of their fisheries but

the data bank can now be utilized by the Regional Management Councils in the preparation of management plans and the data will speed preparation and implimentation of these plans, thus a savings to the Councils and to this Government.

Without this vast backlog of data the Gulf Council would have to begin to accumulate these data now, creating a time lag and reducing the quality of plans prepared under the mandate. If these funds are increased, none of the Gulf states will have difficulty in matching them. The Gulf area has no history of lapse in funds from inability to match 88–309 funds.

Not only has these funds aided in the development of a data base but it has served as an instrument for liaison and coordination between the five Gulf states thus reducing the possibility of duplication in research projects and in developing a broad base of thinking across the Gulf as to what areas of research are most needed.

Therefore Gentlemen, I urge you to approve this increase in funding and I feel sure that the funds will be well utilized in caring for our resources.

Thank you.

RESOLUTION

Whereas, the Commercial Fisheries Research and Development Act (PL 88–309 as amended) has been demonstrated to be a major source of funding and a means of acquiring baseline data for fisheries management in the Gulf area, and

Whereas, the need for additional data is becoming more evident in order to coordinate with and support management planning directed by the Extended Jurisdiction Act (PL 94–265), and

Whereas, the demand for additional data to support fisheries management in the Gulf area will require significant additional funding,

Now be it resolved that the Gulf States Marine Fisheries Commission support and encourage the passage of proposed legislation (HR 4576) to increase authorized funding for the Commercial Fisheries Research and Development Program and recommend that the authorization be for a five (5) year period instead of three (3) years,

Be it further resolved that the Executive Director of the Commission be directed to coordinate and prepare an appropriate statement to be presented to the House Merchant Marine Committee on fisheries and further that the Executive Director and appropriate state administrators be encouraged to appear before the Committee on March 29, 1977, and that a copy of this Resolution be spread on the minute book of the Gulf States Marine Fisheries Commission.

This the 18th day of March 1977.

CHARLES H. LYLES,
Executive Director.

Mr. LYLES. I would like to raise the question of the use of these funds under sections 4(b) and 4(c) but before I do that, I would like to address the question of duplication of research that Mr. Forsythe brought up.

We have in the Gulf States Marine Fisheries Commission a technical coordinating committee of which Dr. Ted Ford is the chairman.

One of the charges of this committee is to invite all scientists from the five Gulf States, whether they are State scientists or university scientists to meet with the Technical Coordinating Committee.

And one of the objectives is to determine whether or not there is any duplication of research, and if so, to coordinate this research and without bragging any, I think that group is doing a pretty good job at the present time.

I think there is about as little duplication of effort in the gulf as anywhere.

In the matter of 4(b) funds, I would like to point out that we have not had any funds available under 88–309 for some time.

The State of Mississippi has used these funds and used them very effectively, and this is the reason that we like to have money available in the fund.

If you have an oyster reef that is destroyed in late August by a hurricane and you need funds to replant that reef, the time required to go through the Small Business Administration or the EDA for loans for fishery enterprises of this kind is such, that by the time you get the funds, the season for collecting spat or doing other work is over, so you have really lost a whole year in growth on oysters.

I am just using this as one example.

If we are able to move rapidly through section 4(b) funds and get the reefs replenished before the winter sets in, then we gain a year's growing time or at least almost a year on these oysters. This is one of the reasons we need 4(b) funds.

Under section 4(c) I was somewhat dismayed at Mr. Gehringer's statement that we could not use these funds or it would not be advantageous.

We have a very serious problem in the Gulf of Mexico in that we are discarding in the vicinity of two billion pounds of fish taken along with the capture of shrimp.

We believe this to be a very wasteful thing.

We would like to spend a little 4(c) money to see if we couldn't eliminate the taking of these fish and, second, if we are unable to do that, to see if we could possibly utilize them for food in some form or another, or for animal food or other uses.

We think this would be a very good use for these funds and we would like to see section 4(c) included.

I will be happy to answer any questions that you may have.

Mr. BREAUX. We had talked, Charles, about the moneys being available on the section 4(c) area from other sources.

I think there was some testimony to that earlier.

Do you know any who are getting any funds?

They may be authorized but whether they are receiving funds is sometimes a very different question.

Mr. LYLES. I don't know of any.

The basic concern about section 4(c) is that the existing funds under the Small Business Administration, EDA, and others for disaster purposes are not tailored to meet the needs of the fishing industry.

Mr. BREAUX. You need something more specific, definitely targeted to the fishing industry?

Mr. LYLES. In that connection, yes.

I would like to point out, Mr. Congressman, that cattle farmers in your area recently were complaining about Federal funds to feed their cattle as a result of the severe winter.

By the time the funds got there the winter was over and they really didn't need them.

They could use them to replenish that which had already been used, but what happened was that there was so much delay in getting them that the real value had passed.

That is what we find in trying to use these other agencies.

Mr. BREAUX. I agree.

Someting that is not tailored and does not fit, you cannot force.

Thank you.

Mr. Forsythe?

Mr. FORSYTHE. This is off the subject of this legislation, but since you have been talking about the oyster problem in the gulf, what is the history of our oyster production?

Has it been going up or down, except for this disaster?

Mr. LYLES. If you really trace the total history of the oyster, Mr. Forsythe, you will find that we are losing about 3 percent of our reefs annually from pollution despite the fact that we have pollution control legislation.

Mr. FORSYTHE. That is not oil pollution that is coming down the river?

Mr. LYLES. It is human waste, it is all kinds of waste.

You know, where you have people, you have pollution, and it is that problem.

We will continue to lose this unless there is some new approach to the utilization of these shellfish and it does seem to me a terrible waste in this country to constantly lose a valuable resource of this kind just because we don't provide the necessary machinery to clean it up.

Mr. FORSYTHE. Well, the history of this is a very similar one in our area of the country.

The oyster production is disappearing from disease, from pollution and from very many things.

If we are going to keep this resource, we have got to find some way to get around these problems so far as shellfish is concerned.

I thank you.

Thank you, Mr. Chairman.

Mr. BREAUX. Thank you, gentlemen, for taking the time to come up here and be with us.

Mr. LYLES. We appreciate the opportunity to appear.

Mr. BREAUX. Our next witness is Mr. David Cargo.

We have a copy of your statement and it will be printed in its entirety in the record, and if you would, rather than make you wait as you have patiently waited all day, if you would like to summarize it, we could receive it.

STATEMENT OF DAVID G. CARGO, RESEARCH ASSOCIATE, MARYLAND CHESAPEAKE BIOLOGICAL LABORATORY

Mr. CARGO. Very well, I would like to proceed.

Mr. Chairman and gentlemen, I am a research associate of the Chesapeake Biological Laboratory, Center for Environmental and Estuarine Studies, University of Maryland, and I appreciate the opportunity to be here.

I have conducted the sea nettle research programs for the State of Maryland from 1965 to the present time. From 1968 through June 30, 1973, these programs were partially supported by the Jellyfish Act. No outside funding has ben secured since 1973, so the programs proposed at the time of our last testimonial in August 1972, remain, for the most part, to be pursued.

My work in the past has strongly suggested, in agreement with Mr. Gehringer's, that actual control of the numbers of these creatures is unlikely and may not even be in our best interests because of unlooked for secondary effects of such an eradication program. We approached

this aspect and pointed these facts out in our terminal report to the Department of Commerce in 1974, and attempted to develop a reasonable program of research aimed at increasing our understanding of this animal and at the same time developing means of coexisting with it.

We view it as a three-pronged attack: First, we need to increase our understanding of the basic biology of this organism so that we can assess where spawning infestations can be expected; where conditions are suitable for the settlement of larvae; evaluate the effects of ecological changes; and to establish the role of hydrographic phenomena and physiographic limits in producing clusters, clumps, or aggregations of these organisms.

The answers to these and other questions may provide us with the ability to make seasonal predictions, monitor more meaningfully the various life stages so important to a predictive capability, and to provide an areal assessment of the likelihood of infestation as an extension-type service.

I might digress a moment there to say that we have direct requests from the public from time to time for our estimates of infestation likelihoods, such as individuals that might wish to purchase waterfront property or might wish to schedule vacations in certain areas and some of these requests come from outside the State of Maryland.

Second, the physiological aspects of the sting needs further elucidation. Dr. Joseph W. Burnett of the University Hospital has joined this work and we have made some progress in developing an emollient cream, and we now know how to purify the toxin and have had some success with developing a vaccine and identifying certain aspects of the generation of pain.

These avenues need further investigation and testing.

Certain pharmacological research efforts of ours and in other places have shown that the toxin may have utility in neurological and cardiac research in humans. There are already a number of institutions in the United States working along these lines. We need to go further with this avenue of investigation.

And lastly, we have proceeded in an encouraging way toward an improved barrier for excluding nettles from swimming beaches. We were most heartened by several trials utilizing water jets as developed with Dr. Colin Marks of the University of Marvland's Department of Mechanical Engineering. Unfortunately, the last 4 years of investigational support were characterized by very low numbers of sea nettles, so that meaningful trials could not be made. We feel that this design offers great promise of being almost totally effective and aesthetically unobtrusive.

The sea nettle population in Maryland's portion of the bay has been very low since 1969. Part of the reason is ecological, Agnes, Eloise, and several other winter storms contributing to a lower than normal salinity, throughout most of this period. Virginia, on the other hand, has been greater than normal abundance in certain areas. The original problem still exists.

We have seen nothing in our investigations thus far which suggests that a return to troublesome infestations could not recur at any time. That is why we feel there is still a need for further research. The

center and its resources are prepared to assist and participate in furthering such aims.

I will be happy to answer any questions.

Mr. BREAUX. I see, Mr. Cargo, you are definitely in favor of continuing the fund for the program and you have set out the reasons and have shown the way we have used the funds in the past.

Mr. CARGO. Yes, sir.

As it stands right now, our local interest in the furthering of the funds would be of a rather minor nature, since research funds set aside for that purpose are not available.

It would be an in-kind money or a cost sharing arrangement to engender matching funds on the State level.

Mr. BREAUX. Mr. Forsythe?

Mr. FORSYTHE. I have no questions.

Thank you.

Mr. BREAUX. Mr. Cargo, we appreciate your testimony and your being with us this afternoon.

Mr. CARGO. Thank you.

Mr. BREAUX. The Subcommittee on Fisheries and Wildlife Conservation and the Environment will stand adjourned, subject to the call of the Chair.

[Whereupon, the meeting of the subcommittee adjourned at 4:20 o'clock, p.m., subject to the call of the Chair.]

99-490—78——10

REIMBURSEMENT FOR FOREIGN FISHING LICENSES

MONDAY, MAY 2, 1977

HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
SUBCOMMITTEE ON FISHERIES AND WILDLIFE
CONSERVATION AND THE ENVIRONMENT,
Washington, D.C.

The subcommittee met pursuant to notice commencing at 3:05 p.m., room 1302, Rayburn Building, the Honorable Robert L. Leggett, presiding.

Mr. LEGGETT. The meeting of the Subcommittee on Fisheries and Wildlife Conservation and the Environment please come to order.

This afternoon the Subcommittee on Fisheries and Wildlife Conservation and the Environment will hold hearings on legislation designed to provide partial reimbursement to our U.S. distant-water fishermen who are required to pay fees imposed by foreign nations for the privilege of fishing within their waters.

The legislation to be heard is House Joint Resolution 388, which was introduced by myself and cosponsored by Mr. Forsythe, Mr. de la Garza, and Mr. Trible.

[The bill and departmental report follows:]

[H.J. Res. 388, 95th Cong., 1st sess.]

JOINT RESOLUTION to partially reimburse certain United States distant water fishermen for fishing fees imposed on them by foreign nations

Whereas pursuant to the Fishery Conservation and Management Act of 1976, the United States established a two hundred-mile fishery conservation zone on March 1, 1977, for the purpose of protecting, conserving and enhancing the fishery resources of the United States in order to benefit the coastal fishermen, the domestic fisheries, and the Nation as a whole; and

Whereas the United States regulates foreign fishing within the fishery conservation zone by charging reasonable fees to foreign fishermen for the privilege of fishing within such zone; and

Whereas certain foreign nations are exercising jurisdiction over fishery resources within fishery zones off their coasts and are charging fees to United States distant water fishermen for the privilege of fishing within such zones; and

Whereas the United States distant water fishermen benefit the domestic fishing industry and the Nation as a whole through their fishing off the shores of foreign nations, such as Brazil and Mexico; and

Whereas the Congress finds that some assistance should be provided United States distant water fishermen for the privilege of fishing within such zones; and petitively harvest fishery resources within the fishery zones of foreign nations: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Fishermen's Protective Act of 1967 (22 U.S.C. 1971–1979) is amended by inserting immediately after section 7 the following new section:

"SEC. 7a. (a) Any vessel owner who pays to any foreign nation any license fee, registration fee, or other fee for the privilege of fishing, after 1976, with such vessel for any species of fish in any zone or area over which the foreign nation claims exclusive fishery management authority or jurisdiction shall be reimbursed by the Secretary for two-thirds of the cost of such fee, as determined by the Secretary to be reasonable, if—

"(1) there is in force and effect a bilateral fishery agreement between such foreign nation and the United States relating to fishing by United States fishermen within such zone or area for the species of fish concerned; and

"(2) the fee paid by the owner was imposed by such foreign nation in accordance with such agreement.

"(b) Any vessel owner who pays to any foreign nation any license fee, registration fee, or other fee, as determined by the Secretary to be reasonable, for the privilege of fishing, after 1976, with such vessel for any species of tuna in any zone or area over which the foreign nation claims exclusive fishing management authority or jurisdiction shall be reimbursed by the Secretary for two-thirds of the cost of such fee; except that reimbursement shall not be made under this Act for any fee if reimbursement therefor was made, or may be made to the owner under section 3 of this Act.

"(c) The Secretary shall issue regulations regarding to procedures and forms for applying for, and the verification and payment of, reimbursements authorized under this section.

"(d) As used in this section—

"(1) The term 'fish' means finfish (other than tuna), mollusks, and crustaceans.

"(2) The term 'Secretary' means the Secretary of Commerce.

"(3) The term 'vessel owner' means the owner or charterer of a vessel of the United States which is documented or certificated as a commercial fishing vessel.".

For purposes of this subsection, the term "comparable United States fee amount" means the amount of the fee imposed on any foreign vessel under section 204 of the Fishery Conservation and Management Act of 1976 for a permit authorizing such vessel to engage in fishing within the United States Fishery Conservation Zone or the equivalent to such amount.

DEPARTMENT OF STATE,
Washington, D.C., May 2, 1977.

Hon. JOHN M. MURPHY,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Your letter of April 11, 1977, to the Secretary requests the Department's views on H.J. Res. 388, an Act to partially reimburse certain United States distant-water fishermen for fisheries fees imposed on them by foreign nations. The Department is not in favor of this legislation because we believe enactment would have an adverse effect on our distant-water fishery negotiations and on our objectives with respect to tuna.

With regard to our distant-water fishery negotiations, we believe such a law, if enacted, would be an invitation for foreign nations to increase their license fees. As a result, we would find it difficult to negotiate low license fees, the cost to the U.S. fishermen would be the same—or more—and the cost to the U.S. Government would be increased.

In the negotiation of fees in our international fisheries agreements, the Department does not agree to a figure that is higher than the amount our industry advisers indicate they are willing to pay. Should that figure be higher than the three and one-half percent of the value of the fish that is the U.S. fee for foreign fishing off our coasts, it would be only because our industry had indicated an ability and willingness to pay it.

In making this decision, factors other than a simple comparison of fees are considered. For example, U.S. vessels fishing in Brazilian waters pay a set fee and then may fish without restriction. In a good year, the fee may represent only two percent of the value of their catch; in a bad year, it could be five percent of the value.

The reimbursement of fees paid for the privilege of fishing tuna off a foreign nation's coast involves a special problem. The United States does not claim

jurisdiction over tuna nor does it recognize the jurisdiction of other nations over tuna within their 200-mile zones. Some other nations, however, have claimed jurisdiction over tuna in their waters since the early 1950's. U.S. tuna vessels have been subject to seizure if they do not have licenses for those waters. Consequently, many have been buying licenses. We do not encourage them to do so, nor do we offer objections as we do not consider their private actions to have any effect on the legal position of the United States Government.

We do not believe the intention in H.J. Res. 388 is to alter U.S. policy of not recognizing coastal state jurisdiction over tuna, but we think it could be construed to have that effect. We believe it would also affect upcoming negotiations in which we will seek acceptance of our legal position on tuna. The issue is likely to arise during a renegotiation of the treaty under which the Inter-American Tropical Tuna Commission was established and at the Law of the Sea Conference. In these fora, coastal states would be likely to regard U.S. Government payment of license fees for its fishermen in their waters as acceptance of their jurisdical position.

We recognize that the judgment whether this proposed joint resolution be enacted is not exclusively a foreign policy judgment. We suggest, however, that the Committee might wish to consider measures to reimburse U.S. fishermen on a case-by-case basis after agreements have been negotiated, if such measures were considered to be appropriate under the circumstances.

As both the number of U.S. distant-water fishing vessels and the level of fees that might be charged by foreign governments are subject to substantial fluctuation, we cannot predict reliably the likely costs of the fee reimbursements contemplated in this resolution. On the basis of present fees paid under our agreements with Brazil and Mexico, the cost could be as much as $768,000 (exclusive of any administrative cost) during 1977. The additional cost for licenses purchased from foreign countries in connection with tuna fishing could be $1.5 million, for a total of approximately $2.3 million.

The Office of Management and Budget advises it has no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

DOUGLAS J. BENNET, Jr.,
Assistant Secretary for Congressional Relations.

Mr. LEGGETT. The need for this legislation arises from the fact that on March 1 of this year, the United States extended its fishery zone from 12 to 200 miles for the purpose of protecting, conserving, and enhancing the fishery resources of the United States in order to benefit our coastal fishermen, our domestic fishing industry, and the Nation as a whole.

The law that extended our fishery zone also provides that no foreign fishing vessel will be authorized to fish within our 200 miles zone unless the foreign nation concerned has signed a GIFA with the United States, has received a permit for each of its fishing vessels planning to fish in our zone, and has paid the appropriate fees.

A number of nations prior to the extension of the fishery zone of the United States, and a larger number of nations subsequent to such extension, are exercising jurisdiction over the fishery resources within the fishery zones off their coasts and are charging fees, some of which are unreasonable, to distant-water fishermen—in this regard, the U.S. fishermen—for the privilege of fishing within their zones.

It should be emphasized that our distant-water fishermen play a vital role in the fishing industry of the United States. Most of the fish caught by these fishermen involve shrimp, caught off the coasts of Brazil and Mexico primarily; groupers and snappers, caught off the coast of Mexico; and tuna, primarily on the high seas and off the coasts of Mexico, Peru, and Ecuador.

To give some idea of the value of the United States of the fish caught by our distant-water fishermen, in 1975, the value of the shrimp

caught off the coast of Brazil amounted to about $17 million and off the coast of Mexico, $20 million. The U.S. tuna fleet caught 500 million pounds of tuna, amounting to about $150 million, 89 percent of which was caught off foreign shores.

Consequently, one can readily see that our U.S. distant-water fishermen greatly benefit our domestic fishing industry and the Nation as a whole through their fishing off the shores of foreign nations.

It was because of this contribution and the need to see it continued that prompted the introduction of the legislation to be heard today.

House Joint Resolution 388 would provide some assistance to our distant-water fishermen by authorizing the Secretary of Commerce to reimburse any U.S. fishing vessel owner for two-thirds of the cost of any fees paid by such vessel owner for the privilege of fishing off the shores of a foreign nation. The reimbursement would be allowed only if such fees are charged pursuant to a bilateral fisheries agreement entered into between the United States and the nation charging such fees. With respect to fees paid by our tuna fishermen, there need not be a bilateral fisheries agreement entered into between the United States and the nation charging such fees because the United States does not recognize the right of any nation to regulate tuna. Nevertheless, certain foreign nations do charge fees for the privilege of fishing for tuna in their waters, irrespective of our nonrecognition of such rights.

Considering that we do not enter into agreements on migratory fish like tuna, counsel is asked would the legislation in the current form give any relief to those who choose to pay license fees off the coast of South America?

Mr. EVERETT. Yes, it would provide for reimbursement for tuna license fees whether there is a bilateral fishing agreement or not. In other words, the vessel would submit a claim to the Secretary for up to two-thirds of the cost of the license fee for reimbursement.

Mr. LEGGETT. That would be a discretionary payment on his part?

Mr. EVERETT. The Secretary would have to make a determination that the fees charged were reasonable and if so, reimbursement would be made in an amount up to two-third of the cost of such license fees.

Mr. LEGGETT. Very good.

Before calling our first witness it should be pointed out that if our distant-water fishermen are not allowed to continue fishing off the shores of foreign nations, many of these fishermen will in all likelihood use their vessels for fishing off the coastal waters of the United States in fisheries that are already overcapitalized and saturated. Consequently, many of them will be forced to go out of business and much unemployment will result, not only in the fishery concerned but in related industries as well.

So our first witness is Rozanne L. Ridgway, Deputy Assistant Secretary for Oceans and Fisheries Affairs.

STATEMENT OF ROZANNE L. RIDGWAY, DEPUTY ASSISTANT SECRETARY FOR OCEANS AND FISHERIES AFFAIRS

Mr. LEGGETT. Ms. Ridgway is our new ambassador to Finland. Rozanne, it is very nice to have you here.

Ms. RIDGWAY. Thank you, Mr. Chairman.

Mr. LEGGETT. You have done an excellent job through the years and I am sure in your future appointments you will likewise distinguish yourself.

Ms. RIDGWAY. Thank you, Mr. Chairman.

Mr. Chairman, I have a very brief statement which I will submit for the record. In summary of that statement I would like to say that—

Mr. LEGGETT. Your statement will be included in the record as though fully delivered.

Ms. RIDGWAY. Thank you.

[The following statement was submitted for the record.]

STATEMENT BY ROZANNE L. RIDGWAY, DEPUTY ASSISTANT SECRETARY FOR OCEANS AND FISHERIES AFFAIRS DEPARTMENT OF STATE

Mr. Chairman; thank you for the opportunity to appear before your Committee today to discuss H.J. Res. No. 388, which would amend the Fishermen's Protective Act to provide reimbursements to U.S. distant-water fishermen for two-thirds of any license fee, registration fee or other fee paid to any foreign nation for the privilege of fishing. It includes provision for reimbursement for such costs associated with fishing for shrimp and other species we consider to be subject to coastal state fisheries jurisdiction within 200 miles of a foreign nation's coast, as well as tuna, which we do not consider to be subject to such jurisdiction.

The proposed joint resolution raises a number of issues of concern to the Executive Branch. I will set aside budgetary considerations and economic considerations relating to the subsidy aspect of this proposal, and confine my remarks to matters of particular interest to the Department of State.

One must ask whether the legislation would invite foreign nations to increase their license fees, resulting in the same cost, or more, to U.S. fishermen, and increased costs to the United States Government. I believe it could very likely have such an effect.

The question of reimbursing fees paid for the privilege of fishing tuna off a foreign nation's coast involves a special problem, as you know. As provided by the Fishery Conservation and Management Act of 1976, the United States has not recognized the fishery jurisdiction of any foreign nation over tuna within the 200-mile zone. We are aware that some U.S. fishermen buy licenses from some foreign nations in connection with tuna fishing. I can understand why they do. Since the early 1950's, tuna vessels have been subject to seizure for not buying licenses. Other than nonrecognition of foreign claims of jurisdiction over tuna by the United States Government, the fishermen do not believe their interests have been protected. So they have decided in many cases to buy licenses. Although we do not encourage them to do so, we have not offered any objections, and we do not consider that their private actions have any affect on the legal position of the United States Government. And, as you know, we haven't found any long-term resolution to the problem. I do not believe it is the intention of H.J. Resolution 388 to alter the policy of not recognizing jurisdiction over tuna, but it could be construed to have that effect.

If coastal states off whose coasts our fishermen take tuna are receiving license fees effectively paid for by the United States Government, they are likely to regard that as acceptance of their juridical position. The impact would not, in my judgment, be limited to the question of fees, but may spill over into questions of allocation, enforcement, and international measures respecting these highly migratory species.

Mr. Chairman, I recognize that the judgment whether this proposed joint resolution should be enacted is not exclusively a foreign policy judgment. Nonetheless, we believe enactment would have an adverse impact on our objectives with respect to tuna as they are at present stated in our own law. For this reason, the Department does not favor its enactment.

Ms. RIDGWAY. In summary of that statement I would merely point out that there are certain aspects of the legislation which are not within the province of the Department of State. Those which relate

aspects of the proposal to national fishery policy and economic considerations in our view are not questions on which the Department is expert or in a position to provide appropriate comments.

I would point out that the question of reimbursement for licenses bought in order to fish tuna off a foreign nation's coast involves a special problem. As provided by the Fishery Conservation and Management Act of 1976, the United States does not recognize the fishery jurisdiction of any foreign nation over tuna within the 200-mile zone.

If coastal States off whose coasts our fishermen take tuna are receiving license fees effectively paid for by the U.S. Government, they are likely to regard that as acceptance of their jurisdictional position. The impact would not, in my judgment, be limited to the question of fees, but may spill over into questions of allocation, enforcement, and international measures respecting these highly migratory species.

Mr. Chairman, I recognize that the judgment whether this proposed joint resolution should be enacted is not exclusively a foreign policy judgment. Nevertheless, for that small area which is of interest to the Department we do believe that enactment would have an adverse impact on our objectives and our currently stated position concerning coastal jurisdiction of tuna. Therefore, we do not favor enactment of the resolution.

Mr. LEGGETT. Very good.

I appreciate your position and technically it is probably correct. Our problem is that when our tuna fishermen go down there and do not buy licenses most likely they will be seized and in many cases their total cargo is confiscated and they are fined. Naturally under those conditions, they are reimbursed for their losses under section 3 of the Fishermen's Protective Act.

Now when they voluntarily buy licenses in order to prevent being seized we can meet that situation under the legislation by providing for a reimbursement of two-thirds of such fees since they, in essence, would be paying such fees under protest or since they did not yield to the jurisdiction of the foreign country. I presume the latter would be more to your liking since that would be consistent with the position of the State Department on this issue and as far as the fisherman is concerned it really would not make any difference as long as the two-third reimbursements were made.

I do think the payment of these fees, whether or not covered under the Act, results in an inequity and a handicap to this industry. We tried at one time to remedy this situation, whereby the license fees of foreign countries could be put into a fund and used to reimburse for these fees, however, it got too sticky in conference and we had to take it out. The practical matter is that this approach should not cause the Treasury any undue hardship. It is still a problem, however. And you do not need to comment on that.

Mr. de la Garza?

Mr. E DE LA GARZA. Thank you, Mr. Chairman.

What do you call her, Madam Ambassador?

Ms. RIDGWAY. Yes, sir.

Mr. E DE LA GARZA. Madam Ambassador, I hate to have our last meeting ruined by—not ruined, I really do not mean that—but to have to continue with my persistent efforts against the policies of our

Executive concerning fisheries problems as we send you off to represent us in Finland, which I know will be ably done, and we wish you well.

But the statement that you submitted and I have read is totally unacceptable. I hope that the Ambassador did not prepare this statement, but it rather is a policy statement prepared by someone not knowledgeable of the issue because on page 2, it is implying that this would be used by reading between the lines for blackmail by another country to increase the costs of a license, knowing that the U.S. Government would be a partner, if you want to call it that, in the operation and that is totally unacceptable.

On the contrary, I think a country might be lenient or inclined to be lenient knowing that the Government of the United States is involved in the paying of the license fee.

But the major thing here is that that statement flies in the face of the actions of our Executive in negotiations and—particularly in the case with Mexico where the shrimp fishermen are completely out of Mexican waters—in, what is it now, 3 years?

Ms. RIDGWAY. Yes, by the end of 1979.

Mr. E DE LA GARZA. Three years. In 1979.

With all due respect, in the end I think a better agreement could have been negotiated. I will not go into that. We have gone through it and asking for a delay and waiting for the change of administration, among other things. But I cannot and will not accept this statement as being prepared by the gentlelady, the Ambassador, and will insist that hopefully and correctly that it was, it looks as if someone is grasping for the last straw "How can we oppose this legislation" and I think my 16-year-old daughter could come up with a more concrete reason than believing it likely that the cost of the license would be increased by the Government——

Mr. LEGGETT. Could I interrupt?

There is a second bell for voting on the select cmomittee for funding so you can continue or you can continue after we vote. You are now in charge.

Mr. E DE LA GARZA. Then the subcommittee will be in recess for a few moments.

[A brief recess was had at 3:30 p.m. to 3:36 p.m.]

[Mr. E de la Garza assumes the Chair]

Mr. E DE LA GARZA. The subcommittee will be in order.

Just for the record, Madam Ambassador, when negotiating with another country the final result is brought up here as a negotiated article or series of articles with appendices, enclosures, and so forth, is that correct?

Ms. RIDGWAY. That is correct.

Mr. E DE LA GARZA. And that allows the two sovereigns to negotiate in particulars such as amount of license fees, is that not correct?

Ms. RIDGWAY. No, sir. What remains is no longer negotiable. The U.S. determines unilaterally on its license fees and amounts.

[Mr. Leggett assumes the chair.]

Mr. E DE LA GARZA. Our Government does not have then any further contact with the signatory from the other country on a GIFA? Is that the end and we do not talk to them any more?

Ms. RIDGWAY. No. There is a procedure whereby they apply for a surplus, if any, and we tell them the terms and conditions.

Mr. E DE LA GARZA. And—excuse me for interrupting—I am speaking about when our fishermen go to that other country, do we not negotiate with them what they say are the surplus or what the license fee is going to be and so on?

Ms. RIDGWAY. Yes, we do Mr. de la Garza. But in that case it is not a GIFA. The GIFA is a——

Mr. E DE LA GARZA. Right. Right. I am separating them. You bring the GIFA, but then afterward we negotiate with them when our fishermen want to go fish off the coast of Finland and we already have signed a GIFA with Finland then we negotiate. We negotiate on how many boats they are going to let in, or are they not negotiable?

Ms. RIDGWAY. It would be except that there is no match. We have no GIFA with countries off whose coasts we fish. We have no GIFA with Mexico, for example, which does not fish off the coasts of the United States.

Mr. E DE LA GARZA. You do not want to answer my question.

Ms. RIDGWAY. I would love to but there is no match.

Mr. E DE LA GARZA. Yes, there is. Do we not negotiate with Mexico the amount of fish that we can get, how much the license is going to be?

Ms. RIDGWAY. Yes, we do.

Mr. E DE LA GARZA. And you say here it will—and it sure took a long ways to get here—that the other country would likely increase the amount of license. But you have just told me we negotiate that.

Ms. RIDGWAY. That is correct. And the statement merely says that in a negotiation one of the pressures would be in the direction of a higher fee. There is another pressure we do not speak of which I think is important and that is the example we have set off our own coasts.

Mr. E DE LA GARZA. There is always pressure from the other side and never from us, never from us. Our establishment for negotiations is if pressure is applied it comes from the other side and we yield and we buckle and do whatever is necessary but yet—and I quote from one of your statements—"we do not use pressure"—and I certainly would not get upon the table and jump up and down like I would have liked for you to have done when they did that to us.

Ms. RIDGWAY. Mr. de la Garza, I recall the occasion to which you make reference to the quote. But that was because we were engaged in a public session and I said I did not think we wanted everyone to hear what our position in the United States would be there. I am sure those on the delegation to Mexico would testify that we made clear to the Mexicans the provisions of the law and the likelihood of negative provisions being enforced.

Mr. E DE LA GARZA. Mr. Chairman, I am venting my frustration on the dear lady who is going to do a good job in Finland and I, if I have any time left I would relinquish it.

I wish the gentlelady well in her post and hopefully she will serve in excellence and great distinction.

Ms. RIDGWAY. Thank you, Mr. de a Garza. And I am going to miss the exchange.

Mr. E DE LA GARZA. Thank you.
Mr. LEGGITT. Thank you.
Pete?
Mr. MCCLOSKEY. Thank you, Mr. Chairman.
Let me defer to the gentleman here.
Mr. LEGGETT. Paul?
Mr. TRIBLE. No questions.
Mr. LEGGETT. David?
Mr. EMERY. No questions.
Mr. MCCLOSKEY. I do have some questions. Thank you.

Madam Secretary, I am perplexed about why the State Department takes the position that once the United States passed the 200-mile bill claiming absolute right to conserve fish within our 200-mile limit, we make it our foreign policy to deny to other nations the same right to conserve fish within their 200 miles merely because those fish may be accustomed to swimming outside that 200 miles as well? Can you enlighten me on our policy?

Ms. RIDGWAY. Mr. McCloskey, the United States does not exercise jurisdiction over tuna and does not recognize the jurisdiction of others over tuna and it is not a statement of policy. It is part of the act.

Mr. MCCLOSKEY. We might say we do not choose to exercise jurisdiction. But what consistency is there in a policy that leaves out one type of fish from the jurisdiction we claim because it does not happen to swim very often within our 200 miles and yet contend other nations should not extend their jurisdiction to the fish that do swim within their 200-mile zone? I do not understand that position from the world's leading nation.

Ms. RIDGWAY. Mr. McCloskey, I must be guided in all of these instances by the act. The United States by the law, has chosen to make the distinction between what it will recognize and what it will not.

Mr. MCCLOSKEY. In a case called the *Flying Fish* case, the Supreme Court held that when the Congress did not act in an area, the executive branch was free to make policy. We did not act to contend jurisdiction over tuna in our 200-mile zone but made that contention with respect to every other kind of fish I can think of.

Mr. LEGGETT. Would the gentleman yield for a second?

Mr. MCCLOSKEY. Certainly.

Mr. LEGGETT. The single text that we last had at the Law of the Sea Conference, what did that say about tuna?

Ms. RIDGWAY. As a species to be conserved and managed pursuant to international organizations.

Mr. LEGGETT. And would it be excepted generally from the 200-mile jurisdiction.

Ms. RIDGWAY. It does not state that specifically, Mr. Leggett. In fact, I think all of the nations looking at the tuna language in the Law of Sea text would say it was quite subject to interpretation. Those nations which have espoused full coastal control over all fishery resources would, I believe, interpret the relevant paragraph as providing for the coastal state jurisdiction over tuna, whereas the United States would interpret the paragraph as requiring international management of tuna.

The present language accommodates different interpretations and we are looking toward the various regional negotiations to put forward our point of view, which is, again, in the act, not through the absence of the language but explicitly stated in the act, that the coastal state should not exercise jurisdiction over tuna.

Mr. McCloskey. That may be. You then take it that the language of the act requires you to contend that no coastal state has the right to regulate tuna even when it is within 200 miles?

Ms. Ridgway. The act is quite explicit on that, Mr. McCloskey. And it is consistent with our policy at the Law of the Sea Conference with respect to tuna. It is more narrow than we took in the Conference.

Mr. McCloskey. I can understand the United States contending jurisdiction outside the 200 miles but it is beyond me to understand how we have any jurisdiction within 200 miles of any other country. Is there any legal opinion by the State Department that supports our executive branch's contention that no coastal state can exercise jurisdiction over tuna when it swims within the 200 miles of that state?

Ms. Ridgway. At present, Mr. McCloskey, we would, on a case-by-case basis, determine how a coastal state is exercising jurisdiction. If we take the extreme, such as you have suggested, we do create—I am trying to think of one word—a "mess" for ourselves because not all of the coastal states are exercising jurisdiction over resources of interest to our fishing industries.

Mr. McCloskey. Let me ask you this question. If we are going to seize Russian vessels for being caught within our 200-mile zone with fish it is not licensed to take, how can we possibly contend that the Russian or the Ecuadorian Government is not entitled to seize a vessel within its 200 miles if it captures vessels with fish which it has not granted a license to take? It seems inconsistent with the policy we advance at the U.N. that an act of Congress can extend jurisdiction over the 200-mile fishing zone of a foreign nation.

Ms. Ridgway. I agree that the act cannot extend our jurisdiction, as you suggest, but the act states the United States will not recognize other nations' jurisdiction over tuna.

Mr. McCloskey. Can you give me your opinion as to how the United States contends an absolute right over our 200-mile zone and denies that right to other nations?

Ms. Ridgeway. Mr. McCloskey, I hope you will allow me a general reply. The act provides for a management program off our shores which suits the needs of the United States. It does create an inconsistency with respect to certain of our interests off the coasts of other countries. We have, for example, redefined "highly migratory" to mean only fish which by our act are highly migratory. This creates an inconsistency and contradiction which fortunately to date we have not had to face. But we begin to face them as we look at the legislation such as House Joint Resolution 388 where we address the problem of support for our fleet.

Our view is that, as a matter of support or subsidy for American industry, the Department of State should stand aside. We are not expert. If we go out and negotiate from a position that we do not recognize and yet have a program at home that says we do recognize, the lack of clarity is going to cost enormously and we cannot protect either position.

Mr. McCLOSKEY. I hate to dwell on this point but I am still confused on the constitutional point that relates back to the *Flying Fish* case I mentioned. Is it your statement that in the act the U.S. Congress passed creating the 200-mile zone, the State Department is instructed to decline to recognize the right of a foreign coastal state to exercise absolute jurisdiction over all fish within its 200-mile zone?

Ms. RIDGWAY. That is our view. We believe the act so instructs us.

Mr. McCLOSKEY. And are there opinions of counsel in the State Department that discuss this problem?

Ms. RIDGWAY. I am not aware of any. I think most of the people concerned believe that, if it ever comes up in practical terms, it would come up in the context of a claim, say, by the owner of a tuna vessel seized off the coast of another country, for reimbursement for the amount paid to obtain release. Someone then would have to make a decision as to whether we did or did not recognize the claim.

Mr. McCLOSKEY. Frankly, it seems to me that any act of Congress which sets out a 200-mile zone for our country but instructs the Chief Executive to deny the 200-mile zone to others would be unconstitutional and transsends the President's right to conduct foreign affairs. I wonder if there are any opinions of learned counsel on the constitutionality of that portion of the act?

Mr. LEGGETT. If the gentleman would yield?

Mr. McCLOSKEY. Yes.

Mr. LEGGETT. As I recall, I think what we said was that we would exercise jurisdiction over all fish within our 200 mile zone as of March 1, except we excluded from our jurisdiction all tuna. And to make the matter consistent we did relate it to some provisions concerning the Fishermen's Protective Act in legislation with respect to foreign countries.

But certainly we did not exercise in our jurisdiction extra-territorially.

Mr. McCLOSKEY. Mr. Chairman,

The bluefin tuna is all around the Atlantic, within 200 miles of Africa and Europe and off the coast of Maine. Do I understand from the coloquoy that the United States in enforcing jurisdiction over the 20 mile zone could not prevent the Soviets from taking the bluefin tuna within our 200 miles?

Mr. LEGGETT. Well, that is by treaty, pursuant to the Atlantic Tuna Convention of 1950.

Mr. McCLOSKEY. But I am asking a different question.

Mr. LEGGETT. Under the 200-mile law, as written, we cannot preclude the Soviets from taking tuna, they are not a party to the treaty, we do not have the right to enforce it against them. They are a party to the treaty we have the right to enforce the treaty itself within our 200 mile jurisdiction.

Mr. McCLOSKEY. We have the right to also enforce the treaty. But, if a nation has not signed that Atlantic tuna agreement, do I understand that the nation can with impunity take tuna off the coast of Maine?

Mr. LEGGETT. We specifically say so under the law. Now, you raise a good point and I have not really explored it in a public session. There is a problem in consistency where we say for example that we will control fish that start in fresh water and go into salt water

beyond our 200 mile zone. We assert the authority to control these fish to the extent of their range. So, we do have some inconsistencies in our processes. But I would hope we do not kick over the pail before we know how many cows we have in the barn.

Mr. McCLOSKEY. Thank you, Mr. Chairman.

I just wish to wish the Madam Ambassador the best and good luck.

Mr. LEGGETT. You speak for all the committee.

Mr. E DE LA GARZA. Even me.

Mr. LEGGETT. And that is a great commendation.

So with that I think we have finished with our first witness.

Mr. RIDGWAY. Thank you, Mr. Chairman.

Mr. LEGGETT. You are free to go.

Our next witness is Mr. Jack Gehringer from NMFS. Jack, it is nice to have you here.

STATEMENT OF JACK GEHRINGER, DEPUTY DIRECTOR, NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE

Mr. GEHRINGER. Thank you, Mr. Chairman.

I have with me today, Mr. Ronald Steinberg of the Office of General Counsel, NOAA, to my right. And on my left, is Mike Grable, Chief of the Financial Assistance Division of NMFS.

I thank you for the opportunity to comment on H.J. Res. 388.

You do have a copy of my testimony and I would like to briefly summarize it by selecting points and then be available for questions.

Mr. LEGGETT. Your statement will appear in the record as though actually read.

[The following statement was submitted for the record:]

STATEMENT BY JACK GEHRINGER, DEPUTY DIRECTOR, NATIONAL MARINE FISHERIES, SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, U.S. DEPARTMENT OF COMMERCE

Mr. Chairman and members of the subcommittee, I appreciate the invitation to comment on H.J. Res. 388, a resolution to amend Section 7 of the Fishermen's Protective Act of 1967 to provide partial reimbursement of certain fees paid by U.S. vessels for the privilege of fishing within a foreign nation's fishery management zone.

The Department of Commerce recommends against enactment of H.J. Res. 388.

With the enactment of the Fishery Conservation and Management Act of 1976, the U.S. has embarked on a new regime for the management of the fisheries resources off our coasts.

As the Subcommittee is well aware, we are now in the process of preparing management plans, issuing permits, and assessing fees that will be required to be paid by the foreign fishing interests that have entered into bilateral fishery agreements with the U.S. regarding their desire to fish in our zone. Likewise, we have and are prepared to recognize similar management regimes imposed by foreign nations over their 200-mile zones including imposition of reasonable fees. Where U.S. fishing interests desire to fish in a foreign zone, we have and are prepared to enter into bilateral fishery agreements with the foreign nation relating to fishing by U.S. fishermen within such zone including the payment of fees to the nation by vessel owners. However, we believe that the payment of such fees should be considered as a basic operating cost not subject to U.S. government subsidy. Further, if H.J. Res. 388 is enacted, we believe it would serve as an invitation for foreign nations to increase the fees imposed on U.S. fishermen and result in increased cost to the Federal Government. It would also be difficult, in our distant-water fishery negotiations, to obtain low fees for our fishermen.

Reimbursement of fees paid for tuna fishing rights in claimed foreign exclusive fisheries management zones or territorial seas which extend beyond 12 miles of a foreign nation's base lines deserves special mention. For many years this country has not recognized, with regard to the highly migratory species of fish (specifically tuna), claims by other nations of exclusive fisheries management zones or of territorial seas which extend beyond 12 miles from their base lines. Our own Fisher Conservation and Management Act specifically exempts the highly migratory species of fish from regulation by the United States. We continue to maintain our position in the Law of the Sea Conference negotiations that there should be international regulation of highly migratory species of fish throughout their range. In our opinion the only legitimate control over highly migratory species can be that imposed pursuant to an international regime. Consequently, we believe we should continue to support the right of U.S. flag tuna vessels to fish for tuna within a fishery zone of a foreign nation without being subject to regulation or fees imposed by that foreign nation. Failure to do so may render our negotiating position ineffective.

The purpose of H.J. Res. 388 to us, clearly is not to alter this nation's long-standing policy of not recognizing foreign coastal state jurisdiction over tuna, but we fear foreign nations will misconstrue it to have that effect. Foreign coastal states will likely regard the U.S. Government payment of fees for its fishermen in their waters as acceptance of their juridical position.

In concluding my remarks I want to reiterate our support for the extension of the program presently provided for by the Fishermen's Protective Act. Provisions of that Act with regard to the reimbursement of fines assessed by foreign nations incident to a seizure as well as the program for reimbursement of other expenses also incident to a seizure should be continued.

This concludes my prepared statement, Mr. Chairman and I would be pleased to answer any questions you may have.

Mr. LEGGETT. The number one point we are concerned with is, you believe, is that the payment of such fees should be considered not subject to U.S. Government subsidy?

Mr. GEHRINGER. Yes, sir.

Mr. LEGGETT. So basically you are against the whole concept of the bill?

Mr. GEHRINGER. Yes, sir.

Mr. LEGGETT. I think that is all we need.

Mr. E DE LA GARZA. May I have him now?

Mr. LEGGETT. Yes, go ahead.

Mr. E DE LA GARZA. Mr. Gehringer, I hope again somebody not knowledgeable of the issue prepared this statement. It is unacceptable. I cannot fathom this agency sending this type of statement to people who sit on this committee that know a little bit about the situation in which we find ourselves. It is totally unacceptable.

Let me ask a series of questions here briefly.

We had a fisherman who had a shrimp boat and went to fish off the coast of Mexico. Now, who imposed on him the limitations that he has to pay a license or can no longer go fish in Mexican waters; or what government imposed that limitation on him?

Mr. GEHRINGER. The Government of Mexico, sir.

Mr. E DE LA GARZA. The Government of Mexico entered into an agreement with what government?

Mr. GEHRINGER. The United States.

Mr. E DE LA GARZA. So who in Dickens imposed on him the license; the Government of the United States and the Government of Mexico. And a shrimp boat fisherman named Guy Pete sitting back there in the back is paying his taxes, being a good citizen, trying to raise his children in a decent Christian manner, is told by two governments period, you pay this much or you do not fish for shrimp. And 3 years

from now you do not fish period. And this Government, we and you as part of the Government accept that agreement and for someone to have the audacity to bring this kind of statement here to say that the Government should not subsidize him—I am not speaking to you personally, Mr. Gehringer—but this is an insult to the intelligence of the members of this committee and the people out there who are suffering because of the failure of their government to protect them with an agreement with another country, and I guess I better not say anything else.

Mr. LEGGETT. Well, it draws to mind the idea that we had in mind under the 200-mile law that the National Marine Fisheries Services was to effect a fishing renaissance. To my knowledge you are not really doing very much to really redevelop the American fisheries off our shores. We are being priced out of the market and certainly being priced away from foreign shore markets. We are thinking of developing a domestic program in aquaculture which the State of Hawaii thinks is the salvation for their State and the most important economic issue there.

Yet OMB is not changing their priorities in determining that they want to stick by the same old policies that we have had in the past and not go forward with such a program.

Mr. E DE LA GARZA. Excuse me, Mr. Chairman, but I am too close to the people involved.

Mr. LEGGETT. Thank you.

Pete?

Mr. MCCLOSKEY. I regret once again it falls to the Republican Party to support the administration position. Mr. Gehringer, as we negotiate with the Soviets, the Japanese and other foreign nations over the license fee they will pay for fishing within our 200-mile zone. can you tell me whether those fees will be based on tons of cargo, the tonnage of the boat, or the value of the catch involved?

Mr. GEHRINGER. Yes, sir. Under the new Fishery Conservation and Management Act we determine the fees. We do not determine them in negotiating, negotiations with the foreign country.

Mr. MCCLOSKEY. But are you establishing a framework for these fees?

Mr. GEHRINGER. Yes, sir. We have a framework which is based on a fixed annual fee of a dollar per gross registered ton (GRT) for fishing vessels; a fixed annual fee of $0.50 per GRT for support vessels with processing capabilities, with an upper limit of $2,500; a fixed annual fee of $200 per vessel for support vessels without processing capabilities; and 3.5 percent of the ex-vessel value with respect to the various kinds of fish which are anticipated to be caught. In this it varies from a cheap to a high price depending on the species.

Mr. MCCLOSKEY. For example, what is the range of the fee per ton that you envision for tuna?

Mr. GEHRINGER. Tuna is not involved.

Mr. MCCLOSKEY. Salmon?

Mr. GEHRINGER. Salmon is not involved and we have not entered into any negotiations with respect to shrimp although we have had applications or indications of interest from Taiwan to fish the Gulf of Mexico. We do not have a determination for that.

We are talking of up to several hundred dollars a ton and down to less than $40 a ton.

Mr. McCLOSKEY. But the tonnage rates you are trying to set up are based on the value of the catch?

Mr. GEHRINGER. Value of the catch, yes, sir.

Mr. McCLOSKEY. So there will be two license fees charged to the foreign vessel. One based on the tonnage of the vessel and the other based on on the anticipated tonnage of fish they are asking the right to catch?

Mr. GEHRINGER. Yes, sir.

The fee is determined for a country and it is based on applications we receive to fish in our waters, transmitted by that foreign country. For example, we charge Russia a lump sum.

Mr. McCLOSKEY. Do I assume that you will try to have uniform fees for all nations so one does not pay more for a catch or tonnage than another?

Mr. GEHRINGER. Yes, sir.

Mr. E DE LA GARZA. Would the gentleman yield?

Mr. McCLOSKEY. Yes.

Mr. E DE LA GARZA. How come we give, or have a GIFA with Canada?

Mr. GEHRINGER. That is a different arrangement. We have no GIFA with Canada.

Mr. McCLOSKEY. What would happen if a nation such as Mexico, Peru, or Chile assesses a license fee for U.S. fishermen which you deem unreasonable?

Mr. GEHRINGER. The fisherman has the option to pay or not to pay the fee since we have no bilateral with that country.

Mr. McCLOSKEY. We have a bilateral agreement with Mexico?

Mr. GEHRINGER. We have an agreement with Mexico, yes, but not in the form of a GIFA.

Mr. McCLOSKEY. What about the amount of the fee Mexico seeks to charge our shrimp fishermen? Are they reasonable or consistent with our charges to other foreign nations?

Mr. GEHRINGER. My understanding is they are consistent with the same foreign value per ton and calculated in a similar fashion.

Mr. McCLOSKEY. I gather there is some heat here. Could I ask the gentleman from Texas, is there some suggestion that the Mexicans charge us more than we charge other nations?

Mr. DE LA GARZA. The major concern of the gentleman from Texas is that the agreement that was negotiated takes all the fishermen out of the Mexican waters in 3 years. That is a major objection. And second, yes, they have negotiated different agreements with other countries.

Mr. McCLOSKEY. Brazil charges 5.5 percent a ton and Mexico will charge 4.9 percent of the total shrimp value caught in 1977.

What are we charging for fish of comparable value to shrimp to foreign countries that fish within our waters?

Mr. GEHRINGER. I am not positive we have foreigners fishing any product as high priced or as high quality but I must agree that we charge 3.5 percent and these other countries, Brazil and Mexico, are charging approximately 5 percent. There is that difference between the two.

Mr. McCLOSKEY. Why do we charge them 3.5 percent if they charge us 4.9 percent?

Mr. DE LA GARZA. Would the gentleman yield?

Mr. MCCLOSKEY. Yes.

Mr. DE LA GARZA. We began charging 0.4 and up to 3.5. The average of 0.4 to 3.5 fee.

Mr. MCCLOSKEY. Counsel advises me our fees are based on 1975 average.

Mr. GEHRINGER. Yes, sir.

Mr. MCCLOSKEY. Whereas, the Brazilians and Mexicans are charging on the basis of 1977 prices. Is that correct?

Mr. GEHRINGER. If you will excuse me 1 minute.

Mr. MCCLOSKEY. If we are exchanging the fishing rights and the gentleman from Texas is correct, the rates ought to be the same.

Mr. GEHRINGER. I have been reminded that, depending on how you apply the figures, for how many vessels, you can arrive at roughly a 3.5 percent figure for Brazil.

Mr. MCCLOSKEY. That we charge them?

Mr. GEHRINGER. No. Brazil does not fish in U.S. waters. This is the figure that they charge our fishermen.

Mr. MCCLOSKEY. Then we have something wrong. We are using a chart entitled "Fees Paid by U.S. Fishermen to Foreign Countries." It was given to our staff apparently by your agency.

Mr. GEHRINGER. Mr. McCloskey, I am advised that the table I have here and which I will submit for the record takes an average of the 3-year period of 1973 through 1975 and computes an average of these instances which could account for the variation.

[The following was submitted:]

U.S.-BRAZIL SHRIMP AGREEMENT FEE SCHEDULE

The attached table illustrates that if one were to apply the U.S. fee schedule of 3.5 percent of the U.S. landings from the U.S.-Brazil Shrimp Agreement area in 1973, 1974, and 1975, using current exvessel values, a figure results ($350,632) which is remarkably close to the amount of money paid by the U.S. to Brazil in 1975 and 1976 ($361,000). Under the new U.S.-Brazil Agreement, 90 U.S. vessels are authorized to fish at a rate of $3,600 per vessel (paid by the vessel owners). The payments for 1977 will total $324,000, an amount less than the amounts paid to Brazil by the U.S. Government in 1975 and 1976.

TABLE 1.—APPLICATION OF U.S. FEE SCHEDULE TO U.S. SHRIMP LANDINGS FROM THE UNITED STATES-BRAZIL AGREEMENT AREA.

Year	1973	1974	1975	Mean 1973–75
Landings (million pounds, estimated U.S. landings from agreement area)	7.007	3.641	2.140	4.263
Ex-vessel value (million dollars based on $2.35 per pound heads off price range, $3.75 to $1.45)	16.466	8.556	5.029	10.018
Allocation fee (based on $0.035 required by United States as of Mar. 1, 1977)	$576,310	$299,460	$176,015	$350,632

Mr. MCCLOSKEY. Could I ask the chairman, Mr. de la Garza, if I can give the witness the chart from our file?

Mr. DE LA GARZA. Without objection, the gentleman may do so.

[Hands to witness.]

Mr. MCCLOSKEY. And the gentleman may submit it later in writing. I think our record ought to be clear on it.

Mr. DE LA GARZA. We appreciate the gentleman clarifying that.

Mr. GEHRINGER. We will attempt to clarify it.

[The following was submitted:]

U.S. Catch Off Foreign Countries

Table 2 entitled "U.S. catch and vessels off selected foreign countries and fees paid for selected years by selected fisheries" was prepared by NMFS and is the latest and best information that we have on this subject. The catch data in this table is consistent with the catch data in table 1 entitled "Application of U.S. fee schedule to U.S. shrimp landings from the U.S.-Brazil Agreement Area." Table 3 entitled "Fees paid by U.S. fishermen to foreign countries" was not prepared by NMFS. According to table 3, fees charged by Brazil and Mexico for shrimp fishing amount to 5.1 percent of the value of landed shrimp. Fees charged by Mexico for species other than shrimp amount to 0.9 percent of the value. Excluding highly migratory species (tuna), the fees amount to 4.1 percent of the value. Fees charged by Ecuador and Peru for tuna fishing amount to 13.3 percent of the value. The overall average charge by all countries listed in the attached table amounts to 5.9 percent of the value (weighted average). For comparison U.S. fees charged to foreign fishermen amount to 3.9 percent of the value of landings. This includes both the poundage fee and the permit fee.

TABLE 2.—U.S. CATCH AND VESSELS OFF SELECTED FOREIGN COUNTRIES AND FEES PAID FOR SELECTED YEARS BY SELECTED FISHERIES

Country, fishery, and year	U.S. catch			Permits (number)	Fees per permit				Fees paid (thousands)	Percent fee are of exvessel value
					Annual registration	Grounds, etc.		Total or average		
	Pounds (millions) [1]	Amount (thousands)	Price (per pound)			Tampico	Contoy			
Brazil—Shrimp:										
1973	7.0	14,910	$2.13	[2] 193				[3] $1,036.0	$200.0	1.3
1974	3.6	5,976	1.66	[2] 214				935.0	[4] 200.0	3.3
1975	2.1	4,935	2.35	92				[3] 3,924.0	[4] 361.0	7.3
1976	2.8	6,580	2.35	99				[3] 3,646.0	[4] 361.0	5.5
1977	2.5	5,875	2.35	90				3,600.0	324.0	5.5
	Metric tons [1]		Amount (per million tons)							
Mexico—Shrimp, Gulf of Mexico:										
1976–77 [5]	2,750	13,200	[1] 4,700	318	80	$2,006	1,538	[6] 1,992.4	633.6	4.8
1977–78 [5]	1,925	9,240	[1] 4,700	223	80	2,006	1,538	[6] 1,992.4	444.3	4.8
1978–79 [5]	1,100	5,280	[1] 4,700	127	80	2,006	1,538	[6] 1,992.4	253.0	4.8
Hook and line, Gulf of Mexico	[7] 450	656	[7 8] 1,457	52	80	433		513.0	26.7	4.1
Pacific Coast—<150 NRT	[9] 11,376	3,743	329	138	80	[10] 23.20		1,035.8	142.9	3.8
Within 12 mi.—>150 NRT	[9] 974	320	329	3	80	[10] 46.40		7,610.7	22.8	7.1
Highly migratory	30,000	17,100	570	140	20			20.0	2.8	[11]
Ecuador		16,420		89	750	60		25,346.1	2,166.8	13.2
Peru		568		<5	1,000	80		25,000.0	100.0	17.6
Total, 1977 or average		61,267		835				4,097.6	3,419.6	5.6

[1] Heads off weight.
[2] Not all permits were used for fishing.
[3] Average fee paid per vessel permitted although U.S. vessels did not pay this fee. U.S. fishers paid $715 in 1973 and 1974 and $1,215 in 1975 and 1976 for a license to fish in the agreement area under provisions of U.S. legislation.
[4] Received by Brazil in lump-sum payment from the U.S. Government.
[5] Aug. 1–July 31.
[6] Assumes 80 percent Tampico.
[7] Round weight.
[8] 82 percent snappers and 18 percent groupers.
[9] Assumes that the U.S. catch inside of 12 mi. was double the net registered tons. Catch statistics unavailable which differential catch inside 12 mi. from outside 12 mi.
[10] Per net registered tons.
[11] Less than 0.05 percent.

TABLE 3.—FEES PAID BY U.S. FISHERMEN TO FOREIGN COUNTRIES[1]

Country and fishery	Catch (thousand tons)	Price per thousand ton	Total value (thousands)	Number of permits	Fees per permit	Total fees	Fees as percent of total value
Brazil, shrimp	1,270	$5,180	$6,578.6	99	[2] $3,646.00	$360,954	5.5
Mexico, shrimp	2,750	4,700	12,925.0	318	1,992.40	633,583	4.9
Subtotal	4,020		19,503.6	417		994,537	5.1
Mexico—Other than shrimp: Gulf of Mexico, hook and line fishery	450	1,457	655.6	52	513.00	26,676	4.1
Pacific coast (vessels):							
Less than 150 NRT	[3] 11,376	329	3,742.7	138	1,035.80	142,940	3.8
More than 150 NRT within 12 mi.	974	329	320.4	3	7,610.70	22,832	7.1
Highly migratory species	30,000	570	17,100.0	140	20.00	2,800	.02
Subtotal	42,800		21,818.7	333		195,248	.9
Ecuador, tuna			16,420.0	89	24,346.00	2,66,800	13.2
Peru, tuna			568.0	<5		100,000	17.6
Total			58,310.3			3,456,585	5.9

[1] Annual, based on 1976 and 1977 data.
[2] Received by Brazil; U.S. fishermen paid about $1,260 per permit in 1976.
[3] Estimated as 2×NRT.

Note: Excludes Chile, Colombia, Costa Rica, Guatemala, Mauritania, Nicaragua, Sierra Leone, and Venezuela.

Mr. McCLOSKEY. Mr. Chairman, I appreciate the difficulty in dealing with a country such as Brazil which is not fishing in our waters. But with Mexico, it is your policy, is it not, that the Mexican Government and the American Government charge each other the same fees for this privilege?

Mr. GEHRINGER. To my knowledge the Mexican Government has not requested permission to fish in United States waters. We fish in their waters. Except for the straying back and forth of recreational fishermen who do the bulk of the fishing, it has then been United States fishermen in Mexican waters.

Mr. McCLOSKEY. If at any time the Mexican or any other government seeks to exact fees which you deem unreasonable, what steps would you pursue to call it to the attention of the State Department and this committee?

Mr. GEHRINGER. Well, the negotiations with the foreign countries are conducted by the State Department. We provide technical assistance with respect to advice and counsel. But the State Department is involved in the actual negotiations.

Mr. McCLOSKEY. Mr. Chairman, I have probably exceeded my time.

Mr. DE LA GARZA. Mr. Emery?

Mr. EMERY. Thank you, Mr. Chairman.

There seems to be a number of inconsistencies and inaccuracies in the summary that we were provided and possibly—and I hope for the sake of National Marine Fisheries Service they are in error.

I have some questions and I hope you can shed some light on how the fee schedules are arrived at. First of all, basing the estimate on the first 2 months of 1977, January and February. How could you base an estimate of—how can you base fees on two months before the law went into effect? How do you charge?

Mr. GEHRINGER. There was a statement that before the first of the year we had to arrive at a series of figures which would be as fair and the best effort we could gather.

Mr. EMERY. But you collected no fees in January and February.

Mr. GEHRINGER. Excuse me?

Mr. EMERY. You collected no fees from any foreign fishing in January and February because the law did not go into effect until——

Mr. GEHRINGER. That is correct.

Mr. EMERY. But you are basing your estimate as if you collected fees, as if you planned to collect fees for the whole year, the whole 12 months rather than from March through, is that true?

Mr. GEHRINGER. The total amount of fees for 1977 is based on the expected catch from March through December 1977. The estimated foreign catch in January and February was subtracted from each country's allocation to determine the catch and fees for March through December.

Mr. LEGGETT. Mr. Emery, excuse me for just a moment. I am informed that one of the witnesses, Mr. Jack Dykstra has a 5 o'clock plane and he has come all the way from Rhode Island and has what appears to be a quarter of a page statement. Would the gentleman yield and if there being no objection to have the gentlemen cooperate with us to at least suspend momentarily here and allow Mr. Dykstra to present his statement?

Mr. EMERY. All right.

Mr. LEGGETT. If you would be so kind as to cooperate in that respect.

Mr. GEHRINGER. Pleased to.

Mr. LEGGETT. Mr. Dykstra?

STATEMENT OF JACOB J. DYKSTRA, PRESIDENT, POINT JUDITH FISHERMEN'S COOPERATIVE ASSOCIATION, POINT JUDITH, R.I.

Mr. DYKSTRA. Thank you, Mr. Chairman.

I will not read the statement.

I am speaking today on behalf of my own organization, the Point Judith Fishermen's Cooperative Association of Point Judith, R.I. Lucy Sloan of the National Federation of Fishermen asked if I would request that she be permitted also to submit a statement later on.

Mr. LEGGETT. Without objection she may submit a statement and it will appear in the record. I do not know the time that the record will be open to submit it, but if she does it promptly I am sure it will be incorporated into the record.

Mr. DYKSTRA. Thank you, sir.

[No statement was received at time of printing.]

Mr. LEGGETT. And also your statement will appear in the record as though delivered.

Mr. DYKSTRA. Thank you, Mr. Chairman.

[The following was submitted for the record:]

STATEMENT OF JACOB J. DYKSTRA, PRESIDENT, POINT JUDITH FISHERMEN'S COOPERATIVE ASSOCIATION, INC.

Mr. Chairman, I am Jacob J. Dykstra, President of the Point Judith Fishermen's Co-operative Association, Point Judith, Rhode Island. We support H.J. Res. 388 and urge its passage. The legislation is straightforward and serves the purpose of assisting in the maintenance of a healthy United States fishing fleet, not just in certain segments, but in all fisheries as is the stated purposes of the Fisheries and Conservation Act of 1976.

We are especially concerned that the United States shrimp fleets off of South and Central America be afforded conditions under which they will be allowed to operate profitable in these areas, thus affording some of our fishermen greater range and reducing the pressure on home grounds.

Vessels of the United States fishing fleet do fish in the waters of other countries adjacent to and nearby other parts of the United States, and other opportunities for fishing in these areas will present themselves as the pattern of fisheries emerges in newly established fishery zones. This legislation will certainly be of assistance in maintaining or establishing United States fleets in areas and fisheries which they are presently denied or which are potentially viable under future conditions.

The way to have a successful United States fishing industry is to do our best to assure that all of our fishermen have an equitable opportunity to prosper. This legislation will be a step forward in that direction.

Thank you, Mr. Chairman. We appreciate the opportunity to appear before you today.

Mr. LEGGETT. As I understand it, you fully support the legislation we have here. Do you have any reservations about it?

Mr. DYKSTRA. No. I support the legislation, sir.

Just briefly, if I may make three points.

The first point is that one of my main purposes here today is to show solidarity for the sake of the fishing industry. I think so often people try to pit coastal people against the distant water people and we are divided by some questions. When there is a question where we can be together, it is incumbent upon us to support the segments of requesting something like this.

The second point is that the ridiculous idea that this constitutes an unwarranted subsidy of the shrimp fleet. To cite an incident: At the Fish Expo last fall a foreign national who had the impression that I might have some influence on the allocations of fishing in the Atlantic approached me. He was pressing me on this point. I said maybe in a couple of days I could get some people together to explain what the difficulties are in dealing with it, and he said, "No, I cannot be here a couple of days; now I have to go down to Central America and look after my shrimp fleet down there."

He was talking about a shrimp fleet which turned out to be a fleet financed with the U.S. dollars through the Inter-American Bank, and he was marketing his shrimp in the United States of America. This makes me think again that the policy of the executive branch needs to be turned around. It certainly appears to us that it is always all right if the United States goes ahead and finances all kinds of operations of foreign nationals, but it is not a policy to support activity the U.S. fishermen and I think this committee and the Congress are going to have to turn that policy around if it is to be turned around.

Mr. LEGGETT. The interesting thing is they just asked the Committee on the Budget to approve a commitment on the part of the United States to the International Development Fund—their so-called "soft window" program. The "soft window" program is a kind of a give-away money because they have like 10 years of grace and no interest, and 30 or 40 years payback, and we have just committed now something like $6 or $8 billion to that program.

This particular bill, which likewise has been reviewed by the State Department, would probably cost, I estimate, probably $1 million a

year, maybe, $1½ million. So it is very interesting to note the double image that some of our departments have when looking at some of our programs.

Mr. DYKSTRA. I am sure the representatives of the shrimp industry who are here will go into some of these things. But it is interesting to me if you go through the whole history of the FAO, the AID, or whatever, all the vegetable soup, they have setting up the shrimp industry in countries all over the world and not coming to our people who have the product.

I think it is sometime that we the U.S. fishermen on a parity with the foreigners. I think what the U.S. fishermen are trying to do is get their fingernails on the first rung of the ladder. We cannot fault them for that.

Mr. LEGGETT. It means you are stepping on their fingers. That is the problem.

Mr. DYKSTRA. The third thing I think is that similar situations may come up with other segments of the fishery and other areas as we go down the road to extend jurisdiction, and that it may—this legislation—may benefit other segments of the industry other than those requesting it here today.

And also that there are other segments of the industry that in the future will be asking this committee to do something, things which would put them closer to parity with their competition because there are so many ways in which, not through the free market but through actions of the U.S. Government, that the U.S. fishermen are at a disadvantage.

Therefore I think the principle applies not only to those seeking relief today but the whole fishing industry.

Mr. LEGGETT. It is apparent that inevitably we are going to have a reciprocal fisheries agreement with Canada and our northeast fisheries are going to be faced with exactly the same thing because they will be paying license fees in Canada.

Mr. DYKSTRA. Exactly the sort of thing I anticipate in the future.

Thank you, sir. That is all I have.

Mr. LEGGETT. Thank you very much. It is very helpful.

Dave, any questions?

Mr. EMERY. No.

Mr. LEGGETT. All right.

Thank you very much.

Now, we are back to Jack Gehringer.

Mr. Emery is recognized.

Mr. EMERY. Thank you very much, Mr. Chairman.

I believe we were discussing the fee schedule and how it was arrived at by the National Maritime Fisheries Service.

Mr. Gehringer, is it true that the fees were calculated on 1975 foreign catch rather than 1976–77 foreign catch?

Mr. GEHRINGER. That is my understanding.

Mr. EMERY. Why was that done? Why not use the most recent figures?

Mr. GEHRINGER. Because of the unavailability of consistent data.

Mr. EMERY. But you had at least 10 months as I understand it, for 1975.

Mr. GEHRINGER. A large part of the fees is determined, in some instances at least, by the value of the product in the country that is harvesting and we were unable to agree on a set of fees that did what you would ask be done for this first year.

Mr. EMERY. I am not sure I understand your answer. My feeling is the most recent figures and the most accurate reflect the tonnage and the value of a given species taken by a given country, is that correct? Would you not say that the 1976 figures would be more relevant in all ways than the 1975? If not, why not use 1972 or 1968 or 1942?

Mr. GEHRINGER. We use an average.

Mr. EMERY. Average of 1975 or average of 1975–76?

Mr. GEHRINGER. We use an average price for a whole year. The most recent and the most accurate information available was for the year 1975 as published in Fisheries of the United States, 1975. Information for the whole year 1976 was not available at the time our fee schedule was established. This information did not become available until April 1977.

Mr. EMERY. Well, I guess the answer to the question is definitely 1975 figures were used, and I think even a cursory analysis and comparison of the 1975–76 figures would show that if the fee schedule was calculated on 1975 figures there is going to be a great discrepancy in the contribution of foreign fishermen and in fact I think it is what, 23-percent increase? Between the 2 years. What it means is that the American fisherman is going to have to eat up the difference.

I appreciate the fact you may not be fully aware of these facts but I would suggest, however, when a representative of the National Marine Fisheries Service comes before this committee, he ought to have someone with him capable of explaining in detail. Obviously you are aware it is a controversial matter and of high concern to all.

So I would ask that you not only have the Department specifically provide this committee with the information on how the fees are calculated and the rationale for using the 1975 figures, but I would hope when those are avaliable that you or someone else from National Marine Fisheries Service bring them in and be prepared to discuss them point by point with the committee.

One of the things that happens very often is when any Department comes back with information for the record in writing we never see it, and it is buried and unless we take a particular interest and dig it out and have our committee staff or other staff to examine it, basically it all flows over. I want to have an opportunity and other members of the committee will want to have an opoprtunity to discuss that when it comes in.

Further, you discuss this question of period of 1977 for which the estimate was made. It appears that it is not entirely justified to measure your estimates on hand, and it seems to me just the grossest kind of miscalculation for figures of 2 months that you didn't charge and assume that you did. We are really interested in this.

Mr. GEHRINGER. The value determines the total. We will supply a statement for the record.

[The following was submitted:]

PUBLISHED FEE SCHEDULE

A draft fee schedule was published in the Federal Register on December 23 and December 30, 1976. The criteria for establishing the fee schedule included (1) reasonableness, (2) equity, (3) simplicity of implementation and administration, (4) acceptability, and (5) relationship to conservation and management.

The final schedule of fees was published in the Federal Register on February 9, 1977. The following criteria were considered in developing the final fee schedule for foreign fishing:

1. Fees will not be used as a management tool to restrict foreign fishing....
2. The fees will not, in and of themselves, be so high as to prevent nations from utilizing the allocated surplus. The fee, in any event, must be reasonable.
3. Fees will recover an appropriate part of the management costs related to foreign fishing.
4. The same rate must apply to all foreign nations and the rate will not change within a given calendar year.
5. Fees will be simple to compute and collect....
6. Every vessel by law must pay a fee and obtain a permit, but the fee may vary with size and function of the vessel.

Mr. EMERY. What I am interested in knowing is exactly what the formula is, if it is on weight alone or landing fee alone or a combination?

Mr. GEHRINGER. It is on a combination.

Mr. EMERY. We need to know exactly what that combination is.

Mr. GEHRINGER. Yes. We will provide that for the record.

[The following was submitted:]

FEE SCHEDULE RATES

The fee schedule is as follows:

1. Permit Fee—A fixed annual fee of $1.00 per gross registered ton (GRT) will be charged for any vessel engaged in or attempting to engage in the catching, taking, or harvesting of fish.

(a) A fixed annual fee of $0.50 per GRT will be charged for any vessel engaged in processing fish but not catching, taking, or harvesting fish. There is an upper limit of $2,500 on this charge.

(b) A fixed annual fee of $200 per vessel engaged in aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing but not catching, taking, harvesting, or processing.

2. Poundage Fee—For 1977, a poundage fee of 3.5 percent of the 1975 ex-vessel prices of the fish will be charged on all fish allocated to each nation, including the bycatch when applicable. The 1975 dockside prices for computing fees were obtained from "Fisheries of the United States, 1975" except where noted.

Mr. EMERY. Another question I am concerned about is the estimate on foreign fishing vessels. Why would you assume that landings in 1977 by foreign vessels or activities of foreign trawlers in the 200-mile zone would be the same in 1977 as it was in 1975 when the area was opened up to foreign fishing vessels, anyone that wanted to come? Why would you assume that it will be much more in the zone in 1977 as last year? It seems to me that the figures we have make that assumption which flies in the face of the whole purpose of the bill. I assume and hope that National Marine Fisheries Services assumes it is based on the impor-

tance of putting some kind of limitation on the number of tonnage and the vessels operating in the zone.

Mr. GEHRINGER. The fees charged are based upon the allocation of available surpluses to the country with the proviso that if that quota is not achieved, there will be a refund of that portion of the fee, if the amount is not taken.

Mr. EMERY. I can only mention that it seems incredible why the country failed to use its own fees when they had the figures before the estimate was made.

Mr. GEHRINGER. As I indicated earlier, we overestimated the number of foreign vessels which would apply for a permit and be authorized a permit. Our first estimate was for 1,400 foreign vessel permits. To date we have 701 fishing vessels, 12 processing vessels and 220 other support vessels. We estimate that the number of fishing vessels may approach 850 by the end of this year.

Mr. EMERY. There, again, I see a gross inconsistency, and not only do I want to see it in writing but you or someone to come before this committee to answer those question.

I might say—and I do not generally criticize officials from an agency in a vitriolic manner, to use the word of the gentleman from Texas, but it seems to me that this is a right poor——

Mr. DE LA GARZA. Forgive me for interrupting. Why do you start with the word "vitriolic"?

Mr. EMERY. Vitrolic is the word——

Mr. DE LA GARZA. I am very upset the way this is being handled because it has done a great deal of harm to the fine people I represent.

Mr. EMERY. I agree with the gentleman from Texas and it alarms me that the National Marine Fisheries Service is unable to justify the figures it has presented. I would hope that in the future you will come back with information and some answers.

Mr. LEGGETT. I think you have raised a very good point, Dave.

As I understand it, we were led to believe that we would be collecting on the order of $25 million a year in license fees. Now we find that the numbers are something like maybe 40 percent of that and so I would think that at this point in response to the questions that Mr. Emery has raised we should get complete answer on the calculations, the data, and the basis used for the present estimates so that we know where we are.

Mr. GEHRINGER. At the convenience of the committee we will be pleased to have the knowledgeable people present to explain this.

[The following was submitted:]

REVENUE FROM FOREIGN FEES

As published in the Federal Register of December 23, 1976, we expected $22 million of revenue from foreign fees. This was based upon 1,400 vessels at $1 per GRT with an average size of 1,400 GRT; observer cost reimbursement of $750,000 and a poundage fee based on 3.5 percent of the ex-vessel value which used 1975 prices inflated by 1.315 to reflect 1976 prices. As indicated in the attached table, the final ex-vessel prices used were published in the February 9, 1977, Federal Register. Nearly all of these prices were lower for two reasons: (1) In some cases we overestimated the foreign prices and (2) we used 1975 rather than estimated 1976 prices. The revenue from the vessel fees was overestimated because only half as many vessels were authorized permits as we originally estimated and the fees were cut for processing and support vessels.

TALFF,[1] DRAFT AND FINAL EXVESSEL PRICES, AND DRAFT AND FINAL TALFF VALUE USED FOR COMPUTING 1977 FOREIGN FEES[2]

Species	Exvessel prices (per metric ton)		TALFF (metric tons)	TALFF value (thousands)	
	FR[3] Dec. 30, 1976	FR[4] Feb. 9, 1977		Using draft prices	Using final prices
Armorheads, Pelagic	[5] $600	[5] $614	2,000	$1,200.0	$1,228.0
Butterfish	433	302	5,500	2,381.5	1,661.0
Cod, Pacific	330	251	60,300	19,899.0	15,135.3
Crab, Tanner	580	441	12,500	7,250.0	5,512.5
Flanders, Pacific (except halibut)	418	318	231,500	96,767.0	73,617.0
Hake, Pacific	[5] 348	34	123,200	4,287.4	4,188.8
Hake, Red	204	156	34,900	7,119.6	5,444.4
Hake, Silver	[5] 329	194	85,500	28,129.5	16,587.0
Herring, Atlantic	[5] 352	73	22,000	7,744.0	1,606.0
Herring, River	[5] 352	73	500	176.0	36.5
Herring, Pacific	[5] 292	161	20,000	5,840.0	3,220.0
Mackerel, Atka	[5] 172	[5] 130	22,000	3,784.0	2,866.0
Mackerel, Atlantic	335	255	69,000	23,115.0	15,525.0
Mackerel, Jack	421	93	4,000	1,684.0	372.0
Other fin fish, Atlantic	433	328	60,000	25,980.0	19,680.0
Other groundfish, Pacific	421	[5] 45	109,800	46,722.6	4,941.0
Pollock, Alaska	[5] 158	[5] 98	1,099,000	173,642.0	107,702.0
Rockfish, Pacific	460	350	54,500	25,070.0	19,075.0
Sablefish	489	372	26,900	13,145.1	10,006.8
Snails (meats)	[5] 1,000	[5] 600	3,000	3,000.0	1,800.0
Squid, Atlantic, short finned	544	419	23,500	12,784.0	9,846.5
Squid, Atlantic, long finned	544	419	19,000	10,336.0	7,961.0
Squid, Pacific	544	82	10,000	5,440.0	820.0
Total or average	250	156	2,098,600	525,496.7	328,825,8
Fees based on 3.5 percent of total				18,292.4	11,508.9

[1] Total allowable level of foreign fishing.
[2] Assumes that fees were assessed for the full year including January and February and that all countires paid fees.
[3] Draft published in the Federal Register–1975 prices x an inflation factor of 1.315.
[4] Final published in the Federal Register—1975 prices
[5] Foreign prices.

Mr. LEGGETT. When you get that information let Ned know and we will take it from the written form or in a hearing forum.

Mr. GEHRINGER. Yes, sir.

Mr. EMERY. Mr. Chairman?

Mr. LEGGETT. Yes.

Mr. EMERY. If I could ask one final question.

Did the National Marine Fisheries Service in any way consult with other agencies such as State Department in preparing the schedule?

Mr. GEHRINGER. Yes, sir.

Mr. EMERY. What role did the State Department play in drafting the formula or providing the figures or suggesting the figures on which the fee schedule was to be based?

Mr. GEHRINGER. Advisory to us.

Mr. EMERY. Well, I am a little alarmed at that. It seems to me the National Marine Fisheries Service was instructed by the State Department or influenced by the State Department to create a fee schedule that may not be in direct line with the value of the catch or the operation of foreign fishing vessels in our waters. I find that astounding.

Mr. GEHRINGER. To my knowledge there was no attempt by the Department of State to influence other than to determine the facts with respect to these figures.

Mr. EMERY. Well, I might comment that the other day in the hearing we held we heard some discussion of the State Department's role with regard to enforcement of the 200-mile limit and what its role was in a purely advisory capacity to the Coast Guard, whether or not the

law would be uniformly enforced or selectively enforced. There seemed to be great discussion about what the proper role of the State Department was in its advisory capacity.

Now, if we find as a matter of fact the State Department has been encouraging the National Marine Fisheries Service to implement the fees based on international considerations and foreign policy considerations rather than the 200-mile zone, I think the message would be very clear to the Congress and this committee that we will have to take remedial action to insure that the National Marine Fisheries Service, the Department of Transportation, and all the others will implement the law and enforce the law with conservation in fisheries and protection of the American fishing industry in mind, rather than some way the State Department wishes to impose a kind of shadow cabinet.

I find that alarming. When you come back, I hope you are prepared to give us in greater detail the answers to the questions I have asked about the role of the State Department, what it suggested, and whether or not the National Marine Fisheries Service sought to implement the suggestions the State Department made. I would further like to know where these suggestions came from, who offered them, and what is involved. I hope you can provide that information because I am going to ask those questions.

Thank you.

Mr. GEHRINGER. Yes, sir.

The State Department did not attempt to influence the level of fees. The 3.5 percent of ex vessel value proposed in the draft fee schedule was also used in the final fee schedule. The U.S. Department of Commerce used the State Department in obtaining more accurate foreign prices for those species in which there was no domestic market.

Mr. DE LA GARZA. There is one matter I would like to clarify.

Mr. LEGGETT. Yes.

Mr. DE LA GARZA. In answer to a question the gentleman said we determine the fees not in negotiations with another country.

Mr. GEHRINGER. That is correct although we conferred, following the publication of proposed fees, with people with respect to the fairness and validity of those figures. We have made modifications based on information submitted to us which substantiate reasons for change.

Mr. DE LA GARZA. Which means we are negotiating?

Mr. GEHRINGER. No, sir. I do not consider that a negotiation.

I think, in my view, these were to bring to our attention changes which are required by facts, not in a negotiating atmosphere, sir.

Mr. DE LA GARZA. All the changes were done?

Mr. GEHRINGER. I am not sure, sir.

Mr. DE LA GARZA. You are not sure they were?

Mr. LEGGETT. Would the gentleman yield?

Mr. DE LA GARZA. Yes.

Mr. LEGGETT. The fees were determined pursuant to the publication on fee proposals and I assume the foreigners thought the fees were confiscatory. They did talk about 3½ percent of an international rate. However, the chairman did talk to the State Department and NMFS so in a way the net result was kind of negotiated. I do not think anybody needs to be embarrassed by that fact. Obviously when it comes to licensing people who fish in a 200-mile area, you have to either

pick a fee off the wall or relate it to landing, but whether you use 1, 2, 3, 4, 5, or 10 percent, you have to relate it to something.

Mr. DE LA GARZA. I would like to leave in the record, Mr. Chairman, it is by consultation; they do not get in a vacuum and come up with a fee.

Mr. LEGGETT. Not at the outset. We did a lot of consulting.

Mr. DE LA GARZA. With the other countries or representatives of the other countries or someone submitting information from another country. But it comes out of consultation or indirect negotiation.

Would the gentleman correct that statement?

Mr. GEHRINGER. I would suggest that we consulted with many insofar as negotiation with a foreign country, I cannot say that we did or did not.

Mr. DE LA GARZA. One last thing.

Both the statement of Ambassador Ridgway and this on whether or not the other countries will say, what is the postion of the United States—and I know this is not in your field, Mr. Gehringer—but the State Department feels they should just do what they damned well mean to do and that is all, so do not worry about it.

Mr. LEGGETT. George?

Mr. MANNINA. Thank you.

One question. The bill states that the Secretary shall reimburse the fishermen for two-thirds the cost of fees as determined by the Secretary to be reasonable.

Do you interpret that language as meaning that if the Secretary finds the fee unreasonable there will be no reimbursement or do you read that to mean that the Secretary will reimburse only for that portion of the fee which the Secretary determines to be reasonable?

Mr. LEGGETT. Well, since I recommended the drafting of that perhaps I could interpret that and that would be subject to some further initial clarification. What we had in mind was we would not pay anything if we were being blackjacked into paying fees. We stated that we did not want the foreigners to increase their fees three times merely because the government was supporting or paying two-thirds of it. So that is why we provided that the Secretary of Commerce could determine which fees he wanted to reimburse based on regular charges. The reasoning would be that perhaps the boats would not pay the excessive fees and therefore would not fish and no reimbursement would be involved.

Mr. DE LA GARZA. One final point.

Would you take this back, Mr. Gehringer?

For example: If another country charges us for similar fisheries higher than we charge similar boats, similar fisheries to other countries, if you have such attention to subsidizing, as we call it, of paying the difference between what we charge and what they charge or contributing to the paying of difference?

Mr. GEHRINGER. I would hope, sir, that if Brazil's government for example wishes to fish in American waters that we would agree upon a mutually acceptable fee, one that was comparable to the other. Now, insofar as the Federal Government subsidizing of a portion of the fee to make up the difference, I believe that the administration's position on that would be negative.

Mr. DE LA GARZA. A negative in the beginning, period.

Mr. LEGGETT. Thank you, Mr. de la Garza.

Mr. DE LA GARZA. Thank you, Mr. Chairman.

Mr. LEGGETT. Thank you, Mr. Gehringer.

Mr. EMERY. Mr. Chairman?

Mr. LEGGETT. Mr. Emery.

Mr. EMERY. Can we schedule a followup session with the National Marine Fisheries Service on this matter?

Mr. LEGGETT. Yes.

Well, they can give us the information you asked for in writing and maybe after that schedule a hearing.

Mr. EMERY. Yes. I think it would be extremely helpful for us to have an opportunity to ask questions in open session.

Thank you, Mr. Chairman.

Mr. LEGGETT. Mr. Steele, you are representing today the American Tunaboat Association and so your statement will appear in the record as though you fully read it.

[The document was submitted for the record:]

STATEMENT OF GEORGE E. STEELE, JR., ON BEHALF OF THE AMERICAN TUNABOAT ASSOCIATION

My name is George E. Steele. I am appearing before this Committee on behalf of the American Tunaboat Association, a non-profit cooperative Association incorporated under the laws of the State of California, with its principal office of business in San Diego, California. The American Tunaboat Association was organized in 1923, and its membership is comprised exclusively of U.S. flag tuna fishing vessel owners.

In September, 1973, an article in Fortune magazine pointed out that: "today Americans really excell in only one segment of the world's fishing industry"—the efficient U.S. tuna fleet.

Tuna continues to be the most important distant water fishery of the U.S. A review of annual statistical bulleting published by the Department of Commerce during the period 1971–1975, reveals that tuna represents about 90 percent of the total catch landed by distant water fisheries in the U.S., representing value-wise about 73 percent of the total catch landed by U.S. distant water fisheries.

Based upon $4,500 per capacity ton as the cost of replacement, the total value of the U.S. tuna fleet presently engaged in the tuna fishing of the Eastern Tropical Pacific Ocean, is about $562.5 million.

From the American consumer's point of view, tuna is the number one seafood consumed in this country. Tuna is enjoyed by almost 85 percent of all American households, and Americans spend close to one billion dollars annually for the over 1.5 billion cans of tuna which they consume. According to the U.S. Department of Commerce, canned tuna presently accounts for over 25 percent of all fish and shellfish sold in U.S. domestic markets, and this percentage is rising at a rate of three points every five years. If the trend continues, tuna will account for one third of U.S. seafood consumption before 1985.

Unfortunately, due in large part to recent policies and actions of the Congress and the U.S. Government, we are precipitously close to losing or exporting America's most productive and efficient fishery—the U.S. (distant water) tuna fishery.

In 1976, this Committee and the Congress approved the Fishery Conservation and Management Act of 1976. A major objective of this Act was to protect, enhance and encourage maximum development of America's in-shore, coastal fishing fleets. Mr. Chairman, the U.S. tuna industry did not, and does not, disagree with the need for or desirability of enhancing the growth and development of our domestic in-shore fisheries.

We did question whether H.R. 200 as passed by the Congress would, in fact, ultimately constitute the promised panacea that would solve the major problems besetting our domestic in-shore fisheries. Again, we want to emphasize it was not the stated national purpose and objective of H.R. 200 that we opposed or ques-

tioned, but rather our fear and apprehension that such a unilateral extension of our fisheries jurisdiction would not solve the major problems confronting our domestic in-shore fisheries, but would do substantial violence to the continuing critical access which our distant water tuna fishermen must have to the highly migratory species of tuna that can only be harvested within 200 miles of other nations.

Attached to my statement is a chart based on information gathered by the Inter-American Tropical Tuna Commission which shows the percentage of catch of yellowfin and skipjack tuna within 200 miles of 13 countries and islands located in the Commission's regulatory areas for the period from 1967 to 1975. During the nine year period, an average of 78.4 percent of yellowfin and skipjack tuna were caught within the 200 mile zone of the Eastern Tropical Pacific countries.

It is abundantly clear that if the U.S. distant water tuna fleet is denied access to the tuna resources found within 200 miles of our Tropical Pacific neighbors, either by outright prohibition or economically prohibitive license fees, the U.S. distant water tuna fishery cannot survive.

The following schedule indicates the current license fees and matricula costs for U.S. fishermen desiring the privilege of looking for fish within 200 miles of Ecuador and Peru.

Ecuador: Matricula $700; License Fee: $60 per net ton, for 60 days, or one trip, covering an area from 60–200 miles from the coast (license fee was $20 per net ton in 1974).

Peru: Matricula $1,000; License Fee: $80 per net ton, for one trip, or 100 days, for an area extending from the beach out to 200 miles (license fee was $20 per net ton in 1976).

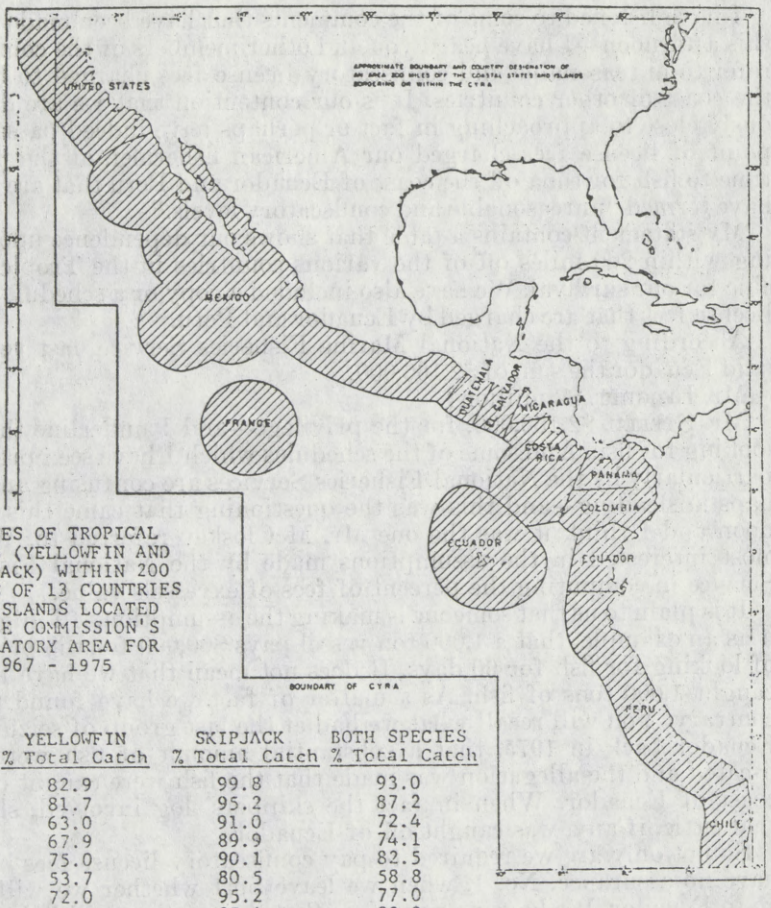
According to the National Marine Fisheries Service, in 1976, 89 fishing permits were purchased by American vessls for fishing within 200 miles of Ecuador, at a cost of $2,166,800, and five permits were purchased from Peru, for a total cost of $100,000.

We should like to point out that these license fees only give us the right to fish within the 200 mile zone for a stipulated period of time, and that all risks such as availability of fish, or weather conditions, are borne by the American boat owner.

We are fast approaching and perhaps have already exceeded, excess license fee levels imposed by Ecuador and Peru that cannot be absorbed by the U.S. tuna industry. We have no assurances that other nations will not follow the actions of Ecuador and Peru. The financial impact of such exorbitant license fees is further heightened by the economic losses forced on the U.S. tuna industry by other policies and actions of the U.S. Congress, and the Administration. We are sure you are all aware that as a result of the administration of the Marine Mammal Protection Act of 1972, practically the entire distant water tuna fleet has been tied up for two months so far this year, with the resultant deficit of 46,000 tons of tuna caught during the first four months of 1977 when compared with last year, and an estimated gross revenue loss in excess of $30 million.

Mr. Chairman, unfortunately, the access problems which now confront the U.S. distant water tuna fishery come as no surprise to us. We can only hope that this Congress and the Administration will recognize the urgent need to assist the U.S. tuna fleet in securing requisite access to its historic fishing grounds. Hopefully, the efforts embodied in H.R. 200 to protect and enhance the survival of our domestic, in-shore fisheries, will be paralleled in additional programs and actions which will seek to preserve the contributions of our distant water fisheries to the gross national product and the American consumer.

We are appreciative of certain problems which House Joint Resolution 388 might create, but we believe it is a step in the right direction. We are fast running out of time, and while we recognize that the approach contained in House Joint Resolution 388 may not be the best long-term solution, it could buy us sufficient time for survival, and help secure top priority attention and action by the Congress and the Administration that will insure the continued growth and development of our distant water fishing fleets.



CATCHES OF TROPICAL TUNAS (YELLOWFIN AND SKIPJACK) WITHIN 200 MILES OF 13 COUNTRIES AND ISLANDS LOCATED IN THE COMMISSION'S REGULATORY AREA FOR 1967 - 1975

Year	YELLOWFIN % Total Catch	SKIPJACK % Total Catch	BOTH SPECIES % Total Catch
1967	82.9	99.8	93.0
1968	81.7	95.2	87.2
1969	63.0	91.0	72.4
1970	67.9	89.9	74.1
1971	75.0	90.1	82.5
1972	53.7	80.5	58.8
1973	72.0	95.2	77.0
1974	81.1	87.4	83.0
1975	72.0	85.0	77.7

SOURCE: INTER-AMERICAN TROPICAL TUNA COMMISSION

CHART A

STATEMENT OF GEORGE E. STEELE, JR., THE AMERICAN TUNABOAT ASSOCIATION

Mr. LEGGETT. You may start anywhere.

Mr. STEELE. Thank you, Mr. Chairman.

I will be glad to do that. As this committee is well aware of, because of some other problems that we are having, it is our contention that due in large part to recent policies of the Congress and of the U.S. Government we are precipitously close to losing or exporting America's most productive and efficient fishery, the U.S. distant water tuna fishery.

I have listened to some of the comments that have been made earlier this afternoon—I have heard you and other members of the committee refer to unreasonable and confiscatory license fees charged to fish off the coast of other countries. It is our contention that we are dangerously close to approaching in fact or perhaps have indeed passed that point of license fees charged our American fishermen at the present time to fish for tuna off the coast of Ecuador and Peru that are as you have termed "unreasonable and confiscatory levels."

My statement contains a table that shows our dependence upon fishing within 200 miles off of the various countries in the Tropical Pacific for our survival. We have also included a copy or a schedule of the license fees that are charged by Ecuador and Peru.

According to the National Marine Fisheries Service, last year, we paid Ecuador the sum of $2,166,000.

Mr. LEGGETT. $2 million?

Mr. STEELE. $2,166,000, for the privilege—and I underline this—of looking for fish. And some of the schedules which I have seen prepared particularly by the National Fisheries Services are confusing and perhaps misleading—and this was the questioning that came this afternoon and I think it was the one Mr. McCloskey referred to. We are most interested in the assumptions made by the National Fisheries Service in computing the percent of fees of exvessels value.

It is plain to us that someone is making the assumption, if I might use it as an example, that a 1,000 ton vessel pays $60,000 for the privilege of looking for fish for 60 days. It does not mean that we have in fact caught 1,000 tons of fish. As a matter of fact we have found to the contrary. You will recall what we had at the last group of seizures by Ecuador back in 1975, that a substantial amount of fish were confiscated and the allegation was made that the fish were caught off the coast of Ecuador. When in fact the skippers' log involved, showed that little, if any, was caught off of Ecuador.

So not only are we required to pay confiscatory license fees but we have no assurance, No. 1, when we leave port whether we will even go to Ecuador. We have no assurance that the weather will hold up or the fish will be there. So the simple bottom line, Mr. Chairman, is this committee is well aware of the terrible economic hardships that this industry has faced and is facing this very day because of the administration of the Marine, Mammal, and Protection Act. The fact that our whole fleet has been unable to fish for 2 months, the fact we came in this year with 46,000 tons short as compared with last year. The fact that we have an estimated gross revenue loss in excess of $30 million.

So everywhere we look the world is falling in upon us and unless we can get some relief, I do not know, I shudder to think what the ultimate answer will be.

We appreciate there are certain problems that this approach, this legislation may create alternatives but we think it is a step in the right direction and we hope the Congress will take the steps to help those of us who must depend on the fisheries.

Mr. LEGGETT. Thank you very much.

The fact that you are here supporting this legislation indicates that the industry has not given up yet and tha is reenforcing and we do hope over the next few weeks we can bring some solution to your basic problems.

Any questions?

Mr. McCloskey?

Mr. McCLOSKEY. Mr. Chairman, thank you.

Mr. Steele, is there information that would help this committee's consideration of the Fisherman's Protective Act you would prefer to give in closed session?

Mr. STEELE. There are certain considerations, Mr. McCloskey, that I would just as soon not discuss in open session with respect to negotiations that we think should be going on and in fact are going on. I would prefer not to do this in open session.

Mr. McCLOSKEY. Mr. Chairman, in view of the importance of that testimony I would like to move the committee go into a closed session to take whatever information Mr. Steele has that might be helpful.

Mr. LEGGETT. Well, I guess if the folks want to leave the room, you can go ahead and do that.

Mr. STEELE. Mr. Chairman?

Mr. LEGGETT. It might be better to have him——

Mr. STEELE. I do not want to mislead Mr. McCloskey.

Mr. LEGGETT. Our problem is we cannot go into closed session legally.

Mr. STEELE. May I suggest I could meet with you or any of the members of the committee or the chairman say tomorrow morning and discuss the things that we should not like to discuss in open session.

Mr. McCLOSKEY. That is fine with me.

Mr. LEGGETT. Then let us go ahead and do that, which makes it convenient for everyone there.

Mr. STEELE. Yes, sir.

Mr. LEGGETT. Thank you very much.

Any questions?

Mr. DE LA GARZA. No questions.

Mr. LEGGETT. George?

Mr. MANNINA. There is a factual discrepancy here. If I read your chart correctly you say the vessels pay $80 per ton to Peru for each trip.

Mr. STEELE. Each trip that we are looking to by lines.

Mr. MANNINA. The chart prepared by the National Marine and Fisheries Services suggests that it is $80 per ton of fish caught.

Mr. STEELE. That is exactly the discrepancy I am pointing out, Mr. Mannina. Because the chart, as I read it—and it is rather difficult because as a matter of fact I conferred with them, the National Fisheries Service, and that is exactly what I complained about because it gives the wrong impression.

Mr. MANNINA. What was their response? Did they agree with the information you had?

Mr. STEELE. Yes. Because the information I provided is well known. It is a matter of fact. We are charged in Ecuador $60 per net ton to look for fish for 60 days or one trip, and in Peru we are charged $80 per net ton or one trip, or 100 days. That is just a matter of established fact.

Mr. MANNINA. Thank you.

Mr. LEGGETT. What does this mean, "matricula"?

Mr. STEELE. That is an annual fee, Mr. Chairman, that enables you then to buy a license fee or a license on a per trip basis.

Mr. DE LA GARZA. A license, so you can be allowed to buy a license?
Mr. STEELE. To buy another license, yes, sir.
Mr. LEGGETT. As for each boat?
Mr. STEELE. Yes, sir, per year. That gets you into the club.
Mr. LEGGETT. Now, a 1,000-ton boat I guess is the average big boat, is it not?
Mr. STEELE. I would say that, sir; yes, sir.
Mr. LEGGETT. And that would be what?
Mr. STEELE. 1,000 net tons.
Mr. LEGGETT. 1,000 net tons?
Mr. STEELE. Yes, sir.
Mr. LEGGETT. Evidently your fee would be $60,000 plus $700?
Mr. STEELE. Yes, sir, nice round figures.
Mr. LEGGETT And $80,000 for Peru?
Mr. STEELE. Yes, sir.
Mr LEGGETT. For Peru.
Mr. LEGGETT. Thank you very much.
Mr. STEELE. Yes, sir.
We will try to finish here at 5 o'clock so we will see how far we can go.
Mr. UTZ?

STATEMENT OF WILLIAM NELSON UTZ, EXECUTIVE DIRECTOR, NATIONAL SHRIMP CONGRESS, WASHINGTON, D.C.

Mr. LEGGETT. We have your long statement, Bill. We are well aware of your situation with the fishermen and Brazil. You entered into this agreement with Brazil for a number of years which allows American fishermen to pay a fee that was later picked up in large part by the Federal Government. This year, there was considerable modification to that agreement so that the industry is required to pick up the whole fee.
Mr. UTZ. Yes, sir.
Mr. LEGGETT. To my recollection.
Mr. UTZ. That is correct.
Mr. LEGGETT. I think that is inequitable.
Mr. UTZ. Pardon me?
Mr. LEGGETT. I think it is inequitable.
I think that your industry should not be placed in a worse position because we have recognized the 200-mile jurisdiction over shrimp.
Mr. UTZ. I certainly thank you for those comments, Mr. Chairman, and I appreciate your support and your view.
In the interest of time I will attempt to go through my statement more or less paraphrasing most of it.
However, in an effort to assist one of the other members of the industry who could not be here I have a statement by Mr. C. W. Sahlman, president of Sahlman Seafoods.
Mr. LEGGETT. His statement will appear in the record.
Mr. UTZ. All right.
I would like to make several comments from Mr. Sahlman's statement:

STATEMENT BY C. W. SAHLMAN, PRESIDENT, SAHLMAN SEAFOODS, INC.

My company operates U.S. shrimp trawlers which fish off the Guianas and Brazil.

We are asking for this assistance in the payment of foreign fishing permits because our costs are higher than those of other coastal shrimp fisheries.

Practically all of our supplies have to be imported from the U.S. at a considerable cost in ocean freight charges. All diesel fuel is purchased at foreign ports at prices considerably higher than for domestic diesel purchases. Also, in the area where we are fishing, vessels experience a higher loss rate of nets, and wire rope lasts only six months compared to an average 12 month life in the Gulf of Mexico.

All of the shrimp catch from these vessels is frozen in South American ports and shipped to U.S. ports at a considerable cost in ocean freight and handling charges (16¢ per pound).

Our main competitors in this fishery are Japanese and Korean owned trawlers. If the U.S. trawlers ever leave this fishery, it will be taken over by the Japanese and Koreans. These companies do not pay U.S. income taxes.

The entire Korean fleet, (140 boats), which operates out of a Surinam base, was financed by the U.S. Export-Import Bank. This is a form of financing which is not available to U.S. vessel owners.

The U.S. trawlers, if they had to return to the Gulf of Mexico, would cause damage to the domestic shrimp industry which is already heavily overcapitalized.

Mr. CHAIRMAN. Among the National Shrimp Congress membership are the owners and operators of the shrimpboats which have over the years developed the shrimp grounds off northeastern South America and Mexico. These U.S.-flag vessels have, at great risk and expense, developed strong and viable production areas, and in addition, have thereby contributed substantially to those U.S. processing operations which have utilized their catches over the years. In many instances their production is essential during certain periods of the year in order that the processing facilities continue at normal operating levels. To lose that production would have an adverse multiplying affect—the full impact would be far reaching. It would have an immediate and devastating result on the distant water fleets. It would cause serious adjustment problems for the processors, and eventually those vessels which survive the transition from their current distant water operations to fishing in the U.S. portion of the Gulf of Mexico—these vessels will have an adverse impact on those vessels which have traditionally fished for shrimp close-in throughout the gulf.

Many of these small boatowners will not be able to profitably complete when these additional vessels force a substantial reduction in per boat revenues. Recent estimates by the NMFS indicate gulf shrimp operators can anticipate, at a minimum, a ten percent reduction in gross revenues when those vessels operating off Mexico return to the U.S. economic zone. We can, therefore, assume another 10-percent reduction should those vessels off northeastern South America return to the U.S. gulf area. A 20-percent reduction in gross revenues for most of the small fleet operators and much of the producer segment, would mean economic disaster. They would be forced to give up everything.

Additionally, over and above the immediate short-range reduction and economic damage; if all of those vessels return and begin concentrated fishing activities in selected areas of the gulf, the fishery there could be totally destroyed as an economic enterprise. I emphasize, not substantially diminished, nor materially damaged—the fishery could be economically wiped out. There are fishermen in the industry who

have the experience of witnessing such resource disasters, and such destruction almost occurred in some areas earlier this year.

The total destruction of such resource areas would have a multiplying impact on the total resource base and thus a similar impact on revenues; thus, far exceeding the simple twenty percent mathematical reduction discussed earlier.

What would we be losing in this disastrous process? The U.S. shrimp industry is America's most productive fishery, in terms of contributing to our national economy. Yet, it stands to be damaged the most by our recent 200-mile legislation which was intended for the protection and development of the total U.S. fishing industry.

If we are to avoid severely damaging our shrimp producers, we must meet the present situation head on in several ways:

First, we must undertake every effort and utilize every negotiation and resource tool at our command to maintain our distant water shrimp fleets in their current and traditional fishing areas. Likewise, we must assist them in developing additional resource areas.

Second, we must insure we do not penalize them by legislative or executive action intended for the benefit of others.

Third, we must protect these distant water fleets to avoid forcing them to adopt survival efforts which would bring economic havoc to our U.S. coastal shrimp fleets. Enactment of this legislation, therefore, would be one essential step in this total effort.

We are aware that one question always asked is how important to our national interest are the beneficiaries of the legislation. We can speak only for the shrimp industry. The other segments of America's fisheries I trust, will be specific concerning their interests. In the shrimp industry—but most specifically the gulf shrimp fishery, we believe the importance of maintaining and preserving this industry is as basic as preserving America itself—maintaining an opportunity for an independent hardworking American to make his own way by his own efforts. For it is the single boatowner who will suffer the greatest personal loss when the gulf resources are overwhelmed with added fishing activity.

In terms of specific figures, we are seeking to preserve our industry which during 1976, in the Gulf of Mexico along, produced at the boat levels over $275 million of shrimp. Upward of 10 percent of that shrimp production would normally be caught by our fleets operating in what is now Mexican waters. Although the fleets off Brazil have steadily declined since the 1973 phase-down agreement, during 1975 the northeastern South America fleets produced 7.5 million pounds of shrimp valued at $17.6 million. This 1975 production of 7.5 million pounds was a decline from 1973 of 13.7 pounds, or a 44-percent reduction in a three-season period.

The shrimp fishery is the most valuable of U.S. fisheries. The fishery employs more than 21,000 fishermen and the boats and vessels number in excess of 11,000.

All of those vessels and personnel presently functioning in the Gulf of Mexico, plus their shore-based support personnel and industries, will sustain an adverse impact in some way if these distant water fleets are forced back to the gulf.

In preparation for this hearing, I was requested to respond to information forwarded to the committee by NMFS which indicates the distant water fleet returning to the U.S. portion of the Gulf of Mexico would have no adverse impact on the industry, and in fact would improve production. With particular reference to a letter dated March 28, 1977, from the Director of NMFS to Congressman Forsythe, the letter states:

> Dr. Wade Griffin, Texas A&M, has just recently calculated the impact of this amount of effort, if added to the Gulf shrimp fleet, with regard to our recent negotiations with Mexico. Analysis indicates that the total Gulf catch would increase by about five million pounds and that there would be no measurable impact on the resource base.

These comments are taken out of context from the resource information cited, and presented in such a manner as to be totally misleading. For example, the net impact on the gulf production would be a loss of 4.5 to 5 million pounds, not a net gain of 5 million as the comment would indicate.

Considering the resource base is the estuaries, and the fleets are not supposed to fish the estuaries, therefore, additional fishing effort should not affect the resource biological base. However, the resources economic base will be critically affected. I do hope the members of this committee will note the distinction.

I would like at this point to cover some specific items which I believe are of particular interest to members of the committee:

1. If the U.S. shrimp fleet off Brazil is forced from that area, their first move would be into adjoining resource areas. Economics would quickly force many back into the gulf.

These vessels would exert great fishing effort in the gulf. The smaller one-boat operators would probably suffer immediately with the larger fleets cannibalizing themselves for survival.

2. The fleets off Brazil would in all probability not be permitted into the waters off Mexico, inasmuch as the present number of boats fishing off Mexico exceeds the number of permits that would be allowed for 1977–78 under the United States-Mexico agreement.

3. Although the number of Americans employed in the South American operation is not large in comparison to the employment figures in the gulf, it is really the gulf employees who stand to suffer the greatest cumulative loss due to such forced transition, and it is, therefore, those employment figures which should be noted.

4. The shrimp production off northeastern South America has declined since the phase-down schedule under the United States-Brazil agreement, beginning 1973, but in 1973 the northeastern South America production was 13.4 million pounds, or approximately 11.6 percent of the gulf production of 114.8 million pounds. In the 1975 season, northeastern South America production had dropped to 7.5 million pounds, and equaled approximately 7 percent of the gulf production. I would like to point out the fleet's capability to exert fishing efforts if the magnitude of 1973 continues to exist.

5. All of the shrimp off northeastern South America is headed aboard the vessel, as is the industry practice, and brought ashore where it is graded and frozen. Then it is transshipped to the United States where it is immediately sold to processors for their processing opera-

tions such as breading, canning, etc., or sold direct to the institutional trade which processes and prepares the shrimp for the retail consumer.

In closing I would like to review the process by which we have arrived today:

For years the United States had a coastal fishery along the U.S. coastline. That fishery was particularly productive off the U.S. gulf coast and throughout the Gulf of Mexico. Shoreside facilities, processors, and supportive—thus dependent—businesses developed around that production. Distant water fisheries off Mexico and South America were developed and their production contributed to the shore-based businesses and the absence of those vessels from the area furnished growth potential to the local coastal operations and relief during low production periods.

However, elsewhere in the country, in particular the Northeast and Northwest, other fishing operations were facing foreign competition in their fishing areas. Laws were enacted to secure those fishing areas and to assure those U.S. fishermen better opportunities to be productive and competitive in supplying seafood to the U.S. markets. Funds are being expended to police these areas and to enforce these laws.

As a result of an extended jurisdiction, our Government must acknowledge other nation's claims over areas where the distant water shrimp fleets have developed the grounds and have traditionally fished. As a result of this acknowledgment, these fleets must now pay fees—fees heretofore not required. To date, these fishermen have overcome increased fuel costs, increased transportation costs, increased maintenance and repair costs. All of this, yet they must sell their production at local U.S. prices in competition with local U.S. producers. Thus, an additional cost of $2,000 to $3,600 per boat is assessed and it must come from the boatowner's pocket—it cannot be passed along by the distant water producer.

Mr. LEGGETT. Considering the fact that the President is thinking of raising gasoline prices and diesel prices, 50 percent or more, unless we want to cause overpressures on our coastal fisheries of the United States it seems to me that we have to give some encouragement to our distant water fishermen or they will discontinue doing what they are doing.

Mr. UTZ. I agree, Mr. Chairman. And I might make reference also to comments made earlier which indicate that in order to give assistance to those fisheries we were laying groundwork whereby other countries would put pressure upon the United States to agree to pay high and exorbitant fees. It seems to us that what it really does is force upon those agencies negotiating for us with other countries to come up with better terms for those fees than they have in the past because this measure would now introduce the additional factor of OMB involvement. That is, if this measure is enacted OMB is going to be looking to see what those fees are costing the U.S. Government and this is something they have not done or had to do in the past.

Mr. LEGGETT. I think you do a very good job of representing the shrimp industry. You are knowledgeable on the subject and it is helpful to this committee.

Mr. de la Garza?

Mr. DE LA GARZA. No questions.

Mr. LEGGETT. Mr. Hughes?

Mr. HUGHES. No questions.

Mr. LEGGETT. Mr. McCloskey?

Mr. MCCLOSKEY. Mr. Utz, I want to be absolutely sure of what you are saying.

What do you think we ought to pay each shrimp boat operator who does business in foreign waters?

Mr. UTZ. Frankly, sir, I do not think we necessarily should pay him anything. I think we ought to negotiate with those countries, utilizing the resources available to us, and see that he fishes there and as in the past——

Mr. MCCLOSKEY. If the best we can do is have a fee of $3,000 for each boat willing to go in those foreign waters, you feel we should pay that operator the $2,000?

Mr. UTZ. That is what we presently are asking for. But I think possibly we can go further than that. As a practical matter, it seems to me, we have not thoroughly gone into is what is the best we can negotiate. In the past we have not used the tools at our disposal. In instances where we can negotiate with the foreign countries which actively participate in either our fishery areas or our markets they should utilize those tools to negotiate better conditions for our fishermen and our industries and particularly with reference to negotiating for our industry to be permitted to continue to operate in those foreign waters.

The reason that we are in the status that we are in now where we do have to acknowledge other nation's jurisdictional claims is because we established our own 200-mile zone and great expenditures of funds will take place if we are going to enforce it and thereby be able to furnish greater protection to our coastal water fishermen here in the United States.

Further, as a result of the GIFA's that have been negotiated, while generating revenues less than anticipated, these agreements are bringing in sizable amounts of money for permitting foreign vessels to fish here. Now, if we develop new revenue sources but in the process of doing that we jeopardize a sizable segment of our U.S. fisheries—the distant water fleets—and if we do not keep them where they are presently operating the result will be to jeopardize the most productive segment of our U.S. fisheries. Therefore, it seems to me only equitable that we share that revenue base in some way so as to offset the costs that are imposed upon the individual American shrimp fisherman.

Mr. LEGGETT. Would the gentleman yield?

Mr. MCCLOSKEY. Yes.

Mr. LEGGETT. The staff advises me that before 1973 there were no license fees in Brazil and at that point they asserted a 200-mile limit unilaterally. We contested that and the Federal Government paid on the order of two-thirds of the collected fees in 1973–76. Then when we finally asserted our 200-mile jurisdiction then we had to adopt a uniform policy. In effect, this initially was to cost our fishermen on the order of two-thirds of the fees that were being paid for the last 4 or 5 years.

Mr. MCCLOSKEY. Mr. Chairman, I understand that. I opposed the 200-mile bill because of testimony we would wipe out our shrimp and tuna industry.

Mr. LEGGETT. I thought you were more international than that in your objections.

Mr. MCCLOSKEY. If you recall, the tuna and shrimp people were manifestly against the 200-mile zone. There is a lot of equity in their argument. If we are going to subsidize one segment as a result of license fees charged by the Soviets, Japanese, and the Koreans, that revenue might be transferred to benefit shrimp and tuna fishermen. But I have a heck of a time going to the House floor urging subsidies for distant-water fishing from any source other than revenues coming in from license fees.

Mr. LEGGETT. I agree with you except for the fact that the Budget Committee and a few others are dead set against "cookie jarring." We had a provision in the 200-mile bill when it left our House that provided that 10 percent of the funds from the licensing of the foreign boats in our waters could be used to pay the fees of our distant water fishermen. The Senate strongly objected to that provision so we took it out in conference, and I vowed we would come back and provide for the same concept in separate legislation.

Mr. MCCLOSKEY. Thank you.

Mr. LEGGETT. If you have support for the cookie jar, you will have my support.

Mr. MCCLOSKEY. I sympathize with the witness's position. I am afraid we did this to you by passing the 200-mile bill last year. The difficulty I have when the gentleman talks about the great American free enterprise system is you are now asking a subsidy for the free enterprise system to finance a $3,000 fee charged by foreign governments which we concede they have the right to charge.

Mr. UTZ. It seems to me we have subsidized the remainder of the industry and spent millions of dollars a year to protect and make sure we are not overfished by foreign enterprise. I think we are not asking for a subsidy but asking for an opportunity not to be overwhelmed by charges that have no rhyme or reason in precedent or equity.

Mr. LEGGETT. Would the gentleman yield?

We have been asking for some of the income tax back for revenue sharing.

Mr. MCCLOSKEY. It seems a shame to permit this industry to be murdered in this manner but I see great difficulties in pressing this framework for a subsidy.

Mr. LEGGETT. Well, it is a form of subsidy that kind of maintains status quo and I do think that we ought to encourage the distant-water fishermen. We should not discourage them. I am not sure that this subsidy is enough to encourage more fishermen to fish for shrimp.

Mr. MCCLOSKEY. Would the gentleman yield?

We were satisfied that an act of this kind permitted distant water fishermen to remain in business. I do not know I would object to that. But I worry about any open endedness in this legislation that encourages new fishermen to go in.

We can sustain the present industry but I am not sure of the subsidization of other distant-water fishermen.

Mr. DE LA GARZA. Would the gentleman yield?

If the gentleman would look at the gulf shrimp fishermen, somebody would have to go completely out of his mind to go and get involved in that sort of business now when you're facing the fact that in

3 years you are not going to be allowed in Mexico period. It is a risky business at best.

I want to add further, for the benefit of the gentleman, that the flow of American free enterprise business has been interrupted by the actions of our Government and in effect, if I can use the word, open retaliation by the other governments. And the way the matter was handled I would say is we would be compensating for negligence, if you insist on——

Mr. McCLOSKEY. The negligence of Congress in passing the law or of the administration in carrying it out?

Mr. DE LA GARZA. Of negotiations. I opposed the 200 mile and warned them. But, again, they come here and they say we did the best we could, and I will not be satisfied that they did and never have been satisfied that they did.

Mr. LEGGETT. Well, if the gentleman would yield. If we limit the bill just to the existing and not conforming—you know, suppose that is written in by country and of course the handwriting is on the wall in Mexico, unless we can use some other bartering and bargaining for the shrimp boats we are going to be out of there in 3 years. It may well be we want to encourage those shrimpers to find some other business; maybe off of Argentina or off of Panama or various and sundry other places rather than to come back to the United States and talk about spending money to retrain those shrimpers. And that has got to be a nutty idea. So I think however we do it when we have inequities—and I think economic situations—we ought to cut our losses to the maximum extent feasible.

Mr. McCLOSKEY. I agree, Mr. Chairman.

I hate to see us take action to stimulate an uneconomic maintenance of business that may be shut out anyway in 3 years.

Mr. LEGGETT. Well, perhaps you could couch some of the language with that limitation, when we mark the bill up. But I would not like to have that province.

Mr. McCLOSKEY. Thank you, Mr. Chairman.

I think you heard my concerns. Could you give us any help with ideas to protect against undue expansion or continuation of investment in the industry? We have a difficult time in gaining any kind of benefits for distant water fishermen if it is not clear what happens should the Mexicans cut us off or the Brazilians triple the license fees. I think OMB should be looking over the State Department's shoulder as the State Department is not going to look at the dollars strictly in negotiating the price.

Mr. LEGGETT. Of course, if you would yield again, I think we ought to keep in mind that the Mexicans may close the shrimpers out in the next 3 years. The Brazilians have not closed us out but certainly have limited the numbers, pursuant to an agreement. I do not know exactly whether that provision is necessary. Perhaps Mr. Utz could comment on that.

Mr. UTZ. Frankly, I think one of the chief questions is what is our Nation willing to exert in way of negotiating tactics and all-out effort to protect this industry. We have more than ample economic levers directly relating to this industry both in Brazil and Mexico that could be effectively utilized.

Mr. McCLOSKEY. For example, the Brazilians were outraged by our attempt to deny them nuclear fuel cycle facilities from West Germany.

Mr. UTZ. I think in some respects in that instance you were utilizing a comparison as between apples and oranges and here we are comparing apples with apples.

Mr. LEGGETT. How about coffee?

Mr. UTZ. I do not think there is any necessity to get into that. If they want to counter our tactics with coffee then of course you have to face it. But in the case of Mexico, for example, 80 percent of their shrimp production comes into this country every year, totally without tariff, or any type of restraint—and the catch we take off of Mexico is equivalent to less than 12 percent of what they send into this country.

Mr. McCLOSKEY. Are you suggesting we would not be violating the agreement if we use that leverage for a tariff or quotas?

Mr. UTZ. It seems to me if we establish an overall system of quotas for all countries and a quota that's equitable for each based on their past participation of shipping shrimp into this country. Then, having a quota list that is already established across the board and looking to each country where our operations have been traditionally in place there then essentially a phaseout comparative to what they are doing with us, if they phase our fisheries, we phase out their quota. If they leave us alone, we leave them alone. It seems to me adequate and proper.

Here we have the world's strongest shrimp market, the United States. It is at their backdoor. They utilize it every day in great abundance. We have in the Gulf of Mexico a common fishing area that has been utilized for centuries by both countries and it is a common fishing area. The shrimp in that gulf—as the gentlemen behind me will be able to testify to and tell you—the shrimps migrate around the gulf and are important to various areas at various times of the year, not only to the United States but to the Mexicans. It has not been effectively utilized by them; yet, they want to totally deny us access to that fishery while they have been completely free from access to our marketplace.

Now there is no way you can say there is equity in that type of operation.

Mr. LEGGETT. I am sorry we did not have the opportunity to have the Assistant Secretary of State here to ask that question.

STATEMENT OF ERNEST DONINI, TAMPA, FLA.; GUY PETE, PORT ISABEL, TEX.; AND HAROLD VON HARTEN, KEY WEST, FLA.

Mr. LEGGETT. Do you want to introduce your constituent?

Mr. DE LA GARZA. Yes, Mr. Chairman. I would be very happy and proud to introduce Guy Pete from Brownsville, Tex. He is a shrimp-boat owner and probably is a classic example of an individual who is a family man and a civic leader, serving in community affairs and assisting in every way in the church and schools, and our Coast Guard unit in his area. He is representative of the type of people that we have spoken about in this hearings and I am very happy to introduce him.

Mr. LEGGETT. Thank you.

Mr. Guy Pete is where?

Mr. PETE. Here.

Mr. LEGGETT. Your statement will appear in this record as though read and you can emphasize such portions of it as you want.

[The document was submitted for the record:]

STATEMENT OF GUY PETE, GULF SHRIMP PROCESSORS, BROWNSVILLE, TEX.

Mr. Chairman, my name is Guy Pete. I am from Brownsville, Texas. I am a boat owner and fisherman like my father and forefathers. Fishing has been a family tradition as far as the family recalls.

In 1947 when we had to leave Louisiana because the area became fished out, we moved to Texas. In 1949 we moved further along the Texas coast to Brownsville where we could fish the Texas and Mexican areas.

People all the way from North Carolina to Georgia have moved from the Atlantic and have fished around the Gulf, covering the same grounds we have. They have settled in Brownsville because they can operate all year long by fishing in both Mexican and American waters.

Since the 200 mile limit was passed, which forced upon us the ultimatum from Mexico, our valuable fishing grounds are being taken from us. Now we are faced with an industry which can only fish six months of the year—if we are denied the right to fish in the Gulf area off Mexico. We must then return to fishing areas already being fully fished and I know for a fact, being a fisherman, there is no place within the Gulf from Key West to the Rio Grande that has not already been fished.

In addition to these burdens, add $2,000 per boat for a permit and it furthers the burden. We need the government's assistance to avoid having to accept this added burden brought on by the 200 mile legislation.

In my area, we are presently having one of the highest unemployment problems being faced anywhere in this country. This situation has developed primarily because of the troubles our industry is experiencing, and it will get steadily worse as we are phased out of the Mexican area. I understand the support this legislation provides will not answer all of our problems—but it will help in making it more economical to stay in the fishery during the next few years.

I might add that during the negotiations with Mexico, it was agreed by our government officials to accept this ultimatum from Mexico because it would keep us in the fishery until they could negotiate something better with the next Mexican government which would be coming up in 1977. I don't know what our State Department expects to do now, but I do know I'm having to bear the burden of losing our traditional fishing grounds which we developed—due to them accepting the Mexican terms.

In addition to all of the direct cost burdens and loss of resource areas, imports have been increasing. Recent hearings by the International Trade Commission showed excessive imports at certain times in the past have brought substantial damages to the U.S. shrimp producers. Mexico is the largest exporter of shrimp to this country. Thus, we are in direct competition with Mexico's product. They can sell their shrimp in the U.S. just as we do. There are no duties or quotas on their exports to the U.S., yet their crews are paid much less than ours and they buy their fuel for much less than we do.

But, please let me point out one thing. I am not here to criticize our good neighbors to the South, but to show that we are being denied access to our traditional fishing grounds by Mexico, who continues to use our markets without cost. Maybe it goes to show they are better businessmen and negotiators than we are, since they have removed us from the good fishing grounds which we developed, and yet they retained open access to the best market place in the world—the U.S. Mexico exports over 80 percent of its production to the U.S. each year. Approximately 50 percent of our shrimp consumption is imports and we need the imports from Mexico. At the same time, we as producers need the shrimp we take off Mexico. Incidentally, what we take off Mexico is only about 12 percent of what they export to the U.S. We cannot survive as efficient fleet owners if we cannot fish south of the Rio Grande. With an inefficient and reduced fishery, the market place is going to be even more under the control of foreign countries exporting shrimp to the U.S.

When you add the extra burden of $2,000 per boat to an already overburdened industry, it may be too burdensome—$2,000 per boat may not seem a great deal, but boy, when you don't have $2,000 per boat, it's a lot of money.

Gentlemen, I have attempted to give you in general terms why I hope you will pass this legislation and why my industry needs such support. There are many specifics about our industry which I have not covered here but as a lifetime fisherman I will be happy to answer any questions you may have.

Thank you for your time and I appreciate your consideration and help.

STATEMENT OF ERNEST DONINI, SUPERIOR FOODS, INC.

First, I would like to explain why this help is needed. Working in these distant waters, we have numerous extraordinary requirements and costs we must be able to meet if we are to compete with coastal fisheries, and also meet the competition from imported shrimp. I am sure you are all aware that all the vessels of other countries fishing these foreign areas have their permits paid for by their governments. Secondly, working these distant waters creates heavier costs of operations, for example, all packing materials such as cartons, etc., and almost all of our supplies come from the U.S. These transportation costs are a large percentage of our overall costs. Another point—most of the shrimp caught in the agreement area is mostly of the processor sizes, which is sold within the U.S. from coast to coast. In other words, the loss of that resource will probably have an impact on employment throughout this country in some way. Further, in direct employment it takes at least five people working here in the U.S. to supply each of these South American trawlers with supplies, plus processing of the shrimp.

I would like to make another point also. If these trawlers are forced to come home and work, it would place a harmful impact on the Gulf fisheries. If you take the 200 or more boats from the Guiana fisheries and put them in the Gulf waters which are already fully fished, the more boats operating, the fewer pounds per boat caught, which means less dollars per boat. In the past when similar conditions occurred, numerous companies went broke.

Therefore, faced with the knowledge of the past, the realism of today and what we are expecting in the future, we are here asking for assistance.

STATEMENT OF HAROLD VON HARTEN, KEY-TEX SHRIMP CO., INC., CHAIRMAN OF THE BOARD, NATIONAL SHRIMP CONGRESS

My name is Harold L. Von Harten. My address is 2823 Fogarty Ave., Key West, Florida 33040. I am an owner and operator of shrimp boats.

Mr. Chairman, I am here in support of House Joint Resolution 388. I would like to thank you and the other members of this Committee for giving us this opportunity to express our views on one aspect of a situation that has been very costly to some portions of our shrimp fleet this past year and could continue to be so in the future. In my particular instance I am referring to the license fee charged to U.S. flag vessels on trawlers that operate in the Mexican Economic Zone. However, I understand that license fees charged to other U.S. flag vessels operating off of other foreign coasts are even higher.

Before I proceed, I would like to give you a brief history of the Mexican fishing areas and also some personal background which I hope will help you understand our concern and why we are asking for your assistance.

U.S. shrimp vessels began fishing in the Campeche area in the late 1940's and early 1950's. The areas of Mexican waters adjacent to Texas have been fished by the south Texas shrimp fishermen for some years previous to this. In both south Florida and south Texas, the utilization of waters off of Mexico and other countries has been a necessary factor in the growth of the shrimp industry from a highly seasonal to a year round self-sustaining industry. I think the shrimp industry's past history will indicate that the will and ability of the U.S. shrimp fishermen to go to distant waters and fish has played a major role in the rapid growth of our industry, both as to the fleets and the processing operations.

I, and many others who will appear today, have been part of this phenomenal growth. I started as a young man of 19 years as a deckhand on my father's boat and subsequently bought and operated my own boat. At the present time, I

own 4 vessels and am part owner in a shrimp packing and wholesale business located in Key West, Florida and Freeport, Texas. I might add that my partners come from this same basic background. We service and maintain approximately 35 vessels. The main reason for mentioning these facts is to point out that we have a large investment in capital but also—just as important—we have large development costs in time and equipment lost over the years that it took to explore and learn the fishable areas of these waters. I might add that years ago these resources weren't being utilized by the Mexicans, just as the areas we are presently fishing are not being utilized by them.

At this point you may be asking yourself, "If he has been able to accomplish all this, why is he here asking for help in this seemingly small fee compared to others?" The answer I give to this question is the answer given by many in the past three years. Time and circumstances change. In the past three years we have seen the following happen:

(1) Our fuel costs have increased over 300 percent.

(2) Our cost of trawling equipment and bottom gear has increased tremendously.

(3) The amount of trawable bottom has been reduced 50 percent in the Tampico-Contoy areas, and we have completely lost the Gulf of Campeche grounds which are the most trawable grounds available.

(4) The cost of our vessels doubling in the last three years.

Under the best of circumstances shrimping has always been a high risk venture, but with all of the handicaps that I have just mentioned, the odds for making your expenses and staying competitive with other fisheries of the world have become more of a task each year.

One might wonder why the Congress should assist this segment of the industry. There are, in my judgment, several reasons. First, if these shrimp are not caught by U.S. flag vessels and landed in U.S. ports, the following will happen:

(a) The resource is lost.

(b) An equivalent amount of shrimp will have to be imported, furthering a minus in our balance of payments.

(c) The U.S. coastal areas most affected presently have some of the highest levels of unemployment in the nation. Reduced production will affect employees of both producers and processers.

Second, a higher concentration of U.S. vessels will fish U.S. waters causing over-fishing during certain months and causing a severe economic hardship on vessels normally fishing the Tortugas and South Texas areas.

In asking for your assistance to gain some relief through reimbursement for these fees paid as provided by this resolution, I realize that the first question asked will be, "Where will these funds come from?" I would like to suggest the use of funds collected from payment of license fees by foreign vessels fishing in U.S. waters.

We are hopeful that in the near future, an era of good neighbor friendliness will return and prevail and the use of a license fee as an outright means to discourage competition will cease. At a period in time when our government has helped Mexico with millions of dollars in loans, and I might add that some loans in the past have been directly used for development of their fisheries, we find it most reprehensible that a sense of reciprocity of some sort is not forthcoming. Considering all the factors, members of my industry are very concerned that we are in the position of having to pay a fee of this magnitude for what we get in return.

Thank you for your time. I will be glad to try and answer any questions that you would care to direct to me.

Mr. PETE. Thank you, Mr. Chairman.

I would like to comment on a few things that was said here today but pretty well covered by everybody.

One thing is that the Gulf of Mexico, the part that we fish from Key West and Brownsville, has been overfished. Years ago we fished all the way down and now the fishermen will have to move back in and it will really create an economic crisis in our industry.

I think that is the important question and has been touched on pretty well.

Mr. LEGGETT. You indicate that the fishermen did not go to Texas because they wanted to raise cattle and they normally would prefer fishing in North Carolina. Then, they moved down to Georgia and then Louisiana and then Texas and you speak now of them going to Mexico.

Mr. PETE. Yes, sir. In other words I am a Texan and it was most centrally located for us to fish where we could fish the seasons in the U.S. waters and going down to Mexico and around. Now under the circumstances we cannot do it, sir. And this is coupled with such things in the economic crisis as the cost of fuel and other operations. I think that the burden of $2,000 which to some people is not much money, is a lot when you do not have it.

Mr. LEGGETT. Ten cents is a lot of money if you do not have it.

Mr. PETE. It takes three men and sometimes it takes four in our operation, in this aspect of the industry. Then we have the high fuel and railway, the truck drivers, the processing plants, the grocery stores and maintenance is required and we figure to fish each of my boats it takes five men because of some coming and going and taking off 6 months and our other affiliates, such as the railways and the grocery stores and the processing plants and truck drivers, to get them up here would have involved a lot of money.

Mr. LEGGETT. Let me ask you this. How much of a burden is $3,000 or $2,000 per boat? I know these shrimp boats make—what would you call it?—a large amount of money?

Mr. PETE. We make a good living when we can work the year round, sir. And before the Mexico ultimation the $2,000 would be hurting but not very bad. But some of our boats have not fished since last August when this Mexican agreement went into effect. Therefore, we have boats now that cannot produce, have not produced a pail of shrimp since December. The simple reason is we could not go into Mexico at all, without the license. By the time we got the license the season was over with.

Mr. LEGGETT. Do you have one or a lot of them?

Mr. PETE. No, sir. I have six shrimp boats I own 100 percent. I have a business partner I own three with.

Mr. LEGGETT. Do they take shrimp off of Brazil?

Mr. PETE. No, sir. Off the Gulf of Mexico, sir.

Mr. LEGGETT. And the Mexican fees are right now $2,000?

Mr. PETE. Yes, sir.

Mr. LEGGETT. Per boat?

Mr. PETE. Two thousand dollars, about $2,100 or $2,200 when you pay the insurance and add to that where they make you pay $160 if you get caught down there, you know. I do not know what it is exactly.

Mr. LEGGETT. OK.

Let us take the statement of your colleague now, Mr. Donini.

Very nice to have you with us here. You are from down Tampa way?

Mr. DONINI. Yes, sir.

Mr. LEGGETT. Very nice to have you before the committee.

Mr. DONINI. I just came back from Tampa.

Mr. LEGGETT. You have a very short statement. Do you want to read it?

Mr. DONINI. I will highlight it, in a few spots.

Mr. LEGGETT. All right. It is in the record.

Mr. DONINI. First, I would like to explain why this help is needed. Working in these distant waters, we have numerous extraordinary requirements and costs we must be able to meet if we are to compete with the coastal fisheries, and also meet the competition from imported shrimp. I am sure you are all aware that all the vessels of other countries fishing these foreign areas have their permits paid for by their governments.

Second, working these distant waters creates heavier costs of operations; for example, all packing materials such as cartons, et cetera, and almost all of our supplies come from the United States. These transportation costs are a large percentage of our overall costs. Another point—most of the shrimp caught in the agreement area is mostly of the processor sizes, which is sold within the United States from coast to coast. In other words, the loss of that resource will probably have an impact on employment throughout this country in some way.

Further, in direct employment it takes at least five people working here in the United States to supply each of these South American trawlers with supplies, plus processing of the shrimp.

I would like to make another point also. If these trawlers are forced to come home to work it would place a harmful impact on the gulf fisheries. If you take the 200 or more boats from the Guiana fisheries and put them in the gulf waters which are already fully fished, the more boats operating the fewer pounds per boat caught, which means less dollars per boat. In the past when similar conditions occurred, numerous companies went broke.

Therefore, faced with the knowledge of the past, the realism of today and what we are expecting in the future, we are here asking for assistance.

Mr. LEGGETT. What do you getfor a pound of shrimp?

Mr. DONINI. Depending on the size. Right now fishing for shrimp, as you read my statement, I mention that most of the shrimp caught in the agreement area, that is off the coast of Brazil, where most of my trawlers work, those average somewhere in the market today from $2.75 to $2.85 depending on how many shrimp are available.

Mr. LEGGETT. Up to $1.50 for the gasoline?

Mr. DONINI. For diesel fuel per pound of shrimp caught.

Mr. LEGGETT. Yes.

Mr. DONINI. Direct cost is 46 cents a gallon, gas used per pound of shrimp depends on how the production has been. It fluctuates. The best you could do is maybe end up one for one, that is, gallon of fuel used to catch a pound of shrimp. If you do that you have got to do a good job. So those are the main reasons that I am up here, to ask for assistance. Whether the fee is excessive or not is really not that important. It is important to us when we can compete here in the United States in selling our shrimp with these other countries who have already got an advantage when their shrimp production is subsidized.

Mr. LEGGETT. You would rather have the Mexican subsidy on gasoline?

Mr. DONINI. Yes. Where we are paying 46 cents a gallon they are subsidized by their government and get it for 12 cents a gallon. I would take that and I would pay the fees.

Mr. LEGGETT. Or rather have the higher tariff on Mexican shrimp coming in here.

Mr. DONINI. Tariff or quota. I feel myself that any country that does not allow us to work in their waters, we should not accept any seafood production from that particular country.

Mr. LEGGETT. OK. I think we get your direction.

Now, Mr. Van Harten?

Your statement will be in our record with the others.

Mr. VAN HARTEN. I will read mine. It will not take a minute.

Mr. Chairman, I am here in support of House Joint Resolution 388. I would like to thank you and the other members of this committee for giving us this opportunity to express our views on one aspect of a situation that has been very costly to some portions of our shrimp fleet this past year and could continue to be so in the future. In my particular instance I am referring to the license fee charged to U.S.-flag vessels on trawlers that operate in the Mexican Economic Zone. However, I understand that the license fees charged to other U.S.-flag vessels operating off of other foreign coasts are even higher.

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At this point you may be asking yourself "If he has been able to accomplish all this, why is he here asking for help in this seemingly small fee compared to others?" The answer I give to this question is

the answer given by many in the past 3 years. Time and circumstances change. In the past 3 years we have seen the following happen:

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Our cost of trawling equipment and bottom gear has increased tremendously.

The amount of trawlable bottom has been reduced 50 percent in the Tampico-Contoy areas, and we have completely lost the Gulf of Campeche grounds which are the most trawlable grounds available.

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The resource is lost.

An equivalent amount of shrimp will have to be imported, furthering a minus in our balance of payments.

The U.S. coastal areas most affected presently have some of the highest levels of unemployment in the Nation. Reduced production will affect employees of both producers and processors.

Second, a higher concentration of U.S. vessels will fish U.S. waters causing overfishing during certain months and causing a severe economic hardship on vessels normally fishing the Tortugas and south Texas areas.

In asking for your assistance to gain some relief through reimbursement for the fees paid as provided by this resolution, I realize that the first question asked will be, "Where will these funds come from?" I would like to suggest the use of funds collected from payment of license fees by foreign vessels fishing in U.S. waters.

We are hopeful that in the near future, an era of good neighbor friendliness will return and prevail and the use of a license fee as an outright means to discourage competition will cease. At a period in time when our Government has helped Mexico with millions of dollars in loans, and I might add that some loans in the past have been directly used for development of their fisheries, we find it most reprehensible that a sense of reciprocity of some sort is not forthcoming. Considering all the factors, members of my industry are very concerned that we are in the position of having to pay a fee of this magnitude for what we get in return.

Thank you for your time. I will be glad to try and answer any questions that you would care to direct to me.

Mr. LEGGETT. Thank you, Mr. Van Harten. I think all of you have made very good points.

The idea is that we help out our domestic fishery in domestic waters and we apparently did this by extracting some fees from foreigners therefore we should use some of those tax resources for maintaining what we call our foreign fisheries.

Mr. de la Garza?

Mr. DE LA GARZA. I have no questions, Mr. Chairman.

Mr. LEGGETT. Mr. Hughes?

Mr. HUGHES. No questions.

Mr. LEGGETT. OK. Counsel?

Mr. MANNINA. No questions.

Mr. LEGGETT. I think we have taken enough testimony on this subject matter and I think we are almost prepared to mark up this legislation, which will be scheduled in due course.

The committee will now stand adjourned until further call of the Chair.

[The hearing was adjourned at 5:58 p.m.]

JAPANESE FISHERIES

WEDNESDAY, JULY 20, 1977

HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
SUBCOMMITTEE ON FISHERIES AND WILDLIFE
CONSERVATION AND THE ENVIRONMENT,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2:35 p.m., in room 2212, Rayburn House Office Building, Hon. Robert L. Leggett (chairman of the subcommittee) presiding.

Mr. LEGGETT. The meeting of the Subcommittee on Fisheries and Wildlife Conservation and the Environment will please come to order. I am sorry for the delay. We had conflicting hearings in the Budget Committee, with indications the economy is looking up.

Mr. BONKER. Mr. Chairman, we are not lower in priority to the Budget Committee.

Mr. LEGGETT. Certainly not, except we started at 1:30; and also, you had to give me time to find the room here.

Mr. AUCOIN. This is the right room.

Mr. LEGGETT. As all of you are aware, the subcommittee reported legislation in the last Congress that resulted in the enactment of the Fishery Conservation and Management Act of 1976—better known as the 200-Mile Fisheries Zone Act; also known as the Magnuson Act, the Studds Act, the Emery Act, or depending on whatever part of the country you are in—the Leggett Act in certain parts of the country.

That act, which became effective on March 1 of this year, provides that no foreign fishing vessel will be allowed to fish within 200 miles of our shores unless the foreign nation concerned has signed a GIFA with the United States and has secured a permit.

Because of the delay in negotiating and obtaining signed GIFA's with the countries desiring to fish in our waters this year, it became necessary this past February to consider legislation that would waive the 60-day congressional review period required by the act in order to allow foreign fishing to continue after March 1 by those nations that had signed GIFA's.

The GIFA's which had been signed and which were given Congressional approval were those signed with Poland, Bulgaria, Romania, East Germany, Taiwan, Russia, South Korea, Spain, the EEC, and Japan.

All of these GIFA's were for periods of 5 years except for the one with Japan, which was for 1 year only, calendar year 1977.

This brings us to the need for the hearings this afternoon. Last month, the President transmitted to the Congress the second agree-

ment signed with Japan, which is for the period from 1978 through 1982. It appears to be substantially the same as the GIFA given congressional approval by the Congress earlier this year concerning other countries.

It should be noted that pursuant to the act this GIFA will automatically go into force and effect after the running of 60 days continuous session of the Congress subsequent to the time the GIFA is submitted to the Congress for consideration, provided the Congress does not take action to disapprove it or takes action to put it in force earlier than the running of such period.

It appears that unless action is taken, the GIFA will go into force and effect about mid-September.

Representatives of the State Department have been asked to brief the subcommittee on the new agreement with Japan, and it gives me great pleasure at this time to welcome Ambassador John Negroponte, who is making his first appearance before this subcommittee, and probably his first on the Hill, in his official capacity as the Deputy Assistant Secretary for Oceans and Fisheries Affairs of the Department of State.

So, Mr. Ambassador, we are very pleased to have you here. We wish to jointly congratulate you on your appointment, and we are looking forward to a profitable and productive relationship with you, as we had with your predecessor who is now undoubtedly planning on embarking to Finland.

So, you can proceed as you care to.

STATEMENT OF AMBASSADOR JOHN NEGROPONTE, DEPUTY ASSISTANT SECRETARY, OCEANS AND FISHERIES AFFAIRS, ACCOMPANIED BY DAVID COLSON, OFFICE OF THE LEGAL ADVISER, DEPARTMENT OF STATE

Ambassador NEGROPONTE. Thank you very much, Mr. Chairman. I, too, want to express my pleasure at appearing before you today in, as you said, my first appearance on the Hill in my new position. I might just add a minor point of clarification, that while I have been nominated for the position at the ambassadorial title, that has not yet been confirmed by the Senate.

Mr. LEGGETT. So, we congratulate you only, then, on your nomination. [Laughter.]

Ambassador NEGROPONTE. Just for the record.

Then, let me also say I very much hope to continue the fine tradition of excellent working relations that appeared to have existed between my predecessor, Ambassador Ridgeway, and your committee, Mr. Chairman. I hope that I can live up to the very high standards that she displayed, carrying out her function here.

Before proceeding into my statement today I would just like to add that I have with me counsel from the State Department, Mr. David Colson, who is part of our Legal Adviser's Office.

Mr. Chairman, in her testimony before your subcommittee on Februrary 23 and 28 of this year, Ambassador Ridgeway described the package approach taken in our fisheries agreement with Japan, consisting of a short-term GIFA for 1977, combined with an additional

long-term GIFA covering the period 1978–82. I would like to briefly review that approach again, in order to bring us to the subject of today's testimony. It became quite clear as we progressed in our negotiations with Japan that their Executive did not have the authority to enter into an agreement as explicit as the one before us now without the approval of the Japanese Diet. This approval process could not have been completed until substantially after March 1, thus foreclosing Japanese fishing after that date when the full force and effect of the Fishery Conservation and Management Act was to come into play for all nations fishing off our coast.

It was to accommodate this particular Japanese constitutional problem, without eliminating the possibility of Japanese fishing after March 1, that the package approach was devised. The 1977 agreement, which acknowledged U.S. law, was much less explicit than the agreement before us now. This short-term agreement did not require the lengthy Diet ratification procedure. Following legislation to waive the congressional oversight provisions of the act, the short-term United States and Japan fisheries agreement entered into force as the governing international agreement for 1977 between the United States and Japan.

I am aware, of course, that the language of the 1977 short-term agreement did cause some concern among the members of this subcommittee; that there were feelings that its variation in form from the standard GIFA's also had implications for its substance, and that it might be viewed by Japan as less than the complete commitment to our management jurisdiction required under the law. I want to take this opportunity to report to you, Mr. Chairman, and the subcommittee, that there has been nothing in the conduct of the Japanese Government or the Japanese fishing fleet during the past 5 months inconsistent with a recognition that the full force and effect of the Fishery Conservation and Management Act of 1976 came into play March 1.

The agreement before us now, the long-term GIFA, was submitted in its initialed form to the Congress on February 21 for informational purposes along with the short-term agreement. The long-term GIFA was then signed by both the United States and Japan on March 18. The Japanese Government submitted the agreement to the Diet on April 19. We formally resubmitted the agreement to Congress for congressional oversight under section 203 of the act on June 2. The Japanese Diet approved this agreement on June 9.

The long-term Japanese GIFA, as with other GIFA's, contains certain language variations. These small differences do not detract from the acknowledgement of U.S. fishery management authority in the GIFA. They only accommodate translation problems or provide for simplification. This long-term Japanese GIFA is the same document which was submitted to the Congress for information at the time of approval of the 1977 agreement, and is consistent in form and substance with other GIFAs and the requirements of the Fishery Conservation and Management Act.

I might note briefly that article VI reflects the somewhat special situation presented by salmon. Its consultation provisions in no way detract from the clear recognition provided in this agreement of U.S.

jurisdiction over all salmon within the U.S. zone, and salmon of U.S. origin beyond our zone. Exercising this jurisdiction would be a much simpler matter if all U.S. origin salmon remained in clearly identifiable areas beyond 200 miles. This, however, is not the case, and salmon of United States and Asian origin intermingle over large areas of the high seas. Article VI provides, through cooperation and consultation with the Japanese, more effective and efficient management of U.S. origin salmon in areas where they intermingle with Asian salmon beyond our 200-mile zone.

This GIFA, like that with Cuba, is being submitted to Congress without the March 1, 1977 date imposing the need for urgent consideration. Congress will be able to utilize the full 60-day congressional review period specified in section 203 of the act. We hope that following congressional review this agreement will be brought into force in September when, we are informed, the 60 calendar days of continuous session of the Congress will have expired.

That concludes my prepared statement, Mr. Chairman. I will be happy to entertain any questions the subcommittee may have.

Mr. LEGGETT. Thank you very much, Mr. Secretary.

The GIFA, as has been presented to us, you confirm, is exactly the same agreement which was initially presented to the Congress when we considered the alternative temporary agreement as a GIFA earlier in the year when this was used as an attachment or exhibit; is that correct?

Ambassador NEGROPONTE. I am informed that that is correct.

Mr. LEGGETT. We did look at the document at that time. Counsel has called one item to my attention, and that is article IX. Article IX in this GIFA provides that Japan shall insure that nationals and vessels of Japan refrain from harassing, hunting, capturing, or killing, or attempting to harass, capture, or kill any marine mammal within the fishery zone, except as may be otherwise provided by an international agreement respecting marine mammals to which the United States is a party, or in accordance with specific authorization for and controls on incidental taking of marine mammals established by the Government of the United States.

We are having a special order tomorrow on the floor of the House respecting the IWC agreement just negotiated in Canberra, where we agreed to reduce the overall world take by member nations to something like 17,000 and that amounts to a 40-some percent decrease below the 28,000 taken last year.

So, I assume nobody would attempt to interpret this provision as allowing the taking of whales within our 200-mile limit, particularly in light of President Carter's Executive order, where he adopted our committee's interpretation of the Marine Mammal Act, wherein he stated on May 23, "Sharing worldwide public concern about the condition of marine mammals, especially whales, I have directed the Secretary of Commerce with the foreign policy guidance of the Secretary of State to prohibit commercial whaling within our 200-mile fishery zone."

So, the question is, you do not interpret article IX as in any way giving authority to the Japanese to take part of that 17,000 whale take, the reduced number, within our 200-mile area.

Ambassador NEGROPONTE. I do not. I do not see anything inconsistent with that language and the policy of the President as you just elaborated it. Perhaps Mr. Colson has something to add.

Mr. LEGGETT. That is a good answer, we do not need Mr. Colson's amplification on that.

Mr. AUCOIN. Mr. Chairman, would you yield to me?

Mr. LEGGETT. Surely. Mr. AuCoin?

Mr. AUCOIN. I want to know why the witness feels there is no inconsistency.

Ambassador NEGROPONTE. Well, the language of the Executive order, I believe, that was just read, discusses the capturing or killing of whales within our 200-mile zone. I would interpret this article IX being able to apply to either within, or without, outside of the 200-mile zone.

Mr. AUCOIN. If you would yield further, Mr. Chairman.

Mr. LEGGETT. Certainly.

Mr. AUCOIN. What is your interpretation of the language that starts on line 4 and says, "Except as may be otherwise provided by international agreements respecting marine mammals"?

Mr. LEGGETT. It might be well if at this point I read a portion of section 1383 of the Marine Mammal Act which reads as follows:

> The provision of this subchapter shall be deemed to be in addition to and not in contravention of the provisions of any existing international treaty, convention, or agreement, or any statute implementing the same which may otherwise apply to the taking of marine mammals. Upon a finding by the Secretary that any provision of any international treaty, convention or agreement, or any statute implementing the same has been made applicable to persons subject to the provisions of this subchapter in order to effect essential compliance with the regulatory provisions of this chapter so as to reduce to the lowest practicable level the taking of marine mammals incidental to commercial fishing operations, Section 1375 of this title may not apply to such persons.

I am not sure that was a helpful observation. [Laughter.]

Mr. AUCOIN. I was going to ask for a translation.

Mr. LEGGETT. Well, I am not going to give it. I would think, just as the Chairman of the CAB, we ought to direct these agencies to promulgate their regulations in plain, ordinary, succinct English, so folks can understand them.

Mr. AUCOIN. They ought to read them.

Mr. LEGGETT. But anyway, there is a provision in this act that I was grasping for, but apparently I was unable to land on it immediately, that does provide and give rise to the interpretation that we extended the 200-Mile Act to cover the Marine Mammal Act of 1970.

The Marine Mammal Act of 1970 under its plain terms precludes the taking of whales unless a permit is obtained.

Mr. AUCOIN. Well, then, Mr. Chairman, why do we have an exception written into article IX?

Mr. LEGGETT. Because there are other kinds of treaties.

Mr. AUCOIN. A contemplated treaty that would be in violation of the Marine Mammal Protection Act?

Mr. LEGGETT. Well, obviously, if we enter into a treaty subsequent to an enacted law, a treaty will change the law of the United States, and a subsequently enacted law changes a treaty. It is the latest act that governs, in general, and we do have situations like the one act

the "Pribiloff" Islands whereby we have agreed to allow the Eskimos to take 60,000 seals each year which are marine mammals, the same ones that are on the coasts of Oregon and California.

Mr. AuCoin. That goes to my next question. The language here is not the word "treaty", the term is "agreement"; I am wondering if that is not something that can be done purely administratively.

Mr. Leggett. Well, let me read this again, "Japan shall insure that nationals and vessels * * * shall refrain from doing all these things:

Except as may be otherwise provided by an international agreement respecting marine mammals to which the United States is a party, or in accordance with specific authorization for and controls on incidental taking of marine mammals established by the Government of the United States.

Now, are we knowledgeable of any agreements, international agreements, that do provide otherwise?

Mr. AuCoin. I am worried about ones that might be forthcoming. If we mean "treaty," maybe we ought to say "treaty"; if it is an "agreement", I am wondering whether it could be done administratively.

Mr. Leggett. Obviously, the main thing they had in mind here was that mammals could not be taken except by permit. Certainly, Japan has applied for a permit to take mammals. I understand that is currently pending, the application to take 10,000 miscellaneous porpoise incidental to the taking of salmon. That has not yet been resolved, I understand. I think the main purpose of this was to provide in the proviso there, "with specific authorization for and controls on incidental taking of marine mammals established by the Government of the United States."

Mr. AuCoin. Time and time again, Mr. Chairman, we find ourselves in this committee and as Members of Congress in disagreement with various agencies over questions of this kind. I think it is a significant question to explore as to whether or not this agency by this language could, on its own option without congressional review, enter into some agreement that would perhaps do violence to the consensus of the Congress.

Mr. Leggett. Well, obviously you could have Executive order agreements, but certainly Executive order agreements executed could not change an act of Congress, or a treaty. So, we have to infer that the law would be respected, and that any international agreement would necessarily be consistent with our law.

Now, the real question is: Does the Marine Mammal Act preclude the taking of whales within our 200-mile boundary? I have asserted that in a number of meetings. We have had lipservice to that effect from the Executive witnesses; we have not had the Library of Congress or the Attorney General's opinion supporting that interpretation. We could legislate it, if it becomes a problem.

Mr. AuCoin. If that is the case, and if what you said about the language here is also true—that is, that no agreement would be in violation of the law—then I see no reason for this language to be here. I worry about its existence; I can only see a confrontation.

Mr. Leggett. I was talking about the 200-mile law. This provision is limited to our conservation zone.

Mr. AuCoin. "Except."

Mr. Leggett. Except that——

Mr. AuCoin. That is wherein lies the problem.

Mr. Leggett. Counsel advises me that the Japanese application is for 2,050 porpoises, but as I understand it, it is for a total of 10,000 of something. So, it must be for 8,000 walruses——

Mr. Bonker. Mr. Chairman, can we hear from the witness on this matter?

Mr. Leggett. I was trying to take some of the pressure off him. [Laughter.]

Mr. Leggett. Now that we fully explored our views, we will be pleased to have yours.

Ambassador Negroponte. We discussed this some before the meeting started. If I understand the issue correctly, this language was negotiated before the Executive pronouncement to which you just referred.

Mr. Leggett. That pronouncement was only a direction to the Secretary of Commerce to preclude it.

Ambassador Negroponte. Right.

Mr. Leggett. I thought we had precluded it. Whether there is a suggestion that that be precluded by some kind of a supplemental order or regulation, I do not know. Presumptively it would be by supplemental regulation.

Ambassador Negroponte. But my understanding is that there are certain types of marine mammals, certain species of whales, that hypothetically permits could be issued—I am talking about under law—for their capturing or killing.

Mr. Leggett. Now, we have this provision here, too, and this is in the 1970 act, section 102 of the Marine Mammal Act says "Except as provided in sections 101, 102, 104, 111, and 113"—that is on permits for taking of mammals:

> It is unlawful for any person subject to the jurisdiction of the United States, or any vessel, or other conveyance subject to the jurisdiction of the United States to take any marine mammal on the high seas.
>
> 2. Except as expressly provided for by an international treaty, convention or agreement to which the United States is a party and which was entered into before the effective date of this title, or by any statute implementing any such treaty, convention or agreement, for any person or other conveyance to take any marine mammal in waters or land under the jurisdiction of the United States, or for any person to use any port, harbor, or other place under the jurisdiction of the United States for any purpose in any way connected with the taking of marine mammals, or marine mammal products, and for any purpose with respect to any marine mammal taken in violation of this title, to possess, transport—

And so forth.

Now, I would think that that provision is clear enough that unless somebody can show a treaty that allows them to take whale, or mammals, in our zone without going through some act of Congress, that they are precluded by this act from doing it; and we have remedies to enforce it. It may well be that our jurisdiction was extended subsequent to the original enactment of this act—but, so be it.

Ambassador Negroponte. Mr. Colson was present at these negotiations, and perhaps he would like to add a comment as to why this article appears in this treaty at all, since that question was raised.

Mr. Colson. It is important to note that the language was negotiated before the Presidential order because there was a policy question at that time because of the Marine Mammal Protective Act. Under the

act whales that were not on the endangered species list, it was conceivable that there was discretion——

Mr. LEGGETT. The Marine Mammal Act does not relate to endangered species.

Mr. COLSON. No, but they come back through there, that whales that were not on the endangered species list, it was possible that the Secretary of Commerce had the authority under the Marine Mammal Protection Act to give permits for commercial exploitation in the zone.

Now, the President's order clarified how the Secretary of Commerce is going to react to any application for a permit for commercial exploitation.

Now, the language here we will have to interpret at this point to say that the International Whaling Commission establishes worldwide quotas. It does not say where those quotas are to be taken, and that under U.S. law they may not be taken, the IWC quotas may not be taken within the U.S. Fishery Conservation Zone.

Mr. LEGGETT. All right. Now, let me ask you this with respect to salmon, are there special provisions in this agreement, Mr. Secretary, with respect to salmon?

Ambassador NEGROPONTE. Yes, there are, Mr. Chairman.

Mr. LEGGETT. Would you go through those again for us?

Ambassador NEGROPONTE. I would say that the first one would be right in the preamble. That is not special, that is acknowledging that the United States exercises such authority over living resources of the Continental Shelf, and over anadromous species of fish of the U.S. origin throughout their migratory range. Then, I believe article II makes reference to anadromous species, and so does article IV. I believe article V is the one that is different and specifically deals with that.

> In view of the fact that anadromous species of United States origin intermingle with such species of other origins in certain waters of their migratory range, the Government of the United States and the Government of Japan shall hold consultations concerning necessary conservation measures for anadromous species in such waters.

Mr. LEGGETT. Mr. AuCoin?

Mr. AUCOIN. Mr. Chairman, I have a question on that point. At the beginning, as the witness testified, it states that:

> The United States exercises fishery management authority over all fish,

and that:

> The United States also exercises authority over the living resources on the Continental Shelf, and over anadromous species of fish of United States origin throughout their migratory range.

That is a pretty strong, straightforward, unequivocal statement. And then you look at article No. VI, and it says something that is not nearly as strong and straightforward and unequivocal. It says that the United States and Japan are going to consult. I find that to be a contradiction. I am wondering how you reconcile that difference.

Ambassador NEGROPONTE. Well, the way I reconcile it is, there are some things with respect to——

Mr. AUCOIN. Furthermore, I should say that the law states that the United States shall have exclusive jurisdiction and authority over anadromous species throughout their range to the maximum possible extent. So, we are talking about provisions of law as well.

Pardon me for the interruption, but that is a point that has to be made.

Ambassador NEGROPONTE. I think first of all it is just simply the problem of intermingling, a very practical problem when you go out on the high seas, distinguishing our salmon from theirs. And the second problem is one of management of salmon which has been done differently than other stocks. As you know, the INPFC remains in force for 1977, and we are going to be holding consultations with the Canadians and the Japanese with respect to holding discussions about the conservation and management of salmon in the Pacific region in the future.

But I think the essential answer to your question is the intermingling itself, of stocks.

Mr. AUCOIN. How extensive is the Japanese salmon fishery?

Ambassador NEGROPONTE. The Japanese have a very extensive high seas fishery, yes, they do indeed. I was trying to remember the figures. It is in the order of several hundred boats fishing on the high seas.

Mr. AUCOIN. I am not talking about the boats fishing, I am talking about the salmon that originate——

Ambassador NEGROPONTE. Are they their own Asian salmon? I do not know the answer.

Mr. AUCOIN. I think that goes to the point of intermingling, does it not?

Ambassador NEGROPONTE. Counsel advises me that 90 percent of the salmon that they take are Asian origin salmon.

Mr. AUCOIN. Whose figures are those?

Ambassador NEGROPONTE. Probably the INPEC figures. These are Asian origin salmon; this could either be Soviet, or Japanese.

Mr. BONKER. Mr. Chairman?

Mr. LEGGETT. Mr. Bonker.

Mr. BONKER. During the period of consultation, would there be any actions, or recommended steps to be taken by either government? For instance, the Japanese are enjoying a rather generous harvest of anadromous fish, U.S. anadromous fish. We could have a long period of consultation during which time they could continue to fish for our stock. Is it possible to have cessation of fishing during that period of consultation, until we can work out the problem?

Ambassador NEGROPONTE. My understanding is that the fishing at this time is probably concluded, as far as high sea salmon fishing is concerned at this very moment. It is governed by the existing INPFC mechanism.

Our next time of concern, if I understand the situation correctly, would be probably around sometime next May or June. Between now and that time—perhaps I should elaborate a bit on what our plans are with respect to negotiations on this issue—we have tentatively agreed with the Canadians and the Japanese to meet in Seattle on the 8th and 9th of August to exchange ideas on a successor organization to the INPFC. We have already held consultations with the representatives of the States concerned on the spot. We had a meeting in Alaska about 10 days ago, with the respective council.

After this initial exchange of ideas, and depending, of course, on what emerges, we would expect sooner, rather than later, to expand these negotiations to full-blown delegations. We will be having gov-

ernment-to-government meetings on the 8th and 9th in Seattle, accompanied by one or two advisers of each of the regional councils.

So, I do not, Mr. Congressman, see the problem. We are hoping to negotiate something before the fishing starts again.

Mr. BONKER. Now, when you negotiate any agreement, you can do it within the terms of the act. That is, will you be bound by the provisions of this act?

Ambassador NEGROPONTE. We plan to do it in a way consistent with this act, those are our hopes, our expectations.

Mr. BONKER. Is this the first long-term GIFA that the U.S. negotiated?

Mr. LEGGETT. With Japan?

Mr. BONKER. With any country.

Ambassador NEGROPONTE. There have been 10 or 12.

Mr. BONKER. Long term?

Ambassador NEGROPONTE. Yes, indeed.

Mr. BONKER. The length of those GIFA's is what?

Ambassador NEGROPONTE. Five years.

Mr. BONKER. Pardon me?

Ambassador NEGROPONTE. Most of them have been for a 5-year period.

Mr. BONKER. So, the Canadian and Japanese were your short-term GIFA's.

We have had testimony earlier this week about changing conditions within our indigenous fishing industry, and the possibility of foreign fishing fleets finding loopholes in our law, so that they can either participate directly in fishing fleets, or through ownership of processing plants for our fishery resources.

Some very legitimate questions have been raised about how the Japanese can effectively compete within our private sector and find ways of circumventing the law through capital investment, or fishing fleets within the 200-mile zones, or even factory ships within the 200-mile zone to buy fish stock from our fishermen for processing.

I am just wondering whether the terms of this agreement are sufficient to prevent the Japanese Government, or Japanese fishermen from circumventing our law. Is that a problem that has been raised in your negotiations for this GIFA?

Ambassador NEGROPONTE. I am wondering, Mr. Bonker, if this subject is not outside the purview of the GIFA, which really concerns fishing activity by Japanese vessels.

Now, it may be true, as you say, there are certain other ways of becoming involved in the American fishing industry by foreigners, that were not foreseen by the law. I do not think that detracts from the basic point that I think we have to make here, that this GIFA is consistent with the fisheries management and conservation.

Mr. BONKER. Well, does it recognize changing conditions within our own fishery industry? I notice, for instance, in the season for tanner crabs off the Alaskan coast, that domestic fishermen reached their quota and discontinued fishing, while the foreign fishery continued until its quota was taken.

Now, domestic fishermen have demonstrated through public hearings and letters that they have the capacity and desire to catch more crab, yet they were restricted by the quota which was established. I

fully expect greater investments in our own domestic fishing industry, and I am wondering if they are going to be inhibited by conditions which are established either through a GIFA, or through the management council quotas, which are established. Were those questions ever raised in your negotiations with the Japanese?

Ambassador NEGROPONTE. On the second part of your question I would have to refer to my counsel; but if I could come back to the first point that you made.

I am familiar somewhat with the question of the tanner crabs because I did take a trip to Alaska recently and got into discussions of the very subject with crab fishermen. That, of course, in the preliminary phase was a matter for the Commerce Department to decide, the allowable catch figures; and eventually it will become entirely a matter for the councils to decide. But as a matter of personal philosophy, and as far as the view of our Department is concerned, this is entirely a matter to be decided by the regional council. They decide within the optimum yield figure what the allowable catch for American fishermen should be. The role of the State Department is simply to allocate whatever surplus may be passed on to us.

As for your second point, whether this question was ever discussed with the Japanese, Mr. Colson will respond to that.

Mr. COLSON. Only that the Japanese were fully aware that we would, through our management system, determine the harvesting capacity of the U.S. fleet, extract the numbers, and come up with a surplus which we would allocate; and that that was something that would change on a year-to-year basis.

Now, it would seem from your statement that what has happened this year, there was a little bit of confusion in the way those numbers resulted that came out, and we were not optimistic enough about our own harvesting capacity and allocated too much to the foreign fleet. This is an unfortunate outcome of this, but they have the next time around. Next year's council is authorized to develop a new management plan and revise those numbers for the next fishing season.

Mr. LEGGETT. If the gentleman would yield. I think on the tanner crab, that has all been allocated to our fleet for the current year.

Mr. BONKER. We did have a situation where domestic fishermen completed their quota, and a foreign fishing fleet were harvesting the tanner crab. Is that not true? I understand domestic fishermen were a little concerned because they felt they had greater capacity to harvest the crab.

Mr. LEGGETT. I challenged a witness the other day that we were not doing anything with tanner crab, and he said to the contrary, all the tanner crab this year are going to be taken by our boats.

Mr. BONKER. Is that true? It is my understanding that the foreign fleets had access to our tanner crab.

Mr. COLSON. I am not sure. They would only have had access to the tanner crab if the council's management——

Mr. BONKER. The question is, did they harvest tanner crab? Did the foreign fishing fleet harvest tanner crab?

Ambassador NEGROPONTE. Yes, they did. And apparently the American fishermen were advised that they did have to stop.

Mr. BONKER. Was that because their quota was reached?

Ambassador NEGROPONTE. And because of State of Alaska regulations.

Mr. BONKER. Well, my only concern is that the GIFA recognizes traditional fishing patterns by foreign nations. I am not sure whether it takes into account changing conditions within our domestic fishing industry. I think we are going to have a greater capacity in the very near future, and I hope any long range agreement is signed with that anticipation.

Ambassador NEGROPONTE. I think the law is going to take care of that, and the implementation of the law is going to take of that.

Mr. BONKER. I just do not want anything in the GIFA that would prevent American fishermen from fishing to their full capacity.

Mr. LEGGETT. Let the record show the number I was trying to recollect was represented by one of the agencies for tanner crab; the optimum yield was 37,400 metric tons, of which for the first time the United States was allocated 24.9.

That left a 12.5 balance, apparently, for foreign allocation. What you were addressing was apparently perhaps the confusion on the take of 12.5. I can well imagine that there was confusion because we apparently escalated this domestic vacuum quite rapidly.

Let me see if now Mr. Emery wants to talk.

Mr. EMERY. Well, Mr. Chairman, you have been doing a fine job, so I will let you continue. [Laughter.]

Mr. LEGGETT. Article IV states that: "The Government of the United States shall determine each year with respect to living resources off the coast of the United States the following, taking into account as appropriate the consultations with the government of Japan referred to in Article III of this agreement"—which talks about common concerns—"subject to such adjustments as may be necessitated by unforeseen circumstances affecting the stocks. (a) The total allowable catch for each fishery resource," and so forth, and (b) the portion of the total allowable catch for a specific fishery resource that will be harvested by fishing vessels of the United States, and that may be made available to fishing vessels of Japan.

Now, is that a usual provision in all of these agreements? I will direct that question to Attorney Colson. Is that a usual provision in all of these agreements?

Mr. COLSON. Yes, sir, it is.

Mr. LEGGETT. It kind of looks like we are letting the foreigners consult at the time we are developing programs in our local councils. Did you ever hear that the allowable catch should be not available to foreigners?

Mr. COLSON. In every GIFA there is a consultation article, and most normally it is found at the back of the agreement. For a variety of negotiating reasons this was put up front.

Certainly, in the development of plans the council is obliged under the law to look at all the best scientific information that is available to them, including not only domestic information, but information about foreign fishing countries; and the Japanese wanted an assurance that they would be able to make their views known and their science available while we developed our management plans.

This was put up front, at least in the agreement, to give an indication that we were perfectly willing to have them express their views, but it does not in any way oblige us, or commit us to take into account any specific information that the Japanese might supply.

Mr. LEGGETT. Then, how does that consultative symposium of information get to the management council?

Mr. COLSON. Well, sir, I believe there have been a number of times for representatives of at least foreign fishing industries to appear personally before the council; and also, their information is made available to the council through the Department of Commerce.

Mr. LEGGETT. I see.

Ambassador NEGROPONTE. If I may add, the provision for both Commerce and State Department representation on these councils, I believe, would take care of that.

Mr. LEGGETT. And then, of course, we have the additional provision under article V which again talks about promoting objective optimum utilization of traditional fishing rights, contributions to research, cooperation by Japan in enforcement, conservation management of fishery resources, economic dislocation of Japan in cases where fishing vessels have habitually fished, and so forth.

From one of the comparative analyses done by counsel this would appear to be kind of a boilerplate language that is in most of the agreements, except for the Cuban agreement, which we are not looking at today.

Mr. COLSON. It is correct that article V is basically boilerplate, and it only applies to the determination of who gets any surplus that might be made available for foreign fishing. They are the factors that basically are enumerated in the Fishery Conservation and Management Act, that the Department is supposed to take into account in the allocation of surplus.

Mr. LEGGETT. Counsel has a question as to what the words, "Shall promote the objective of optimum utilization" mean. Do you use that inter alia with optimum sustainable yield?

And then I would ask, if that is a boilerplate provision, is that term "utilization" used in other agreements?

Ambassador NEGROPONTE. I do not know the history of that, Mr. Chairman. If I could take this question——

Mr. LEGGETT. All right, let the record show the witnesses do not appear to have the answer to that at hand. You can supplement the record with an analysis of that.

It would be my interpretation at this point that that term should not be interpreted in any way to expand the technical terms used in our Conservation Act which mean "optimum sustainable yield." It appears to be an informal reference to that concept in the negotiations.

Mr. Emery, any questions?

Mr. EMERY. No; I do not have any questions at the present time. Thank you, Mr. Chairman.

I will make an observation, though, that I am also concerned about that reference in article IX relative to whales. As I read the language in Public Law 92–522, section 113(a), where it says, "The provisions of this title shall be deemed to be in addition to, not in contravention of provisions of any existing international treaty," I am, as I guess

the gentleman from Oregon is, concerned about this language. I am not satisfied that the provisions of this GIFA protect whaling within the 200-mile zone.

It looks to me as if the language means that the door is still open to whaling under the definition of current law.

Mr. LEGGETT. How do we take whales? What provision do we allow for the taking of whales under the Marine Mammal Act?

Is there a specific exemption?

Mr. EMERY. Well, Mr. Chairman, what I would like to suggest is we request a legal opinion, and an analysis, of the language of the GIFA, the position the Marine Mammal Protection Act, and other pertinent language as it appears in the 200-mile limit bill to determine to the best of counsel's knowledge what legal effect there is. When we have that, I would suggest that it be put in the record and brought to the attention of the members of this committee.

Mr. LEGGETT. That raises an interesting parallel question that is developing, and we will relate that to the special order we are having on IWC tomorrow, where we say in Public Law 92–522:

> The provisions of this Act shall not apply with respect to the taking of any marine mammal by any Indian, Aleut, or Eskimo who dwells on the coast of the North Pacific Ocean or the Arctic Ocean if such taking is for subsistence purposes by Alaskan natives who reside in Alaska or is done for purposes of creating and selling authentic native articles of handicrafts and clothing, and in each case is not accomplished in a wasteful manner. Notwithstanding the proceeding provisions of this subsection when under this act the Secretary determines any species or stock of marine mammal subject to taking by Indians, Aleuts or Eskimos be depleted, he may prescribe regulations upon the taking of such marine mammals by any Indian, et cetera.

Then we say, in order to minimize undue economic hardship to persons subject to this act, other than those engaged in commercial fishing operations referred to in subsection (a) (2) of this section, the Secretary, upon any such person filing an application with him, upon filing such information, that the Secretary may require showing, to his satisfaction, such hardship may exempt such person or class of persons from provisions of this act for no more than 1 year from the date of the enactment of this act, as he determines to be appropriate.

What I am concerned with is the fact that in the IWC we agree to abate the taking of bowhead whales. It is my understanding there are 1,000 of those left, that already 125 have been killed or wounded this year, which is better than 10 percent of the total population, so presumptively we could solve this problem by promulgating a regulation which makes a determination that this species is, in fact, depleted or endangered.

Now, I can make some other observations.

Mr. AUCOIN. Any time you want me to ask a question, make a comment, feel free to call on me.

Mr. LEGGETT. If you believe in numbers, and I remind you—these are numbers that relate to units of ships, not tonnages, the following foreign ships were sighted off the coasts of the United States: In January, last year, 319; this year, 420; in January, this year, 510; last year, 314; in March, last year 435, and this March it was 180; in April, last year, 560, and in April of this year, 235; and in May of last year, 924 foreign ships, and in May of this year, 374.

Before we brag on those statistics, I think we ought to get the tonnages and see how they compare. We are well aware that the restrictions in the permits have generally restricted the foreign take only by about 15 to 20 percent. That is my general impression. If so, it is interesting that the number of ships would drop by two-thirds.

Now, Mr. AuCoin, any general observations you care to make either on this bill or anything else?

Mr. AuCoin. I appreciate the chairman recognizing me.

I have about four questions I would like to ask either of the two witnesses.

The first comes back to article No. IV. Counsel has indicated that the customary location for language dealing with consultations of the foreign government in arriving at total allowable catch and the portion of total allowable catch for specific fisheries resource management comes at the end of the agreement.

I wonder if the placement of this language here gives the Government of Japan, a special right or prerogative to consult on these questions that other nations that have signed GIFA's do not have?

Mr. Colson. No, sir. It gives them no special rights vis-a-vis any other nations. It gives them an optical illusion that——

Mr. AuCoin. Gives them a what?

Mr. Colson. Gives them some optics to point to that maybe they believe they have a better deal, but there are no legal rights created here any different from anyone else's.

Mr. AuCoin. Mr. Negroponte, you testified this GIFA was consistent with all the other GIFA's.

I would like to ask you about the absence of provisions that exist in other GIFA's dealing with observer programs, the payment of such costs to conduct observer programs, and gear damage settlement procedures. These, in fact, existed under other GIFA's——

Ambassador Negroponte. When I made that point, I believe I was referring to the substance of the agreement.

Mr. AuCoin. Those are substantive issues.

Ambassador Negroponte. My point being that my understanding of this entire process is that we had a choice from the very beginning as to how long and elaborate we wanted to make these agreements, and that you could have, in fact, made these agreements one or two liners, that a foreign nation could have agreed to comply with the positions of U.S. law. In fact, what many of these GIFA's was doing was spelling out in detail what was in the law itself.

I have been advised that this simplified the previous GIFA, but does not in any way subtract obligations that are contained in the law in which the Japanese have agreed to accept as a result of signing the agreement.

Mr. AuCOIN. I know that is the feeling that you and your predecessor had, and I had respect for her and still do.

My own feeling has always been that where there is ambiguity, there is room for misunderstanding. Where there is room for misunderstanding, great trouble can arise.

I think that in these areas there is that possibility.

Let me ask you one other question.

Article X, you have sort of a catch-all provision that says the Government of Japan shall insure that in the conduct of the fisheries un-

der this agreement, fishing vessels of Japan shall comply with any administrative measures by the Government of the United States in accordance with article VIII, paragraph 2, of this agreement.

Then, if you look at article VIII, the last sentence says:

> Such measures may include the requirement of the payment of reasonable fees to facilitate implementation of this agreement and to insure that conservation and management of the living resources off the coasts of the United States.

That permissive language, is that another optical illusion we put in for the benefit of the Government of Japan?

I believe the law contemplated that being explicitly stated in our fisheries agreements.

Mr. COLSON. The law which says that we will have—which says the Secretary of Commerce shall charge a fee for the issuance of permits, and this allows the United States in the international agreement—the Government of Japan is agreeing that the United States has the authority by saying "may."

As a matter of U.S. law——

Mr. AUCOIN. How can "may" mean "shall"?

Mr. COLSON. It depends on what you are looking at. The United States, as a matter of domestic law, we are required to charge a fee. In the international agreement, the issue is an agreement between the United States and Japan, and in that agreement, Japan has acknowledged our right to charge a fee.

Mr AUCOIN. Where in this agreement is that stated?

Mr. COLSON. It says that the Government of Japan agrees that such measures may include payment of reasonable fees.

Mr. AUCOIN. May is permissible——

Mr. COLSON. It is permissible with respect to the U.S. Government. Of course, with the United States Government and Japan, it is permissible, but within the U.S. Government it is not permissible.

Mr. AUCOIN. My criticism from the State Department from the beginning is I just fear it has never really laid out in straight terms to some foreign nations exactly what the 200-mile limit means. It has backed off from that and has used fuzzy language that I think gives false hope or optical illusions, or call it what you will, to those nations which, in the long run, can be very, very damaging to relations between two countries.

I think it is far better to put our cards on the table and say Congress has enacted a law that changes the rules of the game. And those rules are very strong and Congress is very intent upon enforcing them fully.

All of this fuzziness, "may" instead of "shall," and other circuitous language that I have tried to point out today, I think only serves to plant the seeds for misunderstanding and trouble in the future.

Ambassador NEGROPONTE. Could I just reply?

My impression is that the Japanese fully understand what the law means, and that their record of compliance, since its enactment, suggests to me that there is not any lack of understanding, and I can also not point to—I am not aware of any instance where they have tried to find a loophole by some of what you call this permissive language. I understand your point.

Mr. LEGGETT. If the gentleman will yield.

Under article X we say:

The Government of Japan shall insure that in the conduct of the fisheries under this agreement, fishing vessels of Japan comply with any administrative measures by the Government of the United States in accordance with Article VIII, paragraph 2, of this agreement.

Paragraph 2 states that:

On receipt of the information referred to in paragraph 1 above, the Government of the United States shall take the necessary administrative measures, including the issuance of permits pursuant to applicable laws of the United States, to enable fishing vessels of Japan, in accordance with the provisions of this agreement, to engage in fishing for living resources off the coasts of the United States. Such measures may include requirement of the payment of reasonable fees to facilitate the implementation of this agreement and to insure the conservation and management of the living resources off the coast of the United States.

That would appear to be a clear acceptance of the law and the regulations of the United States, and the emphasis on fees I believe was merely to call that to the attention of the Japanese.

Under our law, the provision provides that we may charge—what do we say, we say they shall be paid?

Mr. AuCoin. If we are trying to make it clear, why do we not say shall in the GIFA. That is my point. If clarity is our objective——

Mr. Leggett. Well, it says reasonable fee shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit is issued pursuant to this subsection. The Secretary, in consultation with the Secretary of State, shall establish and publish a schedule of such fees which shall apply nondiscriminatorily to each foreign nation.

Then we say:

In determining the level of such fees, the Secretary may take into account the cost of carrying out the provisions of this act with respect to foreign fishing including, but not limited, to cost of fishery conservation, management of fishery research, and administration, and enforcement.

Anyway, we have some discretionary language to use in calculation of the fee. Obviously, you can interpret this to mean that we might modify our law and take out the "shall" and put in "maybe" at some later time.

But certainly the fact that they have accepted in very clear language both the law and the principle, while the reference was to these as discretionary, would not really appear to modify that, though it might appear to haze it a bit.

I would also state this, Ms. Ridgway has been here a number of times. We have gone through the question of whether or not we ought to and could execute mirror images of agreements with every country, and she thought the better part of foreign relations was that we customize these agreements as much as possible, pointing out that our bottom line is adherence to the principles, and the customizing is in accordance with the long-term negotiations, et cetera. As long as we make it perfectly clear that we do not intend that any of these agreements erode the act that we have enacted, I think we probably accomplish our objective in oversight.

Mr. AuCoin. I understand the fact that mirror images in GIFA's is probably not a practical approach.

Mr. Leggett. I am not sure it is not.

Mr. AuCoin. Custom tailored GIFA's may serve a worthy purpose. I just do not want to see false hopes raised. I do not want to see the seeds of confrontation planted.

Mr. Leggett. When you have a provision like article V, I do not think we have to worry about false hopes, where we say, "The need to minimize economic dislocation in cases where fishing vessels of Japan have habitually fished for living resources off the coasts of the United States." Obviously we are down from a total of 924 in May of 1976 to 374 in May of 1977, the bulk of which is either by Japan——

Mr. AuCoin. Any suggestion to the Government of Japan that this country is going to change its fees on foreign fleets, I would call this a false hope. If that is a false hope, let us correct it.

Mr. Leggett. I think the whole thing is made up of false hopes, maybe on our part and their part. We are going to get a reading pretty soon whether the 200-mile Act means all that much for the United States.

Japan seems to indicate that the limitations are hurting that country. Hopefully, any benefits will help us as much as detriments hurt Japan.

Mr. AuCoin. Could I ask one final question of the witness?

Mr. Leggett. Surely.

Mr. AuCoin. On page 8 of the agreement under "Catch and Effort Statistics," Item B, Pacific coast, there is a list of species that is enumerated which calls for annual catch and effort statistics, catch in metric tons and effort in hours trawling, and lots of information on various species that currently is needed for management purposes.

I am wondering if there is a particular reason why salmon is left off that list?

Ambassador Negroponte. I believe provision is made for salmon separately. I will have to check.

Mr. Leggett. That would be "Other species taken in excess of 1,000 metric tons"?

Ambassador Negroponte. It is dealt with presently under INPFC, exchange of scientific information with respect to salmon.

Mr. AuCoin. Are none of these dealt with under that same procedure?

Ambassador Negroponte. They are presently.

Mr. AuCoin. Why is not salmon?

Ambassador Negroponte. I am afraid I do not know the answer to that question.

Mr. AuCoin. Could you provide that for the record?

Ambassador Negroponte. Yes.

Mr. AuCoin. Two followup questions.

Was it your testimony earlier that Japan has stopped fishing on the high seas?

Ambassador Negroponte. No, it has not.

Mr. AuCoin. For salmon?

Ambassador Negroponte. No.

Mr. AuCoin. I thought I understood you to say it had stopped salmon fishing on the high seas.

Ambassador Negroponte. I do not believe I said that.

Mr. AuCoin. OK. I misunderstood you.

Ambassador NEGROPONTE. I believe I was referring to this season as it affects North American salmon which have probably already swam out of affected waters back toward the U.S. coast.

Mr. AUCOIN. It was stated earlier that the Government of Japan has an application to take mammals within the U.S. 200-mile zone incidental to the taking of salmon.

Is that accurate?

Ambassador NEGROPONTE. My understanding is they have application in for taking of 2,050 porpoises in connection with the taking of salmon.

Mr. LEGGETT. That must have been modified. That was 10,000 at one point.

Mr. AUCOIN. I am not so concerned for the moment about the mammals as I am the taking of salmon. This is incidental to the taking of salmon.

Which regional council has allowed or determined salmon to be surplus within our 200-mile zone?

Is it the North Pacific council? I do not believe the Pacific council has.

Ambassador NEGROPONTE. There is still fishing under INPFC for this season.

Mr. AUCOIN. For this season only?

Ambassador NEGROPONTE. This season only.

Mr. LEGGETT. The treaty that was negotiated precluding Japan from taking salmon east of the longitudinal line that goes through Attu is still in full force and effect?

Ambassador NEGROPONTE. That is correct.

Mr. LEGGETT. Japan could not take salmon in the Pacific waters except west of the longitudinal Attu line, and that would be pursuant to any fisheries council plans that are promulgated by the Alaskan council, unless we would be following Pacific salmon west of the Attu line that comes from the lower Pacific council.

I do not think that is really reasonable.

Let the record show that nothing has been said in response to that.

Ambassador NEGROPONTE. I was not sure I fully understood your question.

We have filed our intent to withdraw from the INPFC.

Mr. LEGGETT. We have filed our intent to withdraw from that?

Ambassador NEGROPONTE. We filed it last February 10, and unless we retract that notice of intent, our membership in INPFC as presently constituted will expire by February 10, 1978.

This is why we have initiated these consultations with Japan and Canada.

Mr. LEGGETT. If that existing treaty precludes the Japanese from taking salmon east of the Attu line, why would we want to withdraw from that organization or from that treaty?

Ambassador NEGROPONTE. I do not think the idea is withdrawing from it entirely. I think the purpose of these consultations is to try to find ways of bringing it into line with our existing legislation.

Mr. LEGGETT. Will somebody tell me, is it any intent to allow the Japanese to take salmon east of the Attu longitudinal line?

Ambassador NEGROPONTE. I do not believe there is any intent to do that.

Mr. LEGGETT. Would you give me that in writing and amplify it?

Ambassador NEGROPONTE. I would be happy to.

Mr. LEGGETT. We were, of course, concerned at the time we enacted the 200-mile law that we might be in some way modifying or jeopardizing the benefits that we realized by winning the war, and we would like to review that very, very carefully.

If you could give us your views on that very quickly that would be helpful.

Mr. Mannina, any questions?

Mr. MANNINA. Mr. Chairman, you have amply covered the subject matter.

Mr. LEGGETT. Mr. Cooke and Mr. Everett?

Mr. EVERETT. I concur in that statement.

Mr. LEGGETT. Very good.

It has been a very interesting session. You have not asked that we accelerate the approval of the Japanese agreement. The Japanese have not requested that. They are operating under the de facto, albeit modified mini-GIFA.

The meeting will stand in recess until the further call of the Chair.

[Whereupon, at 3:40 p.m., the subcommittee adjourned, subject to the call of the Chair.]

FISHING VESSELS LOAN GUARANTEES

TUESDAY, OCTOBER 4, 1977

HOUSE OF REPRESENTATIVES, COMMITTEE ON MERCHANT MARINE AND FISHERIES, JOINT SUBCOMMITTEE HEARINGS BY THE SUBCOMMITTEE ON MERCHANT MARINE AND THE SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT,

Washington, D.C.

The joint subcommittees met, pursuant to notice, at 2:36 p.m. in room 1334, Longworth House Office Building, the Hon. Robert L. Leggett (chairman of the subcommittee) presiding.

Mr. LEGGETT. The Subcommittee on Fisheries and Wildlife Conservation and the Environment and the Subcommittee on Merchant Marine will hold joint hearings on legislation to amend title XI of the Merchant Marine Act of 1936 to provide for increasing the guarantee for financing fishing vessels from 75 to 87½ percent of the cost of such vessels.

The bills to be heard are H.R. 4831, and identical bills, H.R. 6395 and H.R. 6396, introduced by Mr. Harrington and 31 other Members and similar legislation in the form of H.R. 6536, and an identical bill H.R. 9169, introduced by Mr. Lott and 14 other Members.

Under present law, title XI of the Merchant Marine Act of 1936 authorizes the Department to guarantee obligations financing up to 75 percent of the cost of constructing or reconstructing vessels for use in the fishing trade or industry. Most other vessels that are eligible to receive guarantees under this title—such as those vessels involved in the coastwise, intercoastal and Great Lakes trade—qualify for 87½ percent guarantees.

The act authorizes obligations guaranteed by the Secretary and outstanding at any one time not to exceed $7 billion.

The program is administered by the Maritime Administrator except for those guarantees having to do with fishing vessels which are administered by the National Marine Fisheries Service.

The Service has been operating under a $50 million intradepartmental allocation of the $7 billion guarantee authority for financing fishing vessels. It is my understanding that the $50 million ceiling has been reached and because of the anticipated increase in applications, the Service has requested MARAD for an additional $50 million in guarantee authority.

The bills and departmental report will appear in the record at this point.

[The information follows:]

[H.R. 4831, H.R. 6395, and H.R. 6396, 95th Cong., 1st sess.]

BILLS To amend title XI of the Merchant Marine Act, 1936, to allow guarantees for fishing vessels to equal 87½ per centum of actual cost

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title XI of the Merchant Marine Act, 1936 (46 U.S.C. 1271–1279b), is amended by striking out the semicolon at the end of paragraph (2) of section 1104(b) and inserting in lieu thereof the following: ": *And provided further,* That obligations which relate to fishing vessels may be in an aggregate principal amount which does not exceed 87½ per centum of the actual cost or depreciated actual cost thereof;".

DEPARTMENT OF COMMERCE,
Washington, D.C., June 30, 1977.

Hon. JOHN M. MURPHY,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives, Washington D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of this Department on H.R. 4831, a bill to amend title XI of the Merchant Marine Act, 1936, to allow guarantees for fishing vessels to equal 87½ per centum of actual cost.

The Department of Commerce recommends enactment of this bill.

Title XI of the Merchant Marine Act of 1936, authorizes the Department to guarantee obligations (private credit) financing up to 75 percent of the cost of constructing or reconstructing certain domestic vessels.

Although title XI generally limits guarantees for vessels at 75 percent, specific title XI provisions authorize 87½ percent guarantees for (1) all vessels eligible for mortgage aid under Section 509 of the Merchant Marine Act of 1936, and (2) barges, whether or not eligible under Section 509. These two provisions, in effect, authorize 87½ percent guarantees for the great majority of vessels which qualify for title XI benefits. Since fishing vessels do not qualify under either of these exceptions, the general 75 percent limitation remains applicable to all fishing vessel guarantees.

An increase to 87½ percent of cost would: (1) place fishing vessels on a par with most other vessels qualifying for title XI guarantees and (2) makes the fishing vessel portion of the title XI program much more responsive to the long term debt capital needs of the fishing industry. It is often difficult for fishermen wishing to utilize title XI guarantees to generate equity contributions equal to a full 25 percent of the cost of constructing new fishing vessels. From a title XI program risk standpoint, increasing guarantees to 87½ percent could often have the beneficial effect of allowing program users to maintain larger working capital reserves.

Since the cost of administering the title XI program is paid by user fees, rather than appropriations, enactment of H.R. 4831 would not require the expenditure of appropriated funds.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our report to the Congress from the standpoint of the Administration's program.

Sincerely,

C. L. HASLAM,
General Counsel.

[H.R. 6535, H.R. 9169, and H.R. 9802, 95th Cong., 1st sess.]

BILLS To amend title XI of the Merchant Marine Act, 1936, to permit the guarantee of obligations for financing fishing vessels in an amount not exceeding 87½ per centum of the actual or depreciated actual cost of each vessel

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1104(b)(2) of the Merchant Marine Act, 1936 (46 U.S.C. 1274(b)(2)), is amended by striking out "*Provided, however,*" and inserting in lieu thereof the following: "*Provided, however,* That in the case of any vessel to be used in the fishing trade or industry, such obligations may be in an amount which does not exceed 87½ per centum of the actual cost or depreciated actual cost of the vessel: *Provided further,*".

Mr. LEGGETT. Our first witness to be heard is our colleague the Honorable Trent Lott.

Trent, it is very nice to have you here.

STATEMENT OF HON. TRENT LOTT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSISSIPPI

Mr. LOTT. Thank you very much, Mr. Chairman.

I would like to ask my statement be made a part of the record.

Mr. LEGGETT. It will be made a part of the record as though you read every word of it.

[Statement follows:]

STATEMENT OF HON. TRENT LOTT, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSISSIPPI

Mr. Chairman, members of the Subcommittee on Merchant Marine, Subcommittee on Fisheries and Wildlife Conservation and and Environment, ladies and gentlemen, I appreciate the opportunity to appear before you today in behalf of H.R. 6535, a bill I introduced to amend Title XI of the Merchant Marine Act, 1936, to permit the guarantee of obligations for financing fishing vessel construction in an amount not to exceed 87½ percent of the actual or depreciated cost of each vessel.

It is hoped that the enforcement of the 200-mile limit jurisdiction will help to expand the present U.S. fishing fleet and enable the industry to recoup some of the losses it has experienced over the past 50 years. At the turn of the century, the fishing industry was a close-knit, family operation, passed from father to son. This is a tradition that has passed away, due primarily to the depletion of our marine resources, low prices paid to the fisherman for his product, and the ever-increasing cost of vessel construction.

It has come to my attention that the seriousness of the problem is breeding fraud against the government. I understand that in some cases shipbuilders are "padding" the price of a vessel quoted on a loan application in order to make up for the portion of the down payment the purchaser cannot meet. Certainly this is a despicable practice, but I have heard of several small fishermen who would be out of business today if it were not for this "back door" approach.

Today's fishing fleet is, for the most part, made up of vessels which are in need of major repair or replacement. Those wishing to enter the fishery are hampered in their efforts, particularly with regard to financial assistance by the government. At the present time and at present construction prices, only the wealthy can qualify for government-guaranteed loans to enter the fishing industry. Those people who work as engineers, deckhands, and fishermen in today's fishery may never have the money to become owner-operators, thus causing the industry to become a virtual "tax dodge" for persons not truly interested in the state of the fishery.

I would, therefore, urge that the Subcommittee favorably report this bill to guarantee government participation in vessel construction loans up to 87½ percent, requiring no more than 12½ percent down payment by the prospective vessel owner.

Mr. LOTT. Thank you.

I will be very brief. Like you, I come from a coastal area, fishing area. I think this bill will do a great deal to help small individual fishermen as well as the larger fishermen.

There are a couple of people here from my State of Mississippi directly involved in helping our seafood industry. They feel it will be very helpful.

I would urge the committee take expenditious action.

If you come to the Rules' Committee, you will get a speedy hearing.

Mr. LEGGETT. We get an early ruling next year.

I do think you are right.

I had an occasion to address myself to this particular problem here just a month ago when we were concerned with raising the amount of the guarantee for ferryboats and we had an occasion to look at that law, which is really an abortive piece of legislation.

I hope that when we amend that law this time, we can weed out all the present parts of such law that are not material. We have an 87½-percent guarantee now for ferryboats, smaller than 100 tons, and for barges and if we can have an 87½-percent loan for barges, why cannot we have it for fishing boats and other miscellaneous kinds of vessels?

Title XI of the Merchant Marine Act has been amended a number times by this committee during the past several years. I think in the interest of efficacy of Government, we should adopt the bill you have offered.

Mr. LOTT. Particularly with regard to shrimp, in my district, a lot of boats will be outdated. This will allow the small operators to replace the old outdated vessels or remodel.

When you have a small operator, maybe a young person trying to get into the fishing industry, to come up with $6,000 to $10,000 is very, very difficult. So I think it would be very helpful.

There are a lot of other changes I would like to see the committee consider in this particular area, help more of these loans to be made, but I feel very strongly it is more important that we have the very pure direct bill right now to deal with the 87½-percent rate.

I know, I appreciate your confidence, sir.

Mr. LEGGETT. I might state the amendment on ferryboats went through conference, the floor and this committee unanimously, so I think we have a good precedent.

Mr. Ruppe, do you have any questions?

Mr. RUPPE. No, I thank you very much.

I can see your interest in this legislation. I only hope your success in supporting your fishermen equals the speed and lacrity which the gentleman from California intervened on behalf of some very worthy ferryboat operators.

Mr. LOTT. How can I respond to that?

Mr. LEGGETT. Thank you.

Mr. LOTT. Thank you, Mr. Chairman.

Mr. LEGGET. Now let's see, Mr. Harrington is still not here. Next we will hear Mr. Jack Gehringer, Deputy Director of NOA, and his colleagues Mr. Blatt and Mr. Grable.

STATEMENT OF JACK GEHRINGER, DEPUTY DIRECTOR, NATIONAL MARINE FISHERIES SERVICE, NOAA, ACCOMPANIED BY MR. HERBERT BLATT AND MICHAEL GRABLE

Mr. GEHRINGER. Michael Grable.

Mr. LEGGETT. Michael Grable.

Mr. GEHRINGER. Mr. Chairman, my name is Jack Gehringer; I am Deputy Director of the National Marine Fisheries Service.

I understand that the testimony I have prepared will be included in the record as if read in its entirety.

Mr. LEGGETT. It will be included in the record.

[Statement follows:]

STATEMENT OF JACK GEHRINGER, DEPUTY DIRECTOR, NATIONAL MARINE FISHERIES SERVICE

Dear Mr. Chairman and members of the subcommittee, it is a pleasure for me to be here today to testify in support of H.R. 4831 and identical bills, to amend

title XI of the Merchant Marine Act of 1936 to allow guarantees for fishing vessels to equal 87½ percentum of actual cost.

Most domestic fishermen are small businessmen who own and operate a single vessel in a capital intensive and often unstable industry. As small businessmen, most fishermen do not have access to the markets for either equity or long-term debt capital. This situation has several unfavorable consequences.

First, fishermen must often consume their capital reserves in order to internally generate the equity portion of their vessel construction costs.

Second, fishermen must often finance the debt portion of their vessel construction costs with short- or intermediate-term debt at interest rates which reflect the risk of doing so.

Third, the pace of domestic development of our fisheries resources is retarded in some measure.

Title XI guarantees have recently become a significant element in the ability of fishermen to penetrate the market for long-term debt, and to do it at a reasonable cost. This means, for example, that a fisherman with a Title XI guarantee can finance the debt portion of his vessel's construction cost with 15-year financing at 8¼ percent interest rate rather than 5 to 8 year financing at an interest rate of 10 to 12½ percent. The difference in annual debt service can mean a considerably more positive cash flow and increased survival quotient.

Since passage of the Federal Ship Financing Act of 1972, the fishing industry's use of Title XI guarantees has increased at a rate of over 100 percent a year. With the rapidly escalating cost of fishing vessels and the great potential for developing increased domestic fisheries production in the future, we believe Title XI will become an even more important avenue of financing fishing vessel construction.

As Title XI presently stands, however, fishing vessel guarantees are limited to amounts not exceeding 75 percent of vessel construction cost—even though most other vessels eligible for Title XI guarantees are entitled to guarantees up to 87½ percent of construction cost. This means that a fisherman wishing to construct a $2 million vessel under Title XI guarantee program would have to make a half million dollar downpayment. Thus, even with a Title XI guarantee, as presently authorized, the fishing industry's equity capital problem continues.

We know of nothing inherent in the fishing industry which justifies restricting it to a 75 percent guarantee under Title XI. On the other hand, increasing the guarantee to 87½ percent would increase the program's ability to achieve its mission in the fishing industry, improve the capital reserve position of program users, and perhaps contribute in the long run to a faster pace of domestic fisheries development.

The Department of Commerce supports enactment of H.R. 4831.

Mr. Chairman, this concludes my prepared testmony. I would be pleased to answer any questions.

Mr. GEHRINGER. I have one statement to make which I think summarizes my testimony. We know of nothing inherent in the fishing industry which justifies restricting it to 75-percent guarantee under title XI. I think that is succinctly stating our position of support for the bill.

Mr. LEGGETT. Are we amending the same law that authorizes guarantees for the *Delta Queen* and ferryboats or is this a separate piece of fishingboat legislation?

Mr. GEHRINGER. Same legislation.

Mr. LEGGETT. I am going to ask counsel to see if we can't clean that legislation up some when we pass this bill.

It might even make it more encompassing than it presently is. Anyway, we will look at that.

Does the Department fully support the bill?

Mr. GEHRINGER. The Department does and the Office of Management and Budget has given concurrence to our support.

Mr. LEGGETT. In the meantime, is MarAd going to transfer $50 million of authority to your office for fishing boats?

Mr. GEHRINGER. We presently have a $50 million ceiling on our program.

Mr. LEGGETT. Yes.

Mr. GEHRINGER. If I am not mistaken, we have about $27 million being used.

Mr. LEGGETT. My opening statement indicated that you were allocated $50 million, that you exhausted it and you have asked for an additional $50 million from MarAd, is that correct?

Mr. GEHRINGER. We presently have $50 million and have a portion of that remaining.

Mr. LEGGETT. Have you asked for another $50 million?

Mr. GEHRINGER. Consideration has been requested for that additional amount.

Mr. LEGGETT. Very good.

Mr. Ruppe, do you have any questions?

Mr. RUPPE. I have no further questions.

Mr. LEGGETT. Chairman Murphy, we are just about to finish with the maritime witnesses approving the legislation to increase the loan guarantee on fishing boats from 75 to 87½ percent.

It appears there is a kind of strong unanimity in favor of doing this. It is just loan guarantee funds that are involved.

The CHAIRMAN. I wonder, are there any fishing boats in Michigan?

Mr. LEGGETT. There are some up there.

Let me ask, what is your loss rate in the area?

Mr. GEHRINGER. I may have Mr. Grable address that question.

Mr. GRABLE. Loss rate is about four-tenths of 1 percent.

Mr. LEGGETT. Four-tenths of 1 percent?

Mr. GRABLE. Of the amount guaranteed.

Mr. LEGGETT. Certainly this is an excellent way to stimulate the economy.

Mr. Forsythe, do you have any questions?

Mr. FORSYTHE. No.

Mr. LEGGETT. Mr. Chairman.

The CHAIRMAN. I would like to make a general comment. We certainly support this legislation. I was hoping my colleague from Michigan would respond—are there any fishing fleets in Michigan?

Mr. RUPPE. If the gentleman will yield, there are some fishing fleets in the State of Michigan, I would say. There has been a rather conscious decision in recent years to support the sports fishery in the State more than the commercial fisheries.

This might have some application, then, to new construction in the future by and large.

The CHAIRMAN. I think nationally we have a problem.

We have found on many matching fund formulas, particularly the formulas that require more risk on the individuals, are the ones that are not as successful. I think raising this formula after a demonstrated period of time, particularly with the 200-mile limit in effect now—will help revitalize our U.S. fishing fleets.

Mr. RUPPE. If the chairman will yield, I will agree with him completely. I think the legislation ought to be very helpful to the industry.

It is a very strong financial incentive to reconstruct our fishing fleet. It is probably as strong an incentive as we can give to any individual fisherman and this legislation combined with the 200-mile limit legislation I would say gives every inducement to the fishing

industry to once again recapture a major share of that catch for the American flag.

The CHAIRMAN. Just one question, which may be a little redundant, but would you comment on the age of the vessels in the domestic fishing fleet?

Mr. GRABLE. It varies radically from fleet to fleet. The tuna and shrimp fleets are fairly young but in the Northeast Atlantic, the fleet is a good bit older, probably 20 years on the average or more. But a great deal of the capital that is going to be needed in the future will not be needed for replacement. It is going to be needed for expansion. It is going to be needed for the growth.

The CHAIRMAN. Any limitation on the size of the vessel?

Mr. GRABLE. Yes. As we read the statute, there is a limitation of 5 net tons or over, so we make this program available to vessels that are 5 net tons or over, that is, vessels that are entitled to Federal documentation. That would be a 30- or 35-foot vessel, a small boat really.

The CHAIRMAN. And how about outside——

Mr. GRABLE. Excuse me?

The CHAIRMAN. Any outside rig?

Mr. GRABLE. No, sir.

The CHAIRMAN. Any manning or crewing?

Mr. GRABLE. No requirements.

The CHAIRMAN. Those are all the questions that I have.

Mr. LEGGETT. This program might be termed a moneymaker in that we have experienced less than a 1 percent loss. By stimulating more construction, bringing in more fish and creating more net income for fishermen, more money is made for the Federal Government.

Mr. GRABLE. Yes; it pays its own costs.

Mr. LEGGETT. Mr. Forsythe.

Mr. FORSYTHE. Thank you, Mr. Chairman.

Is there anything in this program, for instance, that deals with the problem perhaps of overcapitalizing on a particular fishery? A situation that appears to be developing in the east coast surf-clam fishery at the present time.

Mr. GRABLE. The program is restricted for fisheries that we believe are overcapitalized. As a matter of fact, the surfclam fishery is one of them. In the fisheries that we deem overcapitalized, we limit this program to replacements of vessels. It cannot be used to add additional vessels in those fisheries.

Mr. FORSYTHE. Replacements for larger size.

Mr. GRABLE. Approximately the equivalent size vessel.

Mr. FORSYTHE. Is this program going to support processing at all?

Mr. GRABLE. No, it really does not.

Mr. FORSYTHE. Thank you.

Mr. LEGGETT. Mr. Everett, do you have any questions?

Mr. EVERETT. One question.

Mr. Gehringer, I notice the act authorizes $7 billion to be utilized in guarantees. I understand you have utilized about $50 million of this authorization and that you have requested an additional $50 million for the program administered by NMFS.

What are your total anticipated needs for the next 5-year period with respect to the guarantees to be administered by NMFS?

Mr. GEHRINGER. There have been discussions with respect to increaing the amount. There have been no firm decisions on these yet.

Mr. Grable can probably give us the best estimate of what the anticipated needs will be for the next 5 years and if he cannot, we will supply it for the record.

Do you have that?

Mr. GRABLE. I can speculate, but I am not sure.

Mr. LEGGETT. The needs of the fishing fleet relative to the overall needs of MarAd, are relatively nominal, even in expanded level, is that correct?

Mr. GEHRINGER. Yes.

Mr. LEGGETT. You are talking about $100 million, as compared to an overall merchant marine authorization guaranteed level of $7 billion. This will be addressed by the committee in due course, I am sure.

Mr. GEHRINGER. If you would care, we would——

Mr. LEGGETT. That is all right, I think that your estimate would probably be speculative at this point.

Mr. GEHRINGER. Yes.

Mr. LEGGETT. Gentlemen, I think they are all the questions we have at this time. Thank you very much.

Mr. Harrington, our distinguished colleague from Massachusetts has arrived. The subcommittees are glad to have you here to comment on this important piece of legislation that you have introduced.

STATEMENT OF HON. MICHAEL HARRINGTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS

Mr. HARRINGTON. Thank you, Mr. Chairman.

Mr. LEGGETT. Your written statement will appear in the record.

[Statement follows:]

STATEMENT OF HON. MICHAEL J. HARRINGTON, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MASSACHUSETTS

Mr. Chairman, it gives me great pleasure to come before you today to ask that the Merchant Marine & Fisheries Committee favorably report on H.R. 6395, one of several identical bills which would help to meet the capital needs of the American fishing industry.

This bill would amend Title XI of the Merchant Marine Act of 1936 to provide loan guarantees for fishing vessels equal to 87.5 percent of the total cost of their construction or reconstruction. This simple change in an existing program would do much to revitalize the American fishing fleet and help it to take better advantage of the recently enacted 200-mile limit.

As you know, the National Marine Fisheries Service Fishing Vessel Obligation Guaranty program routinely provides 15-year financing at reasonable interest rates for the construction and reconstruction of fishing vessels over 5 net tons. However, by law this program is authorized to finance only 75 percent of the total cost of the new or reconstructed vessel. This is true even though the program's legislative authority under Title XI authorizes financing of up to 87.5 percent of the cost of many other types of eligible vessels.

Many fishermen find it impossible to take advantage of the current program since they are unable to come up with the necessary capital for a 25 percent down payment. H.R. 6395 would reduce to 12.5 percent the amount of equity required, enabling many more fishermen to qualify.

Mr. Chairman, it is a simple fact that all industries require capital if they are to flourish, and the fishing industry is no exception. While the existing loan guarantee program may be satisfactory from the perspective of large commercial fishing enterprises, for whom a 25 percent down payment presents no great problem, it is totally unresponsive to the capital needs of the small fisherman.

We must take immediate steps to improve the terms upon which credit is made available to these small fishermen. If we do not, I fear that they, like so many other of this country's small entrepreneurs, will be driven out of business by larger concerns who find the government more responsive to their needs. This would be a tragedy, and would do nothing to further the internal competition that our domestic fishing fleet requires if it is to become as efficient and productive as we all believe it should.

This problem is of particular concern to me since the New England fishing industry is still dominated by small, family-oriented operations. As you may know, the average 80-foot fishing vessel used in New England water costs approximately $800,000. Under current law, one would need a down payment of $200,000 just to qualify for a loan guarantee. It is absolutely unrealistic to think that the small fisherman can continue to operate under these conditions.

The New England fishing industry urgently needs the capital that H.R. 6395 would make available. Almost two-thirds of the vessels in our fleet are more than 25 years old. The combination of an aging fleet and scarce capital is taking a terrible toll. For instance, in the City of Gloucester, one of the world's great fishing centers, the fleet has declined from 300 vessels to 90 over the past 25 years. Similarly, the number of vessels operating out of Connecticut has been cut in half. Many of those vessels which remain in the fleet are badly in need of repair or replacement.

How has the New England fleet arrived at such a sorry state? For years New England fishermen held on in the face of fierce competition from foreign fleets which depleted their once-abundant fishing grounds. During these same years they saw their fuel costs, already the highest in the country, rise still further. Inflation, which has affected all sectors of our economy adversely, has been particularly severe in the ship building and repair industry. This combination of circumstances has meant that in recent years the name of the game for the New England fisherman, and for many small fishermen across the country, has been survival. For them, fishing simply hasn't been profitable enough to save the money necessary to refurbish or replace their vessels.

The 200-mile limit has changed all this. With virtually uncontested title to stocks in coastal waters, all the small fishermen needs to make a go of it is modern equipment to harvest those stocks. Fortunately, I believe that it is well within our power to make this possible.

Mr. Ed Raymond, Chief of the Financial Assistance Branch for the National Marine Fisheries Service in New England estimates that only 10 percent of all New England fishermen have been able to save enough money to qualify for loan guarantees under Title XI as it now stands. With the change that we propose through H.R. 6395, Mr. Raymond estimates that fully 50 percent of all New England fishermen would qualify. Clearly, this would be in their best interest and in the best interest of the industry as a whole.

I am happy to note that the United States Department of Commerce has communicated its support for this bill in a letter to Chairman Murphy. In closing, I would like to quote from the letter from the Department's General Counsel to Mr. Murphy, in which he states that the changes made by H.R. 6395 would:

> (1) place fishing vessels on a par with most other vessels qualifying for title XI guarantees and (2) make the fishing vessel portion of the title XI program much more responsive to the long term debt capital needs of the fishing industry. It is often difficult for fishermen wishing to utilize title XI guarantees to generate equity contributions equal to a full 25 percent of the cost of constructing new fishing vessels. From a title XI program risk standpoint, increasing guarantees to 87½ percent could often have the beneficial effort of allowing program users to maintain larger working capital reserves.

The letter goes on to state that:

> Since the cost of administering the title XI program is paid by user fees, rather than appropriations, enactment of HR 4831 would not require the expenditure of appropriated funds.

I trust that with this sort of support from the Administration, and with the need for an expanded loan guarantee program so obvious among the nation's

small fishermen, that this bill will receive a favorable report from the Merchant Marine & Fisheries Committee. I appreciate the opportunity to appear before you this morning and look forward to entertaining any questions that you may have on this subject.

Mr. HARRINGTON. Let me apologize to the committee for being late in making my appearance this afternoon. It seems that after 3 years, I went to the Cannon House Office Building, instead of the Longworth Building, which ought to be enough to give the bill an adverse report.

It is obvious from the tenor of discussion that I have had a chance to hear that there appears to be no substantial opposition, and a great deal of support in the committee, and in Congress, for this bill.

I have had a rather primitive education in terms of my tenure in the Congress in learning a little bit about the industry from the perspective of those who live and work in Gloucester, Mass. In Gloucester, we find for good or for bad, and I suspect it may be characteristic of the small New England seaports, very small familial structures persisted.

I would like, if I could, to try to submit some specific documentation on what this bill means from the Massachusetts point of view, and would appreciate any improvements you might make in the course of your deliberations that would make it easier for people of this background, in initiatives of this kind, to find a way to enter into a business that is a matter of increasing global concern in a matter of vocationally increasing interest on the part of people.

The committee could do its most effective work in assuring that the U.S. fishing industry does not follow the historic path of many other industries in becoming the exclusive reserves of those interests with easy access to large amounts of capital.

This legislation should assure that we guarantee a comparatively easier means of access to this industry on the part of people who, with the 200-mile limit, and with adequate financing, can make smaller fishing operations a commercial success.

I think that really would cover any particular facet of the problem that I bring to bear from the point of view of Massachusetts experience. I will submit, if I can, within the next few days, any additional information that I can gather to indicate how many fishermen actually would benefit from improved capital availability as a result of this bill.

Mr. LEGGETT. I think the main idea behind the passage of the 200-mile limit law was to create new opportunity for the expansion of the U.S. fishing industry. In doing this, we do not necessarily want to WPA a program and we have to have adequate economic incentives in order to encourage the building of units that can effectively compete against foreign operators. The committee is very pleased to see the New England area taking up this challenge and responding by contracting for the construction of more ships. That is really the test of whether or not our 200-mile law is really going to be effective. The fact that you have pioneered this legislation, by the fact that you have obtained 31 coauthors to H.R. 6395 and H.R. 6396 is significant and does indicate that there is some support perhaps all over the country to expand the loan authority for fishing boats. There is no reason why we should not have a law here similar to the law we have for barges and other kinds of vessels in our merchant marine.

We have gone the other way in the State of Alaska. Alaska has become rather desperate, because of their fear of intrusions by the Japanese. As a result they created, as a result of a referendum, a law that blanketed in all the existing fishermen and closed the fishing to all outside interests within and without the State. As a result, fishing licenses have now escalated as high as $10,000 to $40,000, which is what the cost of a taxicab meter is in New York City.

So we have to make sure that we do not necessarily encourage those kinds of directions. I think this legislation we have here will promote competition since the fishermen will have to come up with only 12½ percent of the cost of the ship.

Mr. Chairman.

The CHAIRMAN. If the gentleman will yield, the cost of a meter in those taxicabs exceeds the cost they net these days too.

Mr. LEGGETT. Everything goes up.

Mr. HARRINGTON. Let me say we have established in a public works bill last year rather a modest loan fund in Gloucester and I would say within the space of 6 months, it was oversubscribed.

It demonstrates very casually in the period we are talking about, on the scale we are talking about, the existence of demands for the kinds of program expansion we are talking about this afternoon.

Mr. LEGGETT. Do you have any estimate of the number of contracts that this might stimulate by escalating the guarantee to 87½ percent?

Mr. HARRINGTON. No, but there is a CETA program award to the Gloucester area chamber to engage in an effort to assess exactly this and a number of other related questions to give a little bit more by way of formality and substance to what the industry needs are, what those demands may be in a variety of ways. It is that sort of thing, when it is available, that might be useful to the committee since it is probably the first organized and formal initiative of that kind in modern times to be undertaken in our area.

Mr. LEGGETT. Mr. Forsythe.

Mr. FORSYTHE. Thank you, Mr. Chairman.

Have you found any indication of funds from this program going into over-capitalized fisheries?

It seems to me we are going to have to find ways to enhance the resource.

But at the same time we don't want to encourage overfishing as a result of this program.

Mr. HARRINGTON. I do not know whether I am substantively able to corroborate that. There has been some concern that runs counter to that. A number of the fishermen in the area uniquely united on the subject, felt there had been an underestimate in setting limits for various species early this year, and there was a need, frankly, to go the other way, to broaden or to increase the limit that they might have access to if they were to be allowed to finish the season in any kind of solvent shape without there being any danger of being an overly great depletion of stock.

My guess is the truth probably falls somewhere between what the regional council felt by way of limits and what these people feel.

I do not know whether anybody can actually tell, on the basis of scanty information.

Mr. FORYSTHE. That is for sure.

I think we need to maintain some calmness in this area and to recognize that these regional commissions are a first step.

Mr. LEGGETT. Any evidence that has become pronounced in any way——

Mr. FORYSTHE. Of course, the situation in the Surfclam fishery was made more serious by the fish kill in the mid-Atlantic area, which was rather localized but serious situation.

Thank you.

Thank you, Mr. Chairman.

Mr. LEGGETT. Mike, thank you very much.

Mr. HARRINGTON. Sorry to have been late.

Mr. LEGGETT. We hope to report out legislation this afternoon. Now, we have two more witnesses, to hear. You are welcome to stay if you want to.

The two witnesses to be heard are Dr. Veal and Mr. Charles Lyles.

Dr. Veal is program leader, Sea Grant Advisory Service, Mississippi Cooperative Extension Service, Mississippi State University, and Mr. Charles Lyles is the executive director of the Gulf States Marine Fisheries Commission.

TESTIMONY OF DR. C. CHARLES VEAL, PROGRAM LEADER, SEA GRANT ADVISORY SERVICE, MISSISSIPPI COOPERATIVE EXTENSION SERVICE, MISSISSIPPI STATE UNIVERSITY, AND CHARLES LYLES, EXECUTIVE DIRECTOR, GULF STATES MARINE FISHERIES COMMISSION

Mr. LYLES. Mr. Chairman.

Mr. LEGGETT. Yes.

Mr. LYLES. I am Charles Lyles, executive director of the Gulf States Marine Fisheries Commission.

I have a prepared statement, sir.

Mr. LEGGETT. Very good.

Mr. LYLES. I would like to make it a part of the record.

Mr. LEGGETT. OK, it will be inserted in the record, at this point.

[The statement follows:]

STATEMENT OF CHARLES H. LYLES, EXECUTIVE DIRECTOR GULF STATES MARINE FISHERIES COMMISSION

Mr. Chairman and members of the Merchant Marine and Fisheries Committee. Ladies and Gentlemen. Thank you for permitting me to appear here today in behalf of H.R. 9169, a Bill to lower the down payment requirements on new construction and reconditioning of fishing vessels. I am here today in behalf of the following groups, as an official spokesman. The Gulf States Marine Fisheries Commission, The Mississippi Coast Fisheries Association, and The Louisiana Shrimp Association. I have also been asked by Mr. Robert P. Jones, Executive Director of Southeastern Fisheries Association and Mr. Robert Mauerman, Executive Director of the Texas Shrimp Association to add the endorsement of their associations to this statement. Numerous independent fishermen have also contacted me in behalf of this legislation.

H.R. 9169, is an important piece of legislation to the producing segment of the U.S. fishing industry. One of the more serious problems confronting the producing segment today is recruiting young men to take the place of those older veterans who are rapidly fading out of the picture. At best this is not easy, since the life of a fisherman is such that it does not attract great numbers of recruits.

Therefore, a young man trying to enter the commercial fishing industry today and finding that he must produce 25 percent of the cost of the vessel as a down payment is quickly discouraged from such a venture. Today's shrimp vessels, of the seaworthy type, in the 65 to 80 foot class will cost from $250,000 to $300,000 when actually ready to fish. This means that a prospective buyer must come up with from $65,000 to $75,000. First of all this is very difficult to accomplish, but let us assume he is an exceptional man, which many of our shrimpers are, and he can find someone who is willing to back him for his down payment. What then happens? He is so shackled with debt that his purchasing power in the community is reduced and he becomes a second class citizen by virtue of his debt load. Thus not only does he and his wife suffer, but the economy of the community suffers as well.

Gentlemen, the misguided, and the uninformed tell us we have an energy problem. Nothing could be farther from the truth. What we really have is a petroleum problem. But we do have a more serious problem than petroleum. That problem is unemployment, and unless we wisely use our natural resources, of which fisheries is among the most important, to find meaningful and rewarding jobs for this vast army of unemployed, we won't have a petroleum problem because we won't need oil to sift the ashes of this society. Gentlemen, H.R. 9169 will go a long way towards keeping people at work, to provide food and to expand our economy.

Thus as a spokesman for the commercial fishing industry of the Gulf of Mexico, let me urge passage of this important piece of fishery legislation. Thank you. I shall be happy to try to answer your questions.

Mr. LYLES. I would like to sum up in a word or two by saying that at the present time in the Gulf of Mexico our larger shrimp boats that fish offshore, those in the 65- to 80-foot class, cost around $250,000 to $300,000 ready to fish.

If a deckhand, younger deckhand on one of these boats wishes to get into business of boat owning, the present requirement of raising $65,000 to $75,000 is pretty difficult, and what we need I think in the fishing industry today is to recruit more young men who are capable of carrying on this work.

The present high rate kind of discriminates against these men and makes it difficult for them to get in.

That is really all I have to say.

Mr. LEGGETT. The point is he has a better chance of making $35,000 than he does $75,000.

Mr. LYLES. Well, you see, if you put the $75,000 fee on him, he probably could raise that if he is a real good man, but what it does is seriously hamper his economic condition. It reduces his purchasing power in the community and really is sort of a drain on the entire community; say you have got five or six boats of this type, so for that reason it is not only an aid to a young fisherman, but it is also an aid to the economic conditions in the community.

I would like to say that I contacted the Texas Shrimp Association, Southeastern Fisheries Association, Mr. Bob Myer and Bob Jones respectively, and they both wish to be included in this endorsement which I have submitted.

Mr. LEGGETT. The record will so show.

Mr. LYLES. It will so show; yes.

Mr. LEGGETT. Dr. Veal.

Dr. VEAL. Yes, sir, I am David Veal, program leader, Sea Grant Advisory Service, Mississippi Cooperative Extension Service, Mississippi State University.

It is a marine-oriented educational organizations and it is our job to carry on basic education for fishermen.

Quite often fishermen come to us looking for the elusive 3- or 4-percent Federal loan which they are sure their neighbor has gotten. When you happen to be with an organization that has a "grant" in its name "Sea Grant," they are sure they have found their loan when they get to us.

Unfortunately, that is not the case, as you know.

I agree with most of the comments I have heard today. I support them wholeheartedly. However, I do want to make some additional comments to you.

I was pleased a few minutes ago to hear you say you would at least entertain the idea of some additional comments or some additional amendments to this bill, because I think they are necessary.

The typical man that comes to us looking for a loan is a middle-aged man who probably owns a boat or has been a captain on a boat. He may be a subsistence fisherman and thus makes part of his living from fishing. He has a particular boat in mind he wants to buy. Again, typically, it is a used boat. He has a small savings, probably in the $5,000 to $6,000 range or he has equity in a small boat and wants to buy a boat in the $30,000 to $50,000 range.

Unfortunately, it has been our experience that this particular program; that is, the fishing vessel loan guarantee simply will not help the man that wants to buy a used boat, even if he intends to reconstruct it. This is so for a number of reasons, the first being the time required to process the application.

In the gulf, if the man has a boat picked out that he wants to buy, normal time for action on this program is 60 to 90 days, and sellers typically are not going to wait that long for loan closing.

Second, he lacks a 25-percent downpayment.

Additionally, he may not have exactly the background stated. He might have been a deckman for 2 or 3 years and served as captain for 1 year.

If he has been a subsistence fisherman, even a good one, it is difficult if not impossible to have him qualify for this program.

The program as it is set up now, I feel, is more supportive of the man who already owns a boat—particularly a larger boat. He is the man who really needs the help the least.

My real concern is that we seem to be promoting the large businesses. There certainly is ample opportunity for a man with a $30,000, $40,000 or $50,000 boat to make a very good living by shrimping in the Gulf of Mexico, and I think this program as it is set up discourages him from doing that.

I think it encourages the operation and construction of larger vessels, simply because of the restrictions placed on the reconditioning of vessels.

Mr. LEGGETT. Are you talking about boats under 5 net tons?

Dr. VEAL. No, I am talking about greater than 5 tons.

Mr. LEGGETT. Oh, I see.

Dr. VEAL. They may be 25 years old, but still in reasonably good condition for that age. We have a lot of boats in the Gulf of Mexico that fall into this category and will be around for a long time.

Mr. LEGGETT. Yes.

Dr. VEAL. I do have three or four suggestions, then I will wrap it up.

One, I do think we should reduce the downpayment required for this program. I would like to see us ease restrictions on reconstructing vessels and the man who wants to buy a vessel to reconstruct or refurbish. And I would suggest it might be possible to get conditional approval for a loan if a man otherwise fits the criteria for the program with the exception of having a boat picked out. If he could go through a conditional prior approval process he could then cut down on the time necessary to quality for the guarantee.

Then in terms of recruiting new people into the program, we give incentive, through what is called capital construction fund, to a man who owns a boat to build another boat. We do not offer that same opportunity to anybody else.

The man, according to our experience, who is going to buy a boat is the man who has been a deckhand for 2 or 3 years. He is young and ambitious. I would like to see us at least consider the possibility of opening up the capital construction fund to a man if he can show that he earned money on a boat as a deckhand, that he has ambitious to buy a boat, and that he is going to use the money from the fund as part of his downpayment.

Thank you.

Mr. LEGGETT. Counsel says that present law authorizes the financing of boats of 5 net tons or larger, however the Department of Commerce has looked at that and they have determined that what we are doing under the law is putting young people into obsolete boats thereby promoting inefficiency in those operations. Consequently a moratorium has been placed on that program.

Now, if there is reason for the moratorium to come off, it can come off without legislation. And certainly this committee will be pleased to have a day of hearings as far as that goes, either down your way or some other place in the country, and consider whether or not that moratorium is reasonable or not. But apparently the main reason for that is to try to get some of the inefficient boats out of operation and to build a competitive fishing fleet for the United States of efficient operators.

Dr. VEAL. I understand that. I think you have a difficult time convincing the typical fisherman in Mississippi and Alabama his boat is inefficient if it was simply made for the waters he works in. Your references of a moratorium are to the fishing vessel loan fund, not to this program.

We are not necessarily talking about an oceangoing boat, which is generally what is built in the Gulf of Mexico now. A large part of shrimp is landed in bay, in 50-foot boats, 20 or 25 years old. That fishery will be around for a long time. I think Mr. Lyles will agree with that. It is a very vital part of our industry.

I am sure our fishermen would be most happy to discuss removing the moratorium on the loan fund with you.

Mr. LEGGETT. Would you please do that. Of course, I would merely point out too the Federal Government, as large as it is and sometimes psuedo socialistic, has chosen not to occupy this area. Certainly the States might exercise individual rights to guarantee loans in this area, because it is a kind of thing apparently that does not cost much.

It would probably be as income producing as much for the States as it would be for the Federal Government.

But our committee would be pleased to look at that and certainly your representation to us is important.

Dr. VEAL. I support the current bill; as it is I simply wanted to make these other comments to you.

Mr. LEGGETT. Mr. Forsythe.

Mr. FORSYTHE. Thank you, Mr. Chairman.

I support the chairman's analysis of where we are in terms of this moratorium, the reasons that are given for it; perhaps not moving that far in it.

I know in our State we do have a rather effective loan program for business that might well be something that is looked at locally and may be really moving into this field in the way that the Federal Government—that probably some of the things you mentioned might be able to be circumvented by doing it on a more rebuttable level. But I thank you. I welcome your support for the bill as it is and welcome your testimony.

Mr. LEGGETT. The gentleman from New Jersey.

Mr. HUGHES. Thank you, Mr. Chairman.

I frankly do see a need to carefully scrutinize this moratorium, because I think it has some built-in propensity for inequity.

I do not think a blanket moratorium would be in our interest.

I know that a lot of professional owners that have aging vessels I think it would be unfortunate if we just adopted a blanket moratorium and thereby prevent their transfer and use of guarantees.

Mr. LEGGETT. I guess there is a moratorium now even on the 75 percent?

Mr. HUGHES. Yes. As I understand it.

Mr. LEGGETT. It is 75 percent?

Mr. HUGHES. Yes. I do think it has a built-in capacity for some inequity. I think we have to have a balanced program in trying to rebuild our fishing fleet, one that includes encouraging interested parties in purchasing secondhand vessels. Sometimes that is the only thing they can afford, loan guarantee or not.

In many instances young people find that new boats are just out of their reach and if we want to encourage new entries into the commercial fishing industry, then I think we are going to have to provide some encouragement for purchasing secondhand vessels provided, of course, they are seaworthy.

I am interested in knowing whether or not the equipment also falls within the parameters of that which is a guarantee. Quite often there is equipment onboard the vessel that is quite expensive. Can you tell me whether such equipment is covered?

Mr. LEGGETT. Let me see, Mr. Lyles, do you know?

Mr. LYLES. Let me have that question again.

Mr. LEGGETT. Does the guarantee extend to just the ship or does it also extend to the nets and equipment like that?

Mr. HUGHES. And other equipment onboard?

Mr. LYLES. Well, quite a number of the loans that are made are made for the vessel ready—they have got all the equipment, electronic equipment.

I am not certain about the net. I cannot answer that. But all of the other equipment on there is generally fitted on the boat ready to go, so that is included in the loan.

Mr. HUGHES. How about an operator who wants to secure some sophisticated radar equipment or other gear but already has a vessel? Will this program be of any assistance to that particular boat-owner?

Dr. VEAL. Not to my understanding. It has to be a complete refurbishing or reconstruction of the vessel.

Mr. HUGHES. Is that not another problem area?

Dr. VEAL. It certainly is, and this is a void the fishery loan fund, which we were just discussing, could fill.

We simply write the fishery loan fund off as a program not in existence. It is not a functional program.

Mr. HUGHES. It seems to me a lot of fishermen unfortunately cannot update their equipment. They often operate with obsolete equipment, because they just cannot afford to secure new equipment.

I am not so sure we have addressed that particular problem in trying to furnish our fishing fleet with the best available technology.

Do you agree with that?

Dr. VEAL. I agree wholeheartedly. Yes, sir.

Mr. HUGHES. I want to thank you for your testimony. You have been very helpful. Thank you.

Mr. LEGGETT. I am reading here 16 U.S.C., 742(c), which says the Secretary of the Interior is authorized to make loans for financing or refinancing of the cost of purchasing constructing, equipping, maintaining, repairing or operating new or used commercial fishing vessels or gear.

That authority has now been transferred to the Department of Commerce, so theoretically we have now authority under the law to do what we want to do.

The main thing is to promulgate regulations under it to accomplish the objectives of the act and certainly we are prepared to hold hearings and fully review this matter if the fishing industry feels that is required and they need that kind of assistance.

Dr. VEAL. Thank you.

Mr. LEGGETT. Mr. Emery.

Mr. EMERY. No questions.

Mr. LEGGETT. Mr. Trible.

Mr. TRIBLE. No question, Mr. Chairman, thank you.

Mr. LEGGETT. Does the staff have any questions?

Then, I thank you very much, gentlemen, for coming up here. Your testimony has been very helpful.

Dr. VEAL. Thank you, Mr. Chairman.

Mr. LEGGETT. All right, I think we might as well go into executive session and move this legislation to the full committee.

Mr. Forsythe.

Mr. FORSYTHE. As much as I would like to move the legislation out of hearing, I think we should give other Members an opportunity to know what we are doing.

Mr. LEGGETT. Would you like to make a motion?

Mr. FORSYTHE. I move we adjourn.

Mr. LEGGETT. All right.

Mr. HUGHES. I will second it.

Mr. LEGGETT. All right, without objection, the committee will stand adjourned.

Thank you very much.

[The following was submitted for the record:]

STEELE & UTZ,
Washington, D.C., October 3, 1977.

Hon. ROBERT L. LEGGETT,
Chairman, House Subcommittee on Fisheries, Wildlife Conservation and the Environment, Longworth House Office Building, Washington, D.C.

DEAR CONGRESSMAN LEGGETT: In behalf of the National Shrimp Congress I appeal to you and the Subcommittee members for favorable consideration of H.R. 4831, H.R. 6395, H.R. 6396, H.R. 6535, and H.R. 6169, which are pending before your Subcommittee and which would amend Title XI of the Fishing Vessel Obligation Guarantee program to allow guarantees for fishing vessels to equal 87½ percent of the actual cost.

The Title XI Fishing Vessel Obligation Guarantee program is a major source of long-term debt capital for construction of the nation's fishing vessels. It is a good program which is paid for entirely by its users and, thus, costs the taxpayers nothing. Without this program, many fishermen would be forced to compress the debt financing of their expensive vessels into maturities of between 5–8 years and at high interest rates. With this program, private financing with 15 year maturities is available on today's market at an interest rate of about 8.25 percent.

There are, however, a number of things about this otherwise excellent program which need improvement.

The first thing is increasing from 75 percent to 87½ percent the amount of construction cost which can be guaranteed under the program. The present 75 percent program requires a fisherman to make a 25 percent down payment on his often very expensive vessel. Since most fishermen are small businessmen in an unstable industry, a down payment of this size often requires a dangerous liquidation of all working capital reserves. Increasing the fishing vessel amount to 87½ percent is not a radical step; it will simply place fishing vessels on a par with the 87½ percent financing already available under the overall Title XI program for other eligible classes of vessels. This is a much needed amendment for small, independent, fishermen who are finding it extremely difficult to raise the down payments necessary with today's high boat costs.

The second area where improvement is needed is the amount of Title XI guarantee authority allocated to fishing vessels. Total Title XI guarantee authority is now $7 billion. Only $50 million of that is allocated to fishing vessels. The other $6.950 billion is allocated to the other classes of vessels eligible under Title XI. I have checked with the National Marine Fisheries Service and it estimates that the revolving $50 million allocation will be totally obligated in less than a year from now. This means the Fishing Vessel Obligation Guarantee program would have to come to a stop until previously guaranteed fishing vessel obligations had been paid down sufficiently to free some portion of the revolving $50 million authority. This would be a most unfortunate development for the fishing industry, particularly when that industry is on the verge of expansion.

The allocation of guarantee authority between fishing vessels and other classes of vessels is presently a matter of Administration discretion. The National Shrimp Congress recommends that Title XI be amended to provide a statutory allocation to fishing vessels of guarantee authority sufficient to cover what should be the very considerable capital needs of the next decade. We suggest the Title XI guarantee authority be increased from $7 billion to $7.250 billion, of which total $300 million would be statutorily reserved for fishing vessels.

The third improvement area is the reconstruction of vessels. Although the cost of reconstruction is eligible for guarantee, the cost of acquiring a used hull to be reconstructed is not. This works an unreasonable hardship upon those wishing to use the Fishing Vessel Obligation Guarantee program to finance the reconstruction of used vessels. We believe Title XI should be amended to allow guaranteed financing of the reconstruction of fishing vessels to include both the cost of reconstruction, and the cost of acquiring the used hull.

The fourth improvement area—and this is a most important one—is fisheries shoreside facilities. The Fishing Vessel Obligation Guarantee program cannot now be used to generate financing for the debt portion of construction or reconstructing shoreside facilities. The expansion of shoreside facilities will be one of the major capital needs of future fisheries development in this country. The National Shrimp Congress urges this Subcommittee to consider amending Title XI to allow the guaranteed financing for fisheries shoreside facilities on a par with that available for fishing vessels.

Although the pending legislation provides for a specific limited amendment to the Merchant Marine Act, we believe these broader amendments are quite important and worthy of careful consideration, either as amendments to the pending legislation, or as separate legislative action.

With best personal regards, I am,

Sincerely,

WILLIAM NELSON UTZ,
Executive Director, National Shrimp Congress.

[Whereupon, at 3:20 p.m., the hearing was adjourned.]

GREAT LAKES FISHERY ACT AMENDMENTS

TUESDAY, OCTOBER 4, 1977

HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
SUBCOMMITTEE ON FISHERIES AND WILDLIFE
CONSERVATION AND THE ENVIRONMENT,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2:30 p.m., in room 1334, Longworth House Office Building, the Hon. Robert L. Leggett (chairman of the subcommittee) presiding.

Mr. LEGGETT. The subcommittee will please come to order.

This afternoon the Subcommittee on Fisheries and Wildlife Conservation and the Environment will hold hearings on two bills, that would increase from three to four the number of Commissioners to serve on the Great Lakes Fishery Commission.

The Convention on Great Lakes Fisheries entered into between the United States and Canada came into effect in October 1955. The convention had its inception primarily because of the invasion into the Great Lakes of the sea lamprey, a predator which feeds by sucking the body juices of fish.

The convention provided for the establishment of a Commission, to be known as the Great Lakes Fishery Commission, to be composed of two sections—a Canadian section and a United States section. Each section would be composed of not more than three members to be appointed by the respecting contracting parties.

The Commission, which has no regulatory authority and whose general objective is to improve and perpetuate the Great Lakes fishery resources, is charged with formulating programs of research and management; coordinating or undertaking such research programs; determining measures to be adopted to reach this objective and minimizing sea lamprey populations.

Enabling legislation to implement the Convention resulted in the enactment of the Great Lakes Fishery Act in 1956. This act set the number of U.S. Commissioners at three, each of which would be appointed by the President. The Commissioners receive no compensation for their services; however, they do receive transportation expenses and per diem incident to their attendance at Commission meetings other than on the Hill.

The need for legislation arises from the fact that in 1967, the Convention was amended to provide for increasing the number of Commissioners to serve on each section from "three" to "four." Inadvertently, implementing legislation to reflect this change in number was not forwarded to the Congress until August of this year although

four U.S. Commissioners have been serving on the Commission since 1967.

The legislation to accomplish this purpose was introduced just yesterday in the form of H.R. 9414 by colleague Murphy, along with colleagues Forsythe, Eilberg, Trible, Bonior and myself. Identical legislation was introduced in the form of H.R. 2203 by colleague Ruppe in January of this year.

The bills, the executive communication, and the departmental report will appear in the record at this point.

[The information referred to follows:]

[H.R. 2203 and H.R. 9414, 95th Cong., 1st sess.]

BILLS To amend the Great Lakes Fishery Act of 1956

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Great Lakes Fishery Act of 1956 (70 Stat. 242; 16 U.S.C. 931–939c) is amended by:

(a) striking the word "three" before "Commissioners" in section 3, and inserting in lieu thereof the word "four"; and

(b) striking the word "two" before "shall" in section 3(b), and inserting in lieu thereof the word "three".

U.S. DEPARTMENT OF COMMERCE,
Washington, D.C., October 6, 1977.

Hon. JOHN M. MURPHY,
Chairman, Committee on Merchant Marine and Fisheries,
Washington, D.C.

DEAR MR. CHAIRMAN: This is in reply to your request for the views of this Department concerning H.R. 2203, a bill To amend the Great Lakes Fishery Act of 1956.

The Department of Commerce would have no objection to the enactment of H.R. 2203.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our letter to the Congress from the standpoint of the Administration's program.

Sincerely,

C. L. HASLAM,
General Counsel.

DEPARTMENT OF STATE,
Washington, D.C., September 30, 1977.

Hon. JOHN M. MURPHY,
Chairman, Committee on Merchant Marine and Fisheries, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The Secretary has asked me to reply to your letter of February 10, 1977 requesting the Department's views and recommendations on H.R. 2203, a bill to amend the Great Lakes Fishery Act of 1956.

The Great Lakes Fishery Act is the enabling legislation for the Convention on Great Lakes Fisheries between the United States of America and Canada. This bill is intended to bring it into conformity with the Convention, as amended on May 19, 1967, to add an additional member for each contracting party to the Great Lakes Fishery Commission.

The Department of State endorsed the 1967 amendment to the Convention and is pleased the enabling lgislation is now being brought into line. Since the fourth commissioner has been serving for ten years, this legislation will result in no additional expenditure.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely,

DOUGLAS J. BENNET, Jr.,
Assistant Secretary for Congressional Relations.

[Executive Communication No. 2221]

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., August 8, 1977.

Hon. THOMAS P. O'NEILL, Jr.,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Enclosed is a draft of a proposed bill "To amend the Great Lakes Fishery Act of 1956."

We recommend that this bill be referred to the appropriate Committee for consideration, and we recommend that it be enacted.

The Great Lakes Fishery Act of 1956 (70 Stat. 242; 16 U.S.C. 931–939c) implements the Convention on Great Lakes Fisheries between the United States and Canada. The Convention entered into force on October 11, 1955, and was amended on May 19, 1967.

The Convention was concluded in order to recognize that joint and coordinated efforts between the United States and Canada are essential to determining the need for and type of measures which will make possible the maximum sustained productivity in Great Laks fisheries of common concern. The Convention called for the establishment of a "Great Lakes Fishery Commission" with the following duties:

(a) to formulate a research program or programs designed to determine the need for measures to make possible the maximum sustained productivity of any stock of fish in the Convention Area which, in the opinion of the Commission, is of common concern to the fisheries of the United States of America and Canada and to determine what measures are best adapated for such purpose;

(b) to coordinate research made pursuant to such programs and, if necessary, to undertake such research itself;

(c) to recommend appropriate measures to the Contracting Parties on the basis of the findings of such research programs;

(d) to formulate and implement a comprehensive program for the purpose of eradicating or minimizing the sea lamprey populations in the Convention Area; and

(e) to publish or authorize the publication of scientific and other information obtained by the Commission in the performance of its duties.

Originally the Convention, and the implementing Act, limited each country to three commissioners. The Convention was amended on May 19, 1967, to provide for four Commissioners from each country. Inadvertently, the implementing legislation was not amended to reflect this change in number of Commissioners although four have been serving on the Commission.

In order to correct this discrepancy in the Act and the Convention, two technical amendments to the Act are proposed. The first amendment would strike the word "three" before "Commissioners" in the first sentence of Section 3, and insert in lieu thereof the word "four". The second amendment would strike the first word in Section 3(b) "two", and insert thereof the word "three."

The Office of Management and Budget has devised that there is no objection to the presentation of this report from standpoint of the Administration's program.

Sincerely,

HEATHER ROSS,
Deputy Assistant Secretary.

Enclosure.

[The draft bill became H.R. 9414.]

Mr. LEGGETT. Before calling our only witness to be heard on this legislation, I might anounce that at the conclusion of his testimony, which should not last more than 15 minutes, this subcommittee, along with the Subcommittee on Merchant Marine, will hold joint hearings on legislation to amend title XI of the Merchant Marine Act of 1936 to provide for increasing the loan guarantee for fishing vessels from 75 to 87½ percent of the cost of such vessels.

These are not direct loans; they are guaranteed loans.

Is H.R. 9419 identical to H.R. 2203?

Mr. EVERETT. Yes.

Mr. LEGGETT. Then, we will consider Ruppe's bill for the purposes of markup.

We will now hear testimony from Dr. Cook, who is the Deputy Director, U.S. Fish and Wildlife Service.

Dr. Cook, I have your three-page statement and I take it the Department, including the Office of Management and Budget, supports this legislation?

STATEMENT OF ROBERT S. COOK, DEPUTY DIRECTOR, U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

Mr. Chairman, it is a pleasure to appear here today to recommend enactment of H.R. 2203.

The purpose of this bill is to amend the Great Lakes Fishery Act to conform it with the Convention on Great Lakes Fisheries to allow for four United States Commissioners.

The Convention on Great Lakes Fisheries between the United States and Canada entered into force on October 11, 1955. The Great Lakes Fishery Act of 1956 implements the Convention. Originally the Convention, and the implementing legislation, limited each country to three Commissioners. Sea lamprey control and restocking programs were initially started in the upper Great Lakes. The two non-Federal Commissioners, one each from Wisconsin and Michigan, provided adequate representation. When the programs were extended to the lower Great Lakes, additional representation of local interests became mandatory. The United States took the initiative and the Convention was amended on May 19, 1967, to provide for four Commissioners from each country. Since that time, the United States has had four Commissioners. Inadvertently, the implementing legislation was not amended to reflect this change in number of Commissioners.

By way of background information, the Convention was concluded in order to recognize that joint and coordinated efforts between the United States and Canada are essential to determining the need for and type of measures which will make possible the maximum sustained productivity in Great Lakes fisheries of common concern.

The Convention defines the geographic area of concern to include Lake Ontario, part of the St. Lawrence River, Lake Erie, Lake Huron, including Lake St. Clair, Lake Michigan and Lake Superior. It provided for the establishment of a joint "Great Lakes Fishery Commission" and a Secretariat, and small administrative staff to assist the Commission in carrying out its duties.

Among other things, the Commission is responsible for developing and coordinating fishery research programs on the Great Lakes, advising appropriate governmental agencies on measures to enhance the Great Lakes fisheries, and developing and implementing measures to control sea lampreys.

The Commission has been highly successful in its sea lamprey control efforts. The work it has done to coordinate and achieve appropriate testing and use of lampricides and development, testing and placement of barriers and screens in streams entering the Great Lakes has in Lake Superior, for example, reduced sea lampreys by 90 percent. The Commission's work in sea lamprey control, coupled with stocking of lake trout and salmon and implementation of various cooperative management programs has contributed significantly to the development of outstanding sport fisheries in the Great Lakes.

The United States Commissioners are appointed by the President. The Great Lakes Fishery Act presently requires that one Commissioner be an official of the United States Government. The Assistant Secretary of the Interior for Fish and Wildlife and Parks, Robert L. Herbst, is now filling that post. The Act states that the two other Commissioners shall be persons residing in the Great Lakes States who possess a knowledge of Great Lakes fisheries. One of these individuals must be an official of a Great Lakes State.

The Act presently contains no provision for the appointment and qualification of the fourth Commissioner. The bill pending before your Subcommittee, Mr.

Chairman, will remedy this by making the fourth Commissioner subject to the same requirements as are now applicable to the two non-Federal Commissioners. Commissioners receive no compensation for their services and there is no tenure requirement.

At the present time, in addition to Assistant Secretary Herbst, Lester P. Voigt of the Wisconsin Department of Natural Resources, Claude VerDuin, Executive Director of the Midwest Federated Fisheries Council and W. Mason Lawrence, retired Deputy Commissioner of Fish and Game for New York are serving as Commissioners. The Executive Secretary of the Secretariat is Carlos M. Fetterolf, Jr. The Secretariat is located in Ann Arbor, Michigan at the Fish and Wildlife Service's Great Lakes Fishery Laboratory.

I should point out that expenses incurred by the United States in carrying out its responsibilities under the Convention are paid for from funds provided by the Department of State.

Mr. Chairman, the technical amendment contained in H.R. 2203 will merely correct the discrepancy between the Convention and the implementing Act.

We endorse enactment of the bill.

This concludes my prepared remarks. I would be pleased to answer any questions you might have.

STATEMENT OF ROBERT S. COOK, DEPUTY DIRECTOR, U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

Dr. COOK. Yes, the Department of the Interior, with approval from OMB, endorses enactment of the legislation.

Mr. LEGGETT. Normally I would think they would not let you testify unless they did.

Dr. COOK. Yes.

Mr. LEGGETT. Do you have anything to add to your statement?

Dr. COOK. I could summarize it if you wish.

Mr. LEGGETT. Please proceed to summarize it in about three sentences, if you can.

Dr. COOK. Well, first it is a pleasure to appear today to support enactment of H.R. 2203.

Mr. LEGGETT. That is No. 1. [Laughter.]

Dr. COOK. That is all, Mr. Chairman. Is that short enough?

Mr. LEGGETT. Well, I have read your statement. Are you now using four or three commissioners?

Dr. COOK. The United States presently has four Commissioners.

Mr. LEGGETT. You are using four?

Dr. COOK. Yes.

Mr. LEGGETT. Are you paying four?

Dr. COOK. No, they are not being paid a salary. The Commissioners are paid only for expenses incurred when discharging their official responsibilities.

Mr. LEGGETT. Transportation and per diem for four or three?

Dr. COOK. All four Commissioners are reimbursed for these items.

Mr. LEGGETT. So you want us to confirm what you are already doing?

Dr. COOK. Yes.

Mr. LEGGETT. All right.

Mr. Ruppe, any questions?

Mr. RUPPE. I think it is very much a housekeeping piece of legislation. As the chairman indicates, they are in practice doing what the legislation seeks to accomplish. I think it is a suitable bill for the

purpose of straightening out a misunderstanding. I think it brings us into agreement.

Mr. LEGGETT. All right, I ask unamimous consent to report H.R. 2203 to the full committee.

There is no one opposed.

So ordered.

[The following memo was prepared by the staff to explain the bill in further detail:]

U. S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
October 3, 1977.

To: Members, Subcommittee on Fisheries and Wildlife Conservation and the Environment.
From: Staff.
Subject: A Bill "To amend the Great Lakes Fishery Act of 1956"—H.R. 2203.

1. *Great Lakes Fishery Commission—Background Information.*—Since early settlement of the Great Lakes basin began to grow, environmental, cultural, and ecological events have combined to change fish community structure and progressively lower the quality of commercial and sport fisheries in the Great Lakes. The invasion of the Sea Lamprey, a predator which feeds by sucking the body juices of fish, and its population explosion in the upper Great Lakes was a major factor in decimation of highly-valued lake trout and whitefish fisheries. It was also the spur to complete the stalled earlier negotiations among Canada, the United States, the Province of Ontario, and eight Great Lakes States to form an international body devoted to the welfare of the fishery resource. Ratification of the Canada-U.S. Convention on Great Lakes Fisheries and subsequent enabling legislation created the Great Lakes Fishery Commission in 1956.

The Commission, which has no regulatory authority and whose general objective is to improve and perpetrate Great Lakes fishery resources, is charged to formulate programs of research and management; to coordinate or undertake such research programs; to determine what measures are best adopted to reach the objective; and to minimize sea lamprey populations. The Commission, supported by a Secretariat of two full-time fishery scientists, operates through several standing and ad hoc interagency committees which are either operation, resource, or problem oriented, and through maintenance of working relationships with other commissions and federal, state, and provincial agencies. Control of sea lamprey larvae in streams by selective chemicals is through agents, the U.S. Fish and Wildlife Service and Canada Department of the Environment. Research on alternate control methods and technical support are through the Hammond Bay Biological Station (Michigan) and the Fish Control Laboratory (Wisconsin) of the U.S. Fish and Wildlife Service.

The Commission and its agents have been successful in controlling sea lamprey populations to the point that some decimated species have made remarkable recoveries, and other species, through stocking efforts of the U.S. Fish and Wildlife Service, state departments of natural resources, and the Province of Ontario have provided spectacular fisheries attracting nationwide attention. From a fishery situation which could only be termed "devastated", the commercial fishery of the Great Lakes has rebounded to a dockside value of $21 million in 1976 ($100 million including the middlemen) and the recreational fishery has grown to be valued at $350 million per year (1975 figures).

The sea lamprey populations are not eradicated, and probably never will be. They can be likened to a compressed spring waiting for the pressure to be removed.

2. *Commissioners, Status of.*—The Convention on Great Lakes Fisheries signed at Washington September 10, 1954, set the number of Commissioners at three from each country:

"Article II–1. The Contracting Parties agree to establish and maintain a joint commission, to be known as the Great Lakes Fishery Commission, hereinafter referred to as "the Commission", and to be composed of two national sections, a Canadian Section and a United States Section. Each Section shall be composed of not more than three members appointed by the respective Contracting Parties."

The Great Lakes Fishery Act of 1956 implemented the Convention and set the number of U.S. Commissioners at three:

"Section 3. The United States shall be represented on the Commission by three Commissioners to be appointed by the President, and to receive no compensation for their services as such Commissioners. Of such Commissioners—(*a*) one shall be an official of the United States Government; and (*b*) two shall be persons residing in Great Lakes States, duly qualified by reason of knowledge of the fisheries of the Great Lakes of whom one shall be an official of a Great Lakes State: *Provided, however*, That the Commissioners appointed under this subsection shall not be residents of the same State."

Probably because the Commission's initial sea lamprey control and fish rehabilitation efforts were planned for the upper Great Lakes the "two persons residing in Great Lakes States" who were appointed to the Commission were from Michigan and Wisconsin.

As the sea lamprey situation in the upper Great Lakes came under control, efforts expanded to Lakes Ontario and Erie, the lower Great Lakes. Since the states of New York, Pennsylvania and Ohio, all bordering the lower lakes, did not have representation on the Commission, negotiations for such representation were initiated. This effort culminated in an agreement (attached) amending the Convention effected by an exchange of notes signed at Ottawa April 5, 1966, and May 19, 1967; ratification advised by the Senate of the United States of America March 1, 1967; ratified by the President of the United States April 24, 1967; proclaimed by the President of the United States of America July 19, 1967; and entered into force May 19, 1967, by substituting the word "four" for the word "three" in the second sentence of paragraph 1 of Article II.

An official of the State of New York was appointed by the President of the United States as the fourth member of the Commission. He has served faithfully ever since, receiving only travel and subsistence expenses associated with Commission business.

3. *Administration and Funding.*—Funding for the Commission's program is from the U.S. Department of State and the Canada Department of External Affairs. The administration and general research budget is shared 50:50. The sea lamprey control and research budget is shared 69:31, based on the pre-sea lamprey catch of lake trout in each country (the surface area of the Great Lakes is 68 percent U.S. and 32 percent Canadian).

The Commission's Fiscal Year 1978 budget request is $4,555,600 split as follows:

	Amount
United States:	
Administrative and General Research	$103,030
Sea Lamprey Control and Research	3,001,197
	3,104,200
Canada:	
Administration and General Research	103,030
Sea Lamprey Control and Research	1,348,364
	1,451,400

4. *Budgetary Impact.*—Passage of subject bill will not increase State Department's costs associated with support of the Great Lakes Fishery Commission because they have been supporting travel and subsistence of four U.S. Commissioners since 1967.

To provide an estimate of current travel and subsistence costs the State Department disbursed $1,559.73 to U.S. Commissioners in Fiscal Year 1976.

5. *Executive Communication.*—An Executive Communication was transmitted to the House of Representatives from the Department of Interior on August 8, 1977, which recommended passage of legislation identical to subject bill.

[Whereupon, at 2:35 p.m.. the subcommittee adjourned.]

MOLLUSCAN SHELLFISH

TUESDAY, OCTOBER 11, 1977

HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION
AND THE ENVIRONMENT,
Washington, D.C.

The subcommittee met at 10:50 a.m., in room 1302, Longworth House Office Building, Hon. Robert L. Leggett (chairman of the subcommittee) presiding.

Mr. LEGGETT. All right, the meeting of the Subcommittee on Fisheries and Wildlife will please come to order.

I apologize for being late.

As the members will recall, when legislation to amend the Coastal Zone Management Act was considered by the committee last year, an amendment was included in the legislation to require the Secretary of Commerce to undertake a comprehensiv review of all aspects of the molluscan shellfish industry including, but not limited to, the harvesting, processing and transportation of such shellfish, and to evaluate the impact of Federal law concerning water quality on the molluscan shellfish industry.

The Secretary of Commerce was required to complete this study by April 30, 1977, and to submit a report to the Congress of his findings and recommendations, if any, which resulted from such study.

This report was submitted to the Congress just last month.

The report identifies a complex array of problems facing the molluscan shellfish industry, such as overregulation, a lack of coordinated Government research and service programs, a decreasing resource base largely due to inadequate protection of shellfish growing waters, and the need for new technology and market development.

The study findings show that there are numerous Government programs to improve water quality, enhance the quality of coastal resources and assist the industry. Also it identifies certain Government efforts that can be made more efficient and effective. It pointed out, however, that the specific recommendations which may relate to programs within the Department of Commerce or other agencies must be further analyzed with a view toward developing better program coordination to achieve the recognized goal.

The principal findings and recommendations presented in this report were based on information contained in four individual reports that were associated with this study.

At the request of Mr. Bauman, the author of the amendment that called for this study, representatives of the Department of Commerce will brief the subcommittee this morning on the study and the findings and recommendations of the Secretary.

The representative of the Department of Commerce who will be heard this morning is Mr. Joe Slavin. You can associate yourself with such other personalities as you care to.

STATEMENT OF JOSEPH W. SLAVIN, ASSISTANT DIRECTOR, OFFICE OF FISHERIES DEVELOPMENT, NATIONAL MARINE FISHERIES SERVICE, DEPARTMENT OF COMMERCE, ACCOMPANIED BY DAVID M. DRESSEL, STAFF SPECIALIST

Mr. SLAVIN. Thank you, Mr. Chairman.

I have with me Dave Dressel from my office who participated in this report and who actually was the key manager in bringing this report to a conclusion.

I might just briefly outline for the committee some of the major findings of the report and then entertain any questions that the committee may wish to raise.

As you know, the Coastal Zone Management Act Amendments of 1976 asked the Department to make the comprehensive review of all aspects of the molluscan shellfish industry and to evaluate the impact of Federal law concerning water quality on the molluscan shellfish industry and to submit to Congress, not later than April 30, a report of the findings, comments and recommendations.

The act also required the Secretary of HEW not to promulgate final shellfish sanitation regulations before June 30, 1977, and that 60 days prior to such regulations, in consultation with the Secretary of Commerce, to publish an analysis of the economic impact of such regulations on the shellfish industry and the cost of the national shellfish sanitation program relative to benefits.

As you mentioned, Mr. Chairman, the report that you have before you consists of a summary report to Congress that contains the principal findings and recommendations, based on four additional reports that deal with the oyster industry, the clam industry, the mussel industry, and water quality aspects of the molluscan shellfish environment.

These reports were prepared in a very short time frame; actually it was during about a 4-month period.

It was done in consultation with people in industry, the States, universities, and other Federal agencies. There were eight key States that we concentrated on in compiling the findings.

I might say also that the reports in draft form were circulated to all shellfish-producing States. Comments were obtained and those valid technical comments were incorporated into the report.

Mr. LEGGETT. I notice your statistical material as abstracted by our colleague, Mr. Mannina, goes through 1975.

Do you have any figures on 1976 and on landings so far this year in 1977?

Mr. SLAVIN. We have some figures on 1976. We could make those available to you later.

Mr. LEGGETT. If they are easily available, could you present them to the subcommittee this morning.

I would like statistics on thousands of pounds of oyster meat.

Mr. SLAVIN. We will get them before I finish.

Mr. LEGGETT. All right. If you could update all of your figures for the last 2 years, then we could get a report which is current, which would be very helpful to the subcommittee.

Mr. SLAVIN. We have the figures for 1976 and they show for molluscan shellfish, $103 million of wholesale oyster products, and $141 million of clam products. We will supply for the record the updated landings.

[The following was received for the record.]

OYSTER LANDINGS

The 1976 oyster landings were 54.4 million pounds valued at 53.1 million dollars and clam landings were 81.0 million pounds valued at 62.7 million dollars. Sea mussel landings are not available.

Data on fishermen and crafts is not contained in preliminary reports and will not be available until April 1978 when they will be published as final statistics in *Fisheries Statistics of the U.S.*

Mr. SLAVIN. I might mention that in 1975 the figures that the report deals with show that the molluscan shellfish industry makes a significant contribution to the economy of the United States, and it shows, for example, that——

Mr. LEGGETT. Of course, the problem is that the latest figures show that there is a decrease in clam production.

Do your figures support that?

Mr. SLAVIN. Our figures would show, for example, in the case of surf clams that there has been a decrease in 1976 in surf clams, and that is mainly because of resource problems. So our figures would support that.

Our figures would also show that there has been a change in soft clam producing areas with more harvesting in the New England area as opposed to the Chesapeake area because of certain problems in those areas. But I think some of these trends tend to be trends that have been experienced over time, and we will update those figures to show it.

As I go through this, perhaps in some of the principal findings, the highlights of some of these changes, may indicate perhaps some directions as to some actions that the committee might take.

Mr. LEGGETT. There are 9,000 fishermen taking 1 million pounds of sea mussels, and there are 11,000 fishermen taking from 53 to 100 million, depending upon which figures are accurate, pounds of oysters.

Are the people that are harvesting sea mussels harvesting them as a casual crop?

Mr. SLAVIN. Yes, sir, as a casual crop.

Mr. LEGGETT. Not full time?

Mr. SLAVIN. Exactly. In fact, the sea mussel industry is not very much of an industry at all.

Mr. LEGGETT. There was an article the other day, I think, in the Wall Street Journal about the mussell burgers. Am I correct?

Mr. SLAVIN. I might mention that the molluscan shellfish industry makes a significant contribution to the economy.

Mr. LEGGETT. I am going to leave for a minute, maybe a little longer, but I am sure Mr. Bauman and the staff have some questions to ask you about this report.

Mr. SLAVIN. The industry contributes about $800 million to the gross national income. It employs some 50,000 people in some 22 States.

The industry problems involve a decreasing resource base. It involves some of the problems dealing with the fact that production of oysters is about one-third what it was in the early 1900's. We find that prohibited harvesting areas are increasing at 0.6 percent per year. This is less than it was from the 1966–71 period where the pollution rate was about double that amount.

We find there is increased competition for use of growing waters and adjacent land. One of the major problems is dealing with overregulation, a number of regulations dealing with the small industry.

Another problem deals with the particular structure of the industry itself. It needs strengthening; it needs revitalization. Some of the figures show that 50 percent of the firms producing oysters produce gross sales of less than $100,000 per year, and that 23 percent have sales less than $25,000 per year.

The report also shows that there is a need to evaluate the public health standards, to take a look at growing water classification, to have uniform methods for classifying growing waters, and to improve coordination of research and services.

The report to the Congress really talks about four general areas—the adequacy of present legislation, more effective use of present legislation, rehabilitating shellfish resources, and strengthening the shellfish industry.

On the adequacy of present legislation, the findings show that present Federal laws, which include the Federal Water Pollution Control Act, the Marine Protection Research and Sanctuaries Act, the Fish and Wildlife Coordination Act, the Coastal Zone Management Act, and the Rivers and Harbors Act, provides a good framework for both fisheries and regulatory agencies to coordinate their activities and to protect shellfish resources from adverse water quality.

We feel the legislation can be improved and the report makes a number of suggestions on improving present legislation. Among others, there are suggestions made for improving the Fish and Wildlife Coordination Act.

The general feeling is that the Federal Water Pollution Control Act amendments provide a very good framework for protection, and the report indicates that the implementation of this particular piece of legislation, which is very complex, provides for improvement in the implementation and improvement in the funding in this area here which would have beneficial effects to molluscan shellfish.

We make a number of recommendations in the report. For example, one of the areas, I think, is on the treatment of municipal discharge. The report shows that only 50 percent of those issued permits were in compliance by July of this past year, so there is a big effort here that could be undertaken with additional funding and just review by the States to improve the treatment of waste.

Another area is more effective enforcement of regulations concerning toxic substances. Here is an area where we think implementation could be speeded up.

Also, in river basin planning, more emphasis to planning at the State level would give more attention to molluscan shellfish and that would result in an improvement.

Also, we sought in this report to identify some of the jurisdictional conflicts to help improve the enforcement of water quality control laws.

We also found that the Coastal Zone Management Act, which is administered by NOAA, could be used more effectively to help in the shellfish area. The report indicates that all major shellfish areas could be designated perhaps as geographic areas of particular concern and, if so, designated in the States, and they would be responsible for the policies and actions to protect them from competing uses.

So by some education and by some initiative on the part of the States, we think the Coastal Zone Management Act, in the planning of the management and resources for coastal zone use, could be more effective in protecting shellfish.

The third principal recommendation dealt with rehabilitated shellfish resources. The report shows that resource loss from overfishing, natural disasters, disease and pollution continues to be a problem. I mentioned earlier that we lose about 0.6 percent of shellfish producing areas per year.

The report makes a number of recommendations in this area to accelerate the enforcement of pollution control standards, to have cooperative State-Federal efforts dealing with growing water criteria; to have uniform growing water criteria that could be applied by all States: to increase and improve habitat restoration and production techniques; to conduct economic assessment of public and private hatcheries; to encourage development of hatcheries, and to increase production of genetically produced disease-resistant stocks.

Another recommendation deals with the areas of strengthening the shellfish industry. The principal recommendation was that the industry, since it is comprised of small economic units, has difficulty in dealing effectively with the bureaucracy, with many of the problems that it faces, and that a comprehensive program should be developed for strengthening the molluscan shellfish industry.

One of the major problems this industry has is dealing with regulations. They are at the local level where they are faced with local, State and Federal regulation plus the different agencies, regulations. We feel a comprehensive program should be developed for strengthening the molluscan shellfish industry and for taking a look at regulations that affect that industry.

The report makes some reecommendations on things that can be done in that particular area.

The four major areas given attention as far as recommendations are concerned deal with examining overregulation as it affects the molluscan shellfish industry; validating growing water criteria; having some uniform criteria for growing waters; and improving coordination of research and services.

It was felt that the Federal and State research and services could be more effectively coordinated and also to have a program that would strengthen the molluscan shellfish industry.

Now, the question is, Where do we go from here? This report was made at the request of the Congress, and I recall just over a year

ago testifying before Congressman Bauman, and at that particular time I got raked over the coals a bit and we got the study going. I would like to say very candidly that we feeel that the study has been very beneficial in pinpointing some key problem areas in the molluscan shellfish industry. And we feel that action should be taken to follow up on the report.

We would suggest that this committee continue to pursue this matter, particularly in implementing the report. The reason we say that is that I think many of the problems, particularly legislative problems and so on, are problems that stem from different acts that fall within the jurisdiction of this committee and that this committee has interest in.

We would certainly want to work very closely with the committee. What this comes down to is that we would assist the committee in developing an outline of the key recommendations in the report. This outline could then be sent, perhaps, by the committee to different agencies involved, to industry and so on, and ask their views on some of these key recommendations so that we could sort out which ones can be dealt with now, which ones would require some legislative change, and what the degree of funding might be for some of these key recommendations.

Then we would suggest that public hearings be held so that the different Federal agencies, States and the industry could comment specifically on actions that might be taken. That would then lay a base for any legislation that may be needed.

We can see the executive branch taking a look at forming an interdepartmental molluscan shellfish task group that would take a look particularly at research and development at the Federal level and how that might be better coordinated and how we could do a better job in that area.

So, generally, those are some of the actions that we would like to suggest to the committee for its consideration.

Thank you very much.

Mr. Bauman [presiding]. Mr. Slavin, I want to apologize to you for the lack of attendance today. We did not know when we scheduled this briefing that our chairman was going to have to conduct two hearings today and it is a day when the leadership decided there would be no rollcall votes taken in the House. And that diminishes the numbers attending. So I appreciate your coming to brief us, and I also appreciate the cooperation that you have given to my office.

I have a few questions. I do not think there is any question about the value of your study so far as a summary of the current problems facing the shellfish industry is concerned, but the recommendations are rather broad in scope. I think you recall that the genesis of this study was a specific set of regulations proposed by the Food and Drug Administration, which would have literally destroyed much of the oyster and clam industry that I know of in my area, and would probably have a similar effect in other coastal States.

I was surprised to read on the first page of the summary that a specific effort had been made to avoid comment on the national shellfish safety program since it was under revision by the FDA. Why was that determination made? Why did you not think that those proposals fell into a category of one of the major problems facing the industry?

I have read the law, and I understand that it could be interpreted narrowly and broadly, but it seems to me, given the history of this amendment, that is the main reason we asked you to study this.

Mr. SLAVIN. I understand H.R. 7153, which was the earlier bill—

Mr. BAUMAN. Yes.

Mr. SLAVIN. It did have a section to evaluate the effectiveness of the national shellfish sanitation program. I understand that particular section was removed.

Since that was removed and since the charge was along the lines that I have indicated—to make a comprehensive review of all aspects of the shellfish industry and take a look at the impact of Federal law—we did not specifically evaluate the shellfish sanitation program.

I might also indicate that we had, previous to this particular report, as an agency, filed a number of very specific comments on the shellfish sanitation program regulations that were proposed at that time by the Food and Drug Administration.

Mr. Bauman. But, on the basis of the deletion of the earlier charge, you felt there was no necessity to comment at this point on the regulation

Mr. SLAVIN. That is correct. And based on the fact that we had already commented on the regulations, we did not deal with them in this report.

Mr. BAUMAN. I would just suggest from my viewpoint that it is a little bit disappointing that that part of the problem that the industry faces is not addressed because I think, in a comprehensive review, the law requires that you take the proposed regulations into account.

You say one of the major areas of the problem is Federal law and regulation, yet you have not commented on the specific regulations that gave rise to the report.

Let me ask you this. The second section of the law, section (b), forbade the Food and Drug Administration to issue regulations prior to June 30, and also it required that 60 days prior to the promulgation of the regulations that the Secretary of Commerce would be consulted by the Secretary of Health, Education, and Welfare, and there were two specific analyses to be covered. One was economic regulation and the other was the cost-benefit ratio.

Have you been in touch with the Food and Drug Administration? I am informed it may now be in the General Counsel's office.

Mr. SLAVIN. There was confidential review in June 1976. We have given FDA comments on the regulations. They have not been in touch with us relative to any economic impact analysis of the regulations, so we have not received any economic impact anlysis although, as stated in here, we should receive such analysis from them soon.

I understand that they are preparing an analysis. However, they want use some of the information in these reports as a base.

Mr. BAUMAN. I think it would be a terrible waste of money and time if the Food and Drug Administration does not avail itself of the work that you have done. It certainly would be a misunderstanding of the intention of the Members of Congress who shepherded this legislation through 1½ years ago.

Mr. SLAVIN. I might comment, Mr. Bauman, and I certainly would not attempt to speak for the Food and Drug Administration, but I did talk to the Acting Director of the Bureau of Foods last week. He indicated to me that certainly the intent, as far as you are concerned

of having any regulations very closely reviewed and going out for comment would be fully met. As far as our working relationships, our general feeling is that they certainly have been very cooperative in listening to the comments that we have suggested.

Mr. BAUMAN. But there has been no specific contact as required by section (b) of the law?

Mr. SLAVIN. Only informal. There has been no formal economic impact for us to review in this time frame as indicated in section (b). I would anticipate, certainly before any regulations are published, that it would come about.

Mr. BAUMAN. You seem to indicate that the duplication caused by State and Federal regulation in the laws is a major problem. We know that well. You are not suggesting in your report any sort of Federal preemption of State law or regulation to the extent that there would be only one body of rules covering the shellfish activity?

Mr. SLAVIN. No, I am certainly not suggesting any Federal preemption.

Mr. BAUMAN. Does counsel have any questions?

Mr. MANNINA. Joe, your study makes a suggestion as to the need to develop adequate financing, taking note of the need of available capital.

Are you specifically proposing a Federal assistance program via loans or some other form of assistance?

Mr. SLAVIN. In our discussions on that, we really had not gotten much more specific than that. One of the next steps that would be done in a program to strengthen the shellfish industry would be to look into sources of capital that might be available from other agencies, States, or banks and then to define the need for a specific financial assistance program.

Mr. MANNINA. Is it your conclusion the private sector lacks the available capital to undertake the expansion that may be necessary?

Mr. SLAVIN. I think that our ability to support that with some hard facts is very difficult. But one of the reasons it came out in this report was that in talking to people it was certainly one of the problems that faces the fishing industry.

Mr. MANNINA. Do you have additional background information on that point, which is not contained in the documents, which you can submit for the record?

Mr. SLAVIN. No, we do not. What we have in here came mostly from personal interviews.

Mr. MANNINA. With respect to market development, you can make the same statement, there needs to be an increased focus on that.

Do you have specific recommendations with respect to weaknesses in the market developing programs and what should be done?

Mr. SLAVIN. No. Again this particular document dealt with a broad look at the entire problem.

One of the next steps would be to develop a program cooperatively with the industry that would point out specifically certain areas that need to be addressed. There are certain examples that I could talk about. I think one example involves oysters where perhaps there is more emphasis on processed products than might be needed, where the stress has been, for the most part, on fresh and frozen oysters. That is one area.

With mussels where there is a lack of general product demand, this would be an area of some attention. But this is what we hope to develop in any further implementation.

Mr. MANNINA. In the course of your survey, did you undertake a review of existing market development programs in the private sector as to their effectiveness and in the National Marine Fisheries Service market development program?

Mr. SLAVIN. We did not.

Mr. MANNINA. You also make reference to the fact that some management programs are necessary to control harvesting. Are you suggesting the need for limited access systems in the shellfish industry?

Mr. SLAVIN. I think in certain areas the implication is there, that certainly it may be very desirable.

Mr. MANNINA. Could you be more specific as to which segments of the shellfish industry that might be appropriate?

Mr. SLAVIN. No. I think, really, in all fairness, what we were looking at is that limited entry may be desirable in certain areas and certain industries and that in particular the States ought to take a look at management plans. But I am really not at a point where I could come down hard and say it ought to be this industry or that one, but I think that the need for management seems quite evident.

Mr. MANNINA. You also make reference to the fact that under the Fish and Wildlife Coordination Act (FWCA) that you lack necessary resources to implement your responsibilities.

Do you have any estimate of manpower and monetary resources that would be necessary to provide that?

Mr. SLAVIN. I think we could provide that for the record.

[The following was received for the record:]

PERMIT ACTIVITIES FUNDS AND MANPOWER

The NMFS cannot at this time provide an exact estimate of funds and manpower needed for permit activities. The FY78 budget as passed by the Congress included 21 positions and $906,000 to supplement the NMFS Habitat Protection Program.

The workload under the FWCA is always of course at the initiative of the permitting agency based on public requests for permits. Performance by the permitting agencies (Corps, EPA, Coast Guard) as conditioned by a variety of factors influences the demand for responses by NMFS at any given time.

Mr. MANNINA. In your view, municipal sewage discharge from sewage plants seems to be critical to maintain water quality. Is that a firm recommendation of your report that we must move forward to insure that there is the best possible treatment for sewage?

Mr. SLAVIN. Yes. That was certainly one of the major problems that we found.

Although the prohibited areas have not been increasing as much as they have been in the past, they still are increasing at a significant rate, and some attention to waste treatment plants in this whole area of municipal treatment would certainly directly affect and benefit the molluscan shellfish industry.

Mr. MANNINA. The pollutants being discharged into marine waters where shellfish is being grown, do you consider the municipal sewage to be the primary pollutant?

Mr. SLAVIN. Yes.

Mr. MANNINA. What steps have been undertaken to create the interagency committee you made reference to a moment ago?

Mr. SLAVIN. Really, no steps, at this time. We wanted to sort this out with the committee and get some comments from the committee.

Mr. MANNINA. With respect to a question that Mr. Bauman asked you, have you done any analysis to assure the relationship between FDA's water quality regulation or program and the economic benefits to the shellfish industry?

Mr. SLAVIN. You mean relative to FDA's shellfish sanitation program?

Mr. MANNINA. Yes.

Mr. SLAVIN. We have done no benefit analysis. We have commented on the details of their regulation in some depth, and we understand that HEW will do that, and we will comment on that.

Mr. MANNINA. Thank you.

Mr. EVERETT. Joe, why did you exclude scallops from this study?

Mr. DRESSEL. Scallops are not included in the NSSP for two reasons. Normally they are not consumed whole. It is just the muscle, which is normally not eaten raw.

The original thrust was to examine the NSSP and those industries affected by it. We had a confirmation from the committee that scallops would be excluded.

Mr. EVERETT. Gentlemen, I think the impression one would get from your remarks is that you are asking Congress to work with you on developing a shellfish program. We had hoped that the Commerce Department would propose legislation to accomplish the purposes you seek. We would be glad to work with you in this regard.

We have an aquaculture bill going forward which will solve a lot of the problems which you mentioned before. I was just wondering, in view of what you said, if Commerce would be amenable to going forward in the form of legislative recommendations to overcome these different problems that you have mentioned here?

Mr. SLAVIN. I think there are certain areas where Commerce could definitely come forward with certain recommendations, particularly, I think, those that deal with improving the Fish and Wildlife Coordination Act and in working with the Department of Interior.

Mr. EVERETT. As you know, the Interior Department worked out a Memorandum of Understanding with the Corps of Engineers about 7 or 8 years ago as to how they would function on each application under the Fish and Wildlife Coordination Act. We have asked you people in the past to do the same.

Have you, at this point, entered into a memorandum of understanding with the corps with respect to your role regarding applications for permits submitted under the Fish and Wildlife Coordination Act?

Mr. SLAVIN. I do not know. I think they are working with that. I cannot attest to it here.

Mr. EVERETT. You raised this problem in your report, and yet I know that the counsel of this committee has asked you people a number of times to get involved regarding applications for permits under the Fish and Wildlife Coordination Act.

We would hope a memorandum, similar to the one with the Interior Department, would be forthcoming. This would get you involved in the process that you have to go through with respect to these permits.

[The following was submitted:]

MEMORANDUM OF UNDERSTANDING BETWEEN SECRETARY OF INTERIOR AND SECRETARY OF ARMY

We presume that you are referring to the Memorandum of Understanding between the Secretary of the Interior and the Secretary of the Army dated July 13, 1967. It provides guidance concerning the manner in which the two agencies cooperate in handling of Corps of Engineers permits.

The Section 13 permits of the Corps as referred to in that agreement are now, of course, reflected in the NPDES program of the EPA and the 404 permit program of the Corps, both pursuant to PL 92–500.

On the matter of a NMFS Memorandum of Understanding with the Corps, NMFS negotiated for some time in 1973 and 1974 seeking a three-way agreement with the FWS and the Corps covering permit handling. In 1974 the F&WS suggested that the NMFS go its own way in negotiating with the Corps, so we were not successful in securing any cooperative agreement involving Interior.

We have not negotiated with the Corps for such an agreement but we have working arrangements with the Corps which provide us with procedures essentially comparable to those spelled out in the Interior-Army agreement of 1967. We are full fledged participants in the Corps permit program and Table 12 of the Water Quality Report will show the substantial number of Corps' permits on which NMFS performs each year. The NMFS role is recognized in the Corps regulations. By letter of June 6, 1973, Chairman Dingell and Reuss asked the Secretary of Commerce to respond on every NPDES permit. By letter of June 14, 1973, Acting Secretary of Commerce Tabor replied that this would be done. The reference material provided to the Senate Commerce Committee provides detailed breakdowns on this performance.

U.S. SENATE,
COMMITTEE ON COMMERCE,
Washington, D.C., December 6, 1976.

Hon. ELLIOT RICHARDSON,
Secretary of Commerce,
Department of Commerce, Washington, D.C.

DEAR SECRETARY RICHARDSON: During the 94th Congress, the Senate Committee on Commerce had pending before it S. 1727, legislation to strengthen the administration of the Fish and Wildlife Coordination Act (FWCA).

Inasmuch as action on the bill was not completed, the Committee is currently preparing for reintroduction of, and for hearings on, a similar measure early in the 95th Congress. Therefore, I would like to request your assistance in providing me with the following information concerning implementation of the Act by the National Marine Fisheries Service (NMFS).

FUNDING AND STAFF

(1) What offices, divisions, or officials of NMFS are directly engaged in implementing the Fish and Wildlife Coordination Act?

(2) Does NMFS conduct FWCA activities in all areas of the country? (i.e., all 50 states, the Great Lakes, inland water, etc.).

(3) For each of the fiscal years 1971–1976, please provide the number of staff and the amount of funding utilized by NMFS for administration and implementation of the Act. Please provide this breakdown according to regional and central offices.

(4) Please identify other environmental assessment activities not directly related to implementation of the Act which are conducted by the staff identified in number three above. (e.g., review of environmental impact statements under the National Environmental Policy Act, budget planning activities, etc.) Please approximate the total amount of time spent on each of these other functions.

(5) When testifying on proposed amendments to the Act before the House Subcommittee on Fisheries and Wildlife Conservation and the Environment on July 11, 1974, Mr. Dave Wallace, Associate Administrator for Marine Resources

(NOAA) recognized the need for some 267 positions and $7 million to deal with FWCA duties in FY '74. However, at that time the resources available to NMFS for this purpose was about 200 positions and several million dollars less.

(a) What is your current workload as compared to the FY '74 workload in terms of projects and permits which must be reviewed?

(b) What is your estimate of funds and manpower needed by NMFS to handle the FY 1977 FWCA workload?

(c) Have you received sufficient staff and funding to bring this program up to a full performance level? If not, what is the current deficit?

(6) (a) Has NMFS requested transfer funds from the Corps of Engineers or other agencies since FY '74 for activities under the Coordination Act? If so, how much and from whom?

(b) Has NMFS received any transfer funds for FMCA activities from the Corps of Engineers or other agencies since that time? If so, how much and from whom?

(c) Would it be possible to effectively utilize such transferred funds if adequate personnel were not available? Could adequate personnel be obtained if transfer funds were available?

COORDINATION WITH OTHER AGENCIES

(1) Which Federal permitting and licensing agencies, and which Federal construction agencies does NMFS coordinate with during implementation of the Fish and Wildlife Coordination Act?

(2) Both the National Marine Fisheries Service and the Fish and Wildlife Service in the Department of the Interior are charged with administering and implementing the Fish and Wildlife Coordination Act.

(a) To what extent do the functions of the two agencies overlap? To what extent do they differ?

(b) What scientific capability in marine resource and environmental matters does NMFS hold that is different from that of the Fish and Wildlife Service?

(c) What efforts have been made to provide for cooperative, supportive or supplemental study reporting on projects so as to minimize overlapping or duplication of effort between the two agencies?

(3) To what extent do local offices of the Service and NMFS currently coordinate on project studies? To what extent does NMFS currently coordinate its study efforts with the states?

PERMIT REVIEW

(1) How many permit notices, by type and agency, has NMFS received for review and comment in each region in each Fiscal Year 1971 through 1976?

(2) How many Federal construction projects and/or Federal licenses has NMFS received for review and comment in each region each Fiscal Year 1971 through 1976?

(3) Has NMFS been able to fulfill its responsibilities with respect to reviewing each of these permits, licenses or projects? If not, what percentage were you able to review? How were the others handled?

(4) Can you provide me with representative samples of NMFS reports on the various types of permits, licenses and projects handled under the Coordination Act?

(5) Has NMFS prepared issue papers or other program analysis documents for Coordination Act programs? Please provide copies if available.

(6) To what extent does the Environmental Impact Statement prepared under the National Environmental Policy Act fulfill Coordination Act functions in terms of projects, permits, etc. to which the Act applies?

I would appreciate your responses to the above questions at your earliest convenience, but not later than January 31, 1977.

With best wishes.

Sincerely yours,

WARREN G. MAGNUSON,
Chairman.

MAY 2, 1977.

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

DEAR MR. CHAIRMAN: This is in response to your letter of December 6, 1976, concerning implementation of the Fish and Wildlife Coordination Act (FWCA) by the National Marine Fisheries Service (NMFS) of the National Oceanic and Atmospheric Administration (NOAA). Answers to the questions presented in your letter are addressed in the enclosure.

The Department is moving to discharge our responsibilities under this important law. Our proposed FY 1978 budget provides additional resources for the FWCA program. It is our intention to further implement this program. We see this program as part of our overall fisheries management responsibilities and hope eventually to fulfill the recommendations expressed in A Marine Fisheries Program for the Nation.

Thank you for the opportunity to provide these comments. If we may be of further assistance, please do not hesitate to ask.

Sincerely,

ROBERT M. WHITE,
Administrator.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION NATIONAL MARINE FISHERIES SERVICE

(Response to Senator Warren G. Magnuson, Chairman, Senate Commerce Committee Concerning Implementation of the Fish and Wildlife Coordination Act)

INTRODUCTION

The following material is in response to a request from the Senate Commerce Committee, dated December 6, 1976, concerning implementation of the Fish and Wildlife Coordination Act (FWCA) by the National Marine Fisheries Service (NMFS).

Page numbers are keyed to the category of the question in the letter (F—Funding and Staff; C—Coordination with Other Agencies; P—Permit Review). The category designation is followed by the question number in that category, and the page of the NMFS response to that question. Thus, page F–4–2 refers to question 4 under Funding and Staff, second page of the NMFS response to that question.

Funding and Staff.—(1) What offices, divisions, or officials of NMFS are directly engaged in implementing the Fish and Wildlife Coordination Act?

Each of the five Regional Offices, including nine field offices, and the Central Office of NMFS has an Environmental Assessment staff with a responsibility for implementing the Fish and Wildlife Coordination Act (FWCA). In addition, fisheries research conducted by the fifteen NMFS Fisheries Centers and Laboratories contributes significantly in support of the Environmental Assessment staff. This interrelationship of fisheries research and management had been strengthened by the 1976 reorganization of NMFS, which included the combining of environmental assessment and scientific services at the Central Office level. Research coordination is accomplished in the field by Regional Office staff working with the Fisheries Centers to identify research efforts which support environmental assessment requirements.

Funding and Staff.—(2) Does NMFS conduct FWCA activities in all areas of the country? (i.e. all 50 states, the Great Lakes, inland waters, etc.)

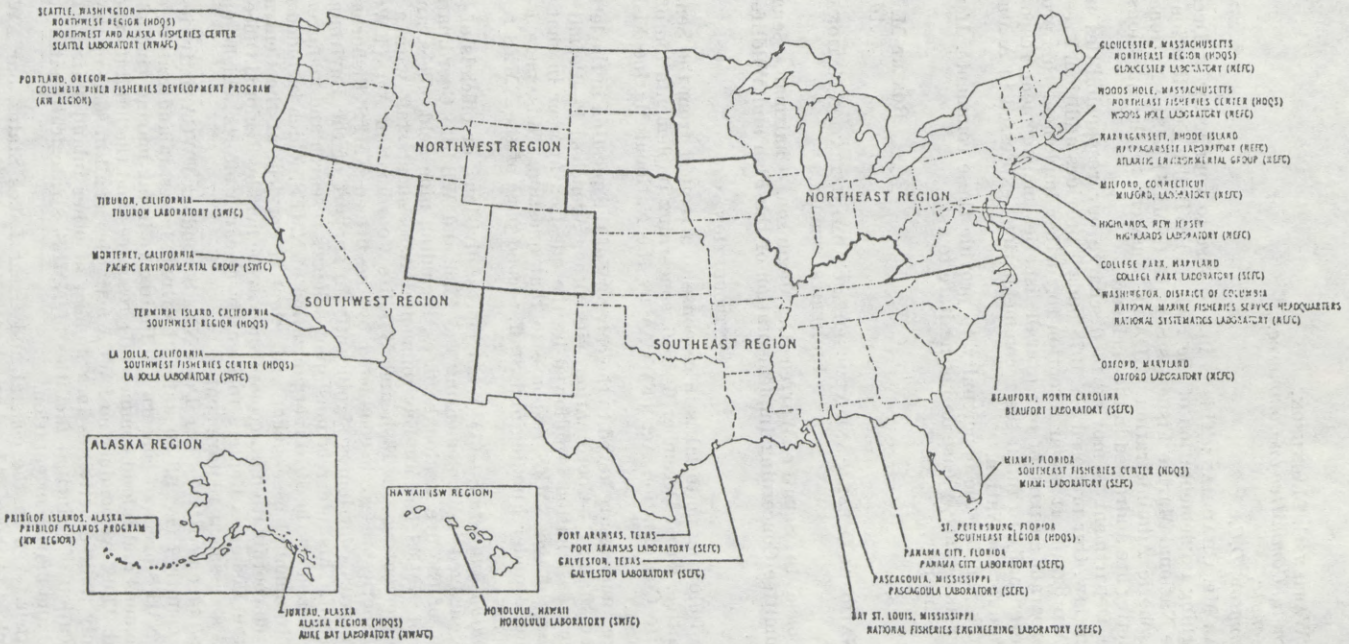
No. NMFS areas of concern are limited to living marine (including estuarine, anadromous and inland commercial) resources and the habitats upon which they depend. Thus, we conduct no FWCA activities at all in some of the inland states and only limited activities in a number of other inland states. Figure 1 shows the location of principal facilities of NMFS, strategically sited to support our coastal and marine orientation.

Further, even in the coastal and Great Lakes States, our FWCA activities are limited to those Federal and Federally-regulated activities expected to affect those resources within our area of concern. For example, we would probably not review a proposed project for dredging in a lake 50 miles from the coast which contained neither anadromous nor commercial species, but we would probably review a proposed river impoundment located 100 miles from the coast that could alter the fresh water flow into a coastal estuary.

U.S. DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

NATIONAL MARINE FISHERIES SERVICE

PRINCIPAL FACILITIES



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OCTOBER 1979

Funding and Staff.—(3) For each of the fiscal years 1971–1976, please provide the number of staff and the amount of funding utilized by NMFS for administration and implementation of the Act. Please provide this breakdown according to regional and central offices.

The allocation of resources to FWCA implementation is difficult, because other activities relate so closely. The mission of the NMFS Environmental Assessment Division (EAD) includes the conservation, restoration and enhancement of fish habitats. The EAD uses FWCA and other statutes to achieve the objectives of these goals, as stated in the Department's publication "A Marine Fisheries Program for the Nation." The FWCA is our primary mechanism for influencing decisions affecting fish habitats. Other activities contribute materially to the success of our FWCA efforts, and it is not possible to segregate these contributions with any great degree of accuracy. To give a general composite, Table I shows (a) total EAD staff and funds, (b) man-years and funds spent directly on professional FWCA work, and (c) man-years and funds spent on other work. To get a more complete picture of all time spent on FWCA activities, about 50 percent of regional secretarial/clerical time from item c above should be added. (See also the response to Question F–4.)

Other supporting staff in NMFS/NOAA/DOC also contribute to the FWCA efforts. But, staff and funding figures in Table 1 do not include such support. Scientists from NMFS research centers and laboratories also assist as consultants and expert witnesses from time to time. That assistance is difficult to estimate, and is not shown. Thus, these figures are lower than the line item in the President's budget.

TABLE 1.—NATIONAL MARINE FISHERIES SERVICE (STAFF AND FUNDING), FISCAL YEARS 1971–76—TOTAL ENVIRONMENTAL ASSESSMENT PROGRAM (FISH AND WILDLIFE COORDINATION ACT AND OTHER FUNCTIONS)

Region	Environmental assessment program		Used for fish and wildlife Coordination Act (direct implementation)		Used for other environmental assessment functions (secretarial, management, NEPA, CZ etc.)	
	Total staff (FTP and other than FTP)	Total funds (including transfers)	Staff (man-years)[1]	Funds (thousands)	Staff (man-years)[1]	Funds (thousands)
Fiscal year 1971:						
Central office	7.0	$280.0	2.0	$84.0	4.2	$196.0
Alaska	4.0	102.0	2.0	51.5	2.0	50.5
Northeast	5.0	67.4	2.9	39.4	2.1	28.0
Northwest	(3)10.0	(71.4)183.5	(3)4.7	(71.4)102.6	5.3	80.9
Southeast	3.0	60.1	1.1	22.6	1.9	37.5
Southwest	.5	15.0	.4	14.0	.1	1.0
Total	(3)29.5	[2] (71.4)708.0	(3)13.1	314.1	15.6	393.9
Fiscal year 1972:						
Central office	7.0	279.0	2.0	85.0	5.0	194.0
Alaska	4.0	114.0	2.0	52.6	2.0	61.4
Northeast	4.0	43.0	1.7	17.2	2.3	25.8
Northwest	(3)10.0	(79.5)186.0	(3)3.7	(79.5)107.1	5.3	78.9
Southeast	3.0	66.0	1.1	25.0	1.9	41.0
Southwest	2.0	20.0	1.5	17.0	.4	3.0
Total	(3)30.0	[2] (79.5)708.0	(3)12.0	(79.5)303.9	16.9	404.1
Fiscal year 1973:						
Central offiice	14.0	250.0	3.0	52.5	10.0	197.5
Alaska	6.0	145.0	3.0	72.1	3.0	72.9
Northeast	13.0	129.0	6.5	64.5	6.5	64.5
Northwest	(3) 13.0	(81.6) 211.0	(3) 3.7	(81.6) 62.1	8.3	148.9
Southeast	10.0	174.0	4.0	69.6	6.0	104.4
Southwest	3.0	60.0	1.7	48.0	1.0	12.0
Total	(3) 59.0	[2] (81.6) 969.0	(3) 21.9	(81.6) 368.8	34.8	600.2

TABLE 1.—NATIONAL MARINE FISHERIES SERVICE (STAFF AND FUNDING), FISCAL YEARS 1971–76—TOTAL ENVIRONMENTAL ASSESSMENT PROGRAM (FISH AND WILDLIFE COORDINATION ACT AND OTHER FUNCTIONS—Continued

Region	Environmental assessment program		Used for fish and wildlife Coordination Act (direct implementation)		Used for other environmental assessment functions (secretarial, management, NEPA, CZ, etc.)	
	Total staff (FTP and other than FTP)	Total funds (including transfers)	Staff (man-years)[1]	Funds (thousands)	Staff (man-years)[1]	Funds (thousands)
Fiscal year 1974:						
Central office	16.0	321.0	3.0	64.2	11.0	256.8
Alaska	9.0	180.5	3.0	131.6	5.0	48.9
Northeast	14.0	197.5	7.0	99.0	7.0	98.5
Northwest	(3) 12.0	(85.5) 222.7	(3) 2.7	(85.5) 69.0	9.3	153.7
Southeast	16.0	286.0	7.7	150.0	7.3	136.0
Southwest	4.0	82.2	2.5	67.2	1.2	15.0
Total	(3) 71.0	(85.5) 1,289.9	(3) 24.9	(85.5) 581.0	40.8	708.9
Fiscal year 1975:						
Central office	19.0	338.0	3.2	57.5	14.5	280.5
Alaska	[3] 13.0	[3] 437.5	6.4	152.4	6.5	285.1
Northeast	15.0	261.4	5.8	104.5	9.2	156.9
Northwest	(3) 13.0	(92.4) 256.2	(3) 4.5	128.1	7.6	128.1
Southeast	16.0	288.6	8.9	167.3	6.6	121.3
Southwest	5.0	96.3	3.0	57.7	1.8	38.6
Total	(3) 81.0	(92.4) 1,678.0	(3)31.8	667.5	46.2	1,010.5
Fiscal year 1976 (excludes "T" period):						
Central office	19.0	381.0	3.2	60.9	14.1	320.1
Alaska	[3] 14.0	[3] 422.3	7.0	189.0	7.0	233.3
Northeast	15.0	312.8	5.8	125.5	9.2	187.3
Northwest	(3) 15.0	(101.4) 31.07	(3) 5.5	170.9	7.6	139.8
Southeast	18.0	353.2	8.9	186.6	8.1	166.6
Southwest	6.0	130.5	3.2	78.3	2.0	52.2
Total	[4] (3) 87.0	[4] (101.4) 1,910.5	(3) 33.6	811.2	48.0	1,099.3

[1] Man-years will not add up to total staff in all cases because of unfilled positions for short periods, etc.
[2] Includes $275,000 transfers from BSFW.
[3] Includes Alaska region TAPS transfers ($199,500, in fiscal year 1975; $163,000 in fiscal year 1976) which funded 3 positions and will not continue in through fiscal year 1977.
[4] Includes positions and funds (8/$280,000) for review of proposed State coastal zone programs.

Note: Numbers in parenthesis are from Fish Facilities Section, Columbia River Program Office, and are primarily involved in environment assessment for FWCA work, but are not included in total.

Funding and Staff.—(4) Please identify other environmental assessment activities not directly related to implementation of the Act which are conducted by the staff identified in number three above. (e.g., review of environmental impact statements under the National Environmental Policy Act, budget planning activities, etc.). Please approximate the total amount of time spent on each of these other functions.

Other environmental assessment activities not directly related to implementation of the Act in FY 1976 amounted to 58.5 percent (48 man-years) of the total staff resources identified in Table 1 F–3. Other environmental assessment activities conducted by this staff can be categorized as follows for FY 1976:

Activity	Estimated distribution of staff time[1]	
	Percent	Man-years
(a) Coastal Zone Management Act, related	9.0	7.5
(b) National Environmental Policy Act, related	10.0	8.1
(c) Administrative/Managerial/Secretarial/Clerical	18.5	14.9
(d) Other staff activities	14.0	11.6
Total	58.5	48.6

[1] Does not include the fiscal year 1976 transition quarter (July 1–Sept. 30) for comparison purposes with previous years.

(*a*) Coastal Zone Management Act-related activities in support of the Office of Coastal Zone Management are largely through review and comment, of proposals, reports and other documents related to proposed state coastal zone programs, and on proposed estuarine and marine sanctuaries. Staff work also includes review of procedures, regulations and guidelines, and preparation of technical assistance documents, etc.

(*b*) National Environmental Policy Act-related activities consist largely of review and comment on draft environmental impact statements prepared by other agencies, but also have included preparation of procedures for NMFS to use in writing EIS's, review of other procedures, guidelines, etc., and regular assistance to other agencies seeking fisheries inputs to the EIS's.

(*c*) Administrative/Managerial and Secretarial/Clerical are largely self-explanatory. They include planning and budget activities, internal reports, program review and evaluation, and other program support functions.

(*d*) A variety of other activities contribute substantially to fish habitat protection, but are not considered to be direct FWCA activities. They are primarily staff functions, and include: preparation of legislative reports; presentation of briefings; review or development of regulations, policy documents and guidelines; review of technical documents; special studies (e.g., a shellfish study under Section 16 of the Coastal Zone Management Act Amendments of 1976, and a Council on Environmental Quality offshore nuclear power plant study); participation on interagency committees and involvement in technical consultations with conservation organizations, industry, other Federal and State agencies; negotiation of agreements and memoranda of understanding; responding to specific requests for information; coordinating research needs; and others. Many of these activities are carried out by the Central Office staff, although considerable responsibility and authority is delegated to the Regions in these matters. Additional activities specific to the Regional Office level are: participation in comprehensive water resource studies; trans-Alaska pipeline monitoring; oil spill contingency and response teams; and coordination with states and with regional or district offices of other Federal agencies.

Funding and Staff.—(5) When testifying on proposed amendments to the Act before the House Sub-committee on Fisheries and Wildlife Conservation and the Environment on July 11, 1974, Mr. David Wallace, Associate Administrator for Marine Resources (NOAA) recognized the need for some 267 positions and $7 million to deal with FWCA duties in FY 1974. However, at that time the resources available to NMFS for this purpose was about 200 positions and several million dollars less.

(*a*) What is your current workload as compared to the FY 1974 workload in terms of projects and permits which must be reviewed?

(*b*) What is your estimate of funds and manpower needed by NMFS to handle the FY 1977 FWCA workload?

(*c*) Have you received sufficient staff and funding to bring this program up to a full performance level? If not, what is the current deficit?

The current and FY 1974 workload in terms of number of permits, projects, etc., are shown in Table 2. As explained in the response to Question F–4, permits and projects constitute only a portion of the NMFS habitat protection workload, the totality of which includes many nonquantifiable items. Estimates of funding and staff requirements include the needs of many of these other items because the discharge of those functions is so closely related to successful performance of FWCA functions that they cannot be realistically separated. This combination of program responsibilities allows us to be more effective advocates of fish habitat protection measures than would reliance on the FWCA alone. Nevertheless, we consider the FWCA to be the most effective single leverage available for accomplishing this goal.

The program currently has 87 positions for the FY 1977. There is a request in the FY 78 budget submission to the Congress for 21 positions and $906K. We hope eventually to meet the recommendations expressed under Goal 2 of A Marine Fisheries Program for the Nation.

Thus, the Department is moving to raise the FWCA program to a full performance level. The current staff and funding for the total environmental assessment program has increased since 1971, as shown in Table 1, (Question F–3), but has not kept pace with FWCA demands. Staff and funding increases since 1974 have been allocated to handle the added workload created by the Coastal Zone Management Act, the trans-Alaska pipeline project and outer continental shelf oil and gas development, and to blend research efforts with habitat protection efforts.

Funding and Staff.—(6) (a) Has NMFS requested transfer funds from the Corps of Engineers or other agencies since FY 1974 for activities under the Coordination Act? If so, how much and from whom?

Yes. In a May 28, 1976 letter to Lt. General William L. Gribble, Jr., Chief of Engineers, NMFS requested transfer of funds of $585,000 for fisheries studies in FY 1978 under Section 2(e) of the Fish and Wildlife Coordination Act.

(6) (b) Has NMFS received any transfer funds for FWCA activities from the Corps of Engineers or other agencies since that time? If so, how much and from whom?

No. NMFS has received transfer funding from the Corps of Engineers from time to time for special biological studies for particular Corps needs, for example the nitrogen gas problem associated with Columbia River dams. However, none of these have been for FWCA activities.

(6) (c) Would it be possible to effectively utilize such transferred funds if adequate personnel were not available? Could adequate personnel be obtained if transfer funds were available?

The greater portion of the $585,000 requested from the Corps for FY 1978 would be used to fund specific, project-related research at NMFS Fisheries Research Centers for work designed to improve the content and quality of NMFS inputs to the Corps' water resources decision-making process. Adequate personnel, equipment and expertise are either available at NMFS Research Centers or can be effectively subcontracted from outside research groups under Center monitoring and guidance. In addition, base funding increases in the Environmental Assessement program have not kept pace with the increased costs of operations. The efficiency and productivity of the program could be improved with transfer funding for investigation of Corps projects.

Coordination with Other Agencies.—(1) Which Federal permitting and licensing agencies, and which Federal construction agencies does NMFS coordinate with during implementation of the Fish and Wildlife Coordination Act?

Coordination with other Federal agencies is normally conducted at the Regional Office level. However, Central Office coordination also occurs for resolution of conflicts, setting policy and for interagency participation in matters of mutual interest. NMFS has regular contact with the following agencies:

Federal construction and management agencies:
- Corps of Engineers (CE)
- Bureau of Reclamation (BR)
- Soil Conservation Service (SCS)
- Energy Research and Development Administration (ERDA)
- Forest Service (FS)
- Bureau of Land Management (BLM)
- Fish and Wildlife Service (FWS)
- Bureau of Outdoor Recreation (BOR)
- Environmental Protection Agency (EPA)
- Alaska Power Administration (APA)
- Economic Development Administration (EDA)
- Housing and Urban Development (HUD)
- Bonneville Power Administration (BPA)

Federal licensing agencies:
- Nuclear Regulatory Commission (NRC)
- Federal Power Commission (FPC)
- Department of Transportation (DOT)

Permit agencies:
- Corps of Engineers (CE)
- Environmental Protection Agency (EPA)
- U.S. Coast Guard (CG)
- Federal Highway Administration (FHWA)
- U.S. Geological Survey (GS)

Table 2 illustrates the typical interagency contact accomplished by NMFS, the types of projects which necessitate this coordination, and the relative degree of involvement. Close coordination must be maintained with these agencies during the planning and development stages of Federally-supported projects. Also, commenting on proposed Federal permits or licenses to be issued by many of these agencies to private developers is a most important aspect of our activities because of the large number of permit applications, and the potential individual or cumulative impacts of the permitted activities.

TABLE 2.—INTERAGENCY COORDINATION UNDER THE FISH AND WILDLIFE COORDINATION ACT

[X=Major interface, 0=Minor interface]

Agency	Type of activity												
	Dredge and fill	Dam construction	Hydro	Irrigation	Flood control	Municipal and industrial water	Navigation	Drainage (channelization)	Waste disposal	Thermal power	Road constructon	Lodging and related	Petroleum exploration and development
Federal agencies:													
Department of the Interior	X		X	X	X	0	X	X					
FWS	X		X	X	X	0	X	X	X	X	0	0	X
BR		X	X	X				0					
BLM			0	0				0			X	X	X
GS													X
BPA			X		0					0			
APA			X										
Department of Agriculture:													
SCS		0		0	0			X					
FS		0	0	0	0			0				X	X
Department of Defense: CE	X	X	X	0	X	0	X	X	X	0	0	0	X
Department of Transportation:													
CG							X				X		X
FHWA								X	0		X		
Environmental Protection Agency	X		X	X	0	0	0	0	X	X		X	X
Water Resources Council:													
MRBC	0	0	0	0	0	0	0						
PNWRBC	0	X	X	X	X	0	X			X			
GLRBC	0	X	X	0	X	0	X			X			
UMRBC	0	0	0	0	0	0	0			X			
DRBC	0	X	X	0	X	0	X			X			
ORBC	0	X	X	0	X	0	X			X			
NERBC	0	X	X	0	X	0	X			X			
SRBC	0	X	X	0	X	0	X						
Federal Power Commission		X	X		X								
Department of Housing and Urban Development	0					0		0	0				
Nuclear Regulatory Commission									X				
State agencies:													
National resources	X		X	X	X	X	X	X	X	X	X	X	X
Pollution control	X		0	0		0			X	X		X	X
Universities	0		0	0					0			0	0

ACRONYM KEY FOR RIVER BASIN COMMISSIONS

MRBC—Missouri River Basin Commission.
NWRBC—Pacific Northwest River Basin Commission.
GLRBC—Great Lakes River Basin Commission.
UMRBC—Upper Mississippi River Basin Commission.
DRBC—Delaware River Basin Commission.
ORBC—Ohio River Basin Commission.
NERBC—New England River Basin Commission.
SRBC—Susquehanna River Basin Commission.

Coordination with Other Agencies.—(2) Both the National Marine Fisheries Service and the Fish and Wildlife Service in the Department of the Interior are charged with administering and implementing the Fish and Wildlife Coordination Act.

(2) (a) To what extent do the functions of the two agencies overlap? To what extent do they differ?

The NMFS has mandated responsibilities for certain anadromous fish and living marine resources, commercial freshwater fish and certain classes of marine mammals, while FWS is primarily responsible for wildlife, resident freshwater fish, and other classes of marine mammals. These agencies share interest in some resources and habitats, particularly in coastal and estuarine areas and in waters used by anadromous species. These areas are dynamic ecosystems, rich with life and complex interrelationships between invertebrates, fish, birds, mammals and man. Thus, it is not uncommon for both agencies to review an application for a permit where anadromous and living marine resource (for which NMFS is responsible) and birds, wildlife and resident freshwater fish (for which FWS is responsible) are found to exist.

However, this overlapping interest in resources and habitats should not be mistaken with overlapping of agency functions and responsibilities.

These different mandates occasionally lead to differing positions on specific projects. For example, an opportunity for fishery enhancement may result in NMFS supporting a project in order to achieve the fishery benefits (an example is Bumping Lake Project, Yakima River Basin, Washington). However, the Fish and Wildlife Service may oppose such a project because of expected wildlife losses. Such a situation can exist because fish are not always affected by development in the same way as wildlife. Similar situations occasionally exist in permit activities.

(2) (b) What scientific capability in marine resource and environmental matters does NMFS hold that is different from that of the Fish and Wildlife Service?

The National Marine Fisheries Service has a scientific capability which is different from that of the the Fish and Wildlife Service. In the offshore, marine coastal and estuarine areas, NMFS biological expertise is recognized to be predominant. The FWS has environmental assessment personnel, but lacks NMFS' research capabilities in marine, estuarine and anadromous fisheries. Staffed with professional teams trained in the fields of chemistry, ecology, systematics, oceanography, physiology, biometrics, engineering, and related fields, and supported by sophisticated analytical equipment, as well as NOAA's fleet of research vessels, the NMFS Fisheries Centers are involved in research projects on ocean pollution, fisheries management, marine ecosystems, aquaculture and fish diseases. Research at the NMFS Centers provides support to our FWCA activities in areas of immediate environmental concern. Designated researchers collate environmental data on coastal problems and assist FWCA personnel on specific issues. Additionally, NMFS personnel at the field level are kept at the peak of expertise by constant involvement in National, State, and other workshops, and by regular contact with colleagues at NMFS research centers.

Under the Mitchell Act, NMFS administers the Columbia River Fisheries Development Program which funds 21 hatcheries, 500 irrigation diversion screens, about 70 fish ladders, coordinates anadromous fish activities of State and Federal agencies, and does research along the entire Pacific Coast to determine the economic effectiveness of the program. NMFS has a long established protectionist role for anadromous fish, particularly along the Pacific Coast where the majority of salmon are caught in marine recreational and commercial fisheries. This expertise further strengthens the FWCA activities of NMFS, and lends credence to the economic justification of our recommendations. Furthermore, engineers of the Fish Facilities Section of this program are active throughout the Nation on anadromous fish passage design and screening problems. NMFS engineers in the Northwest and Alaska work extensively on FWCA activities and are involved in the preparation of recommendations for Federal licenses, permits, construction, and planning activities affecting anadromous fish and living marine resources. Biologist-engineer teams are particularly effective in negotiating with developmental groups when it is necessary to challenge the engineering advice of these developers.

(2) (c) What efforts have been made to provide for cooperative, supportive or supplemental study reporting on projects so as to minimize overlapping or duplication of effort between the two agencies?

The FWS receives considerable transfer funds from Federal construction agencies, such as the Corps of Engineers, to write environmental reports. In marine and coastal areas, much of the baseline study work for marine organisms has already been done by NMFS, so the FWS does not have to initiate such studies, but merely uses existing data from NMFS. This also applies to projects other than Federal construction projects. Furthermore, joint on-site investigations of proposed projects are complementary, and are not duplicative when separate agency reports reflect each agency's responsibilities. Interagency meetings with the representatives of the States, the FWS and the Corps are frequently held to facilitate the processing of permits or to provide agency recommendations on permit violations.

In a joint Declaration of Policy, March 5, 1974, (attached following) FWS and NMFS Directors recognize shared responsibilities and pledged to require close coordination throughout both agencies. This document is the basis for all cooperative field activities of NMFS.

DECLARATION OF POLICY

The National Marine Fisheries Service and the Bureau of Sport Fisheries and Wildlife share many responsibilities imposed by law with respect to the protection, conservation, development and management of certain fish and wildlife resources and consequently recognize that there is a need for a close working relationship between both organizations in order to meet these responsibilities. Each agency has unique capabilities which can be of assistance to and complement the efforts of the other agency and in this regard it is further recognized that there is a greater need for improved coordination, closer than that which has existed in the past.

As Directors of these agencies, in order to achieve the foregoing, we pledge to work closely together in matters of mutual interest. This policy is not limited to the directorate level, but is intended to apply throughout all levels of both agencies. Where formal memoranda of understanding in given program areas of mutual interest are necessary, such specific memoranda will be executed as soon as possible. Programs such as endangered species, water resources, marine mammals, and anadromous fish, will no doubt require such memoranda. In order to assure that this Declaration of Policy is understood and the need for its success appreciated, Regional Directors of both agencies will be directed to carry out this policy in the regions by, among other things, distributing copies of this document to all affected employees and explaining the reason for its execution.

Coordination with Other Agencies.—(3) To what extent do local offices of the Service and NMFS currently coordinate on project studies? To what extent does NMFS currently coordinate its study efforts with the states?

The NMFS field offices coordinate all project studies and reviews with the concerned FWS office and the appropriate state fish and wildlife agencies when significant impacts are considered a possibility. NMFS personnel, on a daily basis, coordinate by telephone, make joint site investigations and provide FWS offices and state fish and wildlife agencies with copies of final project reports.

Permit Review.—(1) How many permit notices, by type and agency, has NMFS received for comment and review in each region in each FY 1971 through 1976?

(2) How many Federal construction projects and/or Federal licenses has NMFS received for review and comment in each region each FY 1971 through 1976?

(3) Has NMFS been able to fulfill its responsibilities with respect to reviewing each of these permits, licenses, or projects? If not, what percentage were you able to review? How were the others handled?

Data are not available for FY 1971 and FY 1972 because office management was in a transition stage. The present monthly reporting procedure was adopted in FY 1973 and records are available from that time forward.

In reviewing the volume of public notices for permits, licenses and Federal projects since FY 1973, the data indicate a steady increase in Corps of Engineers permit applications from 8,076 to 14,625 in FY 1976. EPA draft permits under the National Pollutant Discharge Elimination System (NPDES) reached a peak of 30,071 in FY 1974, and declined steadily thereafter to 9,697 in FY 1976. Federal projects fluctuate slightly, but average approximately 400 per year. Other permits, e.g. ocean dumping (EPA and Corps), bridges and causeways (USCG), and geophysical exploration (USGS), have increased steadily from 132 in FY

1973 to 337 in FY 1976. The NMFS detailed responses to the permit applications, licenses and projects have increased from 3,492 in FY 1973 to 5,721 in FY 1976. However, in FY 1976 we were only able to respond to 71 more notices than in FY 1975. The leveling off of our response capability reflects level funding of this program area since FY 1974. This information is summarized in Table 3.

In reporting the type of response to a FWCA activity, 4 categories are used, as follows: a) in-depth analysis, b) moderate handling, c) minimal handling, and d) no manpower or funds. These categories are defined in footnotes to Table 3. Both "in-depth analysis" and "moderate handling" require first-hand knowledge of the project area and the proposed alteration. A "no manpower or funds" response is essentially a form letter stating that we cannot investigate a proposed activity due to insufficient manpower or funds.

Many of the "Minimal handling" reports involve projects or areas with which the reviewer is familiar, yet the proposal does not necessitate a more detailed review because of the expected insignificant effect of the work. Consequently, a form letter response with standard conditions may be used in such a situation.

The NMFS has not totally fulfilled its responsibilities in regard to review of these permits, licenses, or projects. Although we have responded in nearly every instance, limited staffing allows time to prepare only general recommendations to many of the applicants; in many instances, detailed recommendations cannot be developed. Often, other agencies either lack the expertise or may be unable to make this expertise available to present fisheries' recommendations on behalf of NMFS. This situation puts NMFS and permitting or construction agencies in a sensitive position when fisheries plans are not adequately prepared. In most NPDES permit reviews, we respond with letters stating that we lack manpower or funding to assess the adequacy or effect of these permits. Detailed review occurs only on those permits which we consider to have high potential impact on the habitat and resources for which we are responsible.

TABLE 3.—TREATMENT OF NMFS FWCA WORKLOAD BY TYPE OF RESPONSE FOR ALL REGIONS FISCAL YEARS 1973 THROUGH 1976 (NO DATA AVAILABLE FOR FISCAL YEARS 1971 AND 1972)

Activity	Fiscal year 1973					Fiscal year 1974				
	Number received	Indepth analysis (1) percent 3.6	Moderate handling (2) percent 26.9	Minimal handling (3) percent 32.4	No manpower or funds (4) percent 36.9	Number received	Indepth analysis (1) percent 2.7	Moderate handling (2) percent 10.3	Minimal handling (3) percent 7.6	No manpower or funds (4) percent 79.1
COE permits (sec. 10, 404)	8,076	313	2,823	3,433	1,507	11,069	824	3,896	3,186	3,163
NPDES permits	2,758	6	35		2,717	30,071	130	189		29,752
Other permits	132	33	84	15		159	82	57	7	13
NRC and FPC licenses	7	6	1			31	26	5		
Federal projects	456	55	136	265		386	100	175	6	105
Total	11,429	413	3,079	3,713	4,224	41,716	1,162	4,322	3,199	33,033

(1) An "indepth analysis" involves: through knowledge of the biotic system aflected, which may be gained through site visits and literature searches; study and understanding of the design and effects of the proposed alteration; coordination with all concerned States, Federal agencies, and others; and filing of a written analysis. Appearances at public hearings and in court may be required.

(2) "Moderate handling" requires lesser eflort than "indepth analysis", but still requires first-hand knowledge of the area affected and of the proposed alteration. Typically, the size of the project is smaller, design specifications more routine, and coordination is required with fewer other parties. Public hearings and court appearances are not required.

(3) This portion of the workload is treated in 1 of several ways: screened out as not requiring response; given cursory review and responded to with a form letter; or, no action may be taken. The number of kinds of workload items which are handled in these ways varies among regions, depending on such factors as the numbers of States and Federal agencies in the region, variation in level of cooperation among interested parties, and social and economic importance of fisheries resources.

(4) NMFS responds with a letter to issuing agency advising of "no manpower or fun for review. Cases so treated are not viewed as having been adequately screened.

TABLE 3.—TREATMENT OF NMFS FWCA WORKLOAD BY TYPE OF RESPONSE FOR ALL REGIONS FISCAL YEARS 1973 THROUGH 1976

Activity	Fiscal year 1975					Fiscal year 1976 [1]				
	Number receved	Indepth analysis (1) percent 2.4	Moderate handling (2) percent 12.5	Minimal handling (3) percent 12.9	No manpower or funds (4) percent 72.0	Number receved	Indepth analysis (1) percent 3.8	Moderate handling (2) percent 19.0	Minimal handling (3) percent 22.2	No manpower or funds(4) percent 54.
COE permits (sec. 10, 404)	11,548	605	3,591	4,851	2,501	14,624	683	4,110	5,492	4,339
NPDES permits	25,581	13	952	3	24,613	9,697	12	493		9,192
Other permits	223	62	91	35	35	337	91	103	54	89
NRC and FPC licenses	20	13	7			15	11	4		
Federal projects	417	220	96	11	90	332	164	50	6	112
Total	37,789	913	4,737	4,900	27,239	[2] 25,005	961	4,760	5,552	13,732

[1] Does not include fiscal year 1976 (T) period (July–September 1976).
[2] This drop from previous years may reflect a failure to receive all public notices.

TABLE 4.—TREATMENT OF NMFS FWCA WORKLOAD BY TYPE OF RESPONSE FOR NORTHEAST REGION, FISCAL YEARS 1973 THROUGH 1976

(No data available for fiscal years 1971 and 1972)

Activity	Fiscal year 1973					Fiscal year 1974				
	Number received	Indepth analysis (1)	Moderate handling (2)	Minimal handling (3)	No manpower or funds (4)	Number received	Indepth analysis (1)	Moderate handling (2)	Minimal handling (3)	No manpower or funds (4)
COE permits (sec. 10, 404)	2,513	233	726	47	1,507	4,021	550	1,706	0	1,763
NPDES permits	535	6	10	0	511	8,652	69	0	0	8,580
Other permits	9	9	0	0	0	69	30	22	7	15
NRC and FPC licenses	3	3	0	0	0	21	21	0	0	0
Federal projects	16	16	0	0	0	115	15	20	0	80
Total	3,076	267	744	47	2,018	12,878	685	1,748	7	10,483

(1) An "indepth analysis" involves: thorough knowledge of the biotic system affected, which may be gained through site visits and literature searches; study and understanding of the design and effects of the proposed alteration; coordination with all concerned states, Federal agencies, and others; and filing of a written analysis. Appearances at public hearings and in court may be required.

(2) "Moderate handling" requires lesser effort than "indepth analysis," but still requires first-hand knowledge of the area affected and of the proposed alteration. Typically, the size of the project is smaller, design specifications more routine, and coordination is equired with fewer other parties. Public hearings and court appearances are not required.

(3) This portion of the workload is treated in 1 of several ways: Screened out as not requiring response; given cursory review and responded to with a form letter; or, no action may be taken. The number of kinds of workload items which are handled in these ways varies among regions, depending on such factors as the numbers of States and Federal agencies in the region, variation in level of cooperation among interested parties, and social and economic importance of fisheries resources

(4) NMFS responds with a letter to issuing agency advising of "no manpower or funds" available for review. Cases so treated are not viewed as having been adequately screened.

TABLE 4.—TREATMENT OF NMFS FWCA WORKLOAD BY TYPE OF RESPONSE FOR NORTHEAST REGION FISCAL YEARS 1973 THROUGH 1976

Activity	Fiscal year 1973					Fiscal year 1974				
	Number received	Indepth analysis (1)	Moderate handling (2)	Minimal handling (3)	No manpower or funds (4)	Number received	Indepth analysis (1)	Moderate handling (2)	Minimal handling (3)	No manpower or funds (4)
COE permits (sec. 10, 404)	4, 176	434	1, 731	471	1, 540	5, 013	365	2, 006	0	2, 642
NPDES permits	15, 394	7	29	0	15, 361	4, 206	6	22	0	4, 178
Other permits	12	12	0	0	0	134	60	33	0	41
NRC and FPC licenses	10	6	4	0	0	4	4	0	0	0
Federal projects	135	28	18	8	81	162	31	27	6	98
Total	19, 727	484	1, 782	479	16, 982	9, 519	466	2, 088	6	6, 959

[1] Does not include fiscal year 1976 (T) period (July –September 1976).

TABLE 5.—TREATMENT OF NMFS FWCA WORKLOAD BY TYPE OF RESPONSE FOR SOUTHEAST REGION FISCAL YEARS 1973 THROUGH 1976 (NO DATA AVAILABLE FOR FISCAL YEARS 1971 AND 1972)

Activity	Fiscal year 1973					Fiscal year 1974				
	Number received	Indepth analysis (1)	Moderate handling (2)	Minimal handling (3)	No manpower or funds (4)	Number received	Indepth analysis (1)	Moderate handling (2)	Minimal handling (3)	No manpower or funds (4)
COE permits (sec. 10, 404)	4,119	33	700	3,386		5,451	46	821	3,186	1,398
NPDES permits	2,114	0	0	0	2,114	19,140	2	0	0	19,138
Other permits	20	2	3	15		6	1	2	0	3
NRC and FPC licenses	0	0	0	0	0	0	0	0	0	0
Federal projects	395	20	110	265		175	26	118	6	25
Total	6,648	55	813	3,666	2,114	24,772	75	941	3,192	20,564

(1) An "indepth analysis" involves: Thorough knowledge of the biotic system affected, which may be gained through site visits and literature searches; study and understanding of the design and effects of the proposed alteration; coordination with all concerned States, Federal agencies, and others; and filing of a written analysis. Appearances at public hearings and in court may be required.

(2) "Moderate handling" requires lesser effort than "indepth analysis", but still requires first-hand knowledge of the area affected and of the proposed alteration. Typically, the size of the project is smaller, design specifications more routine, and coordination is required with fewer other parties. Public hearings and court appearances are not required.

(3) This portion of the workload is treated in 1 of several ways: Screened out as not requiring response; given cursory review and responded to with a form letter; or, no action may be taken The number of kinds of workload items which are handled in these ways varies among regions, depending on such factors as the numbers of States and Federal agencies in the region, variation inlevel of cooperation among interested parties, and social and economic importance of fisheries resources.

(4) NMFS responds with a letter to issuing agency advising of "no manpower or funds" available for review. Cases so treated are not viewed as having been adequately screened.

TABLE 5.—TREATMENT OF NMFS FWCA WORKLOAD BY TYPE OF RESPONSE FOR SOUTHEAST REGION, FISCAL YEARS 1973 THROUGH 1976

Activity	Fiscal year 1973					Fiscal year 1974				
	Number received	Indepth analysis (1)	Moderate handling (2)	Minimal handling (3)	No manpower or funds (4)	Number received	Indepth analysis (1)	Moderate handling (2)	Minimal handling (3)	No manpower or funds (4)
COE permits (sec. 10, 404)	5, 845	49	464	4, 371	961	7, 601	192	226	5, 492	1, 691
NPDES Permits	6, 328	0	0	0	6, 328	3, 600	0	0	0	3, 600
Other permits	82	4	8	35	35	94	6	9	31	48
NRC and FPC licenses	0	0	0	0	0	0	0	0	0	0
Federal projects	213	143	61	0	9	110	87	9	0	14
Total	12, 468	196	533	4, 406	7, 333	11, 405	285	244	5, 523	5, 353

[1] Does not include fiscal year 1976 (T) period (July–September 1976).

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TABLE 6.—TREATMENT OF NMFS FWCA WORKLOAD BY TYPE OF RESPONSE FOR NORTHWEST REGION FISCAL YEAR 1973 THROUGH FISCAL YEAR 1976 (NO DATA AVAILABLE FOR FICSAL YEARS 1971 AND 1972)

Activity	Fiscal year 1973					Fiscal year 1974				
	Number received	Indepth analysis (1)	Moderate handling (2)	Minimal handling (3)	No manpower or funds (4)	Number received	Indepth analysis (1)	Moderate handling (2)	Minimal handling (3)	No manpower or funds (4)
COE permits (sec. 10, 404)	860		860			870		870		
NPDES permits	92				92	1,776		5		1,771
Other permits	4		4			6		6		
NRC and FPC licenses	3	3				3	3			
Federa projects	14	14				15	15			
Total	973	17	864		92	2,670	18	881		1,771

(1) An "indepth analysis" involves: thorough knowledge of the biotic system affected, which may be gained through site visits and literature searches; study and understanding of the design and effects of the proposed alteration; coordination with all concerned States, Federal agencies, and others; and filing of a written analysis. Appearances at public hearings and in court may be required.

(2) "Moderate handling" requires lesser effort than "indepth analysis", but still requires first-hand knowledge of the area affected and of the proposed alteration. Typically, the size of the project is smaller, design specifications more routine, and coordination is required with fewer other parties. Public hearings and court appearances are not required.

(3) This portion of the workload is treated in one of several ways: screened out as not requiring response; given cursory review and responded to with a form letter; or, no action may be taken. The number of kinds of workload items which are handled in these ways varies among regions. depending on such factors as the numbers of States and Federal agencies in the region, variation in level of cooperation among interested parties, and social and economic importance of fisheries resources.

(4) NMFS responds with a letter to issuing agency advising of "no manpower or funds" available for review. Cases so treated are not viewed as having been adequately screened.

TABLE 6.—TREATMENT OF NMFS FWCA WORKLOAD BY TYPE OF RESPONSE FOR NORTHWEST REGION FISCAL YEARS 1973 THROUGH 1976

Activity	Fiscal year 1973					Fiscal year 1974				
	Number received	Indepth analysis (1)	Moderate handling (2)	Minimal handling (3)	No manpower or funds (4)	Number received	Indepth analysis (1)	Moderate handling (2)	Minimal handling (3)	No manpower or funds (4)
COE permits (sec. 10, 404)	764		764			960	41	919		
NPDES permits	2,603				2,603	1,271				1,271
Other permits	3		3			4		4		
NRC and FPC licenses	5	5				6	6			
Federal projects	22	22				24	24			
Total	3,397	27	767		2,603	2,265	71	923		1,271

[1] Does not include fiscal year 1976 (T) period (July–September 1976).

Activity	Fiscal year 1973					Fiscal year 1974				
	Number received	Indepth analysis (1)	Moderate handling (2)	Minimal handling (3)	No manpower or funds (4)	Number received	Indepth analysis (1)	Moderate handling (2)	Minimal handling (3)	No manpower or funds (4)
Coe permits (sec. 10, 404)	450	31	419			431	30	401		
NPDES permits						185	1	184		
Other permits	75	919	56			13	6	7		
NRC and FPC licenses	1		1			3	0	3		
Federal projects	9	5	4			19	15	4		
Total	535	55	480			651	52	599		

(1) An "indepth analysis" involves: Thorough knowledge of the biotic system affected, which may be gained through site visits and literature searches; study and understanding of the design and effects of the proposed alteration; coordination with all concerned States, Federal agencies, and others; and filing of a written analysis. Appearances at public hearings and in court may be required.

(2) "Moderate handling" requires lesser effort than "indepth analysis", but still requires first-hand knowledge of the area affected and of the proposed alteration. Typically, the size of the project is smaller, design specifications more routine, and coordination is required with fewer other parties. Public hearings and court appearances are not required.

(3) This portion of the workload is treated in 1 of several ways: Screened out as not requiring response; given cursory review and responded to with a form letter; or, no action may be taken. The number of kinds of workload items which are handled in these ways varies among regions, depending on such factors as the numbers of States and Federal agencies in the region, variation in level of cooperation among interested parties, and social and economic importance of fisheries resources.

(4) NMFS responds with a letter to issuing agency advising of "no manpower or funds" available for review. Cases so treated are not viewed as having been adequately screened

TABLE 7.—TREATMENT OF NMFS FWCA WORKLOAD BY TYPE OF RESPONSE FOR SOUTHWEST REGION, FISCAL YEARS 1973 THROUGH 1976

Activity	Fiscal year 1973					Fiscal year 1974				
	Number received	Indepth analysis (1)	Moderate handling (2)	Minimal handling (3)	No manpower or funds (4)	Number received	Indepth analysis (1)	Moderate handling (2)	Minimal handling (3)	No man ower or funds (4)
COE permits (secs. 10, 404)	511	38	473			673	35	638		
NPDES permits	927	4	923			459	1	458		
Other permits	13	3	10			6		6		
NRC and FPC licenses	3		3			1		1		
Federal projects	24	18	6			23	18	5		
Total	1,478	63	1,415			1,162	54	1,108		

[1] Does not include fiscal year 1976 (T) period (July–September 1976).

TABLE 8.—TREATMENT OF NMFS FWCA WORKLOAD BY TYPE OF RESPONSE FOR ALASKA REGION FISCAL YEARS 1973 THROUGH 1976

[No data available for fiscal years 1971 and 1972]

Activity	Fiscal year 1973					Fiscal year 1974				
	Number received	Indepth analysis (1)	Moderate handling (2)	Minimal handling (3)	No manpower or funds (4)	Number received	Indepth analysis (1)	Moderate handling (2)	Minimal handling (3)	No manpower or funds (4)
COE permits (sec. 10, 404)	134	16	118			296	198	98		
NPDES permits	17		17			318	58			260
Other permits	24	3	21			65	45	20		
NRC and FPC licenses						4	2	2		
Federal projects	22		22			72	39	33		
Total	197	19	178			755	342	153		260

[1] An "indepth analysis" involves: Thorough knowledge of the biotic system affected, which may be gained through site visits and literature searches; study and understanding of the design and effects of the proposed alteration; coordination with all concerned States, Federal agencies, and others; and filing of a written analysis. Appearances at public hearings and in court may be required.

[2] "Moderate handling" requires lesser effort than "indepth analysis," but still requires firsthand knowledge of the area affected and of the proposed alteration. Typically, the size of the project is smaller, design specifications more routine, and coordination is required with fewer other parties. Public hearings and court appearances are not required.

[3] This portion of the workload is treated in 1 of several ways: Screened out as not requiring response; given cursory review and responded to with a form letter; or, no action may be taken. The number of kinds of workload items which are handled in these ways varies among regions, depending on such factors as the numbers of States and Federal agencies in the region, variation in level of cooperation among interested parties, and social and economic importance of fisheries resources.

[4] NMFS responds with a letter to issuing agency advising of "no manpower or funds" available for review. Cases so treated are not viewed as having been adequately screened.

TABLE 8.—TREATMENT OF NMFS FWCA WORKLOAD BY TYPE OF RESPONSE FOR ALASKA REGION, FISCAL YEARS 1973 THROUGH 1976

Activity	Fiscal year 1973					Fiscal year 1974				
	Number received	Indepth analysis (1)	Moderate handling (2)	Minimal handling (3)	No manpower or funds (4)	Number received	Indepth analysis (1)	Moderate handling (2)	Minimal handling (3)	No manpower or funds (4)
COE permits (secs. 10, 404)	252	84	159	9	----	377	50	321	----	6
NPDES permits	329	5	----	3	321	161	5	13	----	143
Other permits	113	43	70	----	----	99	25	51	23	----
NRC and FPC licenses	2	2	----	----	----	4	1	3	----	----
Federal projects	23	9	11	3	----	13	4	9	----	----
Total	719	143	240	15	321	654	85	397	23	149

[1] Does not include fiscal year 1976 (T) period (July–September 1976).

PERMIT REVIEW

(4) Can you provide me with representative samples of NMFS reports on the various types of permits, licenses, and projects handled under the Coordination Act?

Attached are copies of NMFS reports on the following:

Permits:
(a) Captain's Cove, VA.
(b) Westport River, Westport, MA.
(c) St. Martins River, MD.
(d) Cedar Island Beach, NY.
(e) Marion Station, MD (unauthorized activity).
(f) Subtidal Investigations in Kelp Bay and Cosmos Cove, AK.

Licenses:
(a) Conowingo Project No. 405, MD (FPC Relicense).
(b) Takatz Creek and Green Lake, AK.
(c) Hells Canyon Project No. 1971, ID & OR.

Projects:
(a) Chesapeake & Delaware Canal Maintenance Dredging, MD.
(b) Bumping Lake Enlargement, WA.
(c) Carlton Division, Willamette River, OR.
(d) Cedar River Flood Control Project, WA.
(e) Holley Project, Calapooia River Basin, OR.

Area Assessments:
(a) An assessment of Marine and Anadromous Fish and Marine Mammals in the Beaufort Sea and Potential Resource Use Conflicts Resulting from Oil and Gas Development, AK.
(b) Resource Report on the Aquatic Habitat at the Proposed Log Transfer Sites for the AL&P 5-year Timber Harvest (1976–1981), AK.
(c) Investigations of Estuarine Resources, Etolin, Zarembo and Wrangell Islands, AK.
(d) Some effects of Log Dumping on Estuaries, AK.

PERMIT REVIEW

(5) Has NMFS prepared Issue Papers or other program analysis documents for Coordination Act programs? Please provide copies if available.

In July 1976, the Secretary of Commerce released a document titled "A Marine Fisheries Program for the Nation." A copy is enclosed. The report is in two parts—the first being the Department's "National Program for Marine Fisheries" and the second being the appendix prepared by NMFS, titled a "National Plan for Marine Fisheries". Part 2 of the Departmental program declares as a National goal, the need to "Conserve, restore, and enhance fish habitat" (p. 6). Recommendation 2 of the appended National Plan discusses NMFS' habitat protection goals including those under FWCA, stating we will attempt to "Reverse the downward trends in quantity and quality of fish habitats by minimizing further losses and degradation of these habitats, restoring and enhancing them where possible, and establishing protected areas where necessary, while recognizing other compatible essential uses of fish habitat areas" (p. 37). The problems and issues affecting fish habitat areas, and the recommended plan for meeting the problems are analyzed and discussed, including amendment of the Fish and Wildlife Coordination Act. In addition, we are currently working on an Implementation Plan for Recommendation 2, and a National Habitat Protection Program Development Plan which will be the basis for budget development. We would be happy to make these documents available to you as they are completed.

PERMIT REVIEW

(6) To what extend does the Environmental Impact Statement prepared under the National Environmental Policy Act fulfill Coordination Act functions in terms of projects, permits, etc. to which the Act applies?

We do not believe that Environmental Impact Statements prepared under NEPA fulfill (or are a substitute for) Coordination Act functions. We do, however, view our activities under these two Acts as mutually supportive and reinforcing in attaining habitat protection goals.

However, the cases which have addressed the NEPA/FWCA issue have not reached conclusions of broad applicability. In anticipation of such conclusions, it is the NMFS position that preparation of an environmental impact statement under NEPA does not fulfill FWCA functions and requirements. Attached is a reprint of an article titled "The Matched Pair—National Environmental Policy Act, and the Fish and Wildlife Coordination Act" by Robert L. Schueler of NMFS which also addresses this question. The author concludes that the Acts are complementary, and maximum benefits to natural resources will result from the use of FWCA in project planning, and the use of NEPA to obtain input prior to the agency's final decision making process. Further, NEPA is applicable to major Federal actions, and thus many small projects do not have impact statements prepared on their anticipated effects.

Mr. SLAVIN. This deals with perhaps the role of the committe vis-a-vis the role of the administration, but we thought that it would be helpful to work together, particularly in those areas where Commerce does not have that much jurisdiction, with implementation, for example, of the Federal Water Pollution Control Act, and other areas like that, since the whole molluscan shellfish problem tends to involve so many different agencies. We felt that the committee could help by having some hearings to help in the implementation process. So it was not really that we wanted to get out of any basic responsibility, but that we thought we could probably accomplish more in the long run by working together.

Mr. EVERETT. I am sure the committee will cooperate in that regard.

Do you know at what stage we are with respect to HEW's final regulations that they are promulgating?

Mr. SLAVIN. In the discussions that I had last week, they are still in-house and they are being worked on in the Bureau of Foods. When they are promulgated, everybody will be given plenty of notice for comment and the time frame as to promulgation.

You have to get that from the Food and Drug Administration. I just could not get a definite date.

Mr. EVERETT. They have not consulted with you even though section 16 requires them to do at least 60 days prior to the promulgation of final regulations. In this regard, it says the Secretary, in consultation with the Secretary of Commerce, shall provide an analysis of economic impact and the cost of the program with respect to the benefit's to be achieved.

Let me ask you this, when does the promulgation process start or when does it conclude? Is it your opinion that when the regulations are just published in the Federal Register that that is the time the Federal regulatory process starts, or does it start at the end of the closing date for comment?

Mr. SLAVIN. Our interpretation was not to promulgate final regulations.

Mr. EVERETT. They have not published any proposed final regulations at this time?

Mr. SLAVIN. That is correct.

Mr. EVERETT. Then, we are talking about several months down the road?

Mr. SLAVIN. Probably several months down the road.

Mr. EVERETT. Then during the 60-day period prior to proposed final regulations, you will be consulted and you will cooordinate with Food and Drug prior to the regulations going forward?

Mr. SLAVIN. Yes.

Mr. EVERETT. One other question, on page 4 of the report you say "molluscan shellfish can be harvested only from waters which, in fact, must meet quality standards more rigid than those acceptable for swimming."

Did Commerce develop an opinion at that time that those regulations should be relaxed so that shellfish will not be subject to standards more stringent than for swimming.

Mr. DRESSEL. The standards we are going on were developed in 1926. At that time hepatitis was not the problem. It was typhoid.

Since we cannot identify the hepatitis virus, we use an associative test. They have given us very reliable protection for public health. However, they have never been scientifically validated to show their precise relationship to the virus.

We could have a regulation which is overprotective, and exclude resources which are safe. We do not know. We are suggesting that the criteria be evaluated scientifically in terms of the public health needs that we have today.

Mr. EVERETT. To follow up on that, your report makes specific comments about possibly the biological standards for canning being too strict.

Have you provided the background information which led to those conclusions to the Food and Drug Administration?

Mr. DRESSEL. The background information for that is the existing food industry, and the other accepted practices within other areas of the food industry.

Mr. EVERETT. So you have not done a specific analysis on shellfish. You have said since they use it everywhere else, therefore they should use it here?

Mr. DRESSEL. Yes; it is a sterilization process. The process is recognized as a sterilization technique. Our raw product, whether it is canned, or consumed raw, has to meet the criteria that are very high across the board.

Mr. EVERETT. Did you do a survey of food processing in other industries?

Mr. DRESSEL. Not a survey; we contacted people who are familiar with canning practices, have technical backgrounds, and are experts in food technology.

Mr. SLAVIN. We have discussed this area with the Food and Drug Administration. They recognize a need for some cooperative studies.

Mr. EVERETT. Those are all the questions I have.

We look forward to working with Commerce in its development of legislation to accomplish the purposes we seek here today. The sooner we get started, the better.

Mr. SLAVIN. Thank you.

We have copies of this brief for the committee members, if they are interested.

Mr. EVERETT. Thank you.

Mr. BAUMAN. Thank you.

[Whereupon, at 11:37 a.m., the subcommittee adjourned, subject to the call of the Chair.]

ANTARCTIC FISHERIES AGREEMENT

THURSDAY, OCTOBER 13, 1977

HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
SUBCOMMITTEE ON FISHERIES AND WILDLIFE
CONSERVATION AND THE ENVIRONMENT,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:25 a.m., in room 1334 Longworth House Office Building, Hon. Robert L. Leggett (chairman) presiding.

Mr. LEGGETT. The meeting of the Subcommittee on Fisheries and Wildlife Conservation and the Environment will please come to order.

This morning the subcommittee will meet to obtain a briefing by the Department of State and the Department of Commerce on the negotiation of a new international agreement for the management of the marine resources of the Antarctic.

We understand that the 13 Antarctic Treaty countries agreed during their recent consultative meeting in London to negotiate a new fishery agreement for the Antarctic as soon as possible. Ambassador Brewster, who headed the U.S. delegation to this meeting, has been reported as calling this agreement "unique" and an encouraging development for environmentalists.

The orderly exploitation of the marine resources of the southern seas around Antarctica is of special interest to the subcommittee. Scientific management of the ocean resources in this area, particularly krill, might increase the world's food supply significantly. Overexploitation of krill, on the other hand, might not only destroy a potentially valuable food resource, it could jeopardize the survival of the great whales and other marine life which depend on krill for food.

In view of this, and in view of the fact that the subcommittee is presently considering legislation intended to protect the fauna and flora of Antarctica, it was deemed appropriate to have representatives of the Departments of State and Commerce here today to brief the subcommittee concerning the possible negotiation of a new management system for the Antarctic.

I understand that Ambassador Robert C. Brewster, the Deputy Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs; and Mr. David Wallace, Associate Administrator for Marine Resources, and Tucker Scully of NOAA, are here to brief the subcommittee this morning.

Gentlemen, we are very pleased to welcome you both before the subcommittee. Mr. Ambasador, you can make your presentation first, or in conjunction with Mr. Wallace, or whatever associates you care to.

STATEMENT OF HON. ROBERT C. BREWSTER, DEPUTY ASSISTANT SECRETARY OF STATE FOR OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS, ACCOMPANIED BY TUCKER SCULLY, OFFICE OF OCEANS AND FISHERIES AFFAIRS, AND DAVID WALLACE, ASSOCIATE ADMINISTRATOR FOR MARINE RESOURCES, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Ambassador BREWSTER. Thank you, Mr. Chairman.

It is a pleasure to be here. I am accompanied by Mr. Tucker Scully of the Office of Oceans and Fisheries Affairs of the Department.

The meeting of the Antarctic consultative parties which concluded in October 7, agreed on a recommendation with respect to Antarctic marine living resources. This recommendation was unanimously adopted by the 13 consultative parties.

The recommendation's highlight is that it provided that "a definitive regime for the conservation of Antarctic marine living resources should be concluded before the end of 1978."

The recommendation goes on to specify some interim guidelines for the conservation of Antarctic marine living resources until the regime is arrived at and to provide for a special consultative meeting to be called—the dates were subsequently set for February 27 through March 17 in Canberra—for the 13 consultative parties to work out the draft outlines of a convention, to decide on the participation of other States in the conference which would deal with the draft convention, and to decide, as well, on the participation of appropriate international organizations in the conference. The subsequent conference would try to draw up a definitive convention governing the marine living resources of the Antarctic.

From our point of view, the action of the consultative parties reflected the new awareness that now exists among the parties of both the importance and the urgency of dealing now, before the problem is urgent, with conserving Antarctic Marine living resources.

We were pleased, Mr. Chairman, with the results of the meeting, and think that it has been a useful step. We are now beginning to focus on the more specific plans for a negotiation of a draft convention in February-March of next year.

Mr. LEGGETT. Very good.

Now, I was talking to the Soviet Fishing Minister the other day, down in North Carolina, the one attached to our Soviet Embassy here, and he indicated that the Soviets at this time were not taking a large volume of krill, although they had taken some, and I believe he referred to 150,000 tons.

What is your information as to the volumes of krill currently being taken near Antarctica?

Ambassador BREWSTER. We have no precise information on it, Mr. Chairman, but I would think that that sort of figure would approximate our guess. We have no precise figures on catch statistics of any of the parties that are presently fishing in those waters.

Mr. LEGGETT. As I understand this little crustacean, it has a shell and it is shrimplike. Have you ever tasted krill?

Ambassador BREWSTER. No, sir, I have not.

Mr. LEGGETT. Neither have I. I do not know whether it tastes like shrimp or not.

All right, now was there any balking by the agreeing parties to the convention on this subject matter?

Ambassador BREWSTER. No, there was not, Mr. Chairman. There was a legitimate difference of opinion within the group about how the conservation regime should be undertaken, but it was a difference about method rather than substance.

There were consultative parties which initially preferred that the Antarctic Treaty conservative parties, the 13, act themselves by way of agreed recommendations to deal with the subject.

It was our view, and the view of the majority of the consultative parties, that this approach would be inadequate. In the first place, it would only cover the area covered by the Antarctic Treaty, namely 60 degrees south.

Second, it would not involve all of the countries which are fishing there, or have legitimate interests in the area. Third, it probably would take longer, due to the rather lengthy process that is required for the Antarctic Treaty consultative parties to formally adopt a recommendation. I think the view of the majority was accepted, and though we specifically had to avoid the use of the word "conference" in the recommendation, it is perfectly clear and understood by all 13 consultative parties that after this initial drafting session there will be a conference, to which other countries will be invited, to act on a convention.

Mr. LEGGETT. Was there any discussion as to how this conference might impact on the recommendations of the IWC?

Ambassador BREWSTER. No, sir, not to my knowledge.

The proposed regime would not apply to species which are already regulated, and there was a statement to that effect in the recommendation, which stated that "the regime should not apply to species already regulated pursuant to existing international agreement, but should take into account the relationship of such species to those species covered by the regime."

Mr. LEGGETT. Was there any discussion as to the extent of current commercial fishing from 60 degrees south latitude?

Ambassador BREWSTER. May I defer to Mr. Scully on that, Mr. Chairman?

Mr. LEGGETT. Mr. Scully.

Mr. SCULLY. Thank you, Mr. Chairman.

The extent of commercial fishing, or the prospect of commercial fishing, was obviously the fact which I think most motivated the consultative parties to a common view that action is needed to establish a framework within which commercial harvesting can take place in a rational fashion, in accordance with sound conservation practices.

There is, however, some difference, in view, as to whether commercial harvesting, as such, has actually been initiated, or whether one is still in the phase of exploratory harvesting, where essentially those fishermen are still trying to prove the techniques, the methods, the locating gear, et cetera, for taking the resource.

I might add that there has been, in the past, fishing in this area, fishing in the Antarctic waters, for things other than krill, on a fairly significant scale for those waters, particularly by the Soviets. But with regard to krill, I think one could say that the nations involved are essentially in still the final exploratory phase.

Commercial harvesting is just beginning, and the scale of harvesting is such that it is in sort of transition phase, from exploratory to actual commercial harvesting, at least in our view.

Mr. LEGGETT. And would you look forward to the development of a council, at least governing the activities of the 13 members, which perhaps would make recommendations on a continuing basis, much like we do with our Whaling Conferences?

Mr. SCULLY. Mr. Chairman, I think if I could continue. I think that there is a general view, and there was a unanimous view, that a commission will be required to perform a number of functions, among which would be the development and recommendation to the parties of specific measures to conserve the resources involved.

It was also agreed that in order to perform those functions, and this is one of the more important reasons for a regime, that it was necessary to have as part of the commission, a scientific body which would collect, collate and analyze data, scientific data, catch data, et cetera, on the resources involved, to provide the kind of data base which would be necessary, first to identify those stocks for which conservation measures were required, and then to develop the specific kinds of conservation measures to apply to them.

Mr. LEGGETT. Will that scientific data be collected on a country-by-country basis, or by pooling resources, employing appropriate scientific personnel?

Mr. SCULLY. Again, we did not have time to get into great detail on this subject. It was recognized, however, that various kinds of data are required.

First of all, we are still at a rather early stage in the scientific investigations of the Antarctic ecosystem as a whole. So that essentially a good deal of basic scientific information on that system, as well as its biological requirements, is required.

Now, there are cooperative scientific programs that have been initiated, specifically through the Scientific Committee on Antarctic Research. There is no biomass program, designed to study the Antarctic marine systems, and to develop a data base in terms of basic science, with regard to those systems.

So that at one level, a commission would require basic scientific information, and would require scientific personnel, at least to be able to receive and assess it, integrate it into the proper framework.

At the same time, one of the most important functions of the regime, in our view, would be to provide the obligation upon States to share catch data. Thus as activities with regard to harvesting developed, there would be a firm obligation upon harvesting States to provide

catch data, which would be reported directly to the Commission, or to the scientific body attached to the Commission. This data would also be integrated with other information into its assessment of stocks, and into the development of actual conservation measures.

Third, I think there was recognition that this Commission, or this body, would need to establish relationships with other international organizations, FAO, for instance, which have competence and functions with regard to the analysis of fishery statistics, or fishery data, on a global basis.

The IWC would be another body with which this new Commission would need to have close working cooperative associations.

Mr. LEGGETT. Mr. Forsythe?

Mr. FORSYTHE. Thank you, Mr. Chairman

There are a few areas that concern me. First, there are other nations such as Taiwan and Germany that are actually involved in a krill fishery.

Are you trying to add those nations which are not signatories to the Convention to the proposed negotiations?

Ambassador BREWSTER. Yes, sir, one of the charges to the special consultative meeting which will convene in Canberra on February 27, is to decide on those other additional States that should be invited to attend the Conference, together with appropriate international organizations. But those States have not yet been specified or decided upon. That will be done in February and March.

Mr. FORSYTHE. Second, I have a letter indicating that the actual adult krill harvest occurs north of 60 degrees south, and that brings a whole new concept into what the Antarctic region is. In view of this will the negotiations focus on harvest operations north of 60° south.

Ambassador BREWSTER. Yes, sir, that has indeed been raised, and it is one of the reasons why we and other countries felt that the final arrangements could not be accomplished solely within the Antarctic Treaty, which goes only south of that.

So the recommendation which was adopted specified that the regime should extend north of 60 south latitude, where that is necessary for effective conservation of species of the Antarctic ecosystem without prejudice to coastal State jurisdiction in that area.

But clearly, in our view, and I think in the view of the majority, if not all of the consultative parties, whatever arrangements made will in fact have to go north of 60 south.

Mr. FORSYTHE. I recognize that finding the line of the agreement is probably going to be one of the difficult issues.

Ambasador BREWSTER. It is.

Mr. FORSYTHE. It would seem to me, as regards krill if we fail to protect the adult population, we really miss the whole target.

Ambassador BREWSTER. Absolutely.

Mr. WALLACE. I would like to make a comment at this point, if I may.

We are going to have to think in terms of managing the total biomass, and obviously, that part of it north of 60° is part of that total system. There is no question in the long run that we will have to deal with this as a unit and not separately.

Mr. FORSYTHE. Not just look at geographical lines.

Ambassador BREWSTER. There is agreement on that now.

Mr. FORSYTHE. Can you indicate the specific species that would be excluded from consideration on the basis of other international agreements?

Ambassador BREWSTER. Whales and seals, the latter of which would be covered by the Convention for the Conservation of Antarctic Seals when it comes into effect.

As I indicated in my previous testimony to this committee, we are trying to encourage ratification of that Convention. We need two more adhering countries to bring it into effect. But those are the two species that would be excluded.

Mr. FORSYTHE. What about other living resources, such as birds? Are they a part of the negotiations?

Ambassador BREWSTER. Not specifically, sir, they are not.

Mr. FORSYTHE. The negotiations then are limited to the marine resources within the oceans?

Ambassador BREWSTER. Yes.

Mr. FORSYTHE. Are there mammals, other than seals and whales, and if so, where do they fit in?

Mr. SCULLY. If I could make one comment on that again, in line with what Dave said, we are looking toward the biomass as a whole, and as the citation from the recommendation indicated, the regime would be designed to provide for conservation of the ecosystem as a whole.

Now, that may not mean that there would be specific measures directed at birds, but they are obviously part of the ecosystem as a whole.

With regard to species of marine mammals, to the extent that there are species of marine mammals that are not covered by the IWC, or would not be covered by the Sealing Convention once in force, these would be covered.

And as noted, this regime would provide, it is one of the principles that has been agreed at this preliminary stage, that it must take into account relationships with species covered in other agreements.

In other words, this regime would need to establish relationships with the IWC and the Sealing Convention.

Mr. WALLACE. I think it is again the question of the whole ecosystem. There are species of seals which go north of 60° south latitude—for example, the fur seal and the elephant seal—but they are part of the system too and ultimately must be evaluated as part of the total ecosystem.

Mr. FORSYTHE. So this includes finfish, shellfish, the whole ecosystem.

Mr. WALLACE. Absolutely, and the birds must be included since they are an important part of this biomass. There have been estimates of 200 million birds, for example, as part of this total system, which is a tremendous quantity.

Mr. FORSYTHE. This is encouraging. I think the views that have been expressed are focused on the needs of the entire region.

Well, thank you.

Thank you, Mr. Chairman.

Mr. LEGGETT. Let us see, do the members have further questions? Mr. de la Garza?

Mr. DE LA GARZA. Mr. Chairman, thank you very much.

Mr. LEGGETT. Did you not attend one of these meetings?

Mr. DE LA GARZA. I was trying to join this gentleman in London, the leadership, they gave me a plane ticket and then they kept scheduling bills and I had to vote on them.

Ambassador BREWSTER. I am sorry you could not come, sir.

Mr. DE LA GARZA. I am just looking for some information.

The catches of krill by the Japanese or the Russians, did you have any information how that is being disposed of? Are the Japanese using it or are they going to come dump it on us?

Mr. SCULLY. Japan is probably the most developed market in the world for this kind of fishery product. If you are referring specifically to krill, the Japanese have, for some time, fished species which are akin to this kind of krill in the North Pacific. And so I think that they believe there is a market there for human consumption which is likely to be a fairly expansive one from their point of view.

So I think that the Japanese, although they may end up exporting, are looking for a domestic market and satisfaction of what they feel to be their critical protein needs, given the deficiencies in land-based agriculture in Japan.

Mr. DE LA GARZA. Is it not possible under the treaty, when you discuss these matters, that you would allocate either size of areas where they might exploit? Is it not possible to impose restrictions of where the catch would be disposed of?

Would that be within the confines of the treaty?

Ambassador BREWSTER. I think it would be theoretically possible, sir, for the treaty parties to agree on how that might be done. But I think, in the first instance, it would be unlikely and, second, we are now all agreed that a separate instrument apart from the treaty but supporting the treaty is required to deal with the whole problem, to go north of 60°, so that we have not favored using the treaty mechanism. And I think it is unlikely that it would be used.

Mr. WALLACE. I would like to make just one comment if I might. I think it ought to be clear that the krill, as such, is not marketed as shrimplike organisms. It is rather perishable, as a matter of fact, and unless it is processed into some kind of stable product almost immediately, it cannot be used.

The Soviets, for example, have been making it into some kind of a paste which they use, and the Japanese have been looking at it from the standpoint of a protein concentrate which they would be adding to other food. I think it is unlikely in the foreseeable future that it will be marketed in anything like what appears to be shrimp.

Mr. LEGGETT. If the gentleman will yield.

I think we are talking about the same Soviets on that issue. As I recall the Minister was talking about making a paste out of this krill and then they use it on salads much like anchovy paste. Apparently they are having a difficult time getting the Soviet homemakers to buy it.

Mr. WALLACE. It is not going over very big so far.

Mr. LEGGETT. We will have to get some to the committee and put it on chile rellenos.

Mr. DE LA GARZA. I was aware of it. But the ingenuity of our trading partners, without mentioning names, is that essentially this is a market that everyone is looking for throughout the world. No question about it. We are the market, and when you have problems in some countries where they are protein deficient, but always they look at the balance of payments and they want to get that dollar in, so whatever they can do to do that, they do not go and use it in the area for the reasons that it is needed. And I am just looking ahead because you gentlemen well know in all of our international agreements, my shrimpers and fishermen have not fared too well.

Mr. LEGGETT. We will stipulate to that, Mr. de la Garza.

Mr. DE LA GARZA. I again put in the record we have not fared too well.

Mr. LEGGETT. What you would like is a clause that you can agree to anything you want except you have to use what you take.

Mr. DE LA GARZA. You said the words, if you have a protein deficient nation, well, we will mention one, Chile. Chile is a member of the group and they are having problems in Chile with food and, supposedly, they could make a paste from krill or whatever that could be used to enhance the people of Chile.

But if they would take it to find a market here, without assisting, yes, the dollars that would come in conceivably could be used for something else.

Now, I used Chile because it is the first name that came across. I do not want to cause them any more problems than they already have. But it has nothing to do with Chile, but using it only as an example, and that would be—I would hope that you gentlemen, or whoever is going to Australia, and in the preparation and so on, would at least keep in the back of your minds that somewhere down the line we have to afford, if not just a competitive spirit, at least some degree of assurance that any harvest which we are part and parcel of would not be used, being fair, if at all possible, to the detriment of our producers that are having such a difficult time. And sometimes the international policies and the international realities are such that it is easier to give in, not give in, but it is easier to acquiesce than to stand firm. And like I told the Lady Ambassador, with the agreement with Mexico, that sometimes you need to jump on top of the table and pound the table, and this is not done in the diplomatic world, I know, but somehow, in the end, we get it.

Thank you, Mr. Chairman. I do not say this in criticism in any way but in the spirit of cooperation and hoping that we keep that in back of our minds as we go into the consultative sessions.

Ambassador BREWSTER. I will keep your concerns in mind, Congressman.

Mr. LEGGETT. All right. The members have to go vote on the conference report on the medicaid-medicare antifraud bill. I presume the vote would be aye. In the meantime, we will keep the record open and the staff can go ahead and ask additional questions concerning your meeting which, I understand, is scheduled on February 27. All right.

Mr. GUTTING. Thank you, Mr. Chairman.

Will there be an environmental impact statement prepared in connection with these new negotiations?

Ambassador BREWSTER. Yes, there will.

Mr. GUTTING. Do you have a time schedule for the issuance of the draft statement?

Ambassador BREWSTER. I do not yet. As you know, the meeting was just agreed upon a few days ago, and we will be working up the time schedule in light of that. I expect to have it fairly soon.

Mr. GUTTING. In connection with earlier hearings held by this subcommittee on the legislation to implement the agreed measures for the protection of the flora and fauna, which was submitted by the administration, there was concern expressed by various public interest groups that they have an opportunity to make their views known in connection with the development of Antarctic policy.

What mechanisms or procedures do you foresee being available to the public other than the environmental impact statement in the development of the U.S. policy for these negotiations?

Ambassador BREWSTER. I share that concern and think it is a valid one. The Department is trying to work out plans for a public advisory committee specifically on Antarctica. I am not able to say at this moment what the status of those plans is. Those are my plans and, as I understand, the plans of the Department as well.

Mr. GUTTING. I take it from your comment that you think such an advisory committee would be advisable?

Ambassador BREWSTER. I do indeed because, as I think the testimony here this morning has suggested, there is a very great deal that we do not know about this subject. "We" being the Government. We need and would welcome the information, advice, and assistance of knowledgeable public individuals and bodies on this subject.

Mr. GUTTING. The subcommittee is presently considering H.R. 7749, which would implement the agreed measures. Would these negotiations or the resulting convention affect the proposed legislation or the agreed measures in any way that the subcommittee should be aware?

Ambassador BREWSTER. To the best of my knowledge, they would not. But let me check further upon my return with our Legal Division and see if there might be some implication that has not occurred to me and, if so, I will submit it for the record. But my view as of now is that there is nothing that this eventual regime might contain, which would affect the legislation which the House has before it.

Mr. GUTTING. We would appreciate any additional comments you might have. Of course, we are very interested to know if there would be any effect, and if so, exactly what that effect would be.

Ambassador BREWSTER. Yes.

Mr. GUTTING. Has there been any interest expressed by any segment of the fishing industry in the harvest or processing of krill? Do we have an existing fishery or potential fishery that might be affected by the proposed convention?

Mr. WALLACE. First, I do not think there is an existing fishery for krill insofar as the United States is concerned. More than that, at this moment I think that there has been little real interest displayed on the part of the U.S. fishing industry to develop this kind of resource. I am not sure that they would not become more interested as they see suc-

cesses in other countries, in utilization of the product in a way that the consumer would find acceptable.

But it is our feeling that this will not be a kind of activity which will get very immediate action on the part of the U.S. industry. In fact, I am pretty positive that they will be looking at this on a long-term basis only and not moving quickly.

Mr. GUTTING. Has there been any interest expressed in the food processing sector of the fishing industry in obtaining foreign-caught krill and processing it in the United States or marketing in the United States?

Mr. WALLACE. No. Even that, I believe, has not been done, and again I think they are waiting to see what happens to the products that the Japanese and the Soviets are producing before they become involved at all.

Mr. GUTTING. Does the Department of Commerce contemplate any experimental fishing program concerning krill in the next year or two?

Mr. WALLACE. No; we have not planned any such prospects at the present time.

Mr. GUTTING. We have heard various different estimates as to exactly the size of the resource or its potential annual yield. Does the United States have a view as to what the sustainable yield might be?

Mr. WALLACE. Well, our scientists have made estimates just like the scientists for other countries in the world, and they varied from 1 million tons of krill to maybe 30, 40, or 50 million tons. As a matter of fact, the figure may even be somewhere in the area of 150 to 300 million tons. But these estimates are based upon very limited data.

I know some of our own scientists who have been looking at this feel that the biomass is very big and that the potential there is great. Dr. Lee Alverson, who is head of our fisheries center in the Pacific Northwest, feels that it is very substantially above what might be the total world catch of fish at the present time which is about 65 million tons. So there is no question about it, there is a large quantity of the resource.

Mr. GUTTING. Do the other countries involved in negotiations have a similar view as to the potential yield?

Mr. SCULLY. I think that, as Dave indicated, there are widely varying views. In the scientific community the one thing that is agreed is that there is a sizable biomass which is quite interesting, in fact, the commercial interest being demonstrated by other nations indicates an acceptance of that fact. But the estimates are basically indirect at this time, either on inferences from what whales are no longer eating due to the depletion of whale stocks, or based upon rough estimates of the components of the ecosystem as a whole. Thus there is no way of defining in real terms a specific figure as the potential.

I might add that one of the things that has become apparent, at least in the scientific discussion, is that, there is no knowledge as yet as to whether we are dealing with one stock or several stocks of krill. This would have a bearing upon how much could be harvested. There is some suspicion that there are a number of stocks rather than just one, but there may be relationships between them and the scientists are the first to admit that they do not have all of the data or all of the conceptual kinds of relationships sorted out.

Second, and I think this is a question that has been alluded to in the discussion, even with a very large biomass there are other questions relating to its availability for harvesting in terms of operating conditions in the southern ocean——

Mr. GUTTING. If I may interrupt you. That was my next question; namely, whether we have the technology available to harvest this yield, whatever it might be.

Mr. WALLACE. I think it is quite obvious that the techniques for large scale fishing are still in the developmental stage. There have been efforts to catch krill with purse seines, for example. The Soviets have developed such equipment; the Japanese have been experimenting with various techniques. I do not believe, though, at this moment that there is any one technique that would be considered the most efficient and best way to go after taking this biomass.

Mr. GUTTING. What are the restraints, if any, to the large scale exploitation of krill? Are these restraints technological, economic, political? What stands in the way of a rapid exploitation of this resource, if anything?

Mr. WALLACE. May I make a reply to this question?

I think, in the first place, as far as the United States is concerned, we take a rather conservative view as to the exploitation or utilization of these resources. We do that because we recognize that the data on which we are operating at the moment are so scanty that you have to look at it from a conservative viewpoint. The political restraints may be important but, at the moment, the problem of acceptance of the products by the consumers has a very strong bearing on the lack of persent activity. In my mind, the only reason the Soviets have not moved aggressively to greatly expand their fishing operation is that, as the chairman indicated, krill has not gone over very big with the consumers in the U.S.S.R.

So, with that facing us, it seems to me that the development of these resources and utilization of this biomass is going to be a rather slow thing, even if the technology to catch them in large quantities were immediately available to us.

Mr. LEGGETT. So, as far as the United States taking krill, first we would have to develop a distant water fishing capability. We have that now with the 115 or so tuna boats. We have a limited capability with some of our shrimpers.

Mr. WALLACE. The kind of capability that is necessary in the Antarctic cannot be met by the shrimp boats.

Mr. LEGGETT. We need to make considerable investment, and certainly I would hope that the National Marine Fisheries Service is doing some very creative research and development on how we could not only participate in this take, in a major way, but also ultilize the product after it is taken.

But I think that is a classic area, where if you leave it to private enterprise, it may be a long time in developing, and certainly, unless we are taking down there, our visit is going to be rather fragile in any continuing negotiation. So it is important, I think, that we develop the capability, even if we have to bet some of those ships that we specially constructed pressed back into service.

Mr. WALLACE. Those two ships, the *Sea Freeze Atlantic* and *Sea Freeze Pacific*, are probably the two vessels that are the closest tc being the kind of thing that could be used for this purpose.

Even the tuna fleet, if it were converted, would requre major alterations.

Mr. LEGGETT. It would be nice if you would get some flexibility in your budgetary operations down there, such that somebody might have the courage to put in a line item to fund an exploratory program down there, to find out exactly what it is that is being taken.

Mr. WALLACE. I am hearing what you are saying, Mr. Chairman.

Mr. LEGGETT. Mr. Mannina?

Mr. MANNINA. Thank you, Mr. Chairman.

In response to Mr. Forsythe's questions, you indicated a need to protect the ecosystem, and to go north of 60°. We also heard varying estimates of the size of the stock of the Antarctic krill resource. If an agreement is to be negotiated we need to develop the necessary scientific data.

What is the status of current research efforts being undertaken by the United States?

Mr. SCULLY. If I could take a crack at that.

I think that one of the reasons we have felt, and have strongly urged the conclusion of a definitive regime, is precisely the problem of lack of data, and the lack of data which faces us with the prospects of commercial harvesting getting underway.

Therefore, one of the primary functions of a regime, of a commission to be created, would be to establish that data base, and perhaps equally importantly, to apply to the parties to it the kind of legal obligations to provide data and share data which are necessary to establish the data base.

Mr. MANNINA. What is the current level of the United States effort in resource research?

Mr. SCULLY. Well, our main programs of research have been more directed in basic biological, physical and other investigations of the Antarctic systems generally.

The National Science Foundation funds a number of programs of this sort, doing biological research, doing basic research into the southern oceans, so that we can gain an understanding of the ecosystem and how it works.

In terms of what would be defined as specifically resource-related research, I do not know that the United States is engaged in any such research.

One of the reasons why we believe it is critical to establish a regime is that much of the necessary data is going to have to come from catch, from the records of those that are actually engaged in harvesting. To be able to integrate that kind of data into the basic research that is going on, requires some kind of organization. But to sum up, I am not aware of any specific resource-directed research that we are doing with regard to potentially exploitable species in the Antarctic marine ecosystem.

Our effort has been more concentrated in understanding that system as a whole.

Mr. WALLACE. I think that is exactly right.

I do not believe there are any studies directed toward resource evaluation or assessment at this time by the United States.

Now, there are some compilations of data through some parts of FAO, who have been trying to get some information about this, but as far as the United States is concerned, we have not been doing it.

Mr. MANNINA. Will there be any effort to fold into the convention an article dealing with the discharge of hazardous substances, such as oil.

Ambassador BREWSTER. We have not gotten that far in our work on it.

Mr. MANNINA. Is it your view that such an article would be appropriate, if not necessary?

Ambassador BREWSTER. I would have to reserve my opinion on it. I am not that well informed on it. It is a subject that we had under discussion in London, and on which no action was taken. It was in a different forum, but the same subject. I would want to reserve on that.

Mr. MANNINA. Having reserved judgment, do you have any idea when the Department will address that issue?

Ambassador BREWSTER. We will be addressing it within the next month.

Mr. MANNINA. Thank you.

The Japanese are currently reducing the size of their whaling fleet, in view of the IWC restrictions. Do you have any evidence that would suggest the Japanese are using these fishermen to expand their krill harvest?

Ambassador BREWSTER. I am not aware of any, no.

Mr. WALLACE. I do not think they have done this, but it is true that at least one of the companies who have been in the whaling business has been looking at krill, because I assume that they have the closest contact with this particular product in carrying out their whaling operation.

But I do not think that they have been diverting their whaling equipment or ships to taking krill.

In fact, their catch of krill at this moment is quite small.

Mr. MANNINA. Is there a potential for krill harvest within waters which are claimed by other nations, specifically around South America?

Mr. SCULLY. Yes, I think that one of the areas which appears to be of some promise is north of 60° in the Scotia Sea, in areas where fishery jurisdiction could be claimed by whomever has sovereignty over the Falkland or Malvinas Islands.

Mr. MANNINA. Is it the intent of the United States, in pursuing this convention, to assert a position that krill should be managed under the new convention and not by nations claiming fisheries jurisdiction over krill harvesting areas.

Mr. SCULLY. Yes.

Mr. MANNINA. Thank you, Mr. Chairman.

Mr. LEGGETT. Mr. Pollock, do you have any questions?

Mr. POLLOCK. Mr. Chairman, I am not sure we know enough about it. It occurred to me, listening to the testimony, that most of the coun-

tries of the world seem to devote their energies to compete for the capture of a limited number of species of fishes, and there are many unutilized species in the oceans of the world. The kill apparently is the most enormous source of marine life, and is essentially unutilized. I wonder whether there are any industrial possibilities for the krill so far as the U.S. industry is concerned?

Mr. WALLACE. Mr. Chairman, I do not think that we really do know the answers completely. I guess one of the big deterrents at the moment, as far as the United States and private industry, are concerned, is that the cost of tooling up to do this job in terms of ships and equipment, assuming that we have the technology to catch the krill, is enormous.

You do not send down a small shrimp trawler to catch krill in the Antarctic. A major cost to us in terms of carrying on the research projects that we are doing through the National Science Foundation, is just the ship logistics. It takes a major part of the money just to get the ships down there, and to support the people.

So when we start thinking in terms of development of the kinds of equipment to utilize this resource, we have to think in very big terms of money.

Mr. POLLOCK. Thank you.

Mr. LEGGETT. I would suspect if somebody postulated that the Soviets were down here, to not only catch krill, but to develop a separate warning system for intercontinental ballistic missles coming around the southern part of the pole, that we would develop a corresponding capability rather quickly.

Mr. WALLACE. It seems to me that it might change the situation rather quickly, all right.

Mr. Gutting?

Mr. GUTTING. Thank you, Mr. Chairman.

There seems to be a very direct relationship between the scientific management of whales on the one hand, and the scientific management of krill on the other, since krill form the basis of food for the baleen whales.

You indicated earlier that the convention would not be dealing directly with whales, but given this direct biological connection, is it the U.S. position that we are going to manage krill for the benefit of whales, or whales for the benefit of krill?

I am wondering how we sort out our priorities here, and whether or not a separate convention will provide the forum that is really necessary to make what might be some very difficult balancing questions.

Ambassador BREWSTER. I think I would try to answer that in this way. Our approach to this is that the entire biomass must be managed.

When I said that the convention, as such, would exclude seals and whales because they are managed pursuant to other instruments, I did not mean to imply that the requirements that those species have for krill not be taken into account in the management of that resource. That would be our approach.

In other words, the total biomass that is there

Mr. WALLACE. I would just like to completely support what Ambassador Brewster said.

When we talk about managing the biomass, it means everything in it, and it includes the great whales and other resources such as the 200 million birds, for example, who consume millions of tons of krill as part of their life process.

I think we have to evaluate each of these in terms of its total demand upon the total population, and then, if there are surpluses, man has an opportunity to utilize these in a way that would be beneficial to humanity.

Mr. GUTTING. Mr. Chairman, if I might, I would like to hazard an observation that we are seeing increasing competition between various interests in the ocean. The tuna-porpoise controversy is an instance where marine mammals and fish have been perceived by some as being in conflct, and balances and judments have had to be made.

Looking down the road, I can see that kind of balancing having to be made between krill and whales. I just want to wish you luck in trying to seek out mechanisms by which such balancing judgments can be made.

Mr. WALLACE. Those kinds of decisions are always controversial and difficult, and sometimes the path to accomplish what you would like to do is not always clear, but I think we certainly have to think in those terms if we are going to utilize the potential which exists in this kind of situation.

Mr. LEGGETT. Dave, talking about Mr. Pollock's question of our industries being limited to particular kinds of classic fishing operations. Apparently we take menhaden off the coast here. I do not know if that is a multifish or not, but apparently that accounts for a large part of the tonnage that we take.

Mr. WALLACE. It does.

Mr. LEGGETT. We use it for oil and fish meal. Considering that we take menhaden, why do we not take also pollock and hake?

Mr. Wallace. I assume that you are talking about the Alaska pollock at this moment?

Mr. LEGGETT. Let us just talk about hake? We got word the other day that the Cubans were interested in taking some hake in the Atlantic.

Mr. WALLACE. Yes.

Mr. Leggett. And we take menhaden in the Atlantic. So the question is why do we not take some of that hake?

Mr. WALLACE. We do.

You know the New England fishery, and the fishery that takes place out of Rhode Island, for example, take the hake. They call them whiting, but it is the same fish. It is marketed in the United States in a reasonable manner.

The point of it is, though, that our people traditionally are used to eating this fish in a certain way, and the markets have been relatively limited. We really have not set about to expand greatly the market that might exist here in the United States.

For example, along the North Atlantic, the Soviets catch, I think about 100,000 tons of hake which they use for food in the U.S.S.R. Our catch is very much less than that.

We are fishing on the same stocks, so the potential does exist. It is just that Americans have very strong food preferences in terms of

seafood, and we have not mounted the kind of effort that it takes to encourage utilization of a wider base of these stocks.

Mr. LEGGETT. The other question would be how many months of sea time have we put in, over the past 5 years with respect to research on the stocks in the 60 degrees south latitude area?

Mr. WALLACE. Mr. Chairman, I cannot answer that question. I think we could try to find out, but maybe Mr. Scully would be able to.

Mr. SCULLY. I think we would have to ask the National Science Foundation to try to provide that information. Much of our work, however, is done on land stations. Thus, the samples would be taken at sea, but analyses, and so forth, would be done on land.

But I would agree with Dave. We would have to check with the National Science Foundation on that.

Mr. WALLACE. We will try to get that for you.

Mr. Leggett. Very good.

If you could supply that for the record, it would be helpful to the subcommittee.

[The following was received for the record:]

DEPARTMENT OF STATE,
BUREAU OF OCEANS AND INTERNATIONAL
ENVIRONMENTAL AND SCIENTIFIC AFFAIRS,
Washington, D.C. November 15, 1977.

Mr. RICHARD S. GUTTING,
House Committee on Merchant Marine and Fisheries,
Longworth Building, Washington, D.C.

DEAR DICK: Enclosed is a table summarizing the level of National Science Foundation funding in support of research relating to Antarctic marine living resources over the past six fiscal years, with an estimate for FY 77.

I understand from NSF that approximately 95% of the research grants they support on Antarctic biology concern marine, rather than land-based, biology. The information was prepared by NSF's Division of Polar Programs.

I hope the enclosure will be of use for insertion in the manuscript of the October 13 hearing.

Sincerely yours,

R. TUCKER SCULLY.

Enclosure as stated.

National Science Foundation, Support for Basic Research Related to the Marine Living Resources of the Antarctic[1]

Fiscal year:	*Amount*
1971	$766,951
1972	751,000
1973	[2] 416,105
1974	395,900
1975	[3] 569,423
1976	578,200
1977 (est)	678,739

[1] Support figures include funds for research grants but not logistical costs for research vessels.
[2] Low budget forced abandonment of *RV Eltanin.*
[3] Increased budget resulted from shared use contract with Argentina for *RV Islas Orcadas* (formerly Eltanin).
Average research grant is $30 to $35,000.

Mr. LEGGETT. Mr. Segar is my chief oceanographer in my own office.

Mr. SEGAR. Are the Soviets processing the krill? Are they transporting at sea, or——

Mr. WALLACE. I understood that they are doing some of the processing at sea, but I am not sure that is all.

Mr. SCULLY. I think some of the preliminary processing has to be done at sea, because even in frozen state, krill deteriorates rapidly.

Mr. SEGAR. Do you feel that if there is any possibility that there might be some pressure in the future to locate processing facilities in the Antarctic Continent?

Mr. SCULLY. I would think that we are getting into the realm of futuristics, let us say.

I would point out that one of the problems would be in marketing, in the long distance between catch sites to market. I am not sure that if I were setting out to build a krill empire at this moment, that I would be looking at the continent as a processing site from an economic point of view.

Mr. WALLACE. It seems to me that you would do just the opposite. It would be more economical to do everything aboard the ships, and the ships are getting quite sophisticated in this matter today, such as the Japanese, the Soviets and the Polish. They can do any kind of processing on a large scale.

Mr. LEGGETT. It seems to me that Australia and New Zealand, have those long coastlines about 1,200 miles from McMurdo. That would be a classic area to put in a facility.

Mr. WALLACE. Yes, some of those countries might have the potential for this. However, I think it is quite apparent that the technology dictates that you do some processing on the scene at that moment because they deteriorate very rapidly.

Mr. LEGGETT. Let us see, Mr. Hughes, do you have any questions?

Mr. HUGHES. Thank you, Mr. Chairman.

I was interested in some of the dialog between our colleague from Texas and the panel. I am interested in knowing a little more about krill.

Perhaps you described it to the members of the committee before my arrival, and if that is the case, I apologize. In understand that they are a shrimplike organism.

Mr. WALLACE. Yes, fully grown it is a little less than 2 inches in size.

Mr. HUGHES. What does it taste like?

Mr. WALLACE. I have not tasted it myself, so I cannot say from first-hand experience, but I am told it has a taste of shrimp, to some extent.

Mr. HUGHES. Because that would bear on the question of whether or not it would be competitive with other seafood.

Mr. WALLACE. It may be rather surprising, but this product has not really gone over very big in the U.S.S.R., in spite of the fact that they have been producing substantial quantities of it. I do not know why this is. It is possible that there is some taste factor which deters the development of this market.

Mr. HUGHES. Has there been any effort in this country to see whether or not the product would be marketable?

Mr. WALLACE. No, I do not think that there has been any effort at all. In fact, I am quite certain.

Mr. HUGHES. I notice that Japan harvested some krill, less than 1,000 metric tons.

Mr. WALLACE. Yes.

Mr. HUGHES. What have they done with it, do you have any idea?

Mr. WALLACE. Yes, they have been pursuing this rather aggressively in terms of product development. The Japanese have proven to be quite innovative in the past in fishery products. As you know, they innovated the idea of fish sausage, and many other things.

I suspect that the Japanese will be developing a product which will be palatable, and very acceptable. They have proven that they can do this in the past, and there is no reason why they cannot do it with krill.

You know, when we can make chicken taste like hot dogs, you can do almost anything in the food arena, and I think it is possible to do it.

Mr. LEGGETT. We can also make turkey taste like sausage.

Mr. WALLACE. Yes, as a matter of fact, it is being done.

Mr. LEGGETT. They market that extensively in the West.

Mr. HUGHES. Thank you, Mr. Chairman.

I have no further questions.

Mr. LEGGETT. Thank you.

Well, I think we have completely looked at this situation. We want to encourage you, Mr. Ambassador, in your efforts. We have an interest in oversight of your additional consultative meetings down in Canberra, and we want to keep close contact with you and Mr. Wallace. We want to make sure that the National Marine Fisheries Service has aggressive plans to incorporate this program in our American fishing renaissance.

Very good, thank you very much, gentlemen.

The meeting will stand adjourned.

[Whereupon, at 11:35 a.m., the subcommittee adjourned, subject to the call of the chair.]

MEXICO FISHERY AGREEMENT

MONDAY, OCTOBER 31, 1977

HOUSE OF REPRESENTATIVES,
COMMITTEE ON MERCHANT MARINE AND FISHERIES,
SUBCOMMITTEE ON FISHERIES AND WILDLIFE
CONSERVATION AND THE ENVIRONMENT,
Washington, D.C.

The subcommittee met at 10:13 a.m., in room 1334, Longworth House Office Building, Hon. Robert L. Leggett (chairman of the subcommittee) presiding.

Mr. LEGGETT. The Subcommittee on Fisheries and Wildlife Conservation and the Environment will please come to order.

This morning, the subcommittee will hold hearings on legislation that would waive the 60-day congressional review period and immediately bring into force and effect the Governing International Fishery Agreement—better known as GIFA—recently entered into with Mexico.

The legislation involved, H.R. 9794, was introduced last Thursday by Chairman Murphy and joining in cosponsoring the bill were Colleagues Ruppe, de la Garza, Forsythe and myself.

In addition, the legislation would reduce from 15 to 7 the number of days in which the regional fishery managements councils and the public would have to comment on any application for fishery permits submitted pursuant to such GIFA.

In accomplishing these purposes, the legislation would amend section 2 of the Fishery Conservation Zone Transition Act to add to GIFA with Mexico to the list of GIFAs to which the Congress has previously given approval. These previously congressionally approved GIFAs, which number 10, were the Poland, Russia, Bulgaria, Romania, Taiwan, East Germany, Japan, South Korea, Spain, and the European Economic Community.

The need for expeditious hearings on this legislation arises from the fact that the GIFA with Mexico was not submitted to the Congress for approval until the 7th of this month, and the President, in his submittal message, urged that favorable consideration be given to this agreement at an early date, that is, before the adjournment of this session of the Congress.

His request for early action was followed by a request from our former colleague, Patsy Mink, who also urged early approval of this GIFA.

The plans of the subcommittee call for receiving testimony this morning from representatives of the Department of State and the shrimp industry, to be followed at 11 by a markup session of the full

committee and, hopefully, we will be able to bring the bill to the floor of the House for a vote later this week.

The staff of the subcommittee has been working closely with the staffs of the Senate Committee on Foreign Relations and the Senate Committee on Commerce, Science, and Transportation—the committees to which this legislation would be jointly referred after it passes the House—and I have been advised that, if all goes well, they will agree to our bill on the floor of the Senate sometime before the adjournment of this session of the Congress.

[The bill follows:]

[H.R. 9794, 95th Cong., 1st sess.]

A BILL To bring the governing international fishery agreement with Mexico within the purview of the Fishery Conservation Zone Transition Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 2 of the Fishery Conservation Zone Transition Act (Public Law 95-6) is amended—

(1) by striking out "and" at the end of paragraph (9);

(2) by inserting "and" immediately after the semicolon at the end of paragraph (10);

(3) by inserting immediately after paragraph (10) the following new paragraph:

"(11) the Government of Mexico Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated October 7, 1977;"; and

(4) by striking out "(10)" in the last sentence of such section and inserting in lieu thereof "(11)".

SEC. 2 The amendments made by the first section of this Act shall take effect February 27, 1977.

Mr. LEGGETT. Now, we are delighted to have Ambassador John D. Negroponte, Deputy Assistant Secretary for Oceans and Fisheries Affairs, as our first witness.

Mr. Ambassador, it is very nice to have you here. I see you have presumptively a short statement.

STATEMENT OF AMBASSADOR JOHN D. NEGROPONTE, DEPUTY ASSISTANT SECRETARY FOR OCEANS AND FISHERIES AFFAIRS, DEPARTMENT OF STATE, ACCOMPANIED BY MARY ELIZABETH HOINKES, COUNSEL, OFFICE OF THE LEGAL ADVISER

Ambassador NEGROPONTE. Yes, indeed.

Mr. LEGGETT. OK. It will be included in the record as though fully read and you can summarize such portions as you care to.

Ambassador NEGROPONTE. It is very brief, Mr. Chairman. Thank you very much. I think perhaps I will read it.

First, I would just like to mention that I have with me counsel from the State Department, Ms. Mary Elizabeth Hoinkes.

The United States and Mexico GIFA is the 12th agreement the United States has entered into following enactment of the Fishery Conservation and Management Act of 1976 (FCMA) with countries wishing to conduct fisheries off the coast of the United States. In this agreement the Government of Mexico recognizes the exclusive management authority of the United States within the U.S. Fishery Conservation Zone (FCZ) as set forth in the act.

The agreement provides that each Mexican vessel must obtain a permit in order to fish within our 200-mile fisheries zone. Fishing by Mexican vessels would be limited to those species for which Mexico has received an allocation. An allocation for Mexico will be possible only if a surplus, above U.S. harvesting capacity, is identified.

The United States and Mexico GIFA is virtually identical to agreements which we have signed and which have entered into effect following congressional review with Spain, South Korea, Romania, Poland, and several other countries, and is in complete conformity with the provisions of the Fishery Conservation and Management Act. We have requested, Mr. Chairman, in a letter to you from Assistant Secretary Mink, that the Congress take action, as it has with previous agreements, to expedite its consideration of the agreement so that it can enter into force as soon as possible.

I believe that it is important that the fisheries agreement between the United States and Mexico come into force as soon as possible for several reasons.

Mexican vessels and fishermen are now waiting and anxious to begin fishing in the U.S. Fishery Conservation Zone. The 60-day period for congressional review provided for in the act will be interrupted by the upcoming congressional recess and, consequently, the agreement could not enter into force before mid-February 1978 unless action is taken to approve the agreement before the expiration of the 60-day waiting period. This will pose a particular hardship for Mexican squid fishing vessels. Not only will these vesels be unable to take any catch in 1977, they also would miss a considerable opportunity for 1978 as the squid fishing season begins on January 1.

Allowing Mexican fishermen to begin their fishery now will not adversely affect U.S. fishermen. The allocations of squid and other species which have been made to Mexico represent a portion of the amount which has been found to be surplus to U.S. harvesting capacity. The agreement and the applicable provisions of the Fishery Conservation and Management Act insure that this will always be the case for, as you well know, all foreign fishing is limited to that portion of total U.S. fish stocks available for harvest which is found to be surplus to U.S. harvesting capacity.

Perhaps the most compelling reason, however, for my urging that prompt consideration be give to the Mexican agreement, is the interest which U.S. fishermen have in continuing their substantial fisheries within the Mexican 200-mile zone. For a number of years, U.S. fisheries off Mexico have included significant catches of tuna, shrimp, snapper and grouper, important fisheries for miscellaneous species, within 12 miles off Mexico, and a very large and important sports fishery off California. These fisheries, which represent a value of approximately $40 million to the United States, are carried out under the provisions of a bilateral agreement the United States entered into with Mexico in November of 1976. I believe it is important to recall that when it was not possible to put that agreement with Mexico regarding our fisheries off the coast of Mexico into force for several months after negotiations were concluded in July of 1976, the Government of Mexico allowed United States fishermen to continue to fish in the Mexican 200-mile zone despite the fact that the agreement had not entered into force.

I believe that between neighboring states considerations of reciprocity should be carefully taken into account in fisheries relations. Just as between the United States and Canada, a fisheries relationship has arisen between the United States and Mexico which is qualitatively different from the relationship which exists between the United States and other countries which fish off our coast with no elements of reciprocity involved.

In requesting that special steps be taken to bring the United States and Mexico fisheries agreement into force as soon as possible, I want to make it clear that, as a general practice, we do not advocate such special action be taken to bring GIFA's into effect.

However, in this case, I am convinced that the best way the Congress can advance the interests of U.S. fishermen would be to act favorably to bring the agreement into force at the earliest date possible. This would strengthen the special fisheries relationship which exists between the United States and Mexico—a relationship which is of great importance to U.S. fishermen.

Thank you, Mr. Chairman. I would be pleased to answer any questions the members of the committee might have.

Mr. LEGGETT. Thank you very much, Mr. Ambassador. That is very helpful.

I understand there are a few points in this agreement that are somewhat different from the other amendments that we approved. I want counsel to explore those with you.

As I understand it, the contemplated Mexican fishery exploration in American waters in the current year would be rather modest. But, next year, they would like to become a little more ambitious.

I am wondering that, in light of entering into this GIFA, and of additional claims or requests that might be made by the Mexican Government next year, there might be room to perhaps reopen the shrimp agreement that we have entered into over the past year with Mexico, which appears to be somewhat restrictive on American fishermen?

Ambassador NEGROPONTE. Mr. Chairman, a couple of points in that regard.

Mexican ambitions, as you state, are quite modest. I have some figures which I would be happy to leave with the committee on the amount of fish that they have expressed an interest in fishing for next year. As far as the question of shrimp access to the shrimp fishery off their coast is concerned, as you know, the present arrangement is for a phaseout because the Mexicans feel that their harvesting capacity will be such that they can take all the shrimp that is available off their coast over the next several year period, so I believe the phaseout provides for our shrimp fishermen ending their fishery there in 1980. But we have had informal indications from the Mexican Government that it would be receptive to certain kinds of joint venture arrangements. The details are not entirely clear, but Mexican officials have indicated that they would be willing to encourage their fisheries cooperatives to discuss possible arrangements directly with our shrimp industry. And I would not preclude the possibility of reopening this question, at the same time—at the official, at the governmental level, but I would not—I would not want at the same time to create any sense of false optimism as to just how much we can achieve.

Mr. LEGGETT. I presume they have the same problems of trading

in the Pacific fishery aspirations in our waters for shrimp productivity in their own waters, in the Gulf of Mexico?

Ambassador NEGROPONTE. I am not sure I——

Mr. LEGGETT. What I am saying is that we do not really like to trade Atlantic rights for Pacific rights in the United States, and I presume that the same situation prevails in Mexico.

Ambassador NEGROPONTE. I am not certain, Mr. Chairman. But perhaps that is a consideration for them as well, yes.

Mr. LEGGETT. Mr. Forsythe.

Mr. FORSYTHE. Thank you, Mr. Chairman.

I have no questions.

Mr. LEGGETT. We want to have Mr. Everett ask a few technical questions, and then I will recognize Mr. de la Garza.

Mr. EVERETT. In analyzing the Mexican agreement with the other agreements that have been forwarded to the Congress, there appears to be only two or three issues that have surfaced, one of which has to do with "economic dislocation." That language did not appear in the Mexican agreement. And in lieu of the section that it would ordinarily have appeared in, it said the following additional factor is included: Consideration shall be given to "The history of close cooperation between the Government of the United States and the Government of Mexico as neighboring states based on the interrelationship of their fisheries interests."

Also, the agreement was not specific in determining the surplus that would be available to Mexico. I was wondering if you could elaborate on these factors that are not really included in the other agreement but are included in this one?

First, please comment on the concept, how surplus fish would be made available to the Mexicans?

Ambassador NEGROPONTE. I understood your question. I wonder if you might identify the paragraph you were reading?

Mr. EVERETT. OK. I think it is on page 5 of the GIFA, article 14; however, I do not see it there. I know it is in here somewhere.

Ambassador NEGROPONTE. The text that I have, article 14 does not deal with that subject. We are reading from the GIFA, are we not?

Mr. EVERETT. I have to apologize. This is a preliminary draft that I was working from and it may be that this language was dropped from the final language, the GIFA, as agreed to. That is a possibility.

Ambassador NEGROPONTE. I see.

Mr. LEGGETT. You are talking about a Library of Congress analysis that we had made?

Mr. EVERETT. Of the draft GIFA, and evidently that item was changed.

Ambassador NEGROPONTE. I think I can——

Mr. LEGGETT. Counsel says article 4.

Mr. EVERETT. I stand corrected, Mr. Negroponte. It is on page 5, article 4. The language I am referring to says that "when it comes to research in considering additional fishing and other factors, including the history of close cooperation between the Government of the United States and the Government of Mexico."

Ambassador NEGROPONTE. "and other factors." Well, if I could answer your question in a general way. I think that, as I said earlier, nothing in the agreement detracts from the fundamental principle

of our law that you would only allocate surpluses on the basis of what is left over once the U.S. harvesting capacity has been determined, but this article, I presume, and I did not negotiate this agreement, but it was designed to highlight the reciprocal nature of our relationship with Mexico. And to that extent, it differs slightly from GIFA's with countries where we do not have this reciprocal fisheries relationship. I think basically that is what this language was designed to do.

Mr. FORSYTHE. Would the gentleman yield?

Mr. EVERETT. Yes.

Mr. FORSYTHE. Perhaps you are implying that when it comes to sharing the surplus that this special relationship should be of consideration. The one that we are talking about.

Ambassador NEGROPONTE. Yes, sir.

Mr. FORSYTHE. Rather than anything that goes beyond. When there is a surplus, there is this special relationship. Would that be what we are talking about?

Ambassador NEGROPONTE. Exactly.

Mr. EVERETT. One of the other issues, Mr. Negroponte, concerns the fact there is no provision for Mexican fishing vessels to enter into ports of the United States. You might just comment on why there was not any language on this issue in view of the fact that all of these other agreements provide for such entry of their vessels.

Mr. LEGGETT. I would think one of the reasons is that they are closer.

Ambassador NEGROPONTE. My understanding is that with respect to the bloc countries which originated in a number of these earlier requests, a special provision had to be made for that.

Mr. EVERETT. In other words, do the Mexican vessels now get supplies and fuels from our ports? If so then maybe it was not necessary to include such language in this agreement?

Ambassador NEGROPONTE. My understanding is that they do; yes.

Mr. EVERETT. One other question.

The Government of Mexico shall allow the United States to fish in Mexico's exclusive zones in accordance with the present agreement and the prior agreement of 1976, and on the basis of reciprocities. The agreement referred to, I assume, is the one that we entered into with Mexico concerning shrimp and other fish, plus any other reciprocity we may have with them.

Do you have any comments on that particular provision? That is article 13.

Ambassador NEGROPONTE. Yes, I am right on it. I think that this agreement has to be read in connection with our bilateral with the Mexicans and, together, they form the basis of our reciprocal fisheries relationship.

Mr. EVERETT. These are really not major issues. However, they are the main points though that were different between this agreement and the other ones.

Ambassador NEGROPONTE. Yes.

Mr. EVERETT. I thought it would be appropriate to have your thoughts on this issue at this time. Thank you very much.

Mr. LEGGETT. All right.

Mr. de la Garza.

Mr. DE LA GARZA. Thank you, Mr. Chairman.

It is a little bit disadvantageous for all of us in that the American Ambassador did not participate in the negotiating of this GIFA, is that right?

Ambassador NEGROPONTE. That is correct, Mr. de la Garza.

Mr. DE LA GARZA. So we cannot go into any of the background. Therefore, it leaves me no recourse but just to make a statement, Mr. Chairman.

Mr. LEGGETT. Go ahead. Make your editorial.

Mr. DE LA GARZA. As the Ambassador mentioned, all of the GIFA's that we have are for the benefit of the other countries, with the exception of Canada and Mexico basically. We do not fish in any of the other areas. And the previous agreement that we have with Mexico, as far as U.S. fishing in Mexican waters, was, in my humble estimation, a total fiasco as it concerns shrimp. I do not blame the Mexican Government or the Mexican negotiators. Their efforts to protect their interests are to be commended. I blame the U.S. negotiations for not being forceful and not standing strong to protect our shrimp fisheries.

Again you were not a party to that, Ambassador. I do feel that the GIFA here in article 15 says that it would be reviewed in 2 years. Now, this question I can direct to you.

Is there any reason why we cannot have continuous review or continuous talks in relationship to the GIFA, or are we just going to sit there and wait for 2 years to go by?

Ambassador NEGROPONTE. No. I think the answer to your question is there is no reason why we could not engage in this kind of review, and we likewise have provision in the bilateral agreement affording us access off the Mexican coast for annual consultations. I think the next ones are scheduled for next April.

So there is nothing in the language here or anywhere else that precludes us from engaging in this kind of review.

Mr. DE LA GARZA. Well, what assurances do we have from you, if you are able to make such assurances, that we will have continuous communication in relation to the carrying out of this agreement; and whether or not a provision can be incorporated in our bilateral agreement, allowing the U.S. to fish in Mexican waters?

I do not want a bureaucratic answer; that those are two different items and cannot be discussed jointly.

Ambassador NEGROPONTE. No. I was just not sure that I fully understood the question.

Mr. DE LA GARZA. What assurances do we have from you, to the extent that you can give us assurances, that you will continue communication with the Mexican Government in relationship to this GIFA and to our bilateral agreement with them without waiving the specified time in the agreement?

Ambassador NEGROPONTE. This is a minimum time frame. I am not prepared at this very moment to give you a date as to when we will next be consulting with the Mexicans, but we do have consultations technically scheduled for early next year, and we want to pursue a number of matters with them. We are going to have to—both in the area of shrimp and our ongoing tuna negotiations. So I think it is inevitable that we will be consulting with them over the next few months

and we would like to work closely with the shrimp interests to see what, if any, improvements we can insure for them.

I would like to go back to what you said earlier about the shrimp aspects of our agreement with Mexico. Even though I was not involved in those talks, I think one ought to make the point that we deal with other countries in just about the same way when we have stocks of fish for which there is no surplus to allocate.

Mr. FORSYTHE. Would the gentleman yield?

Really, quotas, so far as both this GIFA, which we are approving, and the bilateral, which is their GIFA, must be reviewed annually, is not that correct?

So the real bottom line is that it will give up the quota issue on an annual basis, is that not right?

Mr. DE LA GARZA. This one says 2 years.

Mr. FORSYTHE. Two-year quotas.

Mr. DE LA GARZA. No. Two-year review.

Mr. LEGGETT. If the gentlemen would yield.

As I understand it all of these agreements are entered into with a 5-year period of time with provision for review in 2 years.

Mr. DE LA GARZA. My question is very simple. Are we going to sit and wait for 2 years or are we going to continue talking to them?

Mr. LEGGETT. The answer to that is no.

Mr. DE LA GARZA. Well, I do not need the assurance from my chairman. I need assurances from the people that are going to be handling the negotiations.

Mr. LEGGETT. I am trying to help them and lead them a little bit.

Ambassador NEGROPONTE. You have my assurance that the answer to that question is no.

Mr. DE LA GARZA. He needs leading, Mr. Chairman, because he is falling into the same syndrome that the other people did, that is, assuming the reason the shrimp was treated that way was because there would not be any surplus in Mexican waters. I disagree with that contention.

I do not think we should have accepted that contention, and I think our negotiators just folded their arms and said, okay, let it be. And this is very close to me. I live on the border. I am going to support this to show good faith, good faith from our side, good faith in that we want to be good neighbors with Mexico, good faith in that we want to help Mexico and, goodness knows, they have problems. We have to work together as neighboring countries. And I have no opposition to this agreement. I want to show good faith to the Mexican Government and to the Mexican people from our viewpoint.

But we do expect our negotiators at least to try to protect the interests of our own people. And if you already feel that no surplus exists we are just wasting our time saying let us talk. And for the negotiator, well, you go in to protect the interest of your people. And as I mentioned to Ambassador Ridgway, I mention now to you, if you have to pound on the table, if you have to jump on the table, if you have to do somersaults to get your viewpoint across, you do that, undiplomatic as it may sound.

We have not done that and—well, Mr. Ambassador, I think you are beginning the way I would not like for you to begin. I have made my statement, Mr. Chairman.

I will not oppose this. I favor it. We want to help Mexico in every way possible. A country of my size and with the economic resources we

have, of course, we cannot deal with a country like Mexico on an equal basis, which "we give you one, you give us one." That is understood. We cannot deal like that.

But again I am not satisfied that our negotiators—and it included people from the shrimp industry—gave us the protection that could have been affordable to us in this field when we agreed to go to zero boats.

Now, I guess I can make this public. I have been given assurances from an official of the Mexican Government that they are willing, at least to initiate discussions in this field. And I would hate to think that we would be relegated to the point that we have to go do the negotiating for the Congress. I will do whatever I can. But I would like the agencies with the jurisdiction to do that.

My people come first, surpluses or not.

Thank you, Mr. Chairman. Again I say that I will support this legislation to show good faith on our part, to show good faith from the shrimpers of the Texas gulf coast who are under the axe with the agreement that we reach with Mexico. And in spite of that, because of our admiration and respect for the people of Mexico, we still will support this to show good faith.

The only thing that we ask from our Government is, to the fullest extent possible to do whatever is diplomatically necessary and whatever good judgment dictates, to try and protect those people as best they can and not go in with the attitude, well, Mexico does not have any surplus so there is no need to talk about that.

Mr. LEGGETT. Thank you, Mr. de la Garza.

You indicated you were not asking a question but making a statement, so no response is required. You offered to be Ambassador, and that offer will be forwarded to the State Department.

Mr. DE LA GARZA. I did not offer. I was forced to because of the lack of representation in some respects.

Mr. LEGGETT. I would like to read a telegram I have in my posession and I know it will just make you feel bad. Anyway, it indicates that this is not classified. I received this last month. Mexico is moving ahead with a billion dollar fisheries program, which involves the construction of 993 vessels that will replace 339 shrimpers. They plan to build or buy 106 tuna boats, 62 sardine/anchovy seiners, 616 shrimpers, 82 groundfish trawlers, 4 large stern trawlers, 12 medium hake trawlers, 10 red crab trawlers, 1 sargasso harvester, and 100 snapper grouper smacks. So that is very ambitious program for openers.

Mr. DE LA GARZA. There is no country in the world, Mr. Chairman, that I know of, that has the capability to harvest all of the crops of the sea within their shores.

Mr. LEGGETT. Mr. AuCoin.

Mr. AUCOIN. I have no questions, Mr. Chairman.

Mr. LEGGETT. Chairman Breaux.

Mr. BREAUX. Thank you, Mr. Chairman.

Mr. Ambassador, welcome to Congress and welcome to the Merchant Marine and Fisheries Committee.

We look forward to working with you. Congressman de la Garza was expressing his concern and the concern by all of us who represent the gulf coastal areas. I represent Louisiana's coast, part of it.

And our confusion goes back to the time whether we want to even be included in the 200-mile fishing limit.

I originally offered an amendment to exempt the gulf from the coverage. I took that out in the full committee. I often wonder whether that was not a mistake.

I think Congressman de la Garza thinks that was a mistake. It has caused us a tremendous amount of problems, and I support what Kika is saying very enthusiastically is our concern about hurting the feelings of the Mexicans. For the last 4 or 5 years, I do not think Mexico is worried about hurting the feelings of the United States in any way, shape or form. Both diplomatic negotiations and international conferences have been disasters. I hope that improves with their new President.

But can you tell this committee if, in fact, the Mexican water within their 200-mile zone has a surplus of shrimp?

Ambassador NEGROPONTE. I cannot answer that question for you.

Mr. BREAUX. My God, why not?

Ambassador NEGROPONTE. Well, you were asking me if I can tell you right now whether, scientifically, I am in a position to state that.

Mr. BREAUX. Should you not know that as much as anybody since you are in charge of negotiating the treaties which deal with surpluses, both theirs and ours?

If you do not know that, who does?

Ambassador NEGROPONTE. Well, I would be happy to provide that answer.

Mr. BREAUX. You should know that. Your Department or your shop should be aware of that.

Is that not one of the crucial issues which determines whether we can fish in their waters or not, or whether they have a surplus of shrimp, for instance?

Mr. LEGGETT. If you will allow me to intervene——

Mr. BREAUX. Let him try to give me an answer, and I will yield to my chairman ad infinitum after that.

Mr. LEGGET. The thing is we are fishing down there right now for shrimp.

Mr. BREAUX. Mr. Chairman, I want to listen to the witness to see if he has an answer, and if he does not, he should. I want to know why he does not know this. This to me is the critical issue.

Ambassador NEGROPONTE. May I answer, Mr. Chairman?

Mr. LEGGETT. Yes.

Ambassador NEGROPONTE. Mr. Breaux, we do not question the sovereign right. Each nation determines its own surpluses and we can exchange scientific information. And I am telling you what the Mexicans have said with respect to their own shrimp situation.

Now, when I said I do not know the answer for sure, I assume there may be differences of opinion. Mr. de la Garza has just referred to his own opinion that there may be surpluses down there, and rather than give you a categorical answer at this time, I would prefer to allow myself some leeway to check with some scientific American opinion and come back to you on this very question.

Mr. BREAUX. In negotiating the treaty with the other country, that is one of the crucial issues to determine whether we are allowed to fish

in their waters. If they are not taking the fish to the maximum sustainable yield, then they are supposed to give other countries the right to come in there and do that.

Now, apparently they say they are fishing the waters to the maximum sustainable yield. Are they telling you that they are?

Ambassador NEGROPONTE. They are saying that there will be no surplus after this period of time.

Mr. BREAUX. Now, who from the United States tends to kind of look and say, well, maybe they are not really telling us the truth?

Ambassador NEGROPONTE. My answer to this, I do not know who checked this particular set of facts in this particular negotiation. But I would be happy to go back and check it.

Mr. BREAUX. What department of the U.S. Government is charged with the duty of maybe looking over and checking what they are doing in Mexico?

Ambassador NEGROPONTE. Well, the Department of Commerce has the qualified scientists to look into it.

Mr. BREAUX. Do they not have a report that indicates whether or not they are, in fact, fishing to the maximum sustainable yield?

Ambassador NEGROPONTE. I do not know the answer to that question. I would be happy to check it out.

Mr. BREAUX. You can see why we are so frustrated. Kika de la Garza and myself and Dave Bowen and everybody up and down this coast represents American shrimpers, many of whom earn their living fishing off the coast of Mexico. And we went to them, telling them that this 200-mile bill was not going to hurt them because they would be able to fish the Mexican waters because there was a lot of shrimp down there and that it would be a long time before Mexico would fish it to the maximum sustainable yield. But now we do not have any boats fishing under the treaty with Mexico, do we?

Ambassador NEGROPONTE. We have until 1980 as a phaseout.

Mr. BREAUX. And then none after that?

Ambassador NEGROPONTE. That is correct.

Mr. BREAUX. It would look like the critical issue then is to determine whether they are fishing to the maximum sustainable yield. Is that not one of the essential concerns as far as negotiating that treaty?

Ambassador NEGROPONTE. I would agree with you that it is an important factor but, ultimately, it is for the other states to decide. But I would like to check into the facts further, into the facts of the question that you ask and come back to the committee with a proper answer.

Mr. BREAUX. Well, you are new on the job, you did not negotiate the original treaty, and we cannot get on you for that because it is not something that you negotiated. But we are responsible for monitoring the terms of the agrement and of being aware of what they are doing in their own 200-mile limit. And I think it is essential that your shop have an ongoing breakdown of how the Mexicans are utilizing their own species within the 200-mile zone. It is something that your shop should be aware of.

Thank you, Mr. Chairman.

Mr. LEGGETT. Maybe we ought to keep in mind that the Mexican law is not necessarily a mirror image of ours, and they do not scientifically review their surpluses each year, at least as far as shrimp is concerned.

They have launched into a billion dollar program based on the November 1976 agreement, closing us out, and they kind of got the cart before the horse. They indicated that, after the 3-year period, they are not going to have any surplus of shrimps as we understand it. Therefore, we do not have to bother them about applying for permits. They are going to build into that vacuum created by the expulsion of American vessels.

George has some words of wisdom that might be helpful right now. Mr. Mannina.

Mr. MANNINA. Thank you, Mr. Chairman.

John, have the Mexicans made any application for fishing in the U.S. zone for 1977 to date? Do you have any permit applications?

Mr. LEGGETT. Well, as I understand it, I can answer that. They have a tentative allocation of 1,100 metric tons of squid.

Mr. MANNINA. That is what I am driving at, Mr. Chairman, because based on the numbers that I have, there is no allocation for squid. I wonder whether there has been a reallocation?

Ambassador NEGROPONTE. They may have made application and we—we held in reserve some squid for the Mexicans for the 1977 season, so I suppose that——

Mr. MANNINA. Could you supply for the record the numbers that you are working from for the optimum yield and the total allowable fishing on a nation by nation basis? The numbers that I have indicate that there is no surplus of mid-Atlantic squid or Pacific squid as of August 1, 1977. If my figures are in error, perhaps you could help me correct them.

Ambassador NEGROPONTE. I would be happy to submit the correct figures to you.

But I can tell you what did happen in the August period to which you are referring.

It was determined that the United States fleet did not have the capacity to catch as much squid as was originally estimated and, therefore, there have been two reallocations of squid to foreigners during the course of 1977 of which some still remain for the Mexicans.

[The following was submitted:]

SQUID ALLOCATION

Following is a table indicating the amount of squid available for allocation to foreign nations during 1977:

[In million of tons]

	ILLEX	Loligo
1977 OY in PMP	35, 000	44, 000
Estimated U.S. capacity	11, 500	25, 000
TALFF in PMP	23, 500	19, 000
Amount reallocated in July	1, 500	11, 000
July estimate of U.S. capacity	10, 000	14, 000
New TALFF	25, 000	30, 000
August estimate of U.S. capacity	5, 000	5, 000
Amount reallocated in August	5, 000	9, 000
Final TALFF for 1977	30, 000	39, 000

Attached is a chart indicating the amounts of squid allocated to each country. It can be seen that 1,100 tons has been held in reserve for Mexico.

TABLE I.—(ILLEX)

[Metric tons]

Country	1977 allocation	ICNAF illustrated reallocation	Initial reallocation (July 1977)	Proposed reallocation (August 1977)	Revised 1977 allocation
Bulgaria	400	+200			400
Canada	1,000				1,000
Cuba					
EEC:					
Federal Republic of Germany, Italy	980	+770	+147	576	1,703
Total	980	+770	+147	576	1,703
Japan	3,440	+1,460	+278	1,092	4,810
Poland	4,910	+1,890	+360	1,414	6,684
Spain	4,910	+3,090	+590	2,311	7,811
U.S.S.R	7,370	+130	+25	97	7,492
Subtoal	23,010	+7,540	+1,400	+5,480	29,900
United States	11,500	−7,500	−1,500	−5,000	5,000
Mexico			[1] +100		[1] 100
Unallocated	490	−40		−490	
Total	35,000				35,000

[1] Reserved for possible future allocation pending completion of GIFA and review process.

TABLE I.—(LOLIGO)

[Metric tons]

Country	1977 allocation	ICNAF illustrated reallocation	Initial reallocation (July 1977)	Proposed reallocation (August 1977)	Revised 1977 allocation
Bulgaria					2,000
Canada	2,000	−1,000			
Cuba	[1] 500	+600	[1] +308	[1] +286	[1] 1,094
EEC: Federal Republic of Germany	500	+550			500
Italy	1,640	+1,945	+1,000	+930	3,570
Total	2,140	+2,495	+1,000	+930	4,070
Japan	7,820	+9,180	+4,720	+4,390	16,930
Poland	850	+975	+501	+466	1,817
Spain	4,390	+5,610	+2,885	+2,683	9,958
U.S.S.R	1,000	+1,140	+586	+545	2,131
Subtotal	18,700	+19,000	+10,000	+9,300	38,000
United States	25,000	−19,000	−11,000	−9,000	5,000
Mexico			[2] +1,000		[2] 1,000
Unallocated	300			−300	
Total	44,000				44,000

[1] Reserved for possible allocation pending congressional review of GIFA.
[2] Reserved for possible future allocation pending completion of GIFA and review process.

Mr. MANNINA. Thank you.

Can you tell us what the position of the Gulf of Mexico Regional Fishing Management Council is with respect to this GIFA?

Ambassador NEGROPONTE. We are not aware of any opposition to the GIFA, but I have not—I am not aware of any recent communication with the chairman of the council on this matter. They have participated in the negotiation of the GIFA.

Mr. MANNINA. Thank you.

Mr. LEGGETT. All right. Mr. de la Garzo.

Mr. DE LA GARZA. Do you know if the prospective harvest of squid is for consumption solely in Mexico, or do you have any information as to whether Mexico exports to third countries?

Ambassador NEGROPONTE. I would suspect that some of it is for reexport, Mr. de la Garza, probably to Spain.

Mr. DE LA GARZA. Do you know, or if you do not, can you supply for the record the amount of Mexico's shrimp harvest that is exported to the United States?

Ambassador NEGROPONTE. I will supply that for the record.

[The following was received for the record:]

MEXICO'S SHRIMP EXPORT

According to "Fisheries of the United States," published by the National Marine Fisheries Service of the Department of Commerce, in 1975 Mexico exported to the United States 75,016,000 pounds of shrimp, worth 138,909,000 dollars. In 1976 this amount was 80,398,000 pounds, worth 163,177,000 dollars.

Mr. DE LA GARZA. And, Mr Chairman, I apologize to the Ambassador, but I join with my colleague, Mr. Breaux, in welcoming him to this committee and looking forward to working with him in the future as we try and assist the people of the United States that have problems. And our frustration is not vented at you, Mr. Ambassador, and our desire to cooperate, of course, is paramount. And hopefully you will not take personally what we have to do here to protect the interests of those whose interests were not protected by your predecessors.

Thank you, Mr. Chairman.

Mr. LEGGETT. I am sure your hearty welcome is appreciated.

Mr. Forsythe.

Mr. FORSYTHE. Just one further remark if I may.

I am very happy Mr. de la Garza is in full support of this GIFA because one of the essential items in it calls for exchange of information. This gives us the very basis, I think that both you and Mr. Breaux are looking for, for allowing you to take those shoes down there and pound on the table, which I think is good. And I hope we see a better deal.

Mr. DE LA GARZA. I did not say shoes. I said pound on the table.

Mr. LEGGETT. He said he was going to keep his shoes on and tumble on the table.

Well, that is the way we negotiate down in some places, very effectively, I am sure. OK, I think that is all the questions that we have, Mr. Ambassador. Very nice to have you before the committee.

If you could, it would be helpful for you to stay here for a few minutes while we query the other witnesses.

Our next witness is Mr. Utz, representing the industry. Perhaps he can give us some insight as to whether or not he thinks there is a surplus down there and how the industry looks at the GIFA.

Mr. Utz, very nice to have you here.

STATEMENT OF WILLIAM UTZ, COUNSEL, NATIONAL SHRIMP CONGRESS

Mr. UTZ. Good morning, Mr. Chairman, committee members.

For the record, I am Bill Utz, executive director, National Shrimp Congress, which is a national organization of all the individual shrimp

producer associations. Our particular association, the National Shrimp Congress, would like to go on record as being in support of immediate action on the GIFA and to waive the 60-day period, and to immediately approve it.

In addition, I am authorized to advise the committee—I think in some instances you have already received written confirmation of this but, if not, you will be shortly—that the following organizations also support waiver of the 60-day period and for immediate favorable action on the GIFA.

They are the Gulf State Marine Fisheries Commission, which represents Florida, Alabama, Mississippi, Louisiana and Texas; the Gulf of Mexico Fisheries Management, Fishery Management Council; the Texas Shrimp Association; and the Southeastern Fisheries Association, which is an organization representing fishing producers throughout the Southeast.

The industry feels that quick action on the agreement would be another well placed step in further improving the United States-Mexico fishing arrangement and we hope future agreements that we believe could possibly produce better fishing conditions for U.S. vessels in the gulf.

The reason for the urgency in this particular instance will have no adverse impact on U.S. fishermen. It will, however, provide a benefit to Mexican fishermen that are affected. Such action, we hope, will set the stage for Mexico taking into account our need for shrimp in the Mexican zone, especially since it is not being taken by their fleet at the present.

Mr. LEGGETT. It is an unused surplus at the present time, is that right?

Mr. UTZ. That is correct.

Mr. LEGGETT. And the groups that you mentioned have communicated with the committee and provided telegrams to us supporting the position that you have outlined. Those telegrams will be included in the record at this point. They will be provided by counsel to the reporter.

[The following was received for the record:]

WASHINGTON, D.C.,
October 20, 1977.

Hon. ROBERT L. LEGGETT,
House of Representatives,
Washington, D.C.

DEAR SIR: The National Shrimp Congress board of directors is in full support of waiving the 60 day waiting period for the U.S./Mexican GIFA presently pending, in the interest of furthering cooperation between the United States shrimp industry and the Mexican government. We believe it is important that the U.S./American GIFA should be approved immediately.

WILLIAM UTZ,
Executive Director National Shrimp Congress.

TEXAS SHRIMP ASSOCIATION,
Brownsville, Tex., October 20, 1977.

Hon. ROBERT L. LEGGETT,
House of Representatives,
Washington, D.C.

DEAR SIR: We recommend waiving the 60 day waiting period on the Mexican GIFA and that it be approved immediately.

ROBERT MAUERMANN,
Executive Director.

SOUTHEASTERN FISHERIES ASSOCIATIONS,
October 21, 1977.

HON. ROBERT A. LEGGETT,
House of Representatives,
Washington, D.C.

DEAR SIR: Southeastern Fisheries Association is in full support of waiving 60 day waiting period for the U.S. Mexican GIFA presenting pending. In the interest of furthering cooperation between the U.S. shrimp industry and the Mexican government we believe it is important that the U.S. Mexican GIFA be approved immediately.

BOB JONES,
Executive Director.

GULF OF MEXICO FISHERY
MANAGEMENT COUNCIL,
October 21, 1977.

HON. ROBERT LEGGETT,
Chairman, Fisheries Wildlife Conservation and Environment Subcommittee,
House of Representatives, Washington, D.C.

DEAR SIR: GIFA with Mexico is pending in the Congress under the terms of section 203 of Public Law 94-265. Respectfully urge waiver of 60 day waiting period. We believe early implementation of agreement would be helpful to the U.S. fishing industry in its relations with Mexico.

JOHN A. MEHOS,
Chairman.

Mr. LEGGETT. Now, is there any surplus shrimp in the American zone?

Mr. UTZ. Not to our knowledge. The scientific indication is that we are, in effect, producing all the shrimp that is available in our zone.

Mr. LEGGETT. Mr. de la Garza.

Mr. DE LA GARZA. Mr. Chairman, I am not going to ask this as a question. I will make it as a statement and ask if the gentleman agrees with me, that a considerable amount of shrimp that begins in the Laguna Madre of the Texas coast then comes out in the Gulf and goes to Mexico and Mexican waters. One of the great parts of that, the Laguna Madre, comes out basically right at the dividing lines between the United States and Mexican waters. Therefore, that is why we had insisted that the historical traditional fishing rights of the American shrimp boats should be treated at least different in that we provide, to a great extent, the shrimp that flows into the Mexican waters adjacent to the Texas coast.

Is that not correct, Mr. Utz?

Mr. UTZ. That is correct. In fact, that is one of the big dilemmas faced by the Brownsville fleet, because previously they were able to go after the Mexican shrimp. Now, they are forced to go either due east or north for their fishing activities unless they have a permit.

Mr. DE LA GARZA. Thank you.

Mr. LEGGETT. All right, Mr. Forsythe.

Mr. FORSYTHE. No questions.

Mr. LEGGETT. Mr. AuCoin.

Mr. AUCOIN. No questions.

Mr. LEGGETT. Mr. Breaux.

I take it that what you are really saying is that all of the fishing fleets that your organization represents supports the GIFA with Mexico?

Mr. UTZ. That is right.

Mr. BREAUX. Do you see any problems with your organization on the information that you have regarding the so-called surplus, whether they do exist in the Mexican waters or not?

Mr. UTZ. All of the scientific information that has been presented to us indicates shrimp surpluses in Mexico are in existence that in order for Mexico to claim there is no surplus, they have to take into account boats which they do not currently have operating in the gulf. They have indicated in the past that the surpluses will not exist when we are phased out of the fishery at the end of 1979. They have contended that the reasons that the surpluses will not exist is because they will be putting into place all of these vessels which—so far have not appeared.

Our contention has been that we should have continued to fish for the surpluses until they, in fact, did not exist.

Mr. BREAUX. I really have two points.

How many fishing vessels does your organization estimate that the Mexicans would have to put in to place that are not now there in order for them to fish to the maximum sustainable yield?

Mr. UTZ. Off the top of my head, I cannot give you that figure. I am not sure that anyone has really reduced it down to a fixed number.

Mr. BREAUX. Do you have a percentage of what your estimate would be of how much that they are approaching a maximum sustainable yield now? 50 or 75 percent or what?

Mr. UTZ. No. I know that in comparative figures they traditionally send approximately 80 million pounds of shrimp to the United States. What their total catches are, I am not certain. We had traditionally taken about 10 million pounds of shrimp out of the Mexican zone area. So that would be some of the catch figures that we have had. But, in terms of what their estimates are, as far as the number of boats they would have to put in place, they have not approached that figure because they have not moved any boats into the area.

All of the information that we have received is that they have not put any new boats into the gulf fishery.

Mr. BREAUX. If they are in a boat expansion program, do you know if any of it is being financed through an international organization that we are contributing to, such as OPEC?

Mr. UTZ. I cannot answer that right now. I am not sure.

Mr. BREAUX. I guess as the Ambassador said it is really difficult to determine whether they are fishing to the maximum sustainable yield.

Mr. UTZ. Well, according to the scientific information that has been presented to us by NMFS, they are not currently—not in the gulf area.

Mr. BREAUX. Now, the only way they could by the phaseout date of this treaty is if they substantially expanded the size of their fishing fleets?

Mr. UTZ. That is correct. Substantially being the would have—I cannot remember the exact figures, but it is in excess of quadrupling their current fleet.

Mr. BREAUX. And your organization sees no such efforts ongoing at the present time for Mexico?

Mr. UTZ. We have reports that they are building a lot of boats, but they have not been placed into activity in the gulf.

Mr. BREAUX. Would it be possible for the Chair and the committee to have the Department of Commerce give us how much the United

States, through any programs that we are participating in, is sending to Mexico for the purpose of constructing fishing vessels?

Mr. LEGGETT. I am sure that the Department of State can make all that information available.

Mr. BREAUX. I think it would be interesting to find out if, in fact, we are contributing to a foreign country's efforts that result in the prevention of our fishing in their waters.

Mr. LEGGET. Of course, we are going in two different directions, and it depends on which ox is being gored at which time.

Mr. BREAUX. My ox is being gored at the present time.

Mr. LEGGETT. I understand that.

On the other hand, the country is concerned about unemployment. The large number of illegals in this country appear to be coming from the South rather than from the North because we have more Americans going to Canada than we have Canadians coming down here. So some folks have thought it might be wiser to try to help Mexico redevelop very carefully. I think they have been very, very cautious about accepting aid from us because they have not wanted to be in a position of an aid client state.

Mr. BREAUX. They only accept it on Mondays, Wedensdays, and Fridays.

Mr. LEGGETT. I think you will find that the aid to Mexico has been lean, and we ought to help them develop to keep some of the folks down there, but not at the expense of our fishing industry.

Mr. BREAUX. I would like to see if counsel could make that request to the Department of Commerce.

Mr. LEGGETT. We will get all that information from the Foreign Affairs Committee. They have it very carefully outlined. We can get that on a country-by-country basis.

Mr. DE LA GARZA. I just want to mention that I agree with my chairman regarding the great problems that Mexico has and our need to assist them in every way possible.

The problem with this is that the people coming from Mexico are not those that would be involved in the fishing industry on either side, although some who come from Mexico migrate into the fishing industry on our side of the river. But Mexicans coming north are off the farms and off the areas away from the coast and that should be made clear.

Also, I say this to the Ambassador and to Mr. Utz also, that we owe an obligation to Mexico as a neighbor and as friends, to work with them, because if they embark in a boat building campaign that will permit them to harvest the maximum yield of shrimp, they are probably getting into a situation where they would have, if they go through with this, a tremendous surplus of boats from year to year because most years are more lean than plentiful, like in any harvest.

So those are the things that we should discuss and take into consideration because we could conceivably be watching them fall over the cliff and have a situation where they wind up with more vessels than they can use. And as we find ourselves, most years we have more boats than there is product to harvest, and if we sit by as neighbors and let Mexico fall into that trap, we would have done them an injustice.

Mr. LEGGETT. Thank you very much, Mr. de la Garza.

Mr. UTZ. I want to thank you very much for giving your views to the committee.

I notice we have our distinguished Assistant Secretary of State, Patsy Mink with us. We have already examined the State Department on a number of these issues, Patsy, so we welcome you to the committee. I think we all recognize the need of moving the agreement post haste, and that is why you are here, is that correct?

Mrs. MINK. That is correct.

Mr. LEGGETT. Now, let us see. We have the Commerce Department yet to be heard.

Mr. DE LA GARZA. Only for questions.

Mr. LEGGETT. Okay, we have no questions for you.

Mr. DE LA GARZA. We do, but we will let them pass.

Mr. LEGGETT. Do you move that we pass the bill out of the subcommittee?

Mr. DE LA GARZA. I do.

Mr. LEGGETT. Mr. de la Garza moves that we pass the bill out of the subcommittee by unanimous consent. All in favor say aye.

[Chorus of ayes.]

Mr. LEGGETT. Opposed, no.

[No response.]

Mr. LEGGETT. The bill is reported to the full committee, and the subcommittee will stand adjourned.

[Whereupon, at 11:11 a.m., the subcommittee adjourned, subject to the call of the Chair.]

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